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

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC–2011–0008]

RIN 3150–AI91

List of Approved Spent Fuel Storage Casks: MAGNASTOR® System, Revision 2

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC or the Commission) is confirming the effective date of January 30, 2012, for the direct final rule that was published in the **Federal Register** on November 14, 2011. This direct final rule amended the NRC's spent fuel storage regulations by revising the NAC International, Inc. (NAC) MAGNASTOR® System listing within the ''List of Approved Spent Fuel Storage Casks'' to include Amendment No. 2 to Certificate of Compliance (CoC) Number 1031.

DATES: *Effective Date:* The effective date of January 30, 2012, is confirmed for this direct final rule published November 14, 2011 at 76 FR 70331.

ADDRESSES: You can access publicly available documents related to this document using the following methods:

- *NRC's Public Document Room (PDR):* The public may examine and have copied, for a fee, publicly available documents at the NRC's PDR, O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* Publicly available documents created or received at the NRC are available online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* From this page, the public can gain entry into ADAMS, which provides text and image files of the NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–(800) 397–4209, (301) 415–4737, or by email to *pdr.resource@nrc.gov.*
- *Federal Rulemaking Web Site:* Public comments and supporting materials related to this final rule can be found at *http://www.regulations.gov* by searching on Docket ID NRC–2011–0008. Address questions about NRC dockets to Carol Gallagher, telephone: (301) 492–3668; email: *Carol.Gallagher@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Gregory Trussell, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: (301) 415–6445, email: *Gregory.Trussell@nrc.gov.*

SUPPLEMENTARY INFORMATION: On November 14, 2011 (76 FR 70331), the NRC published a direct final rule amending its regulations at Title 10 of the Code of Federal Regulations Section 72.214 by revising the NAC MAGNASTOR® System listing within the ''List of Approved Spent Fuel Storage Casks'' to include Amendment No. 2 to CoC Number 1031. In the direct final rule, the NRC stated that if no significant adverse comments were received, the direct final rule would become effective on January 30, 2012. The NRC did not receive any comments on the direct final rule. Therefore, this rule will become effective as scheduled.

Dated at Rockville, Maryland, this 24th day of January 2012.

For the Nuclear Regulatory Commission.

Cindy Bladey,

Chief, Rules, Announcements, and Directives Branch, Division of Administrative Services, Office of Administration.

[FR Doc. 2012–1770 Filed 1–26–12; 8:45 am]

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DEPARTMENT OF ENERGY

10 CFR Parts 429 and 430

[Docket No. EERE–2011–BT–TP–0012]

RIN 1904–AC45

Energy Conservation Program: Test Procedures for General Service Fluorescent Lamps, General Service Incandescent Lamps, and Incandescent Reflector Lamps

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

ACTION: Final rule.

SUMMARY: On September 14, 2011, the U.S. Department of Energy (DOE) issued a notice of proposed rulemaking (NOPR) to amend the test procedures for general service fluorescent lamps (GSFLs), general service incandescent lamps (GSILs), and incandescent reflector lamps (IRLs). That proposed rulemaking serves as the basis for today's action. DOE is amending its test procedures for GSFLs and GSILs established under the Energy Policy and Conservation Act (EPCA). DOE is not amending in this final rule the existing test procedure for IRLs established under EPCA. For GSFLs and GSILs, DOE is updating several references to the industry standards referenced in DOE's test procedures. DOE is also establishing a lamp lifetime test procedure for GSILs. These test procedures also provide the protocols upon which the Federal Trade Commission bases its energy guide label for these products. DOE's review of the GSFL, GSIL, and IRL test procedures fulfills the EPCA requirement that DOE review test procedures for all covered products at least once every seven years.

DATES: The effective date of this rule is February 27, 2012. The final rule changes will be mandatory for product testing starting July 25, 2012.

The incorporation by reference of certain publications listed in this rule is approved by the Director of the Federal Register on February 27, 2012.

ADDRESSES: The docket is available for review at regulations.gov, including **Federal Register** notices, framework documents, public meeting attendee lists and transcripts, comments, and other supporting documents/materials. All documents in the docket are listed in the regulations.gov index. However, not all documents listed in the index

may be publicly available, such as information that is exempt from public disclosure.

A link to the docket web page can be found at: *www.regulations.gov.* This web page will contain a link to the docket for this notice on the *regulations.gov* site. The regulations.gov web page will contain simple instructions on how to access all documents, including public comments, in the docket.

For further information on how to review the docket, contact Ms. Brenda Edwards at (202) 586–2945 or by email: *Brenda.Edwards@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Tina Kaarsberg, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 1000 Independence Avenue SW., Washington, DC, 20585–0121. Telephone: (202) 287–1393. Email: *Tina.Kaarsberg@ee.doe.gov.*

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

SUPPLEMENTARY INFORMATION:

This final rule incorporates by reference into Part 430 the following industry standard:

IESNA LM–49–01 (''IESNA LM–49''), IESNA Approved Method for Life Testing of Incandescent Filament Lamps, approved December 1, 2001.

Copies of IES standards can be purchased from the Illuminating Engineering Society (IES), 120 Wall Street, Floor 17, New York, NY 10005–4001, (212) 248–5000, or *http://www.ies.org/store/.*

You can also view copies of this standard at the U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza SW., 6th Floor, Washington, DC, 20024, (202) 586–2945, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Please call Ms. Brenda Edwards at the above telephone number for additional information.

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I. Authority and Background

Title III of the Energy Policy and Conservation Act (42 U.S.C. 6291, *et seq.;* ''EPCA'' or, ''the Act'') sets forth a variety of provisions designed to improve energy efficiency. (All references to EPCA refer to the statute as amended through the Energy Independence and Security Act of 2007 (EISA 2007), Public Law 110–140 (Dec. 19, 2007)). Part B of title III, which for editorial reasons was redesignated as Part A upon incorporation into the U.S. Code (42 U.S.C. 6291–6309), establishes the ''Energy Conservation Program for Consumer Products Other Than Automobiles.'' These include general service fluorescent lamps (GSFLs), general service incandescent lamps (GSILs), and incandescent reflector lamps (IRLs), the subject of today's notice. (42 U.S.C. 6292(a)(14) and 6295(i))

Under EPCA, this program consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. The testing requirements consist of test procedures that manufacturers of covered products must use (1) as the basis for certifying to DOE that their products comply with the applicable energy conservation standards adopted under EPCA, and (2) for making representations about the efficiency of those products, including on the Federal Trade Commission's EnergyGuide label. Similarly, DOE must use these test requirements to determine whether the products comply with any relevant standards promulgated under EPCA. However, to ensure that DOE is in full compliance with Section 315 of Public Law 112–74, DOE will not finalize in this document provisions related to certifying lamps subject to that provision of law. DOE may finalize those procedures at an appropriate time in the future.

Relevant to this rulemaking, EPCA, as codified, directs DOE to prescribe test procedures for GSFLs and IRLs, taking into consideration the applicable standards of the Illuminating Engineering Society of North America [1] (IESNA) or the American National Standards Institute [2] (ANSI). (42 U.S.C. 6293(b)(6))

In addition, on December 19, 2007, the Energy Independence and Security Act of 2007 (EISA 2007), Public Law 110–140, was enacted. Section 321 of EISA 2007 amended EPCA, in relevant part, to prescribe energy conservation standards for GSILs that included maximum rated wattage and minimum rated lifetime requirements for several different lumen ranges; these standards will be phased in between 2012 and 2014. (42 U.S.C. 6295(i)) Section 302 of EISA 2007 also amended EPCA to require DOE to review test procedures for all covered products at least once every seven years. DOE must either amend the test procedures or publish notice in the **Federal Register** of any determination not to amend a test procedure. (42 U.S.C. 6293(b)(1)(A))

In order to (1) fulfill the statutory requirements for periodic review of test procedures and (2) create for the first time a lifetime test procedure for GSILs, consistent with the minimum rated lifetime requirements set forth in EPCA, DOE published a notice of proposed rulemaking (NOPR) in the **Federal Register** on September 14, 2011. DOE also invited comment on all aspects of the existing test procedures for GSFLs, GSILs, and IRLs that appear at Title 10 of the Code of Federal Regulations (CFR): 10 CFR 429.27 (''General service fluorescent lamps, general service incandescent lamps, and incandescent reflector lamps''), 10 CFR 430.2 (''Definitions''), 10 CFR 430.3

[1] Illuminating Engineering Society of North America (IESNA) standards can be purchased on the IESNA Web site at: *http://www.ies.org/store/.*

[2] American National Standards Institute (ANSI) standards can be purchased on the ANSI Web site at: *http://www.webstore.ansi.org/.*

(''Materials incorporated by reference''), 10 CFR 430.23 (''Test procedures for the measurement of energy and water consumption''), 10 CFR 430.25 (''Laboratory Accreditation Program''), and 10 CFR part 430 subpart B, Appendix R (''Uniform Test Method for Measuring Average Lamp Efficacy (LE), Color Rendering Index (CRI), and Correlated Color Temperature (CCT) of Electric Lamps''). 76 FR 56661, 56662 (September 14, 2011). DOE subsequently held a public meeting on October 4, 2011 to discuss the proposals in the NOPR and invited written comments through November 28, 2011.

To address prior EPCA requirements for GSFLs, GSILs, and IRLs, DOE has previously undertaken a number of rulemaking actions pertaining to the test procedures for these products. For further details refer to the NOPR. 76 FR 56661, 56662–63. Test procedures for GSFLs, GSILs, and IRLs are specified in various sections of the CFR and are based on the 1997 and 2009 final rules addressing test procedures for fluorescent and incandescent lamps. 62 FR 29221 (May 29, 1997); 74 FR 31829 (July 6, 2009); 74 FR 34080 (July 14, 2009). Prior to this final rule, DOE had no test procedure for measuring GSIL lifetime. Calculations for lamp efficacy of GSFLs, GSILs, and IRLs and for color rendering index of GSFLs are discussed in 10 CFR 430.23, which references 10 CFR part 430, subpart B, Appendix R. Appendix R specifies several IESNA and ANSI standards to use for test conditions and procedures. For GSFLs, it references measurement procedures set forth in IESNA LM–9–1999.[3] Additionally, GSFLs are to be operated according to general procedures for taking electrical measurements described in ANSI C78.375–1997,[4] and at the voltage and current conditions described in ANSI C78.81–2005 (double-based lamps)[5] or ANSI C78.901–2005 (single-based lamps),[6] and using the reference ballast at input voltage specified by the reference circuit in ANSI C82.3–2002.[7] Appendix R also notes that the prior measurement procedures for GSILs and IRLs are set forth in IESNA LM–45–2000[8] and IESNA LM–20–1994,[9] respectively.

General Test Procedure Rulemaking Process

Under 42 U.S.C. 6293, EPCA sets forth the criteria and procedures DOE must follow when prescribing or amending test procedures for covered products. EPCA provides that any test procedures prescribed or amended under this section shall be reasonably designed to produce test results which measure energy efficiency, energy use or estimated annual operating cost of a covered product during a representative average use cycle or period of use and shall not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3))

In addition, if DOE determines that a test procedure amendment is warranted, it must publish proposed test procedures and offer the public an opportunity to present oral and written comments on them. (42 U.S.C. 6293(b)(2)) Finally, in any rulemaking to amend a test procedure, DOE must determine to what extent, if any, the proposed test procedure would alter the measured energy efficiency of any covered product as determined under the existing test procedure. (42 U.S.C. 6293(e)(1)). If DOE determines that the amended test procedure would alter the measured efficiency of a covered product, DOE must amend the applicable energy conservation standard accordingly. (42 U.S.C. 6293(e)(2))

With respect to today's rulemaking, DOE has determined that none of the amendments it is adopting will change the measured efficacy of the GSFLs, GSILs, or IRLs when compared to the previously existing test procedures.

II. Summary of the Final Rule

Today's rule amends DOE's test procedures for GSFLs and GSILs. The amendments achieve two objectives: (1) Update test procedures by incorporating certain lighting industry standards by reference in order to adopt current best practices and technological developments and (2) establish a new test procedure for determining GSIL rated lifetime, consistent with the minimum rated lifetime requirements in set forth in EPCA.

Regarding the first objective, this final rule updates industry standards previously incorporated by reference to the latest versions of those documents. For GSFLs, DOE is updating dimensional and electrical characteristic-related references to ANSI C78.81–2003 as well as ANSI C78.81–2005 to ANSI C78.81–2010,[10] and references to IESNA LM–9–1999[11] to IES LM–9–2009[12] for measuring electrical and photometric attributes. For GSILs, DOE is updating references of IESNA LM–45–2000 to IES LM–45–2009[13] for measuring electrical and photometric attributes. These changes will not, in DOE's view, significantly alter reported lamp efficacy values.[14]

Regarding the second objective, today's final rule establishes a GSIL test procedure for lifetime testing. As noted above, EISA 2007 amended EPCA, in part, by establishing energy conservation standards for GSILs which include for the first time minimum rated lifetime requirements that are to be phased in between January 2012 and January 2014. In order to meet these requirements, this final rule establishes a test procedure for GSIL lifetime that includes incorporation by reference of the industry standard ''IESNA Approved Method for Life Testing of Incandescent Filament Lamps,'' IESNA LM–49–2001;[15] a definition for rated lifetime of GSILs; a sample size of 21 lamps for GSIL lifetime testing; and requirements for laboratory accreditation.

As indicated in greater detail below, these amendments and additions apply to the procedures in 10 CFR part 430, subpart B, Appendix R, and also to sections 10 CFR 429.27, 10 CFR 430.2, 10 CFR 430.23, 10 CFR 430.25. The changes do not affect measured efficacy of GSFLs, GSILs, and IRLs. The amendments to DOE's test procedures in this final rule will take effect 30 days after publication of this final rule.

[3] ''IESNA Approved Method for the Electrical and Photometric Measurements of Fluorescent Lamps'' (approved Dec. 4, 1999).

[4] ''American National Standard for Electric Lamps: Fluorescent Lamps-Guide for Electrical Measurements'' (approved Sept. 25, 1997).

[5] ''American National Standard for Electric Lamps Double-Capped Fluorescent Lamps—Dimensional and Electrical Characteristics'' (approved August 11, 2005).

[6] ''American National Standard for Electric Lamps Double-Capped Fluorescent Lamps—Dimensional and Electrical Characteristics'' (approved March 23, 2005).

[7] ''American National Standard for Lamp Ballasts—Reference Ballasts for Fluorescent Lamps'' (approved Sept. 4, 2002).

[8] ''IESNA Approved Method for Electrical and Photometric Measurements of General Service Incandescent Filament Lamps'' (approved May 8, 2000).

[9] ''IESNA Approved Method for Photometric Testing Of Reflector-Type Lamps'' (approved Dec. 3, 1994).

[10] ''American National Standard for Electric Lamps—Double-Capped Fluorescent Lamps—Dimensional and Electrical Characteristics'' (approved Jan. 14, 2010).

[11] ''IESNA Approved Method for the Electrical and Photometric Measurements of Fluorescent Lamps'' (approved Dec. 4, 1999).

[12] ''IES Approved Method for the Electrical and Photometric Measurement of Fluorescent Lamps'' (approved Jan. 31, 2009).

[13] ''IES Approved Method for the Electrical and Photometric Measurement of General Service Incandescent Filament Lamps'' (approved Dec. 14, 2009).

[14] In this document, changes in efficacy that are described as ''not significant'' are considered to be within measurement error or variation. DOE has concluded that these amendments do not affect reported efficacy values to the extent that would warrant modifications to energy conservation standards.

[15] ''IESNA Approved Method for Life Testing of Incandescent Filament Lamps'' (approved Dec. 1, 2001).

III. Discussion

A. Updates to Industry Standards Incorporated by Reference

After reviewing the current industry best practices and technological developments, DOE identified and proposed appropriate updates for the GSFL and GSIL test procedures, but no updates for the IRL test procedure. DOE proposed the following changes to the existing test procedures for GSFLs: (1) Updating references of ANSI C78.81–2003 and ANSI C78.81–2005 to ANSI C78.81–2010, which provides dimensional and electrical characteristics of fluorescent lamps; and, (2) updating references of IESNA LM–9–1999 to IES LM–9–2009 for measuring the electrical and photometric attributes of fluorescent lamps. In addition, DOE proposed modifying the existing test procedures for GSILs by updating references of IESNA LM–45–2000 to IES LM–45–2009 for measuring their electrical and photometric attributes of incandescent filament lamps.

As DOE's GSFL, GSIL, and IRL test procedures are based mainly on references to industry standards, when possible, DOE test procedures should reference the latest versions of these standards in order to be aligned with industry standards and practices. Periodic updates to these industry standards generally account for changes in product lines and/or developments in test methodology and equipment. Therefore, in the NOPR analysis, DOE reviewed relevant industry standards and compared versions. DOE found that the latest versions of these standards will increase the precision of measurements and provide clarifications of existing test setup and methodology. DOE determined that these revisions to DOE's regulations would not alter measured energy efficiency nor result in a test procedure that is unduly burdensome to conduct. (42 U.S.C. 6293(e)(1), 42 U.S.C. 6293(b)(3))

DOE received various comments on its proposed updates to those industry standards already incorporated by reference in DOE's test procedures. The sections below provide a brief summary of the key changes in the updated industry standards and DOE's responses to comments on these changes.

1. ANSI C78.81–2010 for General Service Fluorescent Lamps

In the NOPR, DOE proposed updating all references to ANSI C78.81 in DOE's test procedures and definitions relating to GSFLs and fluorescent lamp ballasts from the 2003 and 2005 editions to the 2010 edition. ANSI C78.81 provides the dimensional and electrical specifications for fluorescent lamps. Adoption of the latest version of ANSI C78.81 will ensure that DOE test procedures reference updated lamp specifications.

DOE concluded in the NOPR analysis that updating to the 2010 version would not change the lamp specifications currently prescribed in DOE's test procedures. The main modification in the 2010 version is the addition of high-frequency and low-frequency lamp specifications for 25W, 28W, and 30W reduced-wattage 4-foot T8 medium bipin lamps. DOE requires testing GSFLs using low-frequency lamp specifications unless only high-frequency lamp specifications are available. The low-frequency ballast specifications for reduced-wattage lamps specified in the 2010 version are identical to those prescribed in the DOE test procedures for 4-foot T8 medium pin lamps.[16] DOE's test procedures also prescribe low-frequency lamp specifications in ANSI C78.81–2003 for certain lamps, which are also identical to those specified in the 2010 version. Therefore, in this final rule, DOE concludes that neither measured efficacy nor testing burden would be affected by updating the references to ANSI C78.81–2010 in DOE test procedures.

The National Electrical Manufacturers Association (NEMA) commented that the low frequency reference ballast specifications included in ANSI C78.81 and C78.901 will be replaced with high frequency reference ballast specifications in the next revisions of these standards which are planned for publication in 2012. They added that as a result manufacturers will have to perform testing using low frequency reference ballasts for DOE certification and compliance reporting and high frequency reference ballasts for normative compliance using the updated standards. NEMA suggested coordinating the adoption of DOE's next test procedure with the updated ANSI standards in order to reduce dual testing burden. (NEMA, No. 8 at p. 2)[17]

Since the planned versions of ANSI C78.81–2010 and C78.901–2005 to which NEMA is referring were not available for DOE to assess and solicit comment on, DOE cannot reference these scheduled updated versions in this final rule. Therefore, because high-frequency testing specifications are still not yet available for all of DOE's covered fluorescent lamp types, DOE will maintain the requirement to test GSFLs using low-frequency reference lamp specifications unless only high-frequency lamp specifications are available as stated above. Regarding the possibility that manufacturers may have to conduct dual testing (low-frequency testing for DOE compliance and high-frequency testing for normative compliance), DOE is continually monitoring the development of testing standards of GSFLs and will consider amendments to future test procedures including testing on high-frequency reference ballasts as necessary.

2. IES LM–9–2009 for General Service Fluorescent Lamps

In the NOPR, DOE proposed updating references to IESNA LM–9–1999 which specifies procedures for measuring the efficacy of GSFLs to the 2009 version. DOE's review indicated that incorporating the 2009 edition of IES LM–9[18] would align DOE's requirements with current industry standards; provide further clarification of the test procedure; and improve the test methodology and test instrumentation setup and specifications.

DOE identified the following four key updates to the 2009 edition of IES LM–9: (1) Additional information on conducting tests under high-frequency conditions; (2) modification of the lamp stabilization method; (3) added specification of temperature and orientation for stabilization of T5 lamps; and (4) added specification of impedance[19] thresholds for the multipurpose volt, amperes, and watts (VAW) meter and power source. (More detail on these updates can be found in the NOPR. 76 FR 56661, 56665–66.) In the NOPR, DOE concluded that these updates would not significantly affect lamp efficacy or pose a significant testing burden. DOE did not receive any comments regarding the impacts of specific updates in the 2009 version of IES LM–9. DOE did however receive comments from interested parties

[16] See section 4.1.2.1 of Appendix R for F40T12, F96T12, F96T12HO, F34T12, F96T12ES, F96T12HO/ES lamps.

[17] A notation in the form ''NEMA, No. 29 at p. 2'' identifies a written comment that DOE has received and has included in the docket of this rulemaking. This particular notation refers to a comment: (1) Submitted by NEMA; (2) in document number 29 of the docket, and (3) on page 2 of that document.

[18] The 2009 version of the standard is labeled as IES instead of IESNA.

[19] A measure of the total opposition to current flow in an alternating current (AC) circuit made up of resistance and reactance. ''Reactance'' is the opposition of a circuit element to a change of electric current or voltage, due to the element's capacitance or inductance. For a direct current (DC) circuit, the impedance is just the resistance.

regarding potential issues with accreditation to the 2009 version of IES LM–9 as well as a request for clarification on the added specifications for T5 lamps and the existing CCT reporting requirement. DOE is also providing further guidance on the lamp stabilization method in this final rule.

NEMA, Osram Sylvania Inc. (OSI), and Philips Lighting (Philips) commented that many laboratories are not yet accredited to IES LM–9–2009 and would not be able to use the test procedure for compliance testing by the effective date of June 2012. They further noted that it was unclear whether the National Volunteer Laboratory Accreditation Program (NVLAP) [20] had begun accrediting to the updated IES version. (NEMA, No. 8 at p. 2; OSI, Public Meeting Transcript, No. 7 at p. 34; Philips, Public Meeting Transcript, No. 7 at pp. 34–35) ICF Consulting on behalf of Energy Star (ICF) noted that there are several accrediting bodies that are already accrediting to IES LM–9–2009. (ICF, Public Meeting Transcript, No. 7 at p. 35)

Testing for GSFLs, IRLs, and GSILs must be conducted by a laboratory accredited by NVLAP or by an accrediting organization recognized by NVLAP. (10 CFR 430.25) At the time this final rule was written, there were ten laboratories accredited to IES LM–9 by NVLAP of which five were accredited to the most recent 2009 version.[21] DOE has therefore concluded that because several laboratories are already accredited to IES LM–9–2009, compliance with updated test procedures established in this final rule is achievable by June 2012.

The People's Republic of China (P.R. China) [22] requested clarification on the orientation of T5 lamps during the seasoning process at 35 °C. (P.R. China, No. 9 at p. 3) As stated in IES LM–9–2009, T5 lamps are to be seasoned in the vertical direction in 25 °C ambient air so as to obtain stable photometric results. IES LM–9–2009 also specifies that T5 lamps are to be measured horizontally, despite seasoning occurring in the vertical orientation.

NEMA also commented on an existing DOE GSFL test procedure requirement for reporting CCT. NEMA noted that ANSI C78.376 [23] guidance recognizes that CCT varies within the allowed chromaticity tolerance ellipse [24] for fluorescent lamps and therefore assigns such lamps six separate nominal color temperature ellipses [25] and designations. NEMA commented that since fluorescent lamps' chromaticity varies with lifetime, manufacturers design lamps to remain within a designated ellipse. Given these considerations, NEMA requested further clarification on why DOE proposed a requirement to report CCT to the nearest 10 degrees. (NEMA, No. 8 at p. 5)

In the NOPR stage of the 2009 test procedure rule for GSFLs, IRLs, and GSILs, DOE proposed test procedures that required CCT to be rounded to the nearest unit (measured in kelvin (K)). In response to DOE's proposal, NEMA recommended rounding CCT to the nearest 10 degrees because rounding to the nearest degree demonstrates a false level of accuracy. DOE consulted with the National Institute of Standards and Technology (NIST) and agreed with NEMA's conclusion that distinguishing between single digits in CCT is not meaningful. Therefore, because all laboratories were able to measure CCT to three significant figures, DOE required that manufacturers round CCT to the nearest 10 degrees in the July 2009 Test Procedure final rule. 74 FR 31829 (July 6, 2009). DOE finds no reason to modify this requirement.

Based on comments DOE received questioning whether or not the lamp stabilization method prescribed in IES LM–45–2009 was required, DOE is providing further clarification on the matter in this final rule (see section III.A.3). DOE is also providing this same clarification for the lamp stabilization method prescribed in IES LM–9–2009. The standard states that its prescribed stabilization method is strongly recommended but if not followed, the alternative methodology should be noted in the test report. Therefore, manufacturers should include in certification reports details of any variations from the lamp stabilization method prescribed in IES LM–9–2009.

3. IES LM–45–2009 for General Service Incandescent Lamps

In the NOPR, DOE proposed updating the 2000 version of IESNA LM–45 to the 2009 version. This new version specifies updated procedures for measuring GSIL efficacy. DOE's review indicated that incorporating the 2009 edition of IES LM–45 [26] would provide further clarification of the test procedure; and improve the test methodology and test instrumentation setup and specifications.

DOE identified the following five key updates in the 2009 edition of IES LM–45: (1) Modification of the lamp stabilization method; (2) modification of voltage and current regulation tolerances of the alternating current (AC) power source; (3) modification of instrument tolerance for AC voltage, current, and wattage; (4) establishment of impedance tolerances for instruments; and (5) establishment of a tolerance for the spectral response of the photo-detector. (More detail on these updates can be found in the NOPR. 76 FR 56661, 56666–67.) In the NOPR, DOE concluded that these updates will not significantly affect lamp efficacy or pose a significant testing burden. NEMA commented that it agreed with the incorporation of IES LM–45–2009. (NEMA, No. 8 at p. 2) DOE did, however, receive comments from interested parties regarding clarification on spectral match specifications and the lamp stabilization method.

At the October 2011 public meeting, Northwest Energy Efficiency Alliance (NEEA) asked for further clarification on the requirement in IES LM–45–2009 that the spectral match between the photo-detector and the V(λ) function be within five percent. (NEEA, Public Meeting Transcript, No. 7 at p. 30) The V(λ) function or the photopic luminous efficiency function[27] is the response curve of a standard human observer. It is the visual sensitivity of the human eye to light at different wavelengths. Photodetectors can only approximate the standard V(λ) response due to limitations in the manufacturing process. The parameter f1′ describes the closeness of the spectral of the photodetector measurements and the V(λ) function. The parameter f1′ should be within a certain tolerance, but a spectral mismatch correction factor will be applied to the measured result regardless. Therefore in this final rule, DOE concludes that the inclusion of a specific tolerance for spectral match in IES LM–45–2009 would result in more consistent and precise measurements

[20] NVLAP is a program administered by the National Institute of Standards and Technology (NIST).

[21] Directory of Accredited Laboratories: Energy Efficient Lighting Products, *http://ts.nist.gov/standards/scopes/eelit.htm.*

[22] Comment submitted by China WTO/TBT National Notification & Enquiry Center, Standard and Regulation Researching Center, AQSIQ, P.R. China.

[23] ''American National Standard for electric lamps: Specifications for Chromaticity of Fluorescent Lamps'' (approved Feb. 1, 2001).

[24] ANSI C78.376–2001 defines chromaticity tolerance by a 4 step MacAdam ellipse which is shown in section 5 of the standard.

[25] The six separate nominal color temperature ellipses are defined in section 5 of ANSI C78.376–2001.

[26] The 2009 version of the standard is labeled as IES instead of IESNA.

[27] The Commission International de l'Eclairage (CIE) established the photopic luminous efficiency function as the response curve of a standard observer. IESNA Lighting Handbook, Ninth Edition (2000) p. 1–6.

but would not significantly affect lamp efficacy measurements.

In the NOPR, DOE had indicated that industry commonly considers a value for f1′ of less than five percent good commercial quality and a value of less than three percent good laboratory/research quality. Earthjustice asked why the laboratory research quality tolerance of three percent for the f1′ parameter was not proposed as the required tolerance. (Earthjustice, Public Meeting Transcript, No. 7 at p. 37) ICF commented that NVLAP certified laboratories must have two percent tolerance and therefore, three and five percent tolerances would be outside the acceptable range to remain accredited. (ICF, Public Meeting Transcript, No. 7 at p. 38) Based on this information Earthjustice suggested the requirement should be a tolerance of two percent. (Earthjustice, Public Meeting Transcript, No. 7 at p. 38)

DOE has found no reason to lower the spectral match tolerance of five percent established in IES LM–45–2009, a standard based on industry consensus. First, DOE's research indicates that NVLAP does not require a spectral match tolerance different from that prescribed in IES LM–45–2009.[28] DOE research shows that manufacturers already employ at least commercial-grade instruments and, therefore, this five percent specification would not pose an additional test burden. Additionally, in certain cases achieving a three percent spectral match is not possible. For example when using the integrating sphere measurement method [29] to take photometric measurements, the spectral response of the whole sphere system involves factoring in the sphere paint and the cosine diffuser, rather than just the spectral response of the photodetector. Therefore, achieving a spectral match better than three percent may be too difficult under such circumstances. DOE has concluded that its test procedures do not need to establish a spectral match tolerance different from that prescribed in IES LM–45–2009.

With regards to lamp stabilization,[30] NEMA commented that test lamps unable to meet the stabilization criteria as defined in IESNA LM–45–2009 after five measurement cycles should not be disqualified from the test group. Instead, NEMA suggested an analysis of the added uncertainty of the measured performance parameters be taken into account. (NEMA, No. 8 at p. 5) The lamp stabilization method specified in IES LM–45–2009 prescribes continuing sets of five measurements until the stabilization criterion is met. While the IES LM–45–2009 strongly recommends this stabilization method, it also states that a different method is permissible, but that its use should be noted in the test report. DOE is adopting these instructions in IES LM–45–2009. Therefore, as NEMA recommends in its comment, manufacturers can use a variation of the prescribed stabilization method as long any details of the variations from the prescribed methods are retained in the test reports required under 10 CFR 429.71.

4. Test Procedures for Incandescent Reflector Lamps

As noted previously, in the NOPR, DOE did not propose updates to DOE's test procedure for IRLs, which incorporates by reference IESNA LM–20–1994.[31] At the time of publication of the NOPR, a revised edition of this industry standard had not been published. DOE also had concluded in the NOPR analysis that there were no current best practices or technical developments that necessitate modifications to the existing test procedure. DOE did not receive any adverse comments regarding this conclusion. Therefore, no amendments to IRL test procedures have been adopted in this final rule.

Several interested parties noted that DOE will be evaluating the use of an application efficacy metric for IRLs as part of a rulemaking that is revising GSFL and IRL energy conservation standards. (76 FR 56678, September 14, 2011, see Framework Document available at *http://www1.eere.energy.gov/buildings/appliance_standards/pdfs/gsfl_irl_ecs_framework.pdf*) NEMA commented that efficiency and economic comparisons across directional lamp technologies require the use of an application efficacy metric. NEMA added that replacing the lumens per watt metric with a new application efficacy metric for IRLs would affect lamp efficacy values. (NEMA, No. 8 at p. 3) Interested parties questioned whether the adoption of a new IRL metric would initiate amendments to the existing IRL test procedures. (CA Utilities, Public Meeting Transcript, No. 7 at p. 21, EEI, No. 7 at p. 36) If DOE decides to adopt such a metric, it also will update the IRL test procedure accordingly.

5. Summary of Changes Based on Updated Industry Standards

In the previous sections, DOE has addressed concerns raised regarding the impacts of updates to industry standards incorporated by reference relevant to this rulemaking. Based on its comparison of the updated and older versions of these industry standards, DOE has determined that the more recent versions do not make substantive changes to test setup and methodology, but are clearer and can potentially increase precision and consistency in measurements. Further, DOE has concluded that adopting the latest industry standards would not alter measured energy efficiency nor result in a test procedure that is unduly burdensome to conduct.

Therefore, in this final rule, for GSFLs, DOE is inserting updated references for ANSI C78.81–2003 and ANSI C78.81–2005 to ANSI C78.81–2010 and IESNA LM–9–1999 to IES LM–9–2009. For GSILs, DOE is inserting updated references for IESNA LM–45–2000 to IES LM–45–2009.

B. General Service Incandescent Lamp Lifetime Testing

Section 321 of EISA 2007 amended EPCA by prescribing minimum rated lifetime [32] requirements for GSILs, to be phased in between January 2012 and January 2014 (codified at 42 U.S.C. 6295(i)). Therefore, in the NOPR, DOE proposed a test procedure for GSIL lifetime testing, so that manufacturers can certify to DOE that their lamps meet these minimum rated lifetime requirements. DOE received comments on the following aspects of the proposed test procedure: (1) DOE's authority to establish a test procedure; (2) adoption of IESNA LM–49–2001 as an industry reference standard for DOE's GSIL lifetime test procedures; (3) disapproval of accelerated lifetime testing; (4) addressing lifetime measurement of

[28] Assessment based on interviews with NVLAP and a test lab; and a review of National Institute of Standards and Technology (NIST) Handbook 150:2006 (NVLAP Procedures and General Requirements) or NIST Handbook 150–1:2010–12 ed. (NVLAP Energy Efficient Lighting Products).

[29] An integrating sphere is a hollow sphere coated internally with a matte finish, diffusing type material. Light enters the sphere either through a port or by placing the light source inside the sphere. The light is scattered uniformly around the interior of the sphere and can be measured with a detector device connected to the sphere through a port.

[30] Lamp stabilization consists of seasoning a lamp and then operating it until it reaches stabilization and temperature equilibrium.

[31] ''IESNA Approved Method for Photometric Testing of Reflector-Type Lamp,'' (approved Dec. 3, 1994).

[32] DOE has decided to use the term ''rated lifetime'' rather than ''rate lifetime,'' which is the term used in the statutory standards for GSILs prescribed by EISA 2007. (42 U.S.C. 6295(i)) DOE notes that ''rated'' is more commonly used in industry.

long-life lamps in a 12-month sampling period; (5) determination of rated lifetime definition and appropriateness of the proposed sample size; (6) certification requirements; (7) laboratory accreditation; and (8) cost of GSIL lifetime testing.

1. Authority To Establish Lifetime Test Procedure

NEMA questioned the authority of DOE to require a test procedure for GSIL lifetime testing and opposed the expansion of GSIL test requirements. (NEMA, No. 8 at p. 4; NEMA, Public Meeting Transcript, No. 7 at pp. 60, 63–64) EPCA directs DOE to make a determination that a test procedure should be prescribed that measures energy efficiency, energy use, water use, or estimated annual operating cost of a covered product. (42 U.S.C. 6293(3)) In this case, however, the test is needed to calculate the minimum rated lifetime requirements set forth in ECPA. (42 U.S.C. 6295 (i))

DOE must establish those test procedures necessary to address all aspects of an energy conservation standard. Therefore, DOE has concluded that it has the authority to establish a test procedure for measuring lamp lifetime of GSILs.

NEMA objected to DOE regulating lamp lifetime which it considers a product reliability metric that has no bearing on efficiency or energy use and affects industry warranties. (NEMA, No. 8 at p. 3) DOE acknowledges NEMA's objection to the lifetime standard, however, as stated in section I, the minimum rated lifetime requirements for GSILs were established by Congress when it passed EISA 2007.

2. Adoption of IESNA LM–49–2001

After conducting literature research and interviews with several GSIL lifetime testing facilities in the NOPR analysis, DOE concluded that IESNA LM–49–2001 is the appropriate industry standard for GSIL lifetime testing. IESNA LM–49–2001 is commonly used in industry and generally aligns with guidance in the IESNA Lighting Handbook. Additionally, IESNA LM–49–2001 is also the standard referenced by the Federal Trade Commission (FTC) in its regulations for product labeling of GSILs, which could minimize testing burden for manufacturers in terms of complying with both Federal energy conservation standards and labeling requirements. 16 CFR 305.5(b) (For further details regarding IESNA LM–49–2001 refer to the NOPR. 76 FR 56661, 56667–68.)

NEMA concurred with using IESNA LM–49–2001 as a reference. (NEMA, No. 7 at p. 3) DOE did not receive any adverse comments regarding adoption of IESNA LM–49–2001 as the industry reference standard for measuring GSIL lifetime.

3. Accelerated Lifetime Testing

In the NOPR, DOE proposed to disallow the use of accelerated lifetime testing in its test procedures. This method is permitted in IESNA LM–49–2001 only for non-halogen GSILs. Accelerated lifetime testing involves operating lamps at higher than rated voltage, thereby forcing the lamp to fail faster than it would under normal operating conditions. A scaling factor is then used to correlate the measured accelerated lifetime to the lifetime at the rated voltage. (For more details on DOE's analysis of accelerated lifetime testing refer to the NOPR. 76 FR 56661, 56668.) NEMA agreed with DOE's proposal to disallow accelerated lifetime testing. (NEMA, No. 8 at p. 3) Some interested parties, noted below, questioned DOE's reasoning for not allowing this method.

DOE proposed to disallow accelerated lifetime testing for several reasons including that IESNA LM–49–2001 prescribes this methodology only for non-halogen lamps, most of which will not meet January 2012 energy conservation standards. DOE did investigate the appropriateness of using accelerated lifetime testing for halogen lamps that would pass the January 2012 standards. DOE found the tungsten-halogen regenerative cycle to be incompatible with accelerated lifetime testing because it cannot achieve its purpose outside of a narrow range of temperatures. The regenerative cycle, intended to increase lamp lifetime by redepositing evaporated tungsten back onto the filament, must operate only at certain operating temperatures. Deviations from the rated voltage in accelerated testing would increase the operating temperature outside this operating range and potentially alter performance or introduce new modes of lamp failure. Therefore, DOE concluded that lifetimes determined by operating halogen lamps at higher than rated voltage would not reliably measure the actual lifetime.

In the October 2011 public meeting, however, Lutron and OSI commented that the halogen regenerative cycle is critical only at low voltages and temperatures, and is therefore not adversely affected by the high temperature and overvoltage requirements of accelerated lifetime testing. (Lutron, Public Meeting Transcript, No. 7 at p. 47; OSI, Public Meeting Transcript, No. 7 at p. 47) DOE acknowledges that the successful operation of the tungsten halogen regenerative cycle is dependent on low temperatures but has found that high temperatures attained when operating at higher than rated voltage as required in accelerated testing are also an important factor. Operating halogen lamps at higher than rated voltage increases filament temperature and the rate of tungsten evaporation, which results in blackening of the inside lamp wall. Subsequently, the glass temperature rises due to increased infrared absorption and eventually causes the lamp to bulge and leak. Therefore, DOE has concluded that operating halogen lamps at higher than rated voltages and subsequently higher temperatures could introduce modes of lamp failure and may invalidate any comparisons with lamps operating at rated voltage. Hence, in this final rule, DOE maintains the disallowance of accelerated lifetime testing for GSILs as part of DOE test procedures.

P.R. China commented that DOE should adopt the transformation accelerated lifetime testing requirements in IEC 60064–2007. P.R. China cited the stipulation in Article 2.4 of the Technical Barriers to Trade (TBT) agreement that the members should use international standards as the basis of technical rules and regulations. P.R. China also suggested that DOE employ a method similar to that of the International CFL Harmonization Initiative to make the accelerated lifetime testing standards for GSFLs, GSILs, and IRLs consistent across all countries. (P.R. China, No. 9 at pp. 3–4) Since DOE is disallowing the use of accelerated lifetime testing for GSILs, it will not be adopting any test procedures for this methodology. DOE also notes that there is no U.S. requirement for lifetime testing of GSFLs and IRLs.

4. Measuring Minimum Rated Lifetime

For GSIL lifetime testing, DOE is requiring testing a minimum of three lamps per month each month of production for a minimum of seven months out of a 12-month period. In the October 2011 public meeting, Edison Electric Institute (EEI) expressed concerns that it would be difficult to complete non-accelerated lifetime testing in one year for halogen lamps that have rated lifetimes in the range of 4,000 and 6,000 hours. (EEI, Public Meeting Transcript, No. 7 at pp. 42–43) Measuring the full lifetime of a 6,000-hour lamp would require about 250 days.

In today's final rule, DOE is requiring measurement up to the minimum rated lifetime as prescribed by standards

specified in 42 U.S.C. 6295(i). The standards currently require all GSILs to meet a minimum rated lifetime of 1,000 hours. For a model to be in compliance with the prescribed minimum rated lifetime standard, greater than 50 percent of the sample size must meet the minimum rated lifetime required. Manufacturers should follow the procedures set forth in IESNA LM–49–2001 (except for use of the accelerated lifetime testing method) to execute the minimum rated lifetime measurements described above.

5. ''Rated Lifetime'' Definition and Sample Size

In the NOPR, DOE proposed the following definition for rated lifetime of general service incandescent lamps: The length of operating time of a sample of lamps between first use and failure of 50 percent of the sample size in accordance with test procedures described in IESNA LM–49–2001. Interested parties voiced concern regarding the method of measuring lamp lifetime set forth in the proposed definition.

NEMA stated that the failure rate is a measure of how many lamps are failing per unit time at any given moment and that the 50 percent failure rate is not the definition of median lamp lifetime. NEMA also noted it was common industry practice to use distributional parametric fits such as Weibull or lognormal functions for determining the best estimate of median lifetime and recommended DOE allow the use of this methodology. (NEMA, No. 8 at p. 3)

DOE is using the 50 percent failure rate methodology as it is aligned with the general statutory definition of ''life'' or ''lifetime'' as the length of operating time of a statistically large group of lamps between first use and failure of 50 percent of the group (42 U.S.C. 6291(30)(P)). It also coincides with the definition in IESNA LM–49–2001 which states in Section 1.2g that for life rating, the applicable definition of median is the total operating time at which 50 percent of a large group of lamps is still expected to be operating. Therefore, DOE is only revising the definition of rated lifetime for GSILs to provide additional guidance. DOE is maintaining that the rated lifetime is the length of operating time of a sample of lamps between first use and failure of 50 percent of the sample size in accordance with test procedures described in IESNA LM–49–2001. It is also specifying that the operating time be based on the middle lamp operating time for an odd-numbered sample size and the average operating time of the two middle lamps for an even-numbered sample size.

While NEMA agreed with DOE's proposed minimum sample size of 20 lamps, it stated if DOE adopted the 50 percent failure rate determination for lifetime, the middle lamp of an odd number of samples should be used. (NEMA, No. 8 at p.3–4) In the NOPR, DOE had proposed the minimum sample size of 20 lamps in order to be consistent with the already existing 21-lamp minimum sample size requirement for GSIL performance testing. 10 CFR 429.27. DOE had chosen 20 samples (an even number) instead of 21 samples in order to facilitate the calculation of the 50 percent failure rate. DOE agrees, however, with NEMA that in terms of determining the 50 percent failure at the median lamp lifetime, an odd-numbered sample size is more appropriate. Therefore, DOE is revising the minimum required sample size of 20 lamps proposed in the NOPR to 21 lamps in this final rule.

As with the 21-sampling plan for GSIL performance testing, DOE will require a minimum of three lamps per month each month of production for a minimum of seven months out of a 12-month period. If lamp production occurs in fewer than seven months out of the year, three or more lamps will be selected for each month that production exists as evenly as possible to meet the minimum 21 sample requirement. These seven months do not need to be consecutive and can be any combination of seven months out of the 12.

With regards to the sampling plan, NEMA stated that the existing seven out of 12-month sampling requirement for performance testing should not be the basis for the lifetime sampling requirement. (NEMA, No. 8 at p. 4; Philips, No. 7 at p. 60) DOE notes that the seven out of 12-month sampling plan was developed with the input of interested parties in a previous test procedure rulemaking on incandescent and fluorescent performance testing. 62 FR 29221, 29229. This seven-month sampling minimum ensures manufacturers are consistently producing lamps that meet standards. DOE finds no reason to differentiate between the performance and lifetime testing sampling plans. Further, using the same sampling plan allows manufacturers the opportunity to test the same sample set for measurements of lumen output, wattage, and lifetime, thereby potentially reducing testing burden.

NEMA also recommended DOE require sampling from the initial production run and thereby prevent fractionated lifetime testing of 12–18 months' time. (NEMA, No. 8 at p. 4) Allowing testing up to the minimum rated lifetime should shorten the time required for lifetime testing. Hence, the continuation of lifetime tests for samples from the last month of production into the following production year should be limited. Therefore, DOE will not be requiring sampling from the initial production run.

6. Certification Requirements

As mentioned previously, to ensure that DOE is in full compliance with Section 315 of Public Law 112–74, DOE will not finalize in this document provisions related to certifying lamps subject to that provision of law. DOE may finalize those procedures at an appropriate time in the future. Described below are issues raised in public comment regarding certification. DOE would respond to these comments if it finalizes these provisions in the future.

In the NOPR, DOE proposed establishing new model filing requirements for GSIL testing similar to those in place for GSFLs and IRLs. These requirements take into account the 12-month sampling requirement for performance and lifetime testing of GSILs by allowing manufacturers to submit an initial certification report prior to or concurrent with distribution of the new model. This initial certification report filing, describing how the manufacturer has determined that the new model meets or exceeds energy conservation standards, will allow manufacturers to distribute new models while completing the 12-month sampling requirement for certification. This initial report is followed by a final certification report, based on the full sampling provisions, which is to be submitted one year after the first date of manufacture of the new model.

Interested parties commented on the proposed certification requirements for GSIL lifetime testing. NEMA requested that DOE accept product compliance at 40 percent of required lifetime. NEMA also stated that the testing should continue until completed and that any non-compliant products should be removed from the market. (NEMA, No. 8 at p. 3; NEMA, Public Meeting Transcript, No. 7 at p. 44–46) DOE finds that the certification process for GSIL lifetime should not cause delays in distribution since manufacturers can submit initial certification reports and are not required to measure the full lifetime of the lamp for compliance. DOE sees no reason to base certification on 40 percent compliance with the lifetime rating.

Instead of on an annual basis, which Phillips believed would pose a

significant burden, Philips stated that testing should be required only once for the product unless the product goes through major changes. (Philips, No. 7 at p. 51) NEMA also strongly recommended testing be required only once and not annually. (NEMA, No. 8 at p. 3)

Regarding certification reports, Lutron requested clarification on how DOE addresses discrepancies between the engineering analysis submitted for the initial certification report and testing conducted for the final certification reports. (Lutron, Public Meeting Transcript, No. 7 at p. 58)

7. Laboratory Accreditation

In the NOPR, DOE proposed that facilities that conduct testing for GSIL lifetime be accredited to NVLAP or an organization recognized by NVLAP. DOE received several stakeholder comments regarding the burden such accreditation would pose on manufacturers. First, NEMA stated the NVLAP-accredited GSIL lifetime testing is a new requirement and manufacturers' accredited laboratories have limited resources for GSIL lifetime testing. Second, NEMA stated that most manufacturers test for lifetime at factory lifetime test facilities that are not NVLAP accredited. Further, these facilities would require significant investment in order to become NVLAP accredited. (NEMA, No. 8 at p. 4) NEMA noted that since NVLAP accredits to efficacy and lifetime standards separately, lifetime testing can be performed at laboratories at plant sites accredited only to the lifetime test standard. Photometry and colorimetry testing would then occur at accredited laboratories on sample sets taken from the same lots. NEMA, however, emphasized costs would still be significant as each plant would need to be accredited for lifetime testing. (NEMA, No. 8 at p. 5)

After further review, DOE has decided not to require NVLAP accreditation for laboratories conducting GSIL lifetime testing. NVLAP accreditation involves ensuring the laboratory is executing testing according to industry reference standards and practices that include an assessment of laboratory equipment and competency of personnel. DOE has not found evidence that NVLAP accreditation for incandescent lifetime testing, which does not require precise measurements, would provide significant value. Further, as noted in the NOPR, NVLAP imposes fees of $9,000 and $8,000 on years one and two of accreditation and subsequently, fees alternate between $5,000 and $8,000, with the $8,000 fee corresponding to the on-site evaluation required every other year. Based on the above comments, manufacturers plan to conduct performance testing and lifetime testing at different laboratories, with lifetime testing conducted at plant-level laboratories. These manufacturer-site laboratories have no previous NVLAP accreditations. Hence, manufacturers would have to obtain accreditation at each plant for lifetime testing. DOE has concluded, therefore, that NVLAP accreditation for GSIL lifetime testing would provide few benefits compared to the added costs. Therefore, in this final rule, DOE is not requiring manufacturers to conduct GSIL lifetime testing in a laboratory accredited to NVLAP or an organization recognized by NVLAP. DOE may, however, reevaluate the accreditation requirement for GSIL lifetime testing at a later time.

DOE does require NVLAP accreditation for facilities conducting GSIL energy performance measurements (e.g. lumen output, wattage, CRI) and will continue to do so. The accuracy of such performance measurements are highly dependent on precisely calibrated equipment and test execution that appropriately follows industry reference standards and practices. Further, manufacturers indicated they would be conducting GSIL performance testing at laboratories that either already have NVLAP accreditation for GSIL performance testing or NVLAP accreditation for other test procedures. In cases where a laboratory has a NVLAP accreditation, the cost of adding accreditation to another test procedure is incremental.

DOE also received several comments regarding the procedural aspects of NVLAP accreditation. ICF commented that IES withdraws test procedures after ten years and therefore, IESNA LM–49–2001 may be out of circulation at the end of 2011 posing a potential problem for laboratories that are not already accredited to the test procedure. (ICF, Public Meeting Transcript, No. 7 at p. 48) As indicated previously, DOE will no longer be requiring NVLAP accreditation to the GSIL lifetime test procedure. DOE notes that ten laboratories are currently accredited by NVLAP to IESNA LM–49–2001 in the United States and these laboratories will continue to be accredited to the test procedure even after it is withdrawn. DOE also verified with NVLAP that additional laboratories may become accredited to IESNA LM–49–2001 even after it is withdrawn.

P.R. China noted that NVLAP and the China National Accreditation Service (CNAS) signed the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement to accredit testing laboratories based on ISO/IEC 17025. P.R. China requested that DOE allow CNAS accredited laboratories for lifetime and efficiency testing in order to reduce the testing burden. (P.R. China, No. 9 at p. 3) As discussed above, DOE is removing the requirement that GSIL lifetime testing must be conducted at an NVLAP or NVLAP-recognized organization and therefore P.R. China's concerns are unwarranted. DOE does, however, continue to require GSIL performance testing be completed at a laboratory accredited by NVLAP or a NVLAP-recognized organization, which includes foreign laboratories accredited by foreign accrediting bodies that have mutual recognition agreements through ILAC with NVLAP. 62 FR 29221, 29235

P.R. China also stated that DOE's requirement for NVLAP certification on energy performance tests does not conform to relevant international agreements including Article 2.2 of the TBT which states that members should ensure that adopted technical rules and regulations do not cause unnecessary barriers to international trade. P.R. China suggested that DOE reconsider this certification requirement or provide the scientific basis for it. (P.R. China, No. 9 at p. 4) P.R. China also stated this final rule should become effective after DOE performs a review of the mutual laboratory qualification recognition procedures of World Trade Organization (WTO) member states. P.R. China suggested this approach as a way for DOE to comply with Article 6.3 of the TBT which encourages member states to come to an agreement on recognizing each other's qualification evaluation procedures. (P.R. China, No. 9 at pp. 3–4)

As stated previously, DOE's existing requirements necessitate test facilities that conduct performance testing be NVLAP-accredited or accredited by an organization recognized by NVLAP. This allows for other accreditation organizations that entered into mutual recognition agreements through ILAC with NVLAP to also perform testing. DOE has therefore concluded that the accreditation requirement is not causing trade barriers. Further, DOE finds any additional review of mutual qualification recognition procedures to be unnecessary due to the mutual recognition agreements with NVLAP.

8. GSIL Lifetime Testing Costs

DOE received several comments regarding the burden posed by the cost of GSIL lifetime testing on manufacturers. Philips commented that this cost would pose significant burden

on both small and large manufacturers. OSI added that for larger manufacturers the cost would be applicable at each manufacturing location. (Philips, Public Meeting Transcript, No. 7 at p. 62; OSI, Public Meeting Transcript, No. 7 at p. 62) NEMA contended DOE had underestimated GSIL lifetime testing costs in the NOPR. NEMA's own estimates suggest it would require a total initial investment of $133,000 and labor costs per year of $60,000 to test 100 basic models at an accredited lifetime test facility with a minimum of 2,000 lifetime test spaces. NEMA noted that most major manufacturers have a portfolio comprising more than 100 products. Additionally, NEMA emphasized preparation for lifetime testing was a significant investment that would have to be incurred in the near future for a mature technology that is being phased out in many areas. (NEMA, No. 8 at pp. 4–5). NEMA also stated that since these costs were not small for large manufacturers that they would pose a significant burden for smaller manufacturers. (NEMA, No. 8 at p. 4)

For this final rule, DOE conducted an independent calculation of GSIL lifetime testing costs. As in the NOPR, DOE based this estimate on the use of a still camera with a programmable snapshot system to record lamp operation. This is less labor intensive and costly than in person inspection. DOE's estimate of initial investment costs included installation labor and equipment for the lamp test racks, voltage regulator, and camera-based monitoring system. DOE also estimated labor costs for conducting the lifetime testing based on an hourly rate of $100. DOE then developed three separate cost estimates each for a manufacturer producing four, 50, and 100 models and adhering to the sampling requirement of 21 lamps per model. As mentioned in the NOPR, DOE had determined that small manufacturers of GSILs produce anywhere from four to 50 models. Further, DOE found that 100 models was a valid representation for large manufacturer production of general service incandescent lamps.

While NEMA's estimate assumed testing would be conducted for all models at once, DOE's calculations were based on a staggered test approach. DOE determined that over the course of a year, 1,000-hour lifetime tests for four models could be completed with one rack; 50 models with two racks; and 100 models with three racks. For comparison purposes, DOE scaled NEMA's estimates which were based on 20 racks (or testing 100 models at once) down to using one, two and three racks. For four models (one rack), NEMA's scaled-down estimate was about $10,000 while DOE's estimate was $13,000. NEMA's scaled-down estimate for 50 models (two racks) was about $20,000 and DOE's estimate was $63,000. NEMA's scaled-down estimate for 100 models (three racks) was $29,000 and DOE's estimate was $118,000.

Based on DOE's higher estimates, a small manufacturer producing 50 models would have to make an initial investment cost of about $20,000 and incur labor costs of about $40,000. In subsequent years, testing costs would be much smaller because only new products or substantially redesigned products would need to be tested. Assuming a conservative estimate of $1 million in revenue for a small business, initial testing costs would represent about six percent of revenue, but when amortized over subsequent years with little or no testing, testing costs would account for a smaller percentage of revenue. In addition, some businesses may already have lifetime data that could be used for representation purposes from previously completed FTC labeling testing. Based on these estimates, DOE has concluded that GSIL lifetime testing costs would not pose a substantial burden on small manufacturers. See section IV.B for further analysis of the impacts of this final rule on small manufacturers.

For a large manufacturer producing 100 models, DOE estimates an initial investment cost of $32,000 and about $86,000 for labor costs. This total cost is a negligible percentage of a large manufacturer's revenue. Therefore, based on these estimates, DOE has concluded that GSIL lifetime testing would not pose a substantial burden on large manufacturers.

With regards to testing burden, Philips also commented that when considering the products and testing requirements covered in the NOPR, DOE needed to either reduce the number of products that need to be tested or the testing requirements. (Philips, Public Meeting Transcript, No. 7 at p. 63–64) All products covered by standards must be tested for the purpose of compliance. (42 U.S.C. 6295(s)) DOE's test requirements ensure that compliance with these standards can be verified.

9. Summary of GSIL Lifetime Testing

As specified in the sections above, DOE is incorporating IESNA LM–49–2001 as the industry reference standard in this lifetime test procedure, defining rated lifetime, prescribing a minimum sample size of 21, and establishing laboratory accreditation requirements.

C. Effective Date for the Amended Test Procedures

The effective date for these test procedure amendments would be 30 days after publication of the test procedure final rule in the **Federal Register**. At that time, manufacturers and importers of covered GSFLs, IRLs, and GSILs may use the amended test procedure for making representations of the energy efficiency or energy consumption of each basic model. Additionally, for GSFLs and IRLs, manufacturers may use the amended test procedure or the existing test procedures to certify compliance with DOE's test procedure.

The compliance date for making any representations of the energy efficiency or energy consumption derived from the revised version of the test procedure for GSFLs, IRLs, and GSILs is 180 days from the date of publication of the test procedure final rule in the **Federal Register**. On or after that date, any manufacturer representations, including those made on marketing materials and product labels, must be based upon results generated under these new and amended test procedures and the applicable sampling plans.

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

The Office of Management and Budget has determined that test procedure rulemakings do not constitute ''significant regulatory actions'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, 58 FR 51735 (Oct. 4, 1993). Accordingly, this action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB).

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IFRA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the DOE rulemaking process. 68 FR 7990. DOE

has made its procedures and policies available on the Office of the General Counsel's Web site: *www.gc.doe.gov*.

Today's final rule will adopt test procedure provisions for GSFLs and GSILs, primarily through updates to industry testing standards, as well as specification of a procedure for testing GSIL lifetime. DOE has reviewed the final rule under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. For the reasons explained below, DOE certifies that the test procedure adopted in today's final rule would not have a significant economic impact on a substantial number of small entities.

The Small Business Administration (SBA) has set a size threshold for manufacturers of GSFLs, GSILs, and IRLs that defines those entities classified as ''small businesses'' for the purposes of the Regulatory Flexibility Analysis. DOE used the SBA's small business size standards to determine whether any small manufacturers of GSFLs, GSILs, and IRLs would be subject to the requirements of the rule. 65 FR 30836, 30849 (May 15, 2000), as amended at 65 FR 53533, 53545 (Sept. 5, 2000) and codified at 13 CFR part 121. The size standards are listed by North American Industry Classification System (NAICS) code and industry description and are available at *www.sba.gov/sites/default/files/Size_Standards_Table.pdf*. GSFL, GSIL, and IRL manufacturing is classified under NAICS 335110, ''Electric Lamp Bulb and Part Manufacturing.'' The SBA sets a threshold of 1,000 employees or less for an entity to be considered as a small business for this category.

For this rulemaking, DOE determined the number of small business U.S. manufacturers of covered GSFLs, GSILs, and IRLs. First, DOE compiled a preliminary list of potential small business manufacturers of GSFLs, GSILs, and IRLs by searching the Hoover's and the SBA databases and also conducting general searches of the covered products. DOE then sought to determine if the companies identified actually manufactured the covered lamp types. From among the potential GSFL small business manufacturers initially identified, DOE was able to determine by reviewing the company Web sites that only one company qualified as a small business U.S. manufacturer of covered GSFLs. Similarly, DOE was also able to determine by reviewing company Web sites that there were no small business U.S. manufacturers of covered IRLs. These results for the number of GSFL and IRL small business U.S. manufacturers is the same as determined in the 2009 GSFL and IRL standards rulemaking. 74 FR 34080, 34174 (July 14, 2009). For GSILs, DOE reviewed company Web sites and contacted companies as necessary and identified six small business U.S. manufacturers of covered GSILs.

DOE has determined that the updated versions of the industry test methods for GSFLs and GSILs performance testing adopted in this final rule would not result in significant changes in test setup and methodology. The changes in these updated versions modify certain specifications such as impedance thresholds, voltage and current regulations and provide additional guidance on methods such as lamp stabilization. However, the updates are not making fundamental changes as to how GSFL or GSIL performance testing is conducted. Therefore, DOE has concluded that these changes will not add a significant amount of testing time or require additional test equipment. Further, DOE is not making any revisions to the IRL performance test procedure as there are no relevant updates to industry test methods, current best practices, or technical developments that necessitate modifications. Therefore, DOE has concluded that there will not be a significant economic impact on small business manufacturers of GSFLs, GSILs, and IRLs with regards to performance testing.

For the GSIL lifetime test procedure, DOE determined that GSIL small manufacturers are producing anywhere from four to 50 models of GSILs and provided cost estimates including labor for conducting the testing. DOE received several comments regarding these cost estimates and for this final rule reassessed these estimates for small business manufacturers.

Based on DOE's estimates for this final rule, a small manufacturer producing 50 models would have to make an initial investment cost of about $20,000 and incur labor costs of about $40,000. The details of this cost estimate are provided in section III.B.8. In subsequent years, testing costs would be much smaller because only new products or redesigned products would need to be tested. Assuming a conservative estimate of $1 million in revenue for a small business, initial testing costs would represent about six percent of revenue, but when amortized over subsequent years with little or no testing, testing costs would account for a lesser percentage of revenue. In addition, some businesses may already have lifetime data from previously completed FTC labeling testing. Based on these reassessed costs, DOE has concluded that the GSIL lifetime test procedure prescribed in this final rule will not result in a significant economic impact on small manufacturers.

Accordingly, DOE has not prepared a regulatory flexibility analysis for this rulemaking. DOE's certification and supporting statement of factual basis has been provided to the Chief Counsel for Advocacy of the SBA for review under 5 U.S.C. 605(b). DOE certifies that this rule would have no significant impact on a substantial number of small entities.

C. Review Under the Paperwork Reduction Act of 1995

The collection-of-information requirement applicable to this rulemaking has been approved by OMB under OMB control number 1910–1400. Public reporting burden for the certification is estimated to average 20 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

D. Review Under the National Environmental Policy Act of 1969

In this final rule, DOE amends its test procedure for GSFLs, GSILs, and IRLs. DOE has determined that this rule falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and DOE's implementing regulations at 10 CFR part 1021. Specifically, this rule amends an existing rule without affecting the amount, quality or distribution of energy usage, and, therefore, will not result in any environmental impacts. Thus, this rulemaking is covered by Categorical Exclusion A5 under 10 CFR part 1021, subpart D, which applies to any rulemaking that interprets or amends an existing rule without changing the environmental effect of that rule. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (August 4, 1999) imposes certain requirements on agencies

formulating and implementing policies or regulations that preempt State law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE examined this final rule and determined that it will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of today's final rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297(d)) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

Regarding the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action resulting in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820; also available at *http://www.gc.doe.gov*. DOE examined today's final rule according to UMRA and its statement of policy and determined that the rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure of $100 million or more in any year, so these requirements do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. Today's final rule will not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

DOE has determined, under Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights'' 53 FR 8859 (March 18, 1988), that this regulation will not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). DOE has reviewed today's final rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OMB, a Statement of Energy Effects for any significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use if the regulation is implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

Today's regulatory action is not a significant regulatory action under Executive Order 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as a significant energy action by the Administrator of OIRA. Therefore, it is not a significant energy action, and,

accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under Section 32 of the Federal Energy Administration Act of 1974

Under section 301 of the Department of Energy Organization Act (Pub. L. 95–91; 42 U.S.C. 7101), DOE must comply with section 32 of the Federal Energy Administration Act of 1974, as amended by the Federal Energy Administration Authorization Act of 1977. (15 U.S.C. 788; FEAA) Section 32 essentially provides in relevant part that, where a proposed rule authorizes or requires use of commercial standards, the notice of proposed rulemaking must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the Attorney General and the Chairman of the Federal Trade Commission (FTC) concerning the impact of the commercial or industry standards on competition.

The final rule incorporates testing methods contained in the following commercial standards: IES LM–9–2009, ''IES Approved Method for Electrical and Photometric Measurements of Fluorescent Lamps;'' IES LM–45–2009, ''IES Approved Method for Electrical and Photometric Measurement of General Service Incandescent Filament Lamps;'' IESNA LM–49–2001, ''IESNA Approved Method for Life Testing of Incandescent Filament Lamps;'' and ANSI C78.81–2010, ''American National Standard for Electric Lamps—Double-Capped Fluorescent Lamps—Dimensional and Electrical Characteristics.'' DOE has consulted with both the Attorney General and the Chairman of the FTC about the impact on competition of using the methods contained in these standards and has received no comments objecting to their use.

M. Congressional Notification

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

N. Approval of the Office of the Secretary

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

List of Subjects

10 CFR Part 429

Administrative practice and procedure, Buildings and facilities, Business and industry, Energy conservation, Grants programs—energy, Housing, Reporting and recordkeeping requirements, Technical assistance.

10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Incorporation by reference, Intergovernmental relations, Small businesses.

Issued in Washington, DC, on December 21, 2011.

Kathleen B. Hogan,

Deputy Assistant Secretary, Energy Efficiency and Renewable Energy.

For the reasons stated in the preamble, DOE amends parts 429 and 430 of Chapter II of title 10 of the Code of Federal Regulations to read as set forth below:

PART 429—CERTIFICATION, COMPLIANCE, AND ENFORCEMENT FOR CONSUMER PRODUCTS AND COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 429 continues to read as follows:

Authority: 42 U.S.C. 6291–6317.

■ 2. Section 429.27 is amended by

■ a. Removing in paragraph (a)(2)(i) first sentence, '', general service incandescent lamp,'';

■ b. Adding in paragraph (a)(2)(ii) introductory text ''and general service incandescent lamp'' after ''general service fluorescent lamp''; and removing the words, ''paragraph (a)(2)(i)'' and adding in their place, the words, ''paragraphs (a)(2)(i) and (a)(2)(iii)''; and

■ c. Adding new paragraphs (a)(2)(iii) and (a)(2)(iv).

The additions read as follows:

§ 429.27 General service fluorescent lamps, general service incandescent lamps, and incandescent reflector lamps.

(a) * * *

(2) * * *

(iii) For each basic model of general service incandescent lamp, for measurements of rated wattage and rated lumen output, samples of production lamps shall be obtained from a 12-month period, tested, and the results averaged. A minimum sample of 21 lamps shall be tested. The manufacturer shall randomly select a minimum of three lamps from each month of production for a minimum of 7 out of the 12-month period. In the instance where production occurs during fewer than 7 of such 12 months, the manufacturer shall randomly select 3 or more lamps from each month of production, where the number of lamps selected for each month shall be distributed as evenly as practicable among the months of production to attain a minimum sample of 21 lamps. Any represented value of rated wattage of a basic model shall be based on the sample and shall be greater than or equal to the higher of:

(A) The mean of the sample, where:

$$\bar{x} = \frac{1}{n}\sum_{i=1}^{n} x_i$$

and, $\bar{x}$ is the sample mean; n is the number of samples; and x_i is the ith sample; Or,

(B) The upper 95 percent confidence limit (UCL) of the true mean divided by 1.03, where:

$$UCL = \bar{x} + t_{.95}\left(\frac{s}{\sqrt{n}}\right)$$

and $\bar{x}$ is the sample mean; s is the sample standard deviation; n is the number of samples; and $t_{0.95}$ is the t statistic for a 95% two-tailed confidence interval with n-1 degrees of freedom (from Appendix A to this subpart).

(iv) For each basic model of general service incandescent lamp, for measurements of rated lifetime, a minimum sample of 21 lamps shall be tested. The manufacturer shall randomly select a minimum of three lamps from each month of production for a minimum of 7 out of the 12-month period. In the instance where production occurs during fewer than 7 of such 12 months, the manufacturer shall randomly select three or more lamps from each month of production, where the number of lamps selected for each month shall be distributed as evenly as practicable among the months of production to attain a minimum sample of 21 lamps. The lifetime shall be represented as the length of operating time between first use and failure of 50 percent of the sample size, in accordance with test procedures described in section 4.2 of Appendix R to subpart B of part 430 of this chapter. Compliance will be determined by the percentage of sample size that meets the minimum rated lifetime.

* * * * *

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 3. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

4. Section 430.2 is amended by:

■ a. Removing in paragraph (2) of the definition of ''*Colored fluorescent*

lamp'' the words ''IESNA LM–9'' and adding in its place ''IES LM–9''; and

■ b. Adding in alphabetical order the definition of ''*Rated lifetime for general service incandescent lamps''* to read as follows:

§ 430.2 Definitions.

* * * * *

Rated lifetime for general service incandescent lamps means the length of operating time of a sample of lamps (as defined in § 429.27(a)(2)(iv) of this chapter) between first use and failure of 50 percent of the sample size in accordance with test procedures described in IESNA LM–49 (incorporated by reference; see § 430.3), as determined in section 4.2 of Appendix R of this subpart. The operating time is based on the middle lamp operating time for an odd number of samples and the average operating time of the two middle lamps for an even number of samples.

* * * * *

■ 5. Section 430.3 is amended by:

■ a. Removing paragraph (c)(5) and redesignating paragraphs (c)(6) through (c)(19) as paragraphs (c)(5) through (c)(18);

■ b. Revising the newly redesignated paragraph (c)(5);

■ c. Revising paragraphs (k)(2) and (k)(5); and

■ d. Redesignating paragraph (k)(6) as (k)(7) and adding new paragraph (k)(6).

The revisions and additions read as follows:

§ 430.3 Materials incorporated by reference.

* * * * *

(c) *ANSI.* * * *

(5) ANSI_ANSLG C78.81–2010, (''ANSI C78.81''), American National Standard for Electric Lamps—Double-Capped Fluorescent Lamps—Dimensional and Electrical Characteristics, approved January 14, 2010, IBR approved for § 430.2, § 430.32, appendix Q, appendix Q1, and appendix R to subpart B.

* * * * *

(k) *IESNA.* * * *

(2) IES LM–9–09, (''IES LM–9''), IES Approved Method for the Electrical and Photometric Measurement of Fluorescent Lamps, approved January 31, 2009; IBR approved for § 430.2 and appendix R to subpart B.

* * * * *

(5) IES LM–45–09, (''IES LM–45''), IES Approved Method for the Electrical and Photometric Measurement of General Service Incandescent Filament Lamps, approved December 14, 2009; IBR approved for appendix R to subpart B.

(6) IESNA LM–49–01 (''IESNA LM–49''), IESNA Approved Method for Life Testing of Incandescent Filament Lamps, approved December 1, 2001, IBR approved for § 430.2 and appendix R to subpart B.

* * * * *

■ 6. Section 430.23 is amended by adding paragraph (r)(6) to read as follows:

§ 430.23 Test procedures for the measurement of energy and water consumption.

* * * * *

(r) * * *

(6) The rated lifetime for general service incandescent lamps shall be measured in accordance with test procedures described in section 4.2 of Appendix R of this chapter. A lamp shall be compliant with standards if greater than 50 percent of the sample size specified in § 429.27 meets the minimum rated lifetime as specified by energy conservations standards for general service incandescent lamps.

* * * * *

■ 7. Section 430.25 is revised to read as follows:

§ 430.25 Laboratory Accreditation Program.

Testing for fluorescent lamp ballasts performed in accordance with appendix Q1 to this subpart shall comply with this § 430.25. The testing for general service fluorescent lamps, general service incandescent lamps, and incandescent reflector lamps shall be performed in accordance with Appendix R to this subpart. The testing for medium base compact fluorescent lamps shall be performed in accordance with Appendix W of this subpart. This testing, with the exception of lifetime testing of general service incandescent lamps, shall be conducted by test laboratories accredited by the National Voluntary Laboratory Accreditation Program (NVLAP) or by an accrediting organization recognized by NVLAP. NVLAP is a program of the National Institute of Standards and Technology, U.S. Department of Commerce. NVLAP standards for accreditation of laboratories that test for compliance with standards for fluorescent lamp ballast luminous efficiency (BLE), lamp efficacy, lamp lifetime, and fluorescent lamp CRI are set forth in 15 CFR part 285. A manufacturer's or importer's own laboratory, if accredited, may conduct the applicable testing. Testing for BLE may also be conducted by laboratories accredited by Underwriters Laboratories or Council of Canada. Testing for fluorescent lamp ballasts performed in accordance with Appendix Q to this subpart is not required to be conducted by test laboratories accredited by NVLAP or an accrediting organization recognized by NVLAP.

■ 8. Appendix Q to subpart B of part 430 is amended by revising sections 1.5 through 1.10 and 2.1 to read as follows:

Appendix Q to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Fluorescent Lamp Ballasts

1. Definitions

* * * * *

1.5 *F40T12 lamp* means a nominal 40 watt tubular fluorescent lamp which is 48 inches in length and one and a half inches in diameter, and conforms to ANSI C78.81 (Data Sheet 7881–ANSI–1010–1) (incorporated by reference; see § 430.3).

1.6 *F96T12 lamp* means a nominal 75 watt tubular fluorescent lamp which is 96 inches in length and one and a half inches in diameter, and conforms to ANSI C78.81 (Data Sheet 7881–ANSI–3007–1) (incorporated by reference; see § 430.3).

1.7 *F96T12HO lamp* means a nominal 110 watt tubular fluorescent lamp that is 96 inches in length and one and a half inches in diameter, and conforms to ANSI C78.81 (Data Sheet 7881–ANSI–1019–1) (incorporated by reference; see § 430.3).

1.8 *F34T12 lamp* (also known as a ''F40T12/ES lamp'') means a nominal 34 watt tubular fluorescent lamp that is 48 inches in length and one and a half inches in diameter, and conforms to ANSI C78.81 (Data Sheet 7881–ANSI–1006–1) (incorporated by reference; see § 430.3).

1.9 *F96T12/ES lamp* means a nominal 60 watt tubular fluorescent lamp that is 96 inches in length and one and a half inches in diameter, and conforms to ANSI C78.81 (Data Sheet 7881–ANSI–3006–1) (incorporated by reference; see § 430.3).

1.10 *F96T12HO/ES lamp* means a nominal 95 watt tubular fluorescent lamp that is 96 inches in length and one and a half inches in diameter, and conforms to ANSI C78.81 (Data Sheet 7881–ANSI–1017–1) (incorporated by reference; see § 430.3).

* * * * *

2. *Test Conditions.*

2.1 *Measurement of Active Mode Energy Consumption, BEF.* The test conditions for testing fluorescent lamp ballasts shall be done in accordance with ANSI C82.2 (incorporated by reference; see § 430.3). Any subsequent amendment to this standard by the standard setting organization will not affect the DOE test procedures unless and until amended by DOE. The test conditions for measuring active mode energy consumption are described in sections 4, 5, and 6 of ANSI C82.2. The test conditions described in this section (2.1) are applicable to section 3.1 of section 3, Test Method and Measurements. For section 2.1 and 3, ANSI C78.81 (incorporated by reference; see § 430.3), ANSI C82.1 (incorporated by reference; see § 430.3), ANSI C82.11 (incorporated by reference; see § 430.3), and ANSI C82.13 (incorporated by reference; see § 430.3) shall be used when applying ANSI

C82.2 instead of the versions listed as normative references in ANSI C82.2.

* * * * *

■ 9. Appendix Q1 to subpart B of part 430 is amended by revising sections 2.1, 2.3.1, and 2.4.1 to read as follows:

Appendix Q1 to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Fluorescent Lamp Ballasts

* * * * *

2. *Active Mode Procedure*

2.1. Where ANSI C82.2 (incorporated by reference; see § 430.3) references ANSI C82.1–1997, the operator shall use ANSI C82.1 (incorporated by reference; see § 430.3) for testing low-frequency ballasts and shall use ANSI C82.11 (incorporated by reference; see § 430.3) for testing high-frequency ballasts. In addition when applying ANSI C82.2, ANSI C78.81 (incorporated by reference; see § 430.3), ANSI C82.1, ANSI C82.11, and ANSI C82.13 (incorporated by reference; see § 430.3) shall be used instead of the versions listed as normative references in ANSI C82.2.

* * * * *

2.3. *Test Setup*

2.3.1. The ballast shall be connected to a main power source and to the fluorescent lamp load according to the manufacturer's wiring instructions and ANSI C82.1 (incorporated by reference; see § 430.3) and ANSI C78.81 (incorporated by reference; see § 430.3).

* * * * *

2.4. *Test Conditions*

2.4.1. The test conditions for testing fluorescent lamp ballasts shall be done in accordance with ANSI C82.2 (incorporated by reference; see § 430.3). DOE further specifies that the following revisions of the normative references indicated in ANSI C82.2 should be used in place of the references directly specified in ANSI C82.2: ANSI C78.81 (incorporated by reference; see § 430.3), ANSI C82.1 (incorporated by reference; see § 430.3), ANSI C82.3 (incorporated by reference; see § 430.3), ANSI C82.11 (incorporated by reference; see § 430.3), and ANSI C82.13 (incorporated by reference; see § 430.3). All other normative references shall be as specified in ANSI C82.2.

* * * * *

■ 10. Appendix R to subpart B of part 430 is amended by:

■ a. Revising sections 2.1, 2.9, 3.1, 3.2, 4.1.1, 4.2.1, 4.2.2, and, 4.4.1;

■ b. Adding new sections 4.2.3 and 4.2.3.1; and

■ c. Removing section 4.5.

The revisions and additions read as follows:

Appendix R to Subpart B of Part 430—Uniform Test Method for Measuring Average Lamp Efficacy (LE), Color Rendering Index (CRI), Correlated Color Temperature (CCT), and Lamp Lifetime of Electric Lamps

* * * * *

2. *Definitions*

2.1 To the extent that definitions in the referenced IESNA and CIE standards do not conflict with the DOE definitions, the definitions specified in section 3.0 of IES LM–9 (incorporated by reference; see § 430.3), section 3.0 of IESNA LM–20 (incorporated by reference; see § 430.3), section 3.0 and the Glossary of IES LM–45 (incorporated by reference; see § 430.3), section 2 of IESNA LM–58 (incorporated by reference; see § 430.3), and Appendix 1 of CIE 13.3 (incorporated by reference; see § 430.3) shall be included.

* * * * *

2.9 *Reference condition* means the test condition specified in IES LM–9 for general service fluorescent lamps, in IESNA LM–20 for incandescent reflector lamps, and in IES LM–45 for general service incandescent lamps.

3. *Test Conditions*

3.1 *General Service Fluorescent Lamps:* For general service fluorescent lamps, the ambient conditions of the test and the electrical circuits, reference ballasts, stabilization requirements, instruments, detectors, and photometric test procedure and test report shall be as described in the relevant sections of IES LM–9 (incorporated by reference; see § 430.3).

3.2 *General Service Incandescent Lamps:* For general service incandescent lamps, the selection and seasoning (initial burn-in) of the test lamps, the equipment and instrumentation, and the test conditions shall be as described in IES LM–45 (incorporated by reference; see § 430.3).

* * * * *

4. *Test Methods and Measurements* * * *

4.1.1 The measurement procedure shall be as described in IES LM–9 (incorporated by reference; see § 430.3), except that lamps shall be operated at the appropriate voltage and current conditions as described in ANSI C78.375 (incorporated by reference; see § 430.3) and in ANSI C78.81 (incorporated by reference; see § 430.3) or ANSI C78.901 (incorporated by reference; see § 430.3), and lamps shall be operated using the appropriate reference ballast at input voltage specified by the reference circuit as described in ANSI C82.3 (incorporated by reference; see § 430.3). If, for a lamp, both low-frequency and high-frequency reference ballast settings are included in ANSI C78.81 or ANSI C78.901, the lamp shall be operated using the low-frequency reference ballast.

* * * * *

4.2 *General Service Incandescent Lamps*

4.2.1 The measurement procedure shall be as described in IES LM–45 (incorporated by reference; see § 430.3). Lamps shall be operated at the rated voltage as defined in § 430.2.

4.2.2 The test procedure shall conform to sections 6 and 7 of IES LM–45, and the lumen output of the lamp shall be determined in accordance with section 7 of IES LM–45. Lamp electrical power input in watts shall be measured and recorded. Lamp efficacy shall be determined by computing the ratio of the measured lamp lumen output and lamp electrical power input at equilibrium for the reference condition. The test report shall conform to section 8 of IES LM–45.

4.2.3 The measurement procedure for testing the lifetime of general service incandescent lamps shall be as described in IESNA LM–49 (incorporated by reference; see § 430.3). The lifetime measurement shall be taken by measuring the operating time of a lamp, expressed in hours, not including any off time. The percentage of the sample size that meets the minimum rated lifetime shall be recorded. The lamp shall be deemed to meet minimum rated lifetime standards if greater than 50 percent of the sample size specified in § 429.27 meets the minimum rated lifetime.

4.2.3.1 Accelerated lifetime testing is not allowed. The second paragraph of section 6.1 of IESNA LM–49 is to be disregarded.

* * * * *

4.4 *Determination of Color Rendering Index and Correlated Color Temperature*

4.4.1 The CRI shall be determined in accordance with the method specified in CIE 13.3 (incorporated by reference; see § 430.3) for general service fluorescent lamps. The CCT shall be determined in accordance with the method specified in IES LM–9 (incorporated by reference; see § 430.3) and rounded to the nearest 10 kelvin for general service fluorescent lamps. The CCT shall be determined in accordance with the CIE 15 (incorporated by reference; see § 430.3) for incandescent lamps. The required spectroradiometric measurement and characterization shall be conducted in accordance with the methods set forth in IESNA LM–58 (incorporated by reference; see § 430.3).

* * * * *

[FR Doc. 2012–1681 Filed 1–26–12; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0956; Directorate Identifier 2011–NE–23–AD; Amendment 39–16928; AD 2012–02–05]

RIN 2120–AA64

Airworthiness Directives; Thielert Aircraft Engines GmbH Reciprocating Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Thielert Aircraft Engines GmbH (TAE)

TAE 125–02–99 and TAE 125–02–114 reciprocating engines. This AD was prompted by in-flight engine shutdown incidents reported on airplanes equipped with TAE 125 engines. We are issuing this AD to prevent in-flight engine shutdown, which could result in loss of control of the airplane.

DATES: This AD is effective March 2, 2012.

ADDRESSES: For service information identified in this AD, contact Thielert Aircraft Engines GmbH, Platanenstrasse 14 D–09350, Lichtenstein, Germany, telephone: +49–37204–696–0; fax: +49–37204–696–55; email: *info@centurion-engines.com.* You may review copies of the referenced service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call (781) 238–7125.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: (800) 647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

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

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, issued EASA AD 2011–0087–E, dated May 12, 2011 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

In-flight engine shutdown incidents have been reported on aeroplanes equipped with TAE 125 engines.

Preliminary investigations showed that it was mainly the result of the sensitivity of friction disk Part Number (P/N) 05–7211–K010201 against possible misalignment of gearbox and core engine during assembly.

This condition, if not corrected, could result in further cases of engine in-flight shutdown and consequent loss of control of the aeroplane.

To address this unsafe condition, Thielert Aircraft Engines GmbH has developed a new friction disk.

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM published in the **Federal Register** on October 18, 2011 (76 FR 64289). That NPRM was proposed to require on all TAE 125–02–99 and TAE 125–02–114 reciprocating engines, replacing the friction disk, P/N 05–7211–K010201.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (76 FR 64289, October 18, 2011).

Conclusion

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

Costs of Compliance

Based on the service information, we estimate that this AD will affect about 206 TAE 125–02–99 and TAE 125–02–114 reciprocating engines installed on airplanes of U.S. registry. We also estimate that it will take about 3 work-hours per engine to comply with this AD. The average labor rate is $85 per work-hour. Required parts will cost about $1,500 per engine. Based on these figures, we estimate the cost of the AD on U.S. operators to be $361,530. Our cost estimate is exclusive of possible warranty coverage.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2012–02–05 Thielert Aircraft Engines GmbH: Amendment 39–16928; Docket No. FAA–2011–0956; Directorate Identifier 2011–NE–23–AD.

(a) Effective Date

This AD is effective March 2, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Thielert Aircraft Engines GmbH TAE 125–02–99 and TAE–125–02–114 reciprocating engines with friction disk, part number (P/N) 05–7211–K010201, installed.

(d) Reason

This AD was prompted by in-flight engine shutdown incidents reported on airplanes equipped with TAE 125 engines. Preliminary investigations showed that it was mainly the result of the sensitivity of friction disk P/N

05–7211–K010201 against possible misalignment of gearbox and core engine during assembly. We are issuing this AD to prevent in-flight engine shutdown, which could result in loss of control of the airplane.

(e) Actions and Compliance

Unless already done, do the following actions.

(1) TAE 125–02–99 Engines, P/Ns 05–7200–K000201; 05–7200–K000701; 05–7200–K000101; 05–7200–K000901; 05–7200–K001101; and 05–7200–K001301; and TAE 125–02–114 Engines, P/Ns 05–7200–K000501; 05–7200–K000801; and 05–7200–K001401

For TAE 125–02–99 engines, P/Ns 05–7200–K000201; 05–7200–K000701; 05–7200–K000101; 05–7200–K000901; 05–7200–K001101; and 05–7200–K001301; and TAE 125–02–114 engines, P/Ns 05–7200–K000501; 05–7200–K000801; and 05–7200–K001401, remove friction disk, P/N 05–7211–K010201, within 100 flight hours (FH) time-since-new (TSN) on the clutch or within 10 FH time-in-service (TIS) after the effective date of this AD, whichever is later.

(2) TAE 125–02–99 Engines, P/Ns 05–7200–K000301

For TAE 125–02–99 engines, P/N 05–7200–K000301, installed on multiengine aircraft, remove friction disk, P/N 05–7211–K010201, on one engine within 100 FH TSN on the clutch or within 10 FH TIS after the effective date of this AD, whichever is later. Remove friction disk, P/N 05–7211–K010201, from the other engine within 300 FH TSN on the clutch or within 10 FH TIS after the effective date of this AD, whichever is later.

(f) Installation Prohibition

After the effective date of this AD:

(1) Do not install any friction disk, P/N 05–7211–K010201, into any engine.

(2) Do not install any TAE 125–02–99 engine, P/N 05–7200–K000201, 05–7200–K000301, or 05–7200–K000701, or TAE 125–02–114 engine, P/N 05–7200–K00801 or 05–7200–K00501, that has a friction disk, P/N 05–7211–K010201 installed, onto any airplane.

(g) Operating Prohibition

Do not operate any multi-engine aircraft after 300 FH TSN on the clutch or 10 FH TIS after the effective date of this AD, whichever is later, which has installed a friction disk, P/N 05–7211–K010201.

(h) Alternative Methods of Compliance (AMOCs)

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

(i) Related Information

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

(2) Refer to EASA Airworthiness Directive 2011–0087–E, dated May 12, 2011, and Thielert Service Bulletin No. TM TAE 125–1013 P1, for related information.

(3) Contact Thielert Aircraft Engines GmbH, Platanenstrasse 14 D–09350, Lichtenstein, Germany, telephone: +49–37204–696–0; fax: +49–37204–696–55; email: *info@centurion-engines.com,* for a copy of this service information.

(4) You may review copies of the service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call (781) 238–7125.

(j) Material Incorporated by Reference

None.

Issued in Burlington, Massachusetts, on January 19, 2012.

Peter A. White,

Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2012–1607 Filed 1–26–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

[Docket No. FAA–2011–1343; Amdt. No. 121–358]

FAA-Approved Portable Oxygen Concentrators; Technical Amendment

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; technical amendment.

SUMMARY: The FAA is amending regulations relating to operating rules for FAA approved portable oxygen concentrators (POC) onboard aircraft. This document updates the names of two manufacturers of approved POCs listed in the Special Federal Aviation Regulation (SFAR).

DATES: Effective *January 27, 2012.*

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this action, contact DK Deaderick, Air Transportation Division, AFS–200, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–7480; email: *DK.Deaderick@faa.gov.* For legal questions concerning this action, contact Alex Zektser, AGC–220, Office of Chief Counsel, Regulations Division, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–3073; email: *Alex.Zektser@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

On July 12, 2005, the FAA published SFAR 106, ''Use of Certain Portable Oxygen Concentrator Devices Onboard Aircraft'' (70 FR 40156). SFAR 106 permits passengers to carry on and use certain small portable oxygen concentrators (POCs) on board aircraft if the operator ensures compliance with conditions specified in the SFAR. Some of the devices determined acceptable for use in SFAR 106 are Delphi Medical Systems' RS–00400 (added to the SFAR in 74 FR 2351) and International Biophysics Corporation's LifeChoice (added to the SFAR in 75 FR 739).

As a result of business changes that took place after SFAR 106 was published, the LifeChoice POC is now manufactured by Inova Labs, Inc. and not by the International Biophysics Corporation. Similarly, the RS–00400 POC is now manufactured by Oxus, Inc. and not by Delphi Medical Systems.

The two companies currently manufacturing these POCs have petitioned the FAA to amend SFAR 106, Section 2 and section 3(a), of Title 14, Code of Federal Regulations (14 CFR). This amendment would update section 2 and section 3(a) of SFAR 106 with the names of the current manufacturers of the LifeChoice and RS–00400 POCs.

Technical Amendment

LifeChoice and RS–00400 are still the same products that were originally approved in SFAR 106—only the names of their manufacturers have changed. As such, this technical amendment makes two revisions to the final rule. First, the language in SFAR 106 section 2 and section 3(a) is revised to refer to LifeChoice as being manufactured by Inova Labs. Second, the reference to the RS–00400 POC is revised to refer to this device as being manufactured by Oxus, Inc.

Because the changes in this technical amendment result in no substantive change, we find good cause exists under 5 U.S.C. 553(d)(3) to make the amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 121

Air carriers, Aircraft, Airmen, Aviation safety, Charter flights, Safety, Transportation, Air taxis.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends chapter 1 of title 14, Code of Federal Regulations as follows:

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

■ 1. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 40119, 41706, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 46105.

■ 2. Amend SFAR 106 by revising sections 2 and 3(a) introductory text to read as follows:

Special Federal Aviation Regulation 106—Rules for Use of Portable Oxygen Concentrator Systems On Board Aircraft

* * * * *

Section 2. *Definitions*—For the purposes of this SFAR the following definitions apply: Portable Oxygen Concentrator: Means the *AirSep FreeStyle, AirSep LifeStyle, DeVilbiss Healthcare iGo, Inogen One, Inogen One G2, Invacare XPO2, Invacare Solo2, Inova Labs LifeChoice, Oxlife Independence Oxygen Concentrator, Oxus, Inc. RS–00400, Respironics EverGo, and SeQual Eclipse* Portable Oxygen Concentrator medical device units as long as those medical device units: (1) Do not contain hazardous materials as determined by the Pipeline and Hazardous Materials Safety Administration; (2) are also regulated by the Food and Drug Administration; and (3) assist a user of medical oxygen under a doctor's care. These units perform by separating oxygen from nitrogen and other gases contained in ambient air and dispensing it in concentrated form to the user.

(a) No person may use and no aircraft operator may allow the use of any portable oxygen concentrator device, except the *AirSep FreeStyle, AirSep LifeStyle, DeVilbiss Healthcare iGo, Inogen One, Inogen One G2, Invacare XPO2, Invacare Solo2, Inova Labs LifeChoice, Oxlife Independence Oxygen Concentrator, Oxus, Inc. RS–00400, Respironics EverGo, and SeQual Eclipse* Portable Oxygen Concentrator units. These units may be carried on and used by a passenger on board an aircraft provided the aircraft operator ensures that the following conditions are satisfied:

* * * * *

Issued in Washington, DC, on January 20, 2012.

Pamela Hamilton-Powell,

Director, Office of Rulemaking.

[FR Doc. 2012–1830 Filed 1–26–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket No. RM11–4–000; Order No. 757]

Storage Reporting Requirements of Interstate and Intrastate Natural Gas Companies

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: In this Final Rule, the Commission eliminates the semi-annual storage reporting requirements for Interstate and Intrastate Natural Gas Companies. The Commission finds that these particular reporting requirements are largely duplicative with other reporting requirements.

DATES: *Effective Date:* This rule will become effective March 27, 2012.

FOR FURTHER INFORMATION CONTACT:

Vince Mareino (Legal Information), Office of the General Counsel Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–6167, *Vince.Mareino@ferc.gov.*

Thomas Russo (Technical Information), Office of Enforcement, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8792, *Thomas.Russo@ferc.gov.*

SUPPLEMENTARY INFORMATION:

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138 FERC ¶ 61,033

Before Commissioners: Jon Wellinghoff, Chairman; Philip D. Moeller, John R. Norris, and Cheryl A. LaFleur.

(Issued January 19, 2012)

1. In this Final Rule, the Commission adopts the proposal in the Notice of Proposed Rulemaking (NOPR) in this docket.[1] Effective March 27, 2012, the Commission eliminates its semi-annual storage reporting requirements for (1) interstate natural gas companies subject to the Commission's jurisdiction under the Natural Gas Act (NGA), as codified in 18 CFR 284.13(e); (2) intrastate pipelines providing interstate services pursuant to section 311 of the Natural Gas Policy Act of 1978 (NGPA),[2] as codified in 18 CFR 284.126(c); and (3) Hinshaw [3] pipelines providing interstate services subject to the Commission's NGA jurisdiction pursuant to blanket certificates issued under section 284.224 of the Commission's regulations, as also codified in 18 CFR 284.126(c). All of the parties who filed comments in response to the NOPR stated that they support this course of action. The Commission found in the NOPR that these particular reporting requirements are largely duplicative with other reporting requirements.

I. Background

A. Current Reporting Requirements

2. Currently, section 284.13(e) of the Commission's regulations requires interstate pipelines to file semi-annual storage reports at the end of each complete storage injection and withdrawal season. Section 284.126(c) requires similar semi-annual reports by section 311 and Hinshaw pipelines providing interstate storage service. Pipelines must file these reports within 30 days of the end of each complete storage injection and withdrawal season, and the reports must be signed under oath by a senior official. The reports by the two sets of pipelines must include:

(1) the identity of each customer injecting gas into storage and/or withdrawing gas from storage (including, for interstate pipelines, any affiliate relationship),

(2) the rate schedule (for interstate pipelines) or docket number (for intrastate pipelines) authorizing the storage injection or withdrawal service,

[1] *Storage Reporting Requirements of Interstate and Intrastate Natural Gas Companies,* Notice of Proposed Rulemaking, 76 FR 58741 (2011) FERC Stats. & Regs ¶ 32.678 (NOPR).

[2] 15 U.S.C. 3372.

[3] Section 1(c) of the NGA exempts from the Commission's NGA jurisdiction pipelines which transport gas in interstate commerce if (1) they receive natural gas at or within the boundary of a state, (2) all the gas is consumed within that state, and (3) the pipeline is regulated by a state Commission. This exemption is referred to as the Hinshaw exemption after the Congressman who introduced the bill amending the NGA to include § 1(c). *See ANR Pipeline Co.* v. *Federal Energy Regulatory Comm'n,* 71 F.3d 897, 898 (1995) (briefly summarizing the history of the Hinshaw exemption).

(3) the maximum storage quantity and maximum daily withdrawal quantity applicable to each storage customer,

(4) for each storage customer, the volume of gas (in dekatherms) injected into and/or withdrawn from storage during the period,

(5) the unit charge and total revenues received during the injection/withdrawal period from each storage customer (including, for interstate pipelines, any discounts), and

(6) for intrastate pipelines, any related docket numbers under which the intrastate pipeline reported storage related injection/withdrawal transportation services.

3. The Commission adopted the existing semi-annual storage reporting requirements for both interstate and intrastate pipelines in 1992 as part of Order No. 636,[4] and there have been only minor modifications in the semi-annual storage reporting requirements since that date.[5] However, the Commission has added other reporting requirements for both sets of pipelines, which include much of the same information as is included in the semi-annual storage reports.

4. First, in 2000, the Commission issued Order No. 637,[6] revising the reporting requirements for interstate pipelines in order to require them to post on their Internet Web sites basic information on the terms of each transportation and storage contract with individual shippers, no later than the first nomination under a transaction.[7] These posting requirements are set forth in section 284.13(b) of the Commission's regulations.[8] That section requires interstate pipelines to make daily postings of the same types of information about both firm and interruptible storage transactions as is contained in the interstate pipelines' semi-annual storage reports, except for (1) the amount of gas injected and withdrawn from storage by each individual customer, (2) storage revenues from each individual customer, and (3) the rate schedule authorizing the injection or withdrawal service.[9] Order No. 637 also retained the existing requirement that interstate pipelines post an index of their firm customers each quarter and expanded the information that must be included in that index.[10] Among other things, that index must include the rate schedule under which service under each firm contract is provided. However, Order No. 637 did not significantly modify the semi-annual storage reporting requirement for interstate pipelines.[11]

5. Order No. 637 did not modify any of the reporting requirements for section 311 and Hinshaw pipelines. However, in 2010, the Commission issued Order No. 735 to bring the transactional reporting requirements for section 311 pipelines and Hinshaw pipelines closer in line with the 18 CFR 284.13(b) posting requirements for interstate pipelines.[12] As amended by Order Nos. 735 and 735–A, section 284.126(b) requires that section 311 and Hinshaw pipelines file quarterly reports of their transportation and storage transactions in a standardized electronic format, and it requires that those reports be public. The revised quarterly reports require section 311 and Hinshaw pipelines to report the same types of information about firm and interruptible storage transactions as is contained in their semi-annual storage reports, except for storage revenues from each individual storage customer. In addition, because the semi-annual reporting periods are tied to the injection and withdrawal season, the time periods covered by each report do not correspond precisely. Order No. 735 did not modify the existing semi-annual storage reporting requirement for section 311 and Hinshaw pipelines in section 284.126(c) of the Commission's regulations in any way.

B. NOI and NOPR

6. In December 2010, the Commission issued a Notice of Inquiry (NOI) to consider whether and how the semi-annual storage reports required of both interstate and intrastate pipelines should be modified.[13] After analyzing the comments in response to the NOI, the Commission issued a NOPR in September 2011, proposing to eliminate the semi-annual storage reports.

7. In the NOPR, the Commission found that the semi-annual storage reports are now largely duplicative with other reporting requirements, which gather the same or similar information, but present it to the public in a more standardized and accessible form. For interstate pipelines, the Commission found that the semi-annual storage reports overlap with the section 284.13(b) daily transactional posting requirements established in Order No. 637,[14] described above.[15] The Commission stated that, as Order No. 637 found, the information included in the interstate pipelines' daily postings of both transportation and storage contracts ''provides price transparency so shippers can make informed purchasing decisions, and also permits

[4] *Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation; and Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol,* Order No. 636, FERC Stats. & Regs. ¶ 30,939, *order on reh'g,* Order No. 636–A, FERC Stats. & Regs. ¶ 30,950, *order on reh'g,* Order No. 636–B, 61 FERC ¶ 61,272 (1992), *order on reh'g,* 62 FERC ¶ 61,007 (1993), *aff'd in part and remanded in part sub nom. United Distribution Cos.* v. *FERC,* 88 F.3d 1105 (DC Cir. 1996), *order on remand,* Order No. 636–C, 78 FERC ¶ 61,186 (1997).

[5] In 1995 in Order No. 581, the Commission held that it would ''retain the semi-annual storage reports,'' and ''not exempt intrastate storage companies charging market-based rates from the requirement to file semi-annual storage reports,'' and made minor changes to the regulatory text. *Revisions to Uniform System of Accounts, Forms, Statements, and Reporting Requirements for Natural Gas Companies,* Order No. 581, 60 FR 53019, 53049–51, FERC Stats. & Regs. ¶ 31,026 (1995), *order on reh'g,* Order No. 581–A, FERC Stats. & Regs. ¶ 31,032 (1996).

[6] *Regulation of Short-Term Natural Gas Transportation Services and Regulation of Interstate Natural Gas Transportation Services,* Order No. 637, FERC Stats. & Regs. ¶ 31,091, clarified, Order No. 637–A, FERC Stats. & Regs. ¶ 31,099, *reh'g denied,* Order No. 637–B, 92 FERC ¶ 61,062 (2000), *aff'd in part and remanded in part sub nom. Interstate Natural Gas Ass'n of America* v. *FERC,* 285 F.3d 18 (DC Cir. 2002), *order on remand,* 101 FERC ¶ 61,127 (2002), *order on reh'g,* 106 FERC ¶ 61,088 (2004), *aff'd sub nom. American Gas Ass'n* v. *FERC,* 428 F.3d 255 (DC Cir. 2005).

[7] The information to be posted includes the name of the shipper, the contract number (for firm service), the rate charged, the maximum rate, the duration (for firm service), the receipt and delivery points and zones covered, the quantity of natural gas covered, any special terms or details (such as any deviations from the tariff), and whether any affiliate relationship exists.

[8] 18 CFR 284.13(b).

[9] Because the semi-annual reporting periods are tied to the injection and withdrawal season, the time periods covered by that report do not correspond with the time periods covered by the interstate pipelines' reports.

[10] Order No. 637 moved the index of customers requirement from § 284.106(c) to § 284.13(c).

[11] Order No. 637 moved the interstate semi-annual storage reporting requirement from § 284.106(b) to § 284.13(e), and eliminated the requirement that interstate pipelines identify in their semi-annual storage reports any related docket numbers under which the interstate pipeline reported storage-related injection/withdrawal transportation services.

[12] *Contract Reporting Requirements of Intrastate Natural Gas Companies,* Order No. 735, 75 FR 29404, FERC Stats. & Regs. ¶ 31,310, 131 FERC ¶ 61,150, *order on reh'g,* Order No. 735–A, 75 FR 80685, 133 FERC ¶ 61,216 (2010).

[13] *Storage Reporting Requirements of Interstate and Intrastate Natural Gas Companies,* Notice of Inquiry, 75 FR 80758 FERC Stats. & Regs. ¶ 35,568 (2010) (NOI).

[14] *Regulation of Short-Term Natural Gas Transportation Services and Regulation of Interstate Natural Gas Transportation Services,* Order No. 637, FERC Stats. & Regs. ¶ 31,091, *clarified,* Order No. 637–A, FERC Stats. & Regs. ¶ 31,099, *reh'g denied,* Order No. 637–B, 92 FERC ¶ 61,062 (2000), *aff'd in part and remanded in part sub nom. Interstate Natural Gas Ass'n of America* v. *FERC,* 285 F.3d 18 (DC Cir. 2002), *order on remand,* 101 FERC ¶ 61,127 (2002), *order on reh'g,* 106 FERC ¶ 61,088 (2004), *aff'd sub nom. American Gas Ass'n* v. *FERC,* 428 F.3d 255 (DC Cir. 2005).

[15] The information to be posted includes the name of the shipper, the contract number (for firm service), the rate charged, the maximum rate, the duration (for firm service), the receipt and delivery points and zones covered, the quantity of natural gas covered, any special terms or details (such as any deviations from the tariff), and whether any affiliate relationship exists.

both shippers and the Commission to monitor actual transactions for evidence of the possible abuse of market power.'' [16] Accordingly, the NOPR found that there appeared to be no need to require interstate pipelines to continue filing an additional semi-annual report of their storage transactions containing much the same information Order No. 637 requires them to post on a daily basis to accomplish the goal of price transparency.

8. The NOPR recognized that the semi-annual storage reports do provide certain information that is not provided by the interstate pipelines' daily Web site postings, concerning the volume of gas each customer injects into and/or withdraws from storage and the total revenues received from each storage customer. However, the Commission found that the primary value of information about injections and withdrawals from storage is to permit shippers to monitor the availability of storage capacity and whether shippers or the pipeline are withholding storage capacity.[17] Section 284.13(d) requires interstate pipelines to provide on their Web sites ''equal and timely access to information relevant to the availability of all transportation services whenever capacity is scheduled, including * * * in storage fields, whether the capacity is available directly from the pipeline or through capacity release.'' [18] The NOPR stated that, while these postings do not provide individual shipper injection and withdrawal information, they appear more useful to shippers because they provide information about the availability of capacity at the time shippers are seeking to schedule capacity. By contrast, the semi-annual storage reports are not filed until up to 30 days after the completion of each injection and withdrawal season. The NOPR also found that, while the section 284.13(b) daily postings do not require interstate storage providers to post the revenues collected from each customer, that section does require such storage providers to post the per-unit rates they charge to each customer, thus enabling shippers to monitor the storage provider's actions for potentially discriminatory practices.

9. For section 311 and Hinshaw pipelines, the NOPR found, the semi-annual storage reports substantially overlap with the amended section 284.126(b) quarterly reporting requirement established in Order No. 735, described above.[19] The NOPR recognized that, unlike the semi-annual storage reports, the section 284.126(b) quarterly reports do not require section 311 and Hinshaw pipelines to report per-customer storage revenues. However, the Commission found that the pipelines commenting in this proceeding had provided detailed arguments that providing the public with individual customer storage revenue is burdensome, while proponents of collecting this information had not provided any convincing reason why the Commission should continue to require all section 311 and Hinshaw pipelines to provide this information in periodic reports.

10. The Commission concluded that, to the extent the semi-annual storage reports do include information not reported elsewhere, the burden of requiring pipelines to report that information appears to outweigh any benefits to the Commission or the public of requiring such information to continue to be reported on a regular basis. However, if such information is needed in a particular case, the Commission retains the ability to seek such information through a data request to the pipeline in question.

C. Comments to the NOPR

11. Eleven companies and associations, listed in the Appendix to this order, filed comments in response to the NOPR. Every comment supported the proposal. While two parties had filed comments on the NOI opposing elimination of the semi-annual storage reports,[20] to which the Commission responded in the NOPR, neither of these parties filed comments on the NOPR. Several commenters on the NOPR urged the Commission to act as soon as possible in order to eliminate the reporting requirement before the next round of reports are due on April 30, 2012. Spectra [21] also recommended that the Commission review other regulations for possible redundancies, but did not suggest any specific regulations for review.

D. Executive Orders

12. On January 18, 2011, President Obama issued an executive order [22] and a presidential memorandum on regulatory flexibility, small business, and job creation.[23] The Commission, as an independent agency, is not subject to requirements of those presidential documents. Nonetheless, Chairman Wellinghoff directed Commission staff to perform an internal assessment of the effectiveness of Commission regulations. Subsequently, on July 11, 2011, the President issued an executive order asking independent regulatory agencies such as the Commission to take steps to reassess and streamline existing regulations.[24] On November 8, 2011, the Commission issued its plan for retrospective analysis of existing rules, setting forth the schedule for complying with the executive orders.[25]

13. The Commission continually seeks to streamline its regulations in order to foster competitive markets, facilitate enhanced competition, and avoid imposing undue burdens on regulated entities or unnecessary costs on those entities or their customers. In analyzing the comments received in response to the NOI and NOPR, the Commission considered the goals of those executive orders. In this Final Rule, the Commission is seeking to streamline our natural gas pipeline reporting requirements, as part of our continuing efforts to ensure Commission regulations are effective, timely, and up to date.

II. Discussion

14. In this Final Rule, the Commission eliminates the semi-annual storage reporting requirements both for interstate pipelines and for section 311 and Hinshaw pipelines that are currently codified in 18 CFR 284.13(e) and 18 CFR 284.126(c), respectively. All of the parties who filed comments in response to the NOPR stated that they support this course of action. As detailed in the above section, the NOPR found that these reports are largely duplicative of other reporting requirements. For the limited amount of information not reported elsewhere, the

[16] Order No. 637, FERC Stats. & Regs. ¶ 31,091 at 31,320.

[17] *See* Order No. 637, FERC Stats. & Regs. ¶ 31,091 at 31,320.

[18] In addition, the Energy Information Administration publishes weekly underground storage data, including base gas, working gas in storage, and injection and withdrawal volumes by storage facility type and region. *Available at http://www.eia.gov/naturalgas/data.cfm#storage.*

[19] *Contract Reporting Requirements of Intrastate Natural Gas Companies,* Order No. 735, 75 FR 29404, FERC Stats. & Regs. ¶ 31,310, *order on reh'g,* Order No. 735–A, 75 FR 80685, FERC Stats. & Regs. ¶ 31,318 (2010) (*errata* issued June 24, 2011).

[20] The American Public Gas Association and the Independent Oil and Gas Association of West Virginia.

[21] Spectra Energy Transmission, LLC and Spectra Energy Partners, LP file jointly on behalf of themselves and their subsidiaries, which operate numerous natural gas storage facilities.

[22] *Improving Regulation and Regulatory Review,* Exec. Order 13563, 76 FR 3821 (Jan. 21, 2011).

[23] *Regulatory Flexibility, Small Business, and Job Creation,* Presidential Memorandum, 76 FR 3827 (Jan. 21, 2011).

[24] *Regulation and Independent Regulatory Agencies,* Exec. Order 13579, 76 FR 41587 (2011).

[25] *Plan for Retrospective Analysis of Existing Rules,* Docket No. AD12–6–000, 76 FR 70913 (2011).

NOPR found that the burden of requiring pipelines to report outweighs any benefits to the Commission or the public of requiring such information to be reported on a regular basis. All the commenters on the NOPR support that conclusion. If any information that is no longer collected as a result of the elimination of the semi-annual storage reports is needed in a particular case, the Commission retains the ability to seek such information through a data request to the pipeline in question.

15. Accordingly, the Commission finds that elimination of the semi-annual storage reports will help streamline our natural gas reporting requirements and avoid imposing unnecessary burdens on regulated pipelines, without adversely affecting the ability of the Commission and shippers to monitor storage transactions for evidence of the possible abuse of market power.

III. Regulatory Requirements

A. Information Collection Statement

16. The Office of Management and Budget (OMB) regulations require that OMB approve certain reporting, recordkeeping, and public disclosure requirements (collections of information) imposed by an agency.[26] Therefore, the Commission is providing notice of its elimination of the information collections. This rule will be submitted to OMB for review in accordance with the Paperwork Reduction Act of 1995.[27]

17. The Commission shall eliminate two reporting requirements and remove the burden of those requirements from jurisdictional entities.

Information Collections:

Information collection (or part of) eliminated	Part of OMB Control No.	Number of respondents (a)	Filings per respondent per year (b)	Burden hours per filing (c)	Annual burden hours per respondent (b × c)	Total annual burden hours eliminated (a × b × c)
FERC–549 requirements in 18 CFR 284.13(e)	1902–0086	155	2	12	24	3720
FERC–537 requirements in 18 CFR 284.126(c)	1902–0060	50	2	27	54	2700
Grand Total		205				6420

The elimination of the semi-annual storage reports will save industry an estimated $394,731 annually (for the 6,420 burden hours).[28]

Title: Semi-annual storage reporting requirements for Interstate and Intrastate Natural Gas Companies (currently codified in 18 CFR 284.13(e) [component of FERC–549, OMB Control No. 1902–0086] and 18 CFR 284.126(c) [component of FERC–537, OMB Control No. 1902–0060]).

Respondents: Interstate and Intrastate Natural Gas Companies.

Internal review: The Commission has reviewed the semi-annual storage reporting requirements for Interstate and Intrastate Natural Gas Companies that are currently codified in 18 CFR 284.13(e) and 18 CFR 284.126(c). The Commission has determined that the reports are largely duplicative of other reporting requirements.

18. Interested persons may obtain information on the reporting requirements being eliminated by contacting: Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426 [Attention: Ellen Brown, Office of the Executive Director, email: *DataClearance@ferc.gov*, Phone: (202) 502–8663, fax: (202) 273–0873]. Comments on the requirements being deleted in this rule may also be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission]. For security reasons, comments should be sent by email to OMB at *oira_submission@omb.eop.gov*. Please reference OMB Control Nos. 1902–0086 (FERC–549) and 1902–0060 (FERC–537) in your submission.

B. Environmental Analysis

19. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[29] The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment.[30] The actions taken here fall within categorical exclusions in the Commission's regulations for rules that are corrective, clarifying, or procedural, for information gathering, analysis, and dissemination, and for sales, exchange, and transportation of natural gas that requires no construction of facilities.[31] Therefore an environmental review is unnecessary and has not been prepared in this rulemaking.

C. Regulatory Flexibility Act

20. The Regulatory Flexibility Act of 1980 (RFA)[32] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. Most of the natural gas companies regulated by the Commission do not fall within the RFA's definition of a small entity.[33] Any economic impact from the rulemaking would be due to the elimination of unnecessary filing burdens and costs on small and large entities. Accordingly, the Commission certifies that this rule will not have a significant impact on a substantial number of small entities.

D. Document Availability

21. In addition to publishing the full text of this document, except for the Appendix, in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via

[26] 5 CFR 1320.

[27] 44 U.S.C. 3507(d).

[28] The cost estimate is based on a work year of 2,080 hours and includes salary and benefits. For FERC–549, an estimate of $58 per hour is used. For FERC–537, $137,874 per work year is used.

[29] *Regulations Implementing the National Environmental Policy Act of 1969,* Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs., Preambles 1986–1990 ¶ 30,783 (1987).

[30] 18 CFR 380.4.

[31] *See* 18 CFR 380.4(a)(2)(ii), 380.4(a)(5), and 380.4(a)(27).

[32] 5 U.S.C. 601–612.

[33] *See* 5 U.S.C. 601(3) (citing section 3 of the Small Business Act, 15 U.S.C. 623, which defines a ''small business concern'' as a business which is independently owned and operated and which is not dominant in its field of operation. The Small Business Size Standards component of the North American Industry Classification System defines a small natural gas pipeline company as one that transports natural gas and whose annual receipts (total income plus cost of goods sold) did not exceed $7 million for the previous year).

the Internet through the Commission's Home Page (*http://www.ferc.gov*) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street NE., Room 2A, Washington, DC 20426.

22. From the Commission's Home Page on the Internet, this information is available on eLibrary. The full text of this document, including the Appendix, is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

23. User assistance is available for eLibrary and the Commission's Web site during normal business hours from the Commission's Online Support at (202) 502–6652 (toll free at 1-866–208–3676) or e-mail at *ferconlinesupport@ferc.gov*, or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. E-mail the Public Reference Room at *public.referenceroom@ferc.gov*.

E. Effective Date and Congressional Notification

24. These regulations are effective March 27, 2012. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB, that this rule is not a ''major rule'' as defined in section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996. The rule is being submitted to the Senate, House, Government Accountability Office, and the Small Business Administration.

List of Subjects in 18 CFR Part 284

Continental shelf, Natural gas, Reporting and recordkeeping requirements.

By the Commission.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

In consideration of the foregoing, the Commission amends Part 284, Chapter I, Title 18, *Code of Federal Regulations,* as follows.

PART 284—CERTAIN SALES AND TRANSPORTATION OF NATURAL GAS UNDER THE NATURAL GAS POLICY ACT OF 1978 AND RELATED AUTHORITIES

■ 1. The authority citation for part 284 continues to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7101–7352; 43 U.S.C. 1331–1356.

§ 284.13 [Amended]

■ 2. Section 284.13 is amended as follows:

■ a. Paragraph (e) is removed.

■ b. Paragraph (f) is redesignated as paragraph (e).

§ 284.126 [Amended]

■ 3. Section 284.126 is amended by removing paragraph (c).

Appendix

LIST OF COMMENTERS AND ABBREVIATIONS

Commenter	Abbreviation
American Gas Association	AGA.
Cranberry Pipeline Corporation	Cranberry.
Enogex LLC	Enogex.
Enstor Operating Company, LLC	Enstor.
Interstate Natural Gas Association of America	INGAA.
Jefferson Island Storage & Hub, LLC	Jefferson.
Niska Gas Storage LLC	Niska.
Northern Natural Gas Company	Northern.
Spectra Energy Transmission, LLC & Spectra Energy Partners, LP	Spectra.
Texas Pipeline Association	TPA.
Williston Basin Interstate Pipeline Company	Williston Basin.

[FR Doc. 2012–1612 Filed 1–26–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 510

[Docket No. FDA–2011–N–0003]

New Animal Drugs; Change of Sponsor's Name

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor's name from Nycomed US, Inc., to Fougera Pharmaceuticals, Inc.

DATES: This rule is effective January 27, 2012.

FOR FURTHER INFORMATION CONTACT: Steven D. Vaughn, Center for Veterinary Medicine (HFV–100), Food and Drug Administration, 7520 Standish Pl., Rockville, MD 20855, (240) 276–8300, email: *steven.vaughn@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Nycomed US, Inc., 60 Baylis Rd., Melville, NY 11747 has informed FDA of a change of name to Fougera Pharmaceuticals, Inc. Accordingly, the Agency is amending the regulations in 21 CFR 510.600(c) to reflect these changes.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

■ 2. In § 510.600, in the table in paragraph (c)(1), remove the entry for ''Nycomed US, Inc.''; alphabetically add a new entry for ''Fougera Pharmaceuticals, Inc.''; and in the table

in paragraph (c)(2), revise the entry for ''025463''.

The addition and revision read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Fougera Pharmaceuticals, Inc., P.O. Box 2006, 60 Baylis Rd., Melville, NY 11747	025463
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
025463	Fougera Pharmaceuticals, Inc., P.O. Box 2006, 60 Baylis Rd., Melville, NY 11747.
* * * * *	

Dated: January 24, 2012.

William T. Flynn,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 2012–1756 Filed 1–26–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

[Docket No. FDA–2011–N–0003]

Oral Dosage Form New Animal Drugs; Milbemycin Oxime, Lufenuron, and Praziquantel

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Novartis Animal Health US, Inc. The NADA provides for the veterinary prescription use of milbemycin oxime, lufenuron, and praziquantel for the prevention of heartworm disease, for prevention and control of fleas, and for the treatment and control of various internal parasites in dogs.

DATES: This rule is effective January 27, 2012.

FOR FURTHER INFORMATION CONTACT: Steven Fleischer, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–276–8234, email: *steven.fleischer@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Novartis Animal Health US, Inc., 3200 Northline Ave., Suite 300, Greensboro, NC 27408, filed NADA 141–333 that provides for the veterinary prescription use of SENTINEL SPECTRUM (milbemycin oxime/lufenuron/praziquantel) Tablets for the prevention of heartworm disease, for the prevention and control of flea populations, and for the treatment and control of adult roundworm, adult hookworm, adult whipworm, and adult tapeworm infections in dogs and puppies 2 pounds of body weight or greater and 6 weeks of age and older. The NADA is approved as of December 8, 2011, and 21 CFR part 520 is amended by adding new § 520.1447 to reflect the approval.

A summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(ii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(ii)), this approval qualifies for 3 years of marketing exclusivity beginning on the date of approval.

The Agency has determined under 21 CFR 25.33 that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 2. Add § 520.1447 to read as follows:

§ 520.1447 Milbemycin oxime, lufenuron, and praziquantel tablets.

(a) *Specifications.* Each tablet contains:

(1) 2.3 milligrams (mg) milbemycin oxime, 46 mg lufenuron, and 22.8 mg praziquantel;

(2) 5.75 mg milbemycin oxime, 115 mg lufenuron, and 57 mg praziquantel;

(3) 11.5 mg milbemycin oxime, 230 mg lufenuron, and 114 mg praziquantel; or

(4) 23 mg milbemycin oxime, 460 mg lufenuron, and 228 mg praziquantel.

(b) *Sponsor.* See No. 058198 in § 510.600(c) of this chapter.

(c) [Reserved]

(d) *Conditions of use*—(1) *Dogs*—(i) *Amount.* 0.5 mg milbemycin oxime, 10 mg lufenuron, and 5 mg of praziquantel per kilogram of body weight, once a month.

(ii) *Indications for use.* For the prevention of heartworm disease caused by *Dirofilaria immitis;* for the prevention and control of flea populations (*Ctenocephalides felis*); and for the treatment and control of adult roundworm (*Toxocara canis, Toxascaris leonina*), adult hookworm (*Ancylostoma caninum*), adult whipworm (*Trichuris vulpis*), and adult tapeworm (*Taenia pisiformis, Echinococcus multilocularis,* and *E. granulosus*) infections in dogs and puppies 2 pounds of body weight or greater and 6 weeks of age and older.

(iii) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(2) [Reserved]

Dated: January 23, 2012.

William T. Flynn,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 2012–1744 Filed 1–26–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

[Docket No. FDA–2011–N–0003]

Oral Dosage Form New Animal Drugs; Gentamicin Sulfate

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an original abbreviated new animal drug application (ANADA) filed by Cross Vetpharm Group, Ltd. The ANADA provides for use of gentamicin sulfate soluble powder used to make medicated drinking water for swine.

DATES: This rule is effective January 27, 2012.

FOR FURTHER INFORMATION CONTACT: John K. Harshman, Center for Veterinary Medicine (HFV–170), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, (240) 276–8197, email: *john.harshman@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Cross Vetpharm Group, Ltd., Broomhill Rd., Tallaght, Dublin 24, Ireland, filed ANADA 200–494 for use of GENTAMED (gentamicin sulfate) Soluble Powder used to make medicated drinking water for swine. Cross Vetpharm Group's Gentamicin Soluble Powder is approved as a generic copy of GARACIN (gentamicin sulfate) Soluble Powder, sponsored by Intervet Inc., under NADA 133–836. The abbreviated application is approved as of December 14, 2011, and the regulations are amended in 21 CFR 520.1044c to reflect the approval.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The Agency has determined under 21 CFR 25.33 that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 2. Revise § 520.1044c to read as follows:

§ 520.1044c Gentamicin sulfate powder.

(a) *Specifications.* Each gram of powder contains gentamicin sulfate equivalent to:

(1) 16.7, 66.7, or 333.3 milligrams (mg) gentamicin.

(2) 333.3 mg gentamicin.

(b) *Sponsors.* See sponsors in § 510.600(c) of this chapter for use as in paragraph (d) of this section as follows:

(1) No. 000061 for products described in paragraph (a)(1) of this section.

(2) Nos. 057561 and 061623 for product described in paragraph (a)(2) of this section.

(c) *Related tolerances.* See § 556.300 of this chapter.

(d) *Conditions of use in swine*—(1) *Amount.* Administer in drinking water for 3 consecutive days as follows:

(i) For colibacillosis: Gentamicin sulfate equivalent to 25 mg of gentamicin per gallon of drinking water to provide 0.5 mg per pound of body weight per day;

(ii) For swine dysentery: Gentamicin sulfate equivalent to 50 mg of gentamicin per gallon of drinking water to provide 1 mg per pound of body weight per day. Treatment may be repeated if dysentery recurs.

(2) *Indications for use.* For control and treatment of colibacillosis in weanling swine caused by strains of *Escherichia coli* sensitive to gentamicin, and for control and treatment of swine dysentery associated with *Treponema hyodysenteriae.*

(3) *Limitations.* For use in swine drinking water only. Do not store or offer medicated drinking water in rusty containers since the drug is quickly destroyed in such containers. Medicated drinking water should be prepared daily and be the sole source of drinking water.

(4) *Withdrawal period.* 10 days.

Dated: January 23, 2012.

William T. Flynn,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 2012–1753 Filed 1–26–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

[Docket No. FDA–2011–N–0003]

Implantation or Injectable Dosage Form New Animal Drugs; Danofloxacin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Pfizer, Inc. The supplemental NADA provides for an additional dosage regimen for use of danofloxacin mesylate injectable solution for the treatment of bovine respiratory disease in beef cattle.

DATES: This rule is effective January 27, 2012.

FOR FURTHER INFORMATION CONTACT: Cindy L. Burnsteel, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, (240) 276–8341, email: *cindy.burnsteel@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Pfizer, Inc., 235 East 42d St., New York, NY 10017, filed a supplement to NADA 141–207 for ADVOCIN (danofloxacin mesylate) Injectable Solution. The supplemental NADA provides for an additional dosage regimen for the treatment of bovine respiratory disease (BRD) associated with *Mannheimia haemolytica,* and *Pasteurella multocida* in beef cattle. The supplemental NADA is approved as of December 16, 2011, and 21 CFR 522.522 is amended to reflect the approval.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, between

9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), this supplemental approval qualifies for 3 years of marketing exclusivity beginning on the date of approval.

The Agency has determined under 21 CFR 25.33 that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 2. In § 522.522, revise paragraphs (d)(1) and (d)(2) to read as follows:

§ 522.522 Danofloxacin.

* * * * *

(d) * * *

(1) *Amount:* Administer by subcutaneous injection either:

(i) 6 mg per kilogram (mg/kg) of body weight, repeated in 48 hours; or

(ii) 8 mg/kg of body weight, as a single dose.

(2) *Indications for use.* For the treatment of bovine respiratory disease (BRD) associated with *Mannheimia haemolytica* and *Pasteurella multocida.*

* * * * *

Dated: January 23, 2012.

William T. Flynn,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 2012–1743 Filed 1–26–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

[Docket No. FDA–2011–N–0003]

Implantation or Injectable Dosage Form New Animal Drugs; Gonadotropin Releasing Factor Analog-Diphtheria Toxoid Conjugate

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Pfizer, Inc. The supplemental NADA extends the slaughter interval for intact male swine injected with gonadotropin releasing factor analog-diphtheria toxoid conjugate injectable solution.

DATES: This rule is effective January 27, 2012.

FOR FURTHER INFORMATION CONTACT: Matthew Lucia, Center for Veterinary Medicine (HFV–128), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, (240) 276–8116, email: *matthew.lucia@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Pfizer, Inc., 235 East 42d St., New York, NY 10017, filed a supplement to NADA 141–322 for IMPROVEST (gonadotropin releasing factor analog-diphtheria toxoid conjugate) Sterile Solution for Injection, administered as two doses 4 weeks apart to intact male pigs for the reduction of boar taint. The supplement extends the slaughter interval from 4 to 8 weeks after the second dose to 3 to 10 weeks. The supplemental NADA is approved as of November 30, 2011, and the regulations in 21 CFR 522.1083 are amended to reflect the approval.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(ii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(ii)), this supplemental approval qualifies for 3 years of marketing exclusivity beginning on the date of approval.

The Agency has determined under 21 CFR 25.33 that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 2. In § 522.1083, revise paragraphs (c)(1) and (c)(3) to read as follows:

§ 522.1083 Gonadotropin releasing factor analog-diphtheria toxoid conjugate.

* * * * *

(c) * * *

(1) *Amount.* Administer 0.4 mg (2 milliliter (mL)) by subcutaneous injection no earlier than 9 weeks of age. A second subcutaneous injection of 0.4 mg (2 mL) should be administered at least 4 weeks after the first dose.

* * * * *

(3) *Limitations.* Not approved for use in female pigs and barrows. Do not use in intact male pigs intended for breeding because of the disruption of reproductive function. Federal law restricts this drug to use by or on the order of a licensed veterinarian. Pigs should be slaughtered no earlier than 3 weeks and no later than 10 weeks after the second dose.

Dated: January 23, 2012.

William T. Flynn,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 2012–1754 Filed 1–26–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

[Docket No. FDA–2011–N–0003]

New Animal Drugs for Use in Animal Feeds; Monensin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Elanco Animal Health, A Division of Eli Lilly & Co. The supplemental NADA provides for approval of free-choice feeds for growing cattle on pasture or in dry lot (stocker and feeder cattle and dairy and beef replacement heifers).

DATES: This rule is effective January 27, 2012.

FOR FURTHER INFORMATION CONTACT: Suzanne Sechen, Center for Veterinary Medicine (HFV–126), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, (240) 276–8105, email: *suzanne.sechen@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Elanco Animal Health, A Division of Eli Lilly & Co., Lilly Corporate Center, Indianapolis, IN 46285, filed a supplement to NADA 95–735 that provides for use of RUMENSIN 90 (monensin) Type A medicated article in free-choice feeds for growing cattle on pasture or in dry lot (stocker and feeder cattle and dairy and beef replacement heifers) for increased rate of weight gain and for prevention and control of coccidiosis. The supplemental NADA is approved as of November 18, 2011, and the regulations in 21 CFR 558.355 are amended to reflect the approval.

A summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The Agency has determined under 21 CFR 25.33 that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

■ 1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

■ 2. In § 558.355, add paragraph (f)(3)(iv); and in paragraph (f)(3)(x)(*c*), remove the last sentence.

The addition reads as follows:

§ 558.355 Monensin.

* * * * *

(f) * * *

(3) * * *

(iv) *Amount.* Monensin at concentrations in free-choice Type C medicated feeds to provide 50 to 200 mg per head per day.

(*a*) *Indications for use.* Growing cattle on pasture or in dry lot (stocker and feeder cattle and dairy and beef replacement heifers): For increased rate of weight gain; for prevention and control of coccidiosis due to *Eimeria bovis* and *E. zuernii.*

(*b*) *Limitations.* During the first 5 days of feeding, cattle should receive no more than 100 milligrams per day. Do not feed additional salt or minerals. Do not mix with grain or other feeds. Monensin is toxic to cattle when consumed at higher than approved levels. Stressed and/or feed- and/or water-deprived cattle should be adapted to the pasture and to unmedicated supplement before using the monensin medicated supplement. The product's effectiveness in cull cows and bulls has not been established. See paragraph (d) of this section for other required label warnings.

* * * * *

Dated: January 23, 2012.

William T. Flynn,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 2012–1755 Filed 1–26–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Parts 1300, 1303, 1304, 1305, 1306, 1308, 1309, 1310, 1312, 1313, 1314, 1316

[Docket No. DEA–356]

Technical Amendments and Corrections to DEA Regulations

AGENCY: Drug Enforcement Administration (DEA), Department of Justice.

ACTION: Final rule.

SUMMARY: This final rule updates the Code of Federal Regulations pertaining to DEA by alphabetizing definitions and eliminating the numeric listings in those definitions in order to simplify future rulemakings where additional definitions are added or deleted. This rule also corrects typographic errors, reflects organizational changes, and updates cross-reference listings in the CFR. This action makes no substantive changes to the affected rules.

DATES: The effective date of this rule is January 27, 2012.

FOR FURTHER INFORMATION CONTACT: Rhea D. Moore, Office of Diversion Control, Drug Enforcement Administration, 8701 Morrissette Drive, Springfield, Virginia 22152; Telephone (202) 307–7165.

SUPPLEMENTARY INFORMATION:

Background

DEA implements and enforces Titles II and III of the Comprehensive Drug Abuse Prevention and Control Act of 1970, often referred to as the Controlled Substances Act (CSA) and the Controlled Substances Import and Export Act (CSIEA) (21 U.S.C. 801–971), as amended. DEA publishes the implementing regulations for these statutes in Title 21 of the Code of Federal Regulations (CFR), Parts 1300 through 1321.

The Administrative Procedure Act (5 U.S.C. 553) does not require notice and the opportunity for public comment where the agency for good cause finds that notice and public comment are unnecessary, impracticable, or contrary to the public interest under 5 U.S.C. 553(b)(B) or on rules affecting agency organization, procedure, or practice under 5 U.S.C. 553(b)(A). This rule contains technical corrections and updates organizational changes in agency regulations; it imposes no new or substantive requirement on the public or DEA registrants. As such, DEA has determined that notice and

opportunity for public comment on this rule are unnecessary. This rule is also exempt from notice and comment because these changes involve rules of agency organization, procedure, or practice. Because this is not a substantive rule and as DEA finds good cause under 5 U.S.C. 553(d)(3) for the above reasons, this final rule shall take effect upon date of publication in the **Federal Register**.

Technical Amendments and Corrections

This rule removes the numbers for each definition in 21 CFR 1300.01 and 21 CFR 1300.02 and alphabetizes the definitions of each section so they can be easily referenced and so that additions and deletions can be made in future rulemakings without renumbering or causing confusion by placing definitions out of alphabetical order.

This rule also clarifies the regulations by correcting typographical errors and updating citation listings and organizational changes previously overlooked. Specifically, the changes are:

In § 1300.01(b), alphabetizing the definitions, italicization of defined terms, removing the numbered designations, standardization of subordinate definitions by placement in quotation marks, separating the term ''manufacturer,'' correcting the citation in ''supplier'' from 1305.08 to 1305.06, standardization of ''a.k.a.'' names for substances listed under ''anabolic steroids,'' and correcting the spelling of four of the chemical names for substances listed under ''anabolic steroid'': boldenone, mesterolone, methyltrienolone, and 17α-methyl-Δ1-dihydrotestosterone;

In § 1300.02(b), alphabetizing the definitions, italicization of defined terms, removing the numbered designations, standardization of subordinate definitions by placement in quotation marks, and adding ''Federal'' at the beginning of ''Food, Drug, and Cosmetic Act'' in the definition of ''Drug product'';

In the fifth sentence of § 1303.11(c), correcting the spelling of ''nnt'' to be ''not'';

In the second sentence of § 1304.03(a), correcting the citation to be 1307.13 instead of 1307.15, and in the fifth sentence correcting the word ''acquire'' to be ''require'';

In § 1305.03(d), updating the reference to reflect the new organization of § 1300.01;

In the heading for § 1306.24, correcting the spelling of ''filing'' to be ''filling'';

In § 1308.11(d)(8), correcting the spelling of ''mdthylenedioxy'' to be''methylenedioxy'';

In § 1308.12(b)(4), correcting the spelling of ''whhch'' to be ''which'';

In § 1308.13(b), correcting the spelling of ''sxstem'' to be ''system'' and correcting the term ''position'' to be ''positional'';

In §§ 1309.21(a)(2), 1309.24(b)–(d), 1310.04(f)(1)(ii) and (g), 1310.05(d) and (f)(2), 1310.06(h)(5), 1310.09(b), 1310.10(a), 1310.14, 1313.21(c)(1), 1313.24(a), and 1314.115(a)(2), updating the references to reflect the new organization of § 1300.02;

In the second sentence of § 1309.62(a), correcting the spelling of ''cases'' to be ''ceases'';

In the heading of § 1310.10, adding ''Federal'' at the beginning of ''Food, Drug, and Cosmetic Act'';

In § 1312.18(d), correcting the citation from ''paragraph (a)'' to ''paragraph (b)'';

In § 1312.21(c), correcting the spelling of ''repuest'' to be ''request'';

In §§ 1312.25, 1312.28(c), 1313.12(d), and 1313.32(b)(2), updating the organizational listings of ''Drug Operations Section,'' ''Drug Control Section,'' and ''Chemical Operations Section'' to the correct ''Import/Export Unit'';

In § 1313.14(c), correcting the spelling of ''Sevice'' to be ''Service'';

In § 1313.31(b)(5), correcting the word ''new'' to be ''net'';

In § 1314.45, correcting the citation from ''1314.15'' to ''1314.30'';

In § 1316.03(d), correcting and updating the reference from ''DEA Form 84'' to ''DEA Form 400''; and

In § 1316.42(g), correcting the spelling of ''colmencing'' to be ''commencing.''

Finally, this rule would update sections of Parts 1310 and 1313 to accurately reflect how information is submitted to DEA by removing references to ''telex number,'' an outdated form of technology. This would occur by removing ''telex'' or ''telex number'' from 21 CFR 1310.06(e)(1), (e)(4), (f)(1) and (f)(4), 1313.13(c)(1), 1313.31(b)(11), and 1313.33(c)(1) and (c)(4).

Regulatory Analyses

Administrative Procedure Act

The Administrative Procedure Act (5 U.S.C. 553) does not require notice and the opportunity for public comment where the agency for good cause finds that notice and public procedure thereon is unnecessary, impracticable, or contrary to the public interest under 5 U.S.C. 553(b)(B) or on rules affecting agency organization, procedure, or practice under 5 U.S.C. 553(b)(A). This rule contains technical corrections and updates organizational changes in agency regulations; it imposes no new or substantive requirement on the public or DEA registrants. As such, DEA finds good cause that notice and opportunity for public comment on this rule are unnecessary pursuant to 5 U.S.C. 553(b)(B). This rule is also exempt from notice and comment pursuant to 5 U.S.C. 553(b)(A) as these changes involve rules of agency organization, procedure, or practice.

Because this is not a substantive rule and as DEA finds good cause under 5 U.S.C. 553(d)(3) for the above reasons, this final rule is effective upon date of publication in the **Federal Register**.

Regulatory Flexibility Act

This rule has been reviewed in accordance with the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Deputy Assistant Administrator certifies that this regulation will have no economic impact on a substantial number of small entities. This rulemaking only makes technical amendments and imposes no new requirements.

Executive Orders 12866 and 13563

The Deputy Assistant Administrator certifies that this is not a significant regulatory action within the meaning of Executive Order 12866 and the principles reaffirmed in Executive Order 13563, as it makes only technical amendments to the current regulations.

Executive Order 12988

This proposed regulation meets the applicable standards set forth in Sections 3(a) and 3(b)(2) of Executive Order 12988 Civil Justice Reform to eliminate ambiguity, minimize litigation, establish clear legal standards and reduce burden.

Executive Order 13132

This rulemaking does not preempt or modify any provision of State law, impose enforcement responsibilities on any State, or diminish the power of any State to enforce its own laws. Accordingly, this rulemaking does not have federalism implications warranting the application of Executive Order 13132.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $136,000,000 or more (adjusted for inflation) in any one year, and will not significantly or uniquely affect small governments. Therefore, no

actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995, 2 U.S.C 1532.

Paperwork Reduction Act of 1995

This action does not impose a collection of information requirement under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3521.

Executive Order 13175

This proposed rule will not have tribal implications and will not impose substantial direct compliance costs on Indian tribal governments.

Congressional Review Act

This rule is not a major rule as defined by Section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Congressional Review Act). This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

List of Subjects

21 CFR Part 1300

Chemicals, Drug traffic control.

21 CFR Part 1303

Administrative practice and procedure, Drug traffic control.

21 CFR Part 1304

Drug traffic control, Reporting and recordkeeping requirements.

21 CFR Part 1305

Drug traffic control.

21 CFR Part 1306

Drug traffic control, Prescription drugs.

21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

21 CFR Part 1309

Administrative practice and procedure, Drug traffic control, Exports, Imports, Security measures.

21 CFR Part 1310

Drug traffic control, Exports, Imports, Security measures.

21 CFR Parts 1312 and 1313

Administrative practice and procedure, Drug traffic control, Exports, Imports, Reporting and recordkeeping requirements.

21 CFR Part 1314

Drug traffic control, Reporting and recordkeeping requirements.

21 CFR Part 1316

Administrative practice and procedure, Authority delegations (Government agencies), Drug traffic control, Research, Seizures and forfeitures.

For the reasons set out above, 21 CFR Parts 1300, 1303, 1304, 1305, 1306, 1308, 1309, 1310, 1312, 1313, 1314, and 1316 are amended to read as follows:

PART 1300—DEFINITIONS

■ 1. The authority citation for Part 1300 continues to read as follows:

Authority: 21 U.S.C. 802, 821, 829, 871(b), 951, 958(f).

■ 2. In § 1300.01, paragraph (b) is revised to read as follows:

§ 1300.01 Definitions relating to controlled substances.

* * * * *

(b) As used in parts 1301 through 1308 and part 1312 of this chapter, the following terms shall have the meanings specified:

Act means the Controlled Substances Act, as amended (84 Stat. 1242; 21 U.S.C. 801) and/or the Controlled Substances Import and Export Act, as amended (84 Stat. 1285; 21 U.S.C. 951).

Administration means the Drug Enforcement Administration.

Administrator means the Administrator of the Drug Enforcement Administration. The Administrator has been delegated authority under the Act by the Attorney General (28 CFR 0.100).

Anabolic steroid means any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone), and includes:

(1) 3β,17-dihydroxy-5a-androstane
(2) 3α,17β-dihydroxy-5a-androstane
(3) 5α-androstan-3,17-dione
(4) 1-androstenediol (3β,17β-dihydroxy-5α-androst-1-ene)
(5) 1-androstenediol (3α,17β-dihydroxy-5α-androst-1-ene)
(6) 4-androstenediol (3β,17β-dihydroxy-androst-4-ene)
(7) 5-androstenediol (3β,17β-dihydroxy-androst-5-ene)
(8) 1-androstenedione ([5α]-androst-1-en-3,17-dione)
(9) 4-androstenedione (androst-4-en-3,17-dione)
(10) 5-androstenedione (androst-5-en-3,17-dione)
(11) bolasterone (7α,17α-dimethyl-17β-hydroxyandrost-4-en-3-one)
(12) boldenone (17β-hydroxyandrost-1,4-diene-3-one)
(13) boldione (androsta-1,4-diene-3,17-dione)
(14) calusterone (7β,17α-dimethyl-17β-hydroxyandrost-4-en-3-one)
(15) clostebol (4-chloro-17β-hydroxyandrost-4-en-3-one)
(16) dehydrochloromethyltestosterone (4-chloro-17β-hydroxy-17α-methyl-androst-1,4-dien-3-one)
(17) desoxymethyltestosterone (17α-methyl-5α-androst-2-en-17β-ol) (a.k.a. 'madol')
(18) Δ1-dihydrotestosterone (a.k.a.'1-testosterone') (17β-hydroxy-5α-androst-1-en-3-one)
(19) 4-dihydrotestosterone (17β-hydroxy-androstan-3-one)
(20) drostanolone (17β-hydroxy-2α-methyl-5α-androstan-3-one)
(21) ethylestrenol (17α-ethyl-17β-hydroxyestr-4-ene)
(22) fluoxymesterone (9-fluoro-17α-methyl-11β,17β-dihydroxyandrost-4-en-3-one)
(23) formebolone (2-formyl-17α-methyl-11α,17β-dihydroxyandrost-1,4-dien-3-one)
(24) furazabol (17α-methyl-17β-hydroxyandrostano[2,3-c]-furazan)
(25) 13β-ethyl-17β-hydroxygon-4-en-3-one
(26) 4-hydroxytestosterone (4,17β-dihydroxy-androst-4-en-3-one)
(27) 4-hydroxy-19-nortestosterone (4,17β-dihydroxy-estr-4-en-3-one)
(28) mestanolone (17α-methyl-17β-hydroxy-5-androstan-3-one)
(29) mesterolone (1α-methyl-17β-hydroxy-[5α]-androstan-3-one)
(30) methandienone (17α-methyl-17β-hydroxyandrost-1,4-dien-3-one)
(31) methandriol (17α-methyl-3β,17β-dihydroxyandrost-5-ene)
(32) methenolone (1-methyl-17β-hydroxy-5α-androst-1-en-3-one)
(33) 17α-methyl-3β,17β-dihydroxy-5a-androstane
(34) 17α-methyl-3α,17β-dihydroxy-5a-androstane
(35) 17α-methyl-3β,17β-dihydroxyandrost-4-ene
(36) 17α-methyl-4-hydroxynandrolone (17α-methyl-4-hydroxy-17β-hydroxyestr-4-en-3-one)
(37) methyldienolone (17α-methyl-17β-hydroxyestra-4,9(10)-dien-3-one)
(38) methyltrienolone (17α-methyl-17β-hydroxyestra-4,9,11-trien-3-one)
(39) methyltestosterone (17α-methyl-17β-hydroxyandrost-4-en-3-one)
(40) mibolerone (7α,17α-dimethyl-17β-hydroxyestr-4-en-3-one)
(41) 17α-methyl-Δ1-dihydrotestosterone (17β-hydroxy-17α-methyl-5α-androst-1-en-3-one) (a.k.a. '17-α-methyl-1-testosterone')

(42) nandrolone (17β-hydroxyestr-4-en-3-one)
(43) 19-nor-4-androstenediol (3β, 17β-dihydroxyestr-4-ene)
(44) 19-nor-4-androstenediol (3α, 17β-dihydroxyestr-4-ene)
(45) 19-nor-5-androstenediol (3β, 17β-dihydroxyestr-5-ene)
(46) 19-nor-5-androstenediol (3α, 17β-dihydroxyestr-5-ene)
(47) 19-nor-4,9(10)-androstadienedione (estra-4,9(10)-diene-3,17-dione)
(48) 19-nor-4-androstenedione (estr-4-en-3,17-dione)
(49) 19-nor-5-androstenedione (estr-5-en-3,17-dione)
(50) norbolethone (13β, 17α-diethyl-17β-hydroxygon-4-en-3-one)
(51) norclostebol (4-chloro-17β-hydroxyestr-4-en-3-one)
(52) norethandrolone (17α-ethyl-17β-hydroxyestr-4-en-3-one)
(53) normethandrolone (17α-methyl-17β-hydroxyestr-4-en-3-one)
(54) oxandrolone (17α-methyl-17β-hydroxy-2-oxa-[5α]-androstan-3-one)
(55) oxymesterone (17α-methyl-4,17β-dihydroxyandrost-4-en-3-one)
(56) oxymetholone (17α-methyl-2-hydroxymethylene-17β-hydroxy-[5α]-androstan-3-one)
(57) stanozolol (17α-methyl-17β-hydroxy-[5α]-androst-2-eno[3,2-c]-pyrazole)
(58) stenbolone (17β-hydroxy-2-methyl-[5α]-androst-1-en-3-one)
(59) testolactone (13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-oic acid lactone)
(60) testosterone (17β-hydroxyandrost-4-en-3-one)
(61) tetrahydrogestrinone (13β, 17α-diethyl-17β-hydroxygon-4,9,11-trien-3-one)
(62) trenbolone (17β-hydroxyestr-4,9,11-trien-3-one)
(63) Any salt, ester, or ether of a drug or substance described in this paragraph. Except such term does not include an anabolic steroid that is expressly intended for administration through implants to cattle or other nonhuman species and that has been approved by the Secretary of Health and Human Services for such administration. If any person prescribes, dispenses, or distributes such steroid for human use, the person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this paragraph.

Automated dispensing system means a mechanical system that performs operations or activities, other than compounding or administration, relative to the storage, packaging, counting, labeling, and dispensing of medications, and which collects, controls, and maintains all transaction information.

Basic class means, as to controlled substances listed in Schedules I and II:

(1) Each of the opiates, including its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation, listed in § 1308.11(b) of this chapter;

(2) Each of the opium derivatives, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, listed in § 1308.11(c) of this chapter;

(3) Each of the hallucinogenic substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, listed in § 1308.11(d) of this chapter;

(4) Each of the following substances, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(i) Opium, including raw opium, opium extracts, opium fluid extracts, powdered opium, granulated opium, deodorized opium and tincture of opium;
(ii) Apomorphine;
(iii) Codeine;
(iv) Etorphine hydrochloride;
(v) Ethylmorphine;
(vi) Hydrocodone;
(vii) Hydromorphone;
(viii) Metopon;
(ix) Morphine;
(x) Oxycodone;
(xi) Oxymorphone;
(xii) Thebaine;
(xiii) Mixed alkaloids of opium listed in § 1308.12(b)(2) of this chapter;
(xiv) Cocaine; and
(xv) Ecgonine;

(5) Each of the opiates, including its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation, listed in § 1308.12(c) of this chapter; and

(6) Methamphetamine, its salts, isomers, and salts of its isomers;

(7) Amphetamine, its salts, optical isomers, and salts of its optical isomers;

(8) Phenmetrazine and its salts;

(9) Methylphenidate;

(10) Each of the substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, listed in § 1308.12(e) of this chapter.

Central fill pharmacy means a pharmacy which is permitted by the state in which it is located to prepare controlled substances orders for dispensing pursuant to a valid prescription transmitted to it by a registered retail pharmacy and to return the labeled and filled prescriptions to the retail pharmacy for delivery to the ultimate user. Such central fill pharmacy shall be deemed ''authorized'' to fill prescriptions on behalf of a retail pharmacy only if the retail pharmacy and central fill pharmacy have a contractual relationship providing for such activities or share a common owner.

Commercial container means any bottle, jar, tube, ampule, or other receptacle in which a substance is held for distribution or dispensing to an ultimate user, and in addition, any box or package in which the receptacle is held for distribution or dispensing to an ultimate user. The term commercial container does not include any package liner, package insert or other material kept with or within a commercial container, nor any carton, crate, drum, or other package in which commercial containers are stored or are used for shipment of controlled substances.

Compounder means any person engaging in maintenance or detoxification treatment who also mixes, prepares, packages or changes the dosage form of a narcotic drug listed in Schedules II, III, IV or V for use in maintenance or detoxification treatment by another narcotic treatment program.

Controlled substance has the meaning given in section 802(6) of Title 21, United States Code (U.S.C.).

Customs territory of the United States means the several States, the District of Columbia, and Puerto Rico.

Detoxification treatment means the dispensing, for a period of time as specified below, of a narcotic drug or narcotic drugs in decreasing doses to an individual to alleviate adverse physiological or psychological effects incident to withdrawal from the continuous or sustained use of a narcotic drug and as a method of bringing the individual to a narcotic drug-free state within such period of time. There are two types of detoxification treatment: Short-term detoxification treatment and long-term detoxification treatment.

(1) Short-term detoxification treatment is for a period not in excess of 30 days.

(2) Long-term detoxification treatment is for a period more than 30 days but not in excess of 180 days.

Dispenser means an individual practitioner, institutional practitioner, pharmacy or pharmacist who dispenses a controlled substance.

Export means, with respect to any article, any taking out or removal of such article from the jurisdiction of the United States (whether or not such taking out or removal constitutes an exportation within the meaning of the customs and related laws of the United States).

Exporter includes every person who exports, or who acts as an export broker for exportation of, controlled substances listed in any schedule.

Freight forwarding facility means a separate facility operated by a distributing registrant through which sealed, packaged controlled substances in unmarked shipping containers (i.e., the containers do not indicate that the contents include controlled substances) are, in the course of delivery to, or return from, customers, transferred in less than 24 hours. A distributing registrant who operates a freight forwarding facility may use the facility to transfer controlled substances from any location the distributing registrant operates that is registered with the Administration to manufacture, distribute, or import controlled substances, or, with respect to returns, registered to dispense controlled substances, provided that the notice required by § 1301.12(b)(4) of Part 1301 of this chapter has been submitted and approved. For purposes of this definition, a ''distributing registrant'' is a person who is registered with the Administration as a manufacturer, distributor, and/or importer.

Hearing means:

(1) In part 1301 of this chapter, any hearing held for the granting, denial, revocation, or suspension of a registration pursuant to sections 303, 304, and 1008 of the Act (21 U.S.C. 823, 824 and 958).

(2) In part 1303 of this chapter, any hearing held regarding the determination of aggregate production quota or the issuance, adjustment, suspension, or denial of a procurement quota or an individual manufacturing quota.

(3) In part 1308 of this chapter, any hearing held for the issuance, amendment, or repeal of any rule issuable pursuant to section 201 of the Act (21 U.S.C. 811).

Import means, with respect to any article, any bringing in or introduction of such article into either the jurisdiction of the United States or the customs territory of the United States, and from the jurisdiction of the United States into the customs territory of the United States (whether or not such bringing in or introduction constitutes an importation within the meaning of the tariff laws of the United States).

Importer includes every person who imports, or who acts as an import broker for importation of, controlled substances listed in any schedule.

Individual practitioner means a physician, dentist, veterinarian, or other individual licensed, registered, or otherwise permitted, by the United States or the jurisdiction in which he/she practices, to dispense a controlled substance in the course of professional practice, but does not include a pharmacist, a pharmacy, or an institutional practitioner.

Institutional practitioner means a hospital or other person (other than an individual) licensed, registered, or otherwise permitted, by the United States or the jurisdiction in which it practices, to dispense a controlled substance in the course of professional practice, but does not include a pharmacy.

Interested person means any person adversely affected or aggrieved by any rule or proposed rule issuable pursuant to section 201 of the Act (21 U.S.C. 811).

Inventory means all factory and branch stocks in finished form of a basic class of controlled substance manufactured or otherwise acquired by a registrant, whether in bulk, commercial containers, or contained in pharmaceutical preparations in the possession of the registrant (including stocks held by the registrant under separate registration as a manufacturer, importer, exporter, or distributor).

Isomer means:

(1) The optical isomer, except as used in § 1308.11(d) and § 1308.12(b)(4) of this chapter. As used in § 1308.11(d) of this chapter, the term ''isomer'' means any optical, positional, or geometric isomer. As used in § 1308.12(b)(4) of this chapter, the term ''isomer'' means any optical or geometric isomer;

(2) As used in § 1308.11(d) of this chapter, the term ''positional isomer'' means any substance possessing the same molecular formula and core structure and having the same functional group(s) and/or substituent(s) as those found in the respective Schedule I hallucinogen, attached at any position(s) on the core structure, but in such manner that no new chemical functionalities are created and no existing chemical functionalities are destroyed relative to the respective Schedule I hallucinogen. Rearrangements of alkyl moieties within or between functional group(s) or substituent(s), or divisions or combinations of alkyl moieties, that do not create new chemical functionalities or destroy existing chemical functionalities, are allowed i.e., result in compounds which are positional isomers. For purposes of this definition, the ''core structure'' is the parent molecule that is the common basis for the class; for example, tryptamine, phenethylamine, or ergoline. Examples of rearrangements resulting in creation and/or destruction of chemical functionalities (and therefore resulting in compounds which are not positional isomers) include, but are not limited to: Ethoxy to *alpha*-hydroxyethyl, hydroxy and methyl to methoxy, or the repositioning of a phenolic or alcoholic hydroxy group to create a hydroxyamine. Examples of rearrangements resulting in compounds which would be positional isomers include: *Tert*-butyl to *sec*-butyl, methoxy and ethyl to isopropoxy, N,N-diethyl to N-methyl-N-propyl, or *alpha*-methylamino to N-methylamino.

Jurisdiction of the United States means the customs territory of the United States, the Virgin Islands, the Canal Zone, Guam, American Samoa, and the Trust Territories of the Pacific Islands.

Label means any display of written, printed, or graphic matter placed upon the commercial container of any controlled substance by any manufacturer of such substance.

Labeling means all labels and other written, printed, or graphic matter:

(1) Upon any controlled substance or any of its commercial containers or wrappers, or

(2) Accompanying such controlled substance.

Long Term Care Facility (LTCF) means a nursing home, retirement care, mental care or other facility or institution which provides extended health care to resident patients.

Maintenance treatment means the dispensing for a period in excess of twenty-one days, of a narcotic drug or narcotic drugs in the treatment of an individual for dependence upon heroin or other morphine-like drug.

Manufacture means the producing, preparation, propagation, compounding, or processing of a drug or other substance or the packaging or repackaging of such substance, or the labeling or relabeling of the commercial container of such substance, but does not include the activities of a

practitioner who, as an incident to his/her administration or dispensing such substance in the course of his/her professional practice, prepares, compounds, packages or labels such substance.

Manufacturer means a person who manufactures a drug or other substance, whether under a registration as a manufacturer or under authority of registration as a researcher or chemical analyst.

Mid-level practitioner means an individual practitioner, other than a physician, dentist, veterinarian, or podiatrist, who is licensed, registered, or otherwise permitted by the United States or the jurisdiction in which he/she practices, to dispense a controlled substance in the course of professional practice. Examples of mid-level practitioners include, but are not limited to, health care providers such as nurse practitioners, nurse midwives, nurse anesthetists, clinical nurse specialists and physician assistants who are authorized to dispense controlled substances by the State in which they practice.

Name means the official name, common or usual name, chemical name, or brand name of a substance.

Narcotic drug means any of the following whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis:

(1) Opium, opiates, derivatives of opium and opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation. Such term does not include the isoquinoline alkaloids of opium.

(2) Poppy straw and concentrate of poppy straw.

(3) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine and derivatives of ecgonine or their salts have been removed.

(4) Cocaine, its salts, optical and geometric isomers, and salts of isomers.

(5) Ecgonine, its derivatives, their salts, isomers and salts of isomers.

(6) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in paragraphs (1) through (5) of this definition.

Narcotic treatment program means a program engaged in maintenance and/or detoxification treatment with narcotic drugs.

Net disposal means, for a stated period, the quantity of a basic class of controlled substance distributed by the registrant to another person, plus the quantity of that basic class used by the registrant in the production of (or converted by the registrant into) another basic class of controlled substance or a noncontrolled substance, plus the quantity of that basic class otherwise disposed of by the registrant, less the quantity of that basic class returned to the registrant by any purchaser, and less the quantity of that basic class distributed by the registrant to another registered manufacturer of that basic class for purposes other than use in the production of, or conversion into, another basic class of controlled substance or a noncontrolled substance or in the manufacture of dosage forms of that basic class.

Person includes any individual, corporation, government or governmental subdivision or agency, business trust, partnership, association, or other legal entity.

Pharmacist means any pharmacist licensed by a State to dispense controlled substances, and shall include any other person (e.g., pharmacist intern) authorized by a State to dispense controlled substances under the supervision of a pharmacist licensed by such State.

Prescription means an order for medication which is dispensed to or for an ultimate user but does not include an order for medication which is dispensed for immediate administration to the ultimate user (e.g., an order to dispense a drug to a bed patient for immediate administration in a hospital is not a prescription).

Proceeding means all actions taken for the issuance, amendment, or repeal of any rule issued pursuant to section 201 of the Act (21 U.S.C. 811), commencing with the publication by the Administrator of the proposed rule, amended rule, or repeal in the **Federal Register**.

Purchaser means any registered person entitled to obtain and execute order forms pursuant to §§ 1305.04 and 1305.06.

Readily retrievable means that certain records are kept by automatic data processing systems or other electronic or mechanized recordkeeping systems in such a manner that they can be separated out from all other records in a reasonable time and/or records are kept on which certain items are asterisked, redlined, or in some other manner visually identifiable apart from other items appearing on the records.

Register and *registration* refer only to registration required and permitted by sections 303 or 1007 of the Act (21 U.S.C. 823 or 957).

Registrant means any person who is registered pursuant to either section 303 or section 1008 of the Act (21 U.S.C. 823 or 958).

Reverse distributor means a registrant who receives controlled substances acquired from another DEA registrant for the purpose of—

(1) Returning unwanted, unusable, or outdated controlled substances to the manufacturer or the manufacturer's agent; or

(2) Where necessary, processing such substances or arranging for processing such substances for disposal.

Supplier means any registered person entitled to fill order forms pursuant to § 1305.06 of this chapter.

■ 3. In § 1300.02, paragraph (b) is revised to read as follows:

§ 1300.02 Definitions relating to listed chemicals.

* * * * *

(b) As used in parts 1309, 1310, and 1313 of this chapter, the following terms shall have the meaning specified:

Act means the Controlled Substances Act, as amended (84 Stat. 1242; 21 U.S.C. 801) and/or the Controlled Substances Import and Export Act, as amended (84 Stat. 1285; 21 U.S.C. 951).

Administration means the Drug Enforcement Administration.

Administrator means the Administrator of the Drug Enforcement Administration. The Administrator has been delegated authority under the Act by the Attorney General (28 CFR 0.100).

At retail, with respect to the sale or purchase of a scheduled listed chemical product, means a sale or purchase for personal use, respectively.

Broker and *trader* mean any individual, corporation, corporate division, partnership, association, or other legal entity which assists in arranging an international transaction in a listed chemical by—

(1) Negotiating contracts;

(2) Serving as an agent or intermediary; or

(3) Fulfilling a formal obligation to complete the transaction by bringing together a buyer and seller, a buyer and transporter, or a seller and transporter, or by receiving any form of compensation for so doing.

Chemical export means transferring ownership or control, or the sending or taking of threshold quantities of listed chemicals out of the United States (whether or not such sending or taking out constitutes an exportation within the meaning of the customs and related laws of the United States).

Chemical exporter is a regulated person who, as the principal party in

interest in the export transaction, has the power and responsibility for determining and controlling the sending of the listed chemical out of the United States.

Chemical import means with respect to a listed chemical, any bringing in or introduction of such listed chemical into either the jurisdiction of the United States or into the customs territory of the United States (whether or not such bringing in or introduction constitutes an importation within the meaning of the tariff laws of the United States).

Chemical importer is a regulated person who, as the principal party in interest in the import transaction, has the power and responsibility for determining and controlling the bringing in or introduction of the listed chemical into the United States.

Chemical mixture means a combination of two or more chemical substances, at least one of which is not a listed chemical, except that such term does not include any combination of a listed chemical with another chemical that is present solely as an impurity or which has been created to evade the requirements of the Act.

Combination ephedrine product means a drug product containing ephedrine or its salts, optical isomers, or salts of optical isomers, and therapeutically significant quantities of another active medicinal ingredient.

Customs territory of the United States means the several States, the District of Columbia, and Puerto Rico.

Drug product means an active ingredient in dosage form that has been approved or otherwise may be lawfully marketed under the Federal Food, Drug, and Cosmetic Act for distribution in the United States.

Encapsulating machine means any manual, semi-automatic, or fully automatic equipment which may be used to fill shells or capsules with any powdered, granular, semi-solid, or liquid material.

Established business relationship means the regulated person has imported or exported a listed chemical at least once within the past six months, or twice within the past twelve months from or to a foreign manufacturer, distributor, or end user of the chemical that has an established business with a fixed street address. A person or business that functions as a broker or intermediary is not a customer for purposes of this definition.

Established record as an importer means that the regulated person has imported a listed chemical at least once within the past six months, or twice within the past twelve months from a foreign supplier.

Hearing means any hearing held for the granting, denial, revocation, or suspension of a registration pursuant to sections 303, 304, and 1008 of the Act (21 U.S.C. 823, 824 and 958).

International transaction means a transaction involving the shipment of a listed chemical across an international border (other than a United States border) in which a broker or trader located in the United States participates.

Jurisdiction of the United States means the customs territory of the United States, the Virgin Islands, the Canal Zone, Guam, American Samoa, and the Trust Territories of the Pacific Islands.

Listed chemical means any List I chemical or List II chemical.

List I chemical means a chemical specifically designated by the Administrator in § 1310.02(a) of this chapter that, in addition to legitimate uses, is used in manufacturing a controlled substance in violation of the Act and is important to the manufacture of a controlled substance.

List II chemical means a chemical, other than a List I chemical, specifically designated by the Administrator in § 1310.02(b) of this chapter that, in addition to legitimate uses, is used in manufacturing a controlled substance in violation of the Act.

Mobile retail vendor means a person or entity that makes sales at retail from a stand that is intended to be temporary or is capable of being moved from one location to another, whether the stand is located within or on the premises of a fixed facility (such as a kiosk at a shopping center or an airport) or whether the stand is located on unimproved real estate (such as a lot or field leased for retail purposes).

Name means the official name, common or usual name, chemical name, or brand name of a substance.

Person includes any individual, corporation, government or governmental subdivision or agency, business trust, partnership, association, or other legal entity.

Readily retrievable means that certain records are kept by automatic data processing systems or other electronic or mechanized recordkeeping systems in such a manner that they can be separated out from all other records in a reasonable time and/or records are kept on which certain items are asterisked, redlined, or in some other manner visually identifiable apart from other items appearing on the records.

Register and *registration* refer only to registration required and permitted by sections 303 or 1007 of the Act (21 U.S.C. 823 or 957).

Registrant means any person who is registered pursuant to either section 303 or section 1008 of the Act (21 U.S.C. 823 or 958).

Regular customer means a person with whom the regulated person has an established business relationship for a specified listed chemical or chemicals that has been reported to the Administration subject to the criteria established in part 1313 of this chapter.

Regular importer means, with respect to a listed chemical, a person that has an established record as an importer of that listed chemical that is reported to the Administrator.

Regulated person means any individual, corporation, partnership, association, or other legal entity who manufactures, distributes, imports, or exports a listed chemical, a tableting machine, or an encapsulating machine, or who acts as a broker or trader for an international transaction involving a listed chemical, tableting machine, or encapsulating machine.

Regulated seller means a retail distributor (including a pharmacy or a mobile retail vendor), except that the term does not include an employee or agent of the distributor.

Regulated transaction means:

(1) A distribution, receipt, sale, importation, or exportation of a listed chemical, or an international transaction involving shipment of a listed chemical, or if the Administrator establishes a threshold amount for a specific listed chemical, a threshold amount as determined by the Administrator, which includes a cumulative threshold amount for multiple transactions, of a listed chemical, except that such term does not include:

(i) A domestic lawful distribution in the usual course of business between agents or employees of a single regulated person; in this context, agents or employees means individuals under the direct management and control of the regulated person;

(ii) A delivery of a listed chemical to or by a common or contract carrier for carriage in the lawful and usual course of the business of the common or contract carrier, or to or by a warehouseman for storage in the lawful and usual course of the business of the warehouseman, except that if the carriage or storage is in connection with the distribution, importation, or exportation of a listed chemical to a third person, this paragraph does not relieve a distributor, importer, or exporter from compliance with parts 1309, 1310, 1313, and 1315 of this chapter;

(iii) Any category of transaction or any category of transaction for a specific

listed chemical or chemicals specified by regulation of the Administrator as excluded from this definition as unnecessary for enforcement of the Act;

(iv) Any transaction in a listed chemical that is contained in a drug other than a scheduled listed chemical product that may be marketed or distributed lawfully in the United States under the Federal Food, Drug, and Cosmetic Act, subject to paragraph (1)(v) of this definition, unless—

(A) The Administrator has determined pursuant to the criteria in § 1310.10 of this chapter that the drug or group of drugs is being diverted to obtain the listed chemical for use in the illicit production of a controlled substance; and

(B) The quantity of the listed chemical contained in the drug included in the transaction or multiple transactions equals or exceeds the threshold established for that chemical;

(v) Any transaction in a scheduled listed chemical product that is a sale at retail by a regulated seller or a distributor required to submit reports under § 1310.03(c) of this chapter; or

(vi) Any transaction in a chemical mixture designated in §§ 1310.12 and 1310.13 of this chapter that the Administrator has exempted from regulation.

(2) A distribution, importation, or exportation of a tableting machine or encapsulating machine except that such term does not include a domestic lawful distribution in the usual course of business between agents and employees of a single regulated person; in this context, agents or employees means individuals under the direct management and control of the regulated person.

Retail distributor means a grocery store, general merchandise store, drug store, or other entity or person whose activities as a distributor relating to drug products containing pseudoephedrine or phenylpropanolamine are limited almost exclusively to sales for personal use, both in number of sales and volume of sales, either directly to walk-in customers or in face-to-face transactions by direct sales. Also for the purposes of this paragraph, a ''grocery store'' is an entity within Standard Industrial Classification (SIC) code 5411, a ''general merchandise store'' is an entity within SIC codes 5300 through 5399 and 5499, and a ''drug store'' is an entity within SIC code 5912.

Scheduled listed chemical product means:

(1) A product that contains ephedrine, pseudoephedrine, or phenylpropanolamine and may be marketed or distributed lawfully in the United States under the Federal Food, Drug, and Cosmetic Act as a nonprescription drug. Ephedrine, pseudoephedrine, and phenylpropanolamine include their salts, optical isomers, and salts of optical isomers.

(2) Scheduled listed chemical product does not include any product that is a controlled substance under part 1308 of this chapter. In the absence of such scheduling by the Attorney General, a chemical specified in paragraph (1) of this definition may not be considered to be a controlled substance.

Tableting machine means any manual, semi-automatic, or fully automatic equipment which may be used for the compaction or molding of powdered or granular solids, or semi-solid material, to produce coherent solid tablets.

Valid prescription means a prescription that is issued for a legitimate medical purpose by an individual practitioner licensed by law to administer and prescribe the drugs concerned and acting in the usual course of the practitioner's professional practice.

PART 1303—QUOTAS

■ 4. The authority citation for Part 1303 continues to read as follows:

Authority: 21 U.S.C. 821, 826, 871(b).

■ 5. In § 1303.11, the fifth sentence of paragraph (c) is revised to read as follows:

§ 1303.11 Aggregate production quotas.

* * * * *

(c) * * * In the event the Administrator decides to hold such a hearing, he shall publish notice of the hearing in the **Federal Register**, which notice shall summarize the issue s to be heard and shall set the time for the hearing which shall not be less than 30 days after the date of publication of the notice. * * *

PART 1304—RECORDS AND REPORTS OF REGISTRANTS

■ 6. The authority citation for Part 1304 continues to read as follows:

Authority: 21 U.S.C. 821, 827, 831, 871(b), 958(e), 965, unless otherwise noted.

■ 7. In § 1304.03, the second and fifth sentences of paragraph (a) are revised to read as follows:

§ 1304.03 Persons required to keep records and file reports.

(a) * * * Any registrant who is authorized to conduct other activities without being registered to conduct those activities, either pursuant to § 1301.22(b) of this chapter or pursuant to §§ 1307.11–1307.13 of this chapter, shall maintain the records and inventories and shall file the reports required by this part for persons registered to conduct such activities. * * * Also, the Administration does not wish to require separate stocks of the same substance to be purchased and stored for separate activities. * * *

* * * * *

PART 1305—ORDERS FOR SCHEDULE I AND II CONTROLLED SUBSTANCES

■ 8. The authority citation for Part 1305 continues to read as follows:

Authority: 21 U.S.C. 821, 828, 871(b), unless otherwise noted.

■ 9. In § 1305.03, paragraph (d) is revised to read as follows:

§ 1305.03 Distributions requiring a Form 222 or a digitally signed electronic order.

* * * * *

(d) Delivery from a central fill pharmacy, as defined in § 1300.01 of this chapter, to a retail pharmacy.

PART 1306—PRESCRIPTIONS

■ 10. The authority citation for Part 1306 continues to read as follows:

Authority: 21 U.S.C. 821, 829, 831, 871(b), unless otherwise noted.

■ 11. In § 1306.24, the section heading is revised to read as follows:

§ 1306.24 Labeling of substances and filling of prescriptions.

* * * * *

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

■ 12. The authority citation for Part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b), unless otherwise noted.

■ 13. In § 1308.11, paragraph (d)(8) is revised to read as follows:

§ 1308.11 Schedule I.

* * * * *

(d) * * *

(8) 5-methoxy-3,4-methylenedioxy-amphetamine 7401

* * * * *

■ 14. In § 1308.12, paragraph (b)(4) is revised to read as follows:

§ 1308.12 Schedule II.

* * * * *

(b) * * *

(4) Coca leaves (9040) and any salt, compound, derivative or preparation of coca leaves (including cocaine (9041)

and ecgonine (9180) and their salts, isomers, derivatives and salts of isomers and derivatives), and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine.

* * * * *

■ 15. In § 1308.13, paragraph (b) introductory text is revised to read as follows:

§ 1308.13 Schedule III.

* * * * *

(b) *Stimulants.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, positional, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

* * * * *

PART 1309—REGISTRATION OF MANUFACTURERS, DISTRIBUTORS, IMPORTERS AND EXPORTERS OF LIST I CHEMICALS

■ 16. The authority citation for Part 1309 continues to read as follows:

Authority: 21 U.S.C. 802, 821, 822, 823, 824, 830, 871(b), 875, 877, 886a, 952, 958.

■ 17. In § 1309.21, paragraph (a)(2) is revised to read as follows:

§ 1309.21 Persons required to register.

(a) * * *

(2) Every person who distributes or exports or proposes to distribute or export any List I chemical, other than those List I chemicals contained in a product exempted under paragraph (1)(iv) of the definition of regulated transaction in § 1300.02 of this chapter.

* * * * *

■ 18. In § 1309.24, paragraphs (b), (c), and (d) are revised to read as follows:

§ 1309.24 Waiver of registration requirement for certain activities.

* * * * *

(b) The requirement of registration is waived for any person who manufactures or distributes a scheduled listed chemical product or other product containing a List I chemical that is described and included in paragraph (1)(iv) of the definition of regulated transaction in § 1300.02 of this chapter, if that person is registered with the Administration to engage in the same activity with a controlled substance.

(c) The requirement of registration is waived for any person who imports or exports a scheduled listed chemical product or other product containing a List I chemical that is described and included in paragraph (1)(iv) of the definition of regulated transaction in § 1300.02 of this chapter, if that person is registered with the Administration to engage in the same activity with a controlled substance.

(d) The requirement of registration is waived for any person who only distributes a prescription drug product containing a List I chemical that is regulated pursuant to paragraph (1)(iv) of the definition of regulated transaction in § 1300.02 of this chapter.

* * * * *

■ 19. In § 1309.62, the second sentence of paragraph (a) is revised to read as follows:

§ 1309.62 Termination of registration.

(a) * * * Any registrant who ceases legal existence or discontinues business or professional practice shall promptly notify the Special Agent in Charge of the Administration in the area in which the person is located of such fact and seek authority and instructions to dispose of any List I chemicals obtained under the authority of that registration.

* * * * *

PART 1310—RECORDS AND REPORTS OF LISTED CHEMICALS AND CERTAIN MACHINES

■ 20. The authority citation for Part 1310 continues to read as follows:

Authority: 21 U.S.C. 802, 827(h), 830, 871(b), 890.

■ 21. In § 1310.04, paragraph (f)(1)(ii) and the first sentence of paragraph (g) are revised to read as follows:

§ 1310.04 Maintenance of records.

* * * * *

(f) * * *

(1) * * *

(ii) For List I chemicals that are contained in scheduled listed chemical products as defined in § 1300.02 of this chapter, the thresholds established in paragraph (g) of this section apply only to non-retail distribution, import, and export. Sales of these products at retail are subject to the requirements of part 1314 of this chapter.

* * * * *

(g) For listed chemicals for which no thresholds have been established, the size of the transaction is not a factor in determining whether the transaction meets the definition of a regulated transaction as set forth in § 1300.02 of this chapter. * * *

* * * * *

■ 22. In § 1310.05, the fifth sentence of paragraph (d) and paragraph (f)(2) are revised to read as follows:

§ 1310.05 Reports.

* * * * *

(d) * * * This reporting requirement does not apply to drug or other products which are exempted under paragraphs (1)(iv) or (1)(v) of the definition of regulated transaction in § 1300.02 of this chapter except as set forth in § 1310.06(h)(5). * * *

* * * * *

(f) * * *

(2) Distributions of drug products by retail distributors that may not include face-to-face transactions to the extent that such distributions are consistent with the activities authorized for a retail distributor as defined in § 1300.02 of this chapter, except that this paragraph does not apply to sales of scheduled listed chemical products at retail.

* * * * *

■ 23. In § 1310.06, paragraphs (e)(1), (e)(4), (f)(1), (f)(4), and (h)(5) are revised to read as follows:

§ 1310.06 Content of records and reports.

* * * * *

(e) * * *

(1) The name, address, telephone number, and, where available, the facsimile number of the regulated person; the name, address, telephone number, and, where available, the facsimile number of the import broker or forwarding agent, if any:

* * * * *

(4) The name, address, telephone number, and, where available, the facsimile number of the consignor in the foreign country of exportation.

(f) * * *

(1) The name, address, telephone number, and, where available, the facsimile number of the regulated person; the name, address, telephone number, and, where available, the facsimile number of the export broker, if any:

* * * * *

(4) The name, address, telephone number, and, where available, the facsimile number of the consignee in the country where the shipment is destined; the name(s) and address(es) of any intermediate consignee(s).

* * * * *

(h) * * *

(5) The aggregate quantity of each listed chemical manufactured which

becomes a component of a product exempted from paragraphs (1)(iv) or (1)(v) of the definition of regulated transaction in § 1300.02 of this chapter during the preceding calendar year.

* * * * *

■ 24. In § 1310.09, the first sentence of paragraph (b) is revised to read as follows:

§ 1310.09 Temporary exemption from registration.

* * * * *

(b) Each person required by section 302 of the Act (21 U.S.C. 822) to obtain a registration to distribute, import, or export a drug product that contains pseudoephedrine or phenylpropanolamine that is regulated pursuant to paragraph (1)(iv) of the definition of regulated transaction in § 1300.02 of this chapter is temporarily exempted from the registration requirement, provided that the person submits a proper application for registration on or before December 3, 1997. * * *

* * * * *

■ 25. In § 1310.10, the section heading and first sentence of paragraph (a) is revised to read as follows:

§ 1310.10 Removal of the exemption of drugs distributed under the Federal Food, Drug and Cosmetic Act.

(a) The Administrator may remove from exemption under paragraph (1)(iv) of the definition of regulated transaction in § 1300.02 of this chapter any drug or group of drugs that the Administrator finds is being diverted to obtain a listed chemical for use in the illicit production of a controlled substance.* * *

* * * * *

■ 26. In § 1310.14, the introductory paragraph is revised to read as follows:

§ 1310.14 Removal of exemption from definition of regulated transaction.

The Administrator finds that the following drugs or groups of drugs are being diverted to obtain a listed chemical for use in the illicit production of a controlled substance and removes the drugs or groups of drugs from exemption under paragraph (1)(iv) of the definition of regulated transaction in § 1300.02 of this chapter pursuant to the criteria listed in § 1310.10 of this part:

* * * * *

PART 1312—IMPORTATION AND EXPORTATION OF CONTROLLED SUBSTANCES

■ 27. The authority citation for Part 1312 continues to read as follows:

Authority: 21 U.S.C. 952, 953, 954, 957, 958.

■ 28. In § 1312.18, paragraph (d) is revised to read as follows:

§ 1312.18 Contents of import declaration.

* * * * *

(d) Notwithstanding the time limitations included in paragraph (b) of this section, an applicant may obtain a special waiver of these time limitations in emergency or unusual instances, provided that a specific confirmation is received from the Administrator or his delegate advising the registrant to proceed pursuant to the special waiver.

■ 29. In § 1312.21, paragraph (c) is revised to read as follows:

§ 1312.21 Requirement of authorization to export.

* * * * *

(c) A separate authorization request is obtained for each consignment of such controlled substances to be exported.

■ 30. In § 1312.25, the second sentence is revised to read as follows:

§ 1312.25 Expiration date.

* * * Any unused export permit shall be returned by the permittee to the Import/Export Unit for cancellation.

■ 31. In § 1312.28, paragraph (c) is revised to read as follows:

§ 1312.28 Distribution of special controlled substances invoice.

* * * * *

(c) Copy 3 shall accompany the shipment and will be detached by the District Director of the U.S. Customs Service at the port of exportation, who shall sign and date the certification of customs on such Copy 3, noting any changes from the entries made by the exporter, and shall then promptly forward Copy 3 to the Import/Export Unit of the Administration.

* * * * *

PART 1313—IMPORTATION AND EXPORTATION OF LIST I AND LIST II CHEMICALS

■ 32. The authority citation for Part 1313 continues to read as follows:

Authority: 21 U.S.C. 802, 830, 871(b), 971.

■ 33. In § 1313.12, paragraph (d) is revised to read as follows:

§ 1313.12 Requirement of authorization to import.

* * * * *

(d) For imports where advance notification is waived pursuant to paragraph (c)(1) of this section, the DEA Form 486 must be received by the Drug Enforcement Administration, Import/Export Unit, on or before the date of importation through use of the mailing address listed in § 1313.12(b) or through use of electronic facsimile media.

* * * * *

■ 34. In § 1313.13, paragraph (c)(1) is revised to read as follows:

§ 1313.13 Contents of import declaration.

* * * * *

(c) * * *

(1) The name, address, telephone number, and, where available, the facsimile number of the chemical importer; the name, address, telephone number, and, where available, the facsimile number of the broker or forwarding agent (if any); and

* * * * *

■ 35. In § 1313.14, paragraph (c) is revised to read as follows:

§ 1313.14 Distribution of import declaration.

* * * * *

(c) Copy 3 shall be presented to the U.S. Customs Service along with the customs entry. If the import is a regulated transaction for which the 15-day advance notice requirement has been waived, the regulated person shall declare this information to the U.S. Customs Service Official by checking the block on the DEA Form 486 designated for this purpose.

■ 36. In § 1313.21, paragraph (c)(1) is revised to read as follows:

§ 1313.21 Requirement of authorization to export.

* * * * *

(c) * * *

(1) Any regulated person who has satisfied the requirements of § 1313.24 for reporting to the Administration an established business relationship, as defined in § 1300.02 of this chapter, with a foreign customer.

* * * * *

■ 37. In § 1313.24, paragraph (a) is revised to read as follows:

§ 1313.24 Waiver of 15-day advance notice for chemical exporters.

(a) Each regulated person shall provide to the Administration the identity and information listed in the definition of established business relationship in § 1300.02 of this chapter for an established business relationship with a foreign customer not later than August 31, 1989.

* * * * *

■ 38. In § 1313.31, paragraphs (b)(5) and (b)(11) are revised to read as follows:

§ 1313.31 Advance notice of importation for transshipment or transfer.

* * * * *

(b) * * *

(5) The net weight of each listed chemical given in kilograms or parts thereof;

* * * * *

(11) The name, address, business, telephone number, and, where available, the facsimile number of the importer, transferor, or transshipper;

* * * * *

■ 39. In § 1313.32, paragraph (b)(2) is revised to read as follows:

§ 1313.32 Requirement of authorization for international transactions.

* * * * *

(b) * * *

(2) A copy of the DEA Form 486 may be transmitted directly to the Drug Enforcement Administration, Import/Export Unit, through electronic facsimile media not later than 15 days prior to the exportation.

* * * * *

■ 40. In § 1313.33, paragraphs (c)(1) and (c)(4) are revised to read as follows:

§ 1313.33 Contents of an international transaction declaration.

* * * * *

(c) * * *

(1) The name, address, telephone number, and, where available, the facsimile number of the chemical exporter; the name, address, telephone number, and, where available, the facsimile number of the chemical importer;

* * * * *

(4) The name, address, telephone number, and, where available, the facsimile number of the consignee in the country where the chemical shipment is destined; the name(s) and address(es) of any intermediate consignee(s).

PART 1314—RETAIL SALE OF SCHEDULED LISTED CHEMICAL PRODUCTS

■ 41. The authority citation for Part 1314 continues to read as follows:

Authority: 21 U.S.C. 802, 830, 842, 871(b), 875, 877, 886a.

■ 42. In § 1314.45, the introductory paragraph is revised to read as follows:

§ 1314.45 Privacy protections.

To protect the privacy of individuals who purchase scheduled listed chemical products, the disclosure of information in logbooks under § 1314.30 is restricted as follows:

* * * * *

■ 43. In § 1314.115, paragraph (a)(2) is revised to read as follows:

§ 1314.115 Distributions not subject to reporting requirements.

(a) * * *

(2) Distributions by retail distributors that may not include face-to-face transactions to the extent that such distributions are consistent with the activities authorized for a retail distributor as specified in the definition of retail distributor in § 1300.02 of this chapter, except that this paragraph (a)(2) does not apply to sales of scheduled listed chemical products at retail.

* * * * *

PART 1316—ADMINISTRATIVE FUNCTIONS, PRACTICES, AND PROCEDURES

■ 44. The authority citation for Subpart A of Part 1316 continues to read as follows:

Authority: 21 U.S.C. 822(f), 830(a), 871(b), 880, 958(f), 965.

■ 45. In § 1316.03, paragraph (d) is revised to read as follows:

§ 1316.03 Authority to make inspections.

* * * * *

(d) Collecting samples of controlled substances or listed chemicals (in the event any samples are collected during an inspection, the inspector shall issue a receipt for such samples on DEA Form 400 to the owner, operator, or agent in charge of the premises);

* * * * *

■ 46. The authority citation for Subpart D of Part 1316 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b), 875, 958(d), 965.

■ 47. In § 1316.42, paragraph (g) is revised to read as follows:

§ 1316.42 Definitions.

* * * * *

(g) The term *proceeding* means all actions involving a hearing, commencing with the publication by the Administrator of the notice of proposed rulemaking or the issuance of an order to show cause.

* * * * *

Dated: January 13, 2012.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control.

[FR Doc. 2012–1150 Filed 1–26–12; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF STATE

22 CFR Part 8

RIN 1400–AC64

[Public Notice 7773]

Advisory Committee Management

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This final rule removes regulations which implement the Federal Advisory Committee Act (FACA) for the Department of State. The Department of State implementation of FACA is now governed by the rules promulgated by GSA and internal policy guidance in the Foreign Affairs Manual.

DATES: *Effective Date:* This rule is effective on February 27, 2012.

FOR FURTHER INFORMATION CONTACT: Alice Kottmyer, Office of the Legal Adviser, who may be reached at (202) 647–2318.

SUPPLEMENTARY INFORMATION: Pursuant to Section 8(a) of the Federal Advisory Committee Act (FACA), 5 U.S.C. Appendix, agency heads are required to establish uniform administrative guidelines and management controls for advisory committees established by that agency.

The Department of State first finalized its rules, codified at 22 CFR Part 8, in 1975. Since then, GSA has promulgated comprehensive guidance at 41 CFR Part 102–3, and the Department recently published updated internal guidance that implements FACA and the GSA regulations. The Department guidance is in Volume 11 of the Foreign Affairs Manual, and can be found at: *http://www.state.gov/documents/organization/176811.pdf*. The provisions of Part 8 are obsolete and are hereby removed.

Regulatory Analyses

Administrative Procedure Act

Removing 22 CFR part 8 is a decision regarding the Department's organization, procedure, or practice and is not subject to the notice-and-comment procedures of 5 U.S.C. 553(b).

Regulatory Flexibility Act/Executive Order 13272: Small Business

The Department certifies that this rulemaking is not expected to have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, 5 U.S.C. 601–612, and Executive Order 13272, section 3(b).

The Small Business Regulatory Enforcement Fairness Act of 1996

This rulemaking is not a major rule as defined by 5 U.S.C. 804, for purposes of congressional review of agency rulemaking under the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121. This rulemaking will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

The Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532, generally requires agencies to prepare a statement before proposing or adopting any rule that may result in an annual expenditure of $100 million or more by state, local, or tribal governments, or by the private sector. This rulemaking will not result in any such expenditure nor will it significantly or uniquely affect small governments.

Executive Orders 12372 and 13132: Federalism

This rulemaking will 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. Nor will the rule have federalism implications warranting the application of Executive Orders No. 12372 and No. 13132.

Executive Order 12866: Regulatory Review

Although the Department of State is generally exempt from the provisions of Executive Order 12866, it has reviewed this rulemaking to ensure its consistency with the regulatory philosophy and principles set forth in that Executive Order, and has determined that the benefits of the regulation justify any costs. The Department does not consider this rulemaking to be a significant regulatory action within the scope of section 3(f)(1) of the Executive Order.

Executive Order 13563

The Department of State has considered this rule in light of Executive Order 13563, dated January 18, 2011, and affirms that this regulation is consistent with the guidance therein.

Executive Order 12988: Civil Justice Reform

The Department has reviewed this rulemaking in light of sections 3(a) and 3(b)(2) of Executive Order No. 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

The Department has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not pre-empt tribal law. Accordingly, the requirements of Section 5 of Executive Order 13175 do not apply to this rulemaking.

The Paperwork Reduction Act of 1995

The Department of State has determined that this rulemaking does not require any collection of information under the Paperwork Reduction Act.

List of Subjects in 22 CFR Part 8

Advisory Committee Management.

Accordingly, under the authority of 22 U.S.C. 2651a, for the reasons set forth in the preamble, the Department removes 22 CFR Part 8.

PART 8—[REMOVED]

Dated: January 12, 1012.

Patrick J. Kennedy,

Under Secretary for Management.

[FR Doc. 2012–1851 Filed 1–26–12; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 103

[DoD–2008–OS–0124; 0790–AI37]

Sexual Assault Prevention and Response (SAPR) Program

AGENCY: Department of Defense.

ACTION: Interim final rule.

SUMMARY: This part implements Department of Defense (DoD) policy and assigns responsibilities for the SAPR Program on prevention, response, and oversight to sexual assault. It is DoD policy to establish a culture free of sexual assault by providing an environment of prevention, education and training, response capability, victim support, reporting procedures, and accountability that enhances the safety and well being of all persons covered by the regulation.

DATES: *Effective:* This rule is effective January 27, 2012. Comments must be received by March 27, 2012.

ADDRESSES: You may submit comments, identified by docket number and/or RIN number and title, by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Diana Rangoussis, Senior Policy Advisor, Sexual Assault Prevention and Response Office (SAPRO), (703) 696–9422.

SUPPLEMENTARY INFORMATION: This rule is being published as an interim final rule to:

a. Implement DoD policy and assign responsibilities for the SAPR Program on prevention, response, and oversight to sexual assault.

b. Incorporate all applicable congressional mandates and all applicable recommendations from the Inspector General of the Department of Defense (IG, DoD), Government Accountability Office, and Defense Task Force on Sexual Assault in the Military Services, to include the new Defense Sexual Assault Incident Database (DSAID) that will give the Department a clear view of the number of incidents at the installation level;

c. Address vigorous congressional and public interest by publishing a revised and comprehensive DoD policy on the prevention of and response to sexual assaults involving members of the U.S. Armed Forces, which affords victims critical and unprecedented additional protections under this part; and

d. Provide field guidance and training requirements to the Military Components to ensure individual resilience and unit readiness in the U.S. Armed Forces, which may be degraded by sexual assault, and thus enable

Service member victims to become fully mission capable and engaged once again.

Additionally, until this rule is published as an interim final rule, adult spouses and other military dependents cannot elect Restricted Reporting or receive the services of a Sexual Assault Response Coordinator (SARC) or a Sexual Assault Prevention and Response VictimAdvocate (SAPR VA). Moreover, the rule and corresponding DoD policy mandate that all sexual assault victims are treated as emergency cases, regardless of visible physical injuries. Lastly, WHEN the Rule and corresponding DOD policy are published, DoD civilians outside of the continental United States (OCONUS) and DoD contractors (who are U.S. citizens and authorized to accompany U.S. military) will now be assured to receive emergency care for sexual assault (even when physical injuries are not present) and the services of a SARC and a SAPR VA during the emergency care.

This rule:

a. Incorporates all applicable congressional mandates from Section 113 of Title 10, United States Code (U.S.C.), and Public Laws 109–364, 109–163, 108–375, 106–65, 110–417, and 111–84; and all applicable recommendations from the IG, DoD; Government Accountability Office; and Defense Task Force on Sexual Assault in the Military Services;

b. Establishes the creation, implementation, maintenance, and function of DSAID, an integrated database that will meet congressional reporting requirements, support Military Service SAPR Program management, and inform DoD SAPRO oversight activities;

c. Increases the scope of applicability of this part by expanding the categories of persons covered by this part to include:

1. National Guard and Reserve Component members who are sexually assaulted when performing active service, as defined in section 101(d)(3) of Title 10, U.S.C., and inactive duty training. Refer to DoD Instruction (DoDI) 6495.02 for additional SAPR and medical services provided to such personnel and eligibility criteria for Restricted Reporting;

2. Military dependents 18 years of age and older who are eligible for treatment in the military healthcare system, at installations in the continental United States (CONUS) and outside of the continental United States (OCONUS), and who were victims of sexual assault perpetrated by someone other than a spouse or intimate partner. (The Family Advocacy Program (FAP), pursuant to DoD Directive (DoDD) 6400.1, covers military dependent sexual assault victims who are assaulted by a spouse or intimate partner and military dependent sexual assault victims who are 17 years of age and younger);

3. The following non-military personnel who are only eligible for limited medical services in the form of emergency care (see § 103.3 (g) of this rule), unless otherwise eligible to receive treatment in a military medical treatment facility. They will also be offered the limited SAPR services of a Sexual Assault Response Coordinator (SARC) and a SAPR Victim Advocate (VA) while undergoing emergency care OCONUS. Refer to DoDI 6495.02 for any additional SAPR and medical services provided. These limited medical and SAPR services shall be provided to:

i. DoD civilian employees and their family dependents 18 years of age and older when they are stationed or performing duties OCONUS and eligible for treatment in the military healthcare system at military installations or facilities OCONUS. Refer to DoDI 6495.02 for reporting options available to DoD civilians and their family dependents 18 years of age and older;

ii. U.S. citizen DoD contractor personnel when they are authorized to accompany the Armed Forces in a contingency operation OCONUS and their U.S. citizen employees per DoDI 3020.41. Refer to DoDI 6495.02 for reporting options available to DoD contractors; and

4. Service members who are on active duty but were victims of sexual assault prior to enlistment or commissioning. They are eligible to receive full SAPR services and either reporting option. The focus of this part and DoDI 6495.02 is on the victim of sexual assault. The DoD shall provide support to an active duty Service member regardless of when or where the sexual assault took place.

Regulatory Procedures

Executive Order 12866, ''Regulatory Planning and Review''

It has been determined that this rule is not a significant regulatory action. The rule does not:

1. Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy; a section 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 this Executive Order.

Section 202, Public Law 104–4, ''Unfunded Mandates Reform Act''

It has been certified that this rule does not contain a Federal mandate that may result in the expenditure by State, local and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601)

It has been certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. This rule provides SAPR Program guidance only.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

Section 103.5(a)(9) of this interim final rule contains information collection requirements. DoD has submitted the following proposal to the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Comments are invited on:

a. Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility;

b. The accuracy of the estimate of the burden of the proposed 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 the use of automated collection techniques or other forms of information technology.

Title: DSAID.

Type of Request: New.

Number of Respondents: 3,200.

Responses Per Respondent: 1.

Annual Responses: 3,200.

Average Burden Per Response: 60 minutes.

Annual Burden Hours: 1 hour.

Needs and Uses: A DoD database that captures uniform data provided by the Military Services and maintains all sexual assault data collected by the Military Services. This database shall be a centralized, case-level database for the uniform collection of data regarding

incidence of sexual assaults involving persons covered by this part and DoDI 6495.02. DSAID will include information when available, or when not limited by Restricted Reporting, or otherwise prohibited by law, about the nature of the assault, the victim, the offender, and the disposition of reports associated with the assault. Information in the DSAID will be used to respond to congressional reporting requirements, support Military Service SAPR Program management, and inform DoD SAPRO oversight activities.

Affected Public: Federal Government; Individuals or Households; Business or Other For-Profit; Not-For-Profit Institutions; Farms; State, Local or Tribal Government.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer:

Written comments and recommendations on the proposed information collection should be sent to Ms. Jasmeet Seehra at the OMB, DoD Desk Officer, Room 10102, New Executive Office Building, Washington, DC 20503, with a copy to Ms. Darlene Sullivan at the DoD SAPRO, Oversight Program Manager, 1401 Wilson Boulevard, Suite 402, Arlington, VA 22209. Comments can be received from 30 to 60 days after the date of this notice, but comments to OMB will be most useful if received by OMB within 30 days after the date of this notice.

You may also submit comments, identified by docket number and title, by the following method: Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to DoD SAPRO, 1401 Wilson Boulevard, Suite 402, Arlington, VA 22209, ATTN: Ms. Darlene Sullivan, (703) 696–9422.

Executive Order 13132, ''Federalism''

It has been certified that this rule does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

1. The States;

2. The relationship between the National Government and the States; or

3. The distribution of power and responsibilities among the various levels of Government.

List of Subjects in 32 CFR Part 103

Crime, Health, Military personnel.

Accordingly, 32 CFR Part 103 is added to read as follows:

PART 103—SEXUAL ASSAULT PREVENTION AND RESPONSE (SAPR) PROGRAM

Sec.
103.1 Purpose.
103.2 Applicability.
103.3 Definitions.
103.4 Policy.
103.5 Responsibilities.

Authority: 10 U.S.C. 113; and Public Laws 109–364, 109–163, 108–375, 106–65, 110–417, and 111–84.

§ 103.1 Purpose.

(a) This part reissues DoDD 6495.01, pursuant to section 113 of Title 10, U.S.C., to implement DoD policy and assign responsibilities for the SAPR Program on prevention, response, and oversight to sexual assault according to the guidance in:

(1) This part;

(2) DoDD 6495.01, ''Sexual Assault Prevention and Response (SAPR) Program,'' October 6, 2005 (hereby cancelled);

(3) Sections 101(d)(3) and 113, chapter 47,[1] and chapter 80 of title 10, U.S.C.;

(4) DoDI 6495.02, ''Sexual Assault Prevention and Response Program Procedures,'' November 13, 2008;

(5) DoDD 6400.1, ''Family Advocacy Program (FAP),'' August 23, 2004;

(6) DoDI 6400.06, ''Domestic Abuse Involving DoD Military and Certain Affiliated Personnel,'' August 21, 2007, or the most recent edition;

(7) U.S. Department of Defense, ''Manual for Courts-Martial,'' 2008;

(8) DoDD 7050.06, ''Military Whistleblower Protection,'' July 2007;

(9) U.S. Department of Justice, Office on Violence Against Women, ''A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents,'' September 2004, or the most recent edition;

(10) DoDD 5400.11, ''DoD Privacy Program,'' May 8, 2007;

(11) DoD 6025.18–R, ''DoD Health Information Privacy Regulation,'' January 24, 2003;

(12) DoD 8910.1–M, ''DoD Procedures for Management of Information Requirements,'' June 30, 1998;

(13) DoDD 5124.02, ''Under Secretary of Defense for Personnel and Readiness (USD(P&R)),'' June 23, 2008;

(14) U.S. Department of Defense paper, ''The Department of Defense Sexual Assault Prevention Strategy,'' September 30, 2008;

(15) Section 577 of Public Law 108–375, ''Ronald Reagan National Defense Authorization Act for Fiscal Year 2005,'' October 28, 2004;

(16) Sections 561, 562, and 563 of Public Law 110–417, ''The Duncan Hunter National Defense Authorization Act for Fiscal Year 2009,'' October 14, 2008;

(17) Section 567(c) of Public Law 111–84, ''The National Defense Authorization Act for Fiscal Year 2010,'' October 28, 2009;

(18) Joint Publication 1–02, ''Department of Defense Dictionary of Military and Associated Terms,'' current edition; and

(19) DoD Instruction 3020.41, ''Contractor Personnel Authorized to Accompany the U.S. Armed Forces.'' October 3, 2005.

(b) [Reserved]

§ 103.2 Applicability.

This part applies to:

(a) OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the IG, DoD, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (hereafter referred to collectively as the ''DoD Components'').

(b) National Guard, and Reserve Component members who are sexually assaulted when performing active service, as defined in section 101(d)(3) of Title 10, U.S.C., and inactive duty training. Refer to DoDI 6495.02 for additional SAPR and medical services provided to such personnel and eligibility criteria for Restricted Reporting.

(c) Military dependents 18 years of age and older, who are eligible for treatment in the military healthcare system, at installations in the continental United States (CONUS) and outside of the continental United States (OCONUS), and who were victims of sexual assault perpetrated by someone other than a spouse or intimate partner. (The FAP, pursuant to DoDD 6400.1, covers adult military dependent sexual assault victims who are assaulted by a

[1] Also known as ''The Uniform Code of Military Justice.''

spouse or intimate partner and military dependent sexual assault victims who are 17 years of age and younger.) The FAP Program provides the full range of services provided to victims of domestic violence to victims who are sexually assaulted, in violation of Articles 120 (Rape and Sexual Assault) and 125 (Sodomy), UCMJ, by someone with whom they have an intimate partner relationship.

(d) The following non-military personnel, who are only eligible for limited medical services in the form of emergency care (see § 103.3 of this part), unless otherwise eligible to receive treatment in a military medical treatment facility. They will also be offered the limited SAPR services of a SARC and a SAPR VA while undergoing emergency care OCONUS. Refer to DoDI 6495.02 for any additional SAPR and medical services provided. These limited medical and SAPR services shall be provided to:

(1) DoD civilian employees and their family dependents 18 years of age and older when they are stationed or performing duties OCONUS and eligible for treatment in the military healthcare system at military installations or facilities OCONUS. Refer to DoDI 6495.02 for reporting options available to DoD civilians and their family dependents 18 years of age and older; and

(2) U.S. citizen DoD contractor personnel when they are authorized to accompany the Armed Forces in a contingency operation OCONUS and their U.S. citizen employees per DoDI 3020.41. Refer to DoDI 6495.02 for reporting options available to DoD contractors.

(e) Service members who are on active duty but were victims of sexual assault prior to enlistment or commissioning. They are eligible to receive SAPR services and either reporting option. The focus of this part and DoDI 6495.02 is on the victim of sexual assault. The DoD shall provide support to an active duty Service member regardless of when or where the sexual assault took place.

(f) Supersedes all policy and regulatory guidance within the DoD not expressly mandated by law that is inconsistent with its provisions, or that would preclude execution.

§ 103.3 Definitions.

Unless otherwise noted, these terms and their definitions are for the purpose of this part.

Confidential communication. Oral, written, or electronic communications of personally identifiable information concerning a sexual assault victim and the sexual assault incident provided by the victim to the SARC, SAPR VA, or healthcare personnel in a Restricted Report. This confidential communication includes the victim's sexual assault forensic examination (SAFE) Kit and its information. See *http://www.archives.gov/cui.*

Consent. Words or overt acts indicating a freely given agreement to the sexual conduct at issue by a competent person. An expression of lack of consent through words or conduct means there is no consent. Lack of verbal or physical resistance or submission resulting from the accused's use of force, threat of force, or placing another person in fear does not constitute consent. A current or previous dating relationship or the manner of dress of the person involved with the accused in the sexual conduct at issue shall not constitute consent. There is no consent where the person is sleeping or incapacitated, such as due to age, alcohol or drugs, or mental incapacity.

Crisis intervention. Emergency non-clinical care aimed at assisting victims in alleviating potential negative consequences by providing safety assessments and connecting victims to needed resources. Either the SARC or SAPR VA will intervene as quickly as possible to assess the victim's safety and determine the needs of victims and connect them to appropriate referrals, as needed.

Culturally-competent care. Care that provides culturally and linguistically appropriate services.

DSAID. A DoD database that captures uniform data provided by the Military Services and maintains all sexual assault data collected by the Military Services. This database shall be a centralized, case-level database for the uniform collection of data regarding incidence of sexual assaults involving persons covered by this part and DoDI 6495.02. DSAID will include information when available, or when not limited by Restricted Reporting, or otherwise prohibited by law, about the nature of the assault, the victim, the offender, and the disposition of reports associated with the assault. DSAID shall be available to the Sexual Assault and Response Office and the DoD to develop and implement congressional reporting requirements. Unless authorized by law, or needed for internal DoD review or analysis, disclosure of data stored in DSAID will only be granted when disclosure is ordered by a military, Federal, or State judge or other officials or entities as required by a law or applicable U.S. international agreement. This term and its definition are proposed for inclusion in the next edition of Joint Publication 1–02.

Emergency. A situation that requires immediate intervention to prevent the loss of life, limb, sight, or body tissue to prevent undue suffering. Regardless of appearance, a sexual assault victim needs immediate medical intervention to prevent loss of life or undue suffering resulting from physical injuries internal or external, sexually transmitted infections, pregnancy, or psychological distress. Sexual assault victims shall be given priority as emergency cases regardless of evidence of physical injury.

Emergency care. Emergency medical care includes physical and emergency psychological medical services and a SAFE consistent with the U.S. Department of Justice, Office on Violence Against Women Protocol.

Gender-responsive care. Care the acknowledges and is sensitive to gender differences and gender-specific issues.

Healthcare personnel. Persons assisting or otherwise supporting healthcare providers in providing healthcare services (e.g., administrative personnel assigned to a military medical treatment facility, or mental healthcare personnel). Healthcare personnel also includes all healthcare providers.

Military Services. The term, as used in the SAPR Program, includes Army, Air Force, Navy, Marines, Reserve Components, and their respective Military Academies.

Non-identifiable personal information. Non-identifiable personal information includes those facts and circumstances surrounding the sexual assault incident or that information about the individual that enables the identity of the individual to remain anonymous. In contrast, personal identifiable information is information belonging to the victim and alleged assailant of a sexual assault that would disclose or have a tendency to disclose the person's identity.

Official investigative process. The formal process a commander or law enforcement organization uses to gather evidence and examine the circumstances surrounding a report of sexual assault.

Personal identifiable information. Includes the person's name, other particularly identifying descriptions (e.g., physical characteristics or identity by position, rank, or organization), or other information about the person or the facts and circumstances involved that could reasonably be understood to identify the person (e.g., a female in a particular squadron or barracks when there is only one female assigned).

Qualifying conviction. A State or Federal conviction, or a finding of guilty in a juvenile adjudication, for a felony crime of sexual assault and any general or special court-martial conviction for a Uniform Code of Military Justice (UCMJ) offense, which otherwise meets the elements of a crime of sexual assault, even though not classified as a felony or misdemeanor within the UCMJ. In addition, any offense that requires registration as a sex offender is a qualifying conviction.

Recovery-oriented care. Focus on the victim and on doing what is necessary and appropriate to support victim recovery, and also, if a Service member, to support that Service member to be fully mission capable and engaged.

Restricted reporting. Reporting option that allows sexual assault victims to confidentially disclose the assault to specified individuals (i.e., SARC, SAPR VA, or healthcare personnel), in accordance with ''Victim Centered Care'' of U.S. Department of Justice, Office on Violence Against Women, ''A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents'' and receive medical treatment, including emergency care, counseling, and assignment of a SARC and SAPR VA, without triggering an official investigation. The victim's report provided to healthcare personnel (including the information acquired from a SAFE Kit), SARCs, or SAPR VAs will not be reported to law enforcement or to the command to initiate the official investigative process unless the victim consents or an established exception applies in accordance with DoDI 6495.02. The Restricted Reporting Program applies to Service Members and their military dependents 18 years of age and older. For additional persons who may be entitled to Restricted Reporting, see eligibility criteria in DoDI 6495.02. Only a SARC, SAPR VA, or healthcare personnel may receive a Restricted Report, previously referred to as Confidential Reporting. This term and its definition are proposed for inclusion in the next edition of Joint Publication 1–02.

SAFE Kit. The medical and forensic examination of a sexual assault victim under circumstances and controlled procedures to ensure the physical examination process and the collection, handling, analysis, testing, and safekeeping of any bodily specimens and evidence meet the requirements necessary for use as evidence in criminal proceedings. The victim's SAFE Kit is treated as a confidential communication when conducted as part of a Restricted Report. This term and its definition are proposed for inclusion in the next edition of Joint Publication 1–02.

SAPRO. Serves as DoD's single point of authority, accountability, and oversight for the SAPR program, except for legal processes and criminal investigative matters that are the responsibility of the Judge Advocates General of the Military Departments and the IG respectively. This term and its definition are proposed for inclusion in the next edition of Joint Publication 1–02.

SAPR Program. A DoD program for the Military Departments and the DoD Components that establishes SAPR policies to be implemented worldwide. The program objective is an environment and military community intolerant of sexual assault. This term and its definition are proposed for inclusion in the next edition of Joint Publication 1–02.

SAPR VA. A person who, as a victim advocate, shall provide non-clinical crisis intervention, referral, and ongoing non-clinical support to adult sexual assault victims. Support will include providing information on available options and resources to victims. The SAPR VA, on behalf of the sexual assault victim, provides liaison assistance with other organizations and agencies on victim care matters and reports directly to the SARC when performing victim advocacy duties. Personnel who are interested in serving as a SAPR VA are encouraged to volunteer for this duty assignment. This term and its definition are proposed for inclusion in the next edition of Joint Publication 1–02.

SARC. The single point of contact at an installation or within a geographic area who oversees sexual assault awareness, prevention, and response training; coordinates medical treatment, including emergency care, for victims of sexual assault; and tracks the services provided to a victim of sexual assault from the initial report through final disposition and resolution. This term and its definition are proposed for inclusion in the next edition of Joint Publication 1–02.

Senior commander. An officer, usually in the grade of O–6 or higher, who is the commander of a military installation or comparable unit and has been designated by the Military Service concerned to oversee the SAPR Program.

Service member. An active duty member of a Military Service. In addition, National Guard and Reserve Component members who are sexually assaulted when performing active service, as defined in section 101(d)(3) of Title 10, U.S.C., and inactive duty training.

Sexual assault. Intentional sexual contact characterized by use of force, threats, intimidation, or abuse of authority or when the victim does not or cannot consent. Sexual assault includes rape, forcible sodomy (oral or anal sex), and other unwanted sexual contact that is aggravated, abusive, or wrongful (including unwanted and inappropriate sexual contact), or attempts to commit these acts.

Unrestricted reporting. A process that an individual covered by this policy uses to disclose, without requesting confidentiality or Restricted Reporting, that he or she is the victim of a sexual assault. Under these circumstances, the victim's report provided to healthcare personnel, the SARC, a SAPR VA, command authorities, or other persons is reported to law enforcement and may be used to initiate the official investigative process. Additional policy and guidance are provided in DoDI 6495.02. This term and its definition are proposed for inclusion in the next edition of Joint Publication 1–02.

Victim. A person who asserts direct physical, emotional, or pecuniary harm as a result of the commission of a sexual assault. The term encompasses all persons 18 and over eligible to receive treatment in military medical treatment facilities; however, the Restricted Reporting Program applies to Service Members and their military dependents 18 years of age and older. For additional persons who may be entitled to Restricted Reporting, see eligibility criteria in DoDI 6495.02.

§ 103.4 Policy.

It is DoD policy that:

(a) This part and DoDI 6495.02 implement the DoD SAPR policy.

(b) The DoD goal is a culture free of sexual assault by providing an environment of prevention, education and training, response capability (defined in DoDI 6495.02), victim support, reporting procedures, and accountability that enhances the safety and well being of all persons covered by this part and DoDI 6495.02.

(c) The SAPR Program shall:

(1) Focus on the victim and on doing what is necessary and appropriate to support victim recovery, and also, if a Service member, to support that Service member to be fully mission capable and engaged. The SAPR Program shall provide care that is gender-responsive, culturally-competent, and recovery-oriented. (See § 103.3 of this part)

(2) Not provide policy for legal processes within the responsibility of the Judge Advocates General of the Military Departments provided in

Chapter 47 of Title 10, U.S.C. (also known as and hereafter referred to as ''UCMJ'') and the Manual for Court's-Martial or for criminal investigative matters assigned to the Judge Advocates General of the Military Departments and IG, DoD.

(d) Standardized SAPR requirements, terminology, guidelines, protocols, and guidelines for instructional materials shall focus on awareness, prevention, and response at all levels as appropriate.

(e) The terms ''Sexual Assault Response Coordinator (SARC)'' and ''SAPR Victim Advocate (VA),'' as defined in this part and the DoDI 6495.02, shall be used as standard terms throughout the DoD to facilitate communications and transparency regarding SAPR capacity. For further information regarding SARC and SAPR VA roles and responsibilities, see DoDI 6495.02.

(1) SARC. The SARC shall serve as the single point of contact for coordinating appropriate and responsive care for sexual assault victims. SARCs shall coordinate sexual assault victim care and sexual assault response when a sexual assault is reported. The SARC shall supervise SAPR VAs, but may be called on to perform victim advocacy duties.

(2) SAPR VA. The SAPR VA shall provide non-clinical crisis intervention and on-going support, in addition to referrals for adult sexual assault victims. Support will include providing information on available options and resources to victims.

(f) Command sexual assault awareness and prevention programs, as well as law enforcement and criminal justice procedures that enable persons to be held accountable for their actions, as appropriate, shall be established and supported by all commanders.

(g) An immediate, trained sexual assault response capability (defined in DoDI 6495.02) shall be available for each report of sexual assault in all locations, including in deployed locations. The response time may be affected by operational necessities, but will reflect that sexual assault victims shall be treated as emergency cases.

(h) Victims of sexual assault shall be protected from coercion, retaliation, and reprisal in accordance with DoDD 7050.06.

(i) Victims of sexual assault shall be protected, treated with dignity and respect, and shall receive timely access to comprehensive medical treatment, including emergency care treatment and services, as described in this part and DoDI 6495.02.

(j) Emergency care shall consist of emergency medical care and the offer of a SAFE consistent with the ''A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents'' and refer to DD Form 2911, ''DoD Sexual Assault Medical Forensic Examination Report'' and accompanying instructions. The victim shall be advised that even if a SAFE is declined, the victim is encouraged (but not mandated) to receive medical care, psychological care, and victim advocacy.

(1) Sexual assault patients shall be given priority, so that they shall be treated as emergency cases. A sexual assault victim needs immediate medical intervention to prevent loss of life or suffering resulting from physical injuries (internal or external), sexually transmitted infections, pregnancy, and psychological distress. Individuals disclosing a recent sexual assault shall, with their consent, be quickly transported to the exam site, promptly evaluated, treated for serious injuries, and then, with the patient's consent, undergo a SAFE, pursuant to ''Victim Centered Care'' of ''A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents'' and refer to DD Form 2911 and accompanying instructions.

(2) Sexual assault patients shall be treated as emergency cases, regardless of whether physical injuries are evident. Patients' needs shall be assessed for immediate medical or mental health intervention pursuant to ''Victim Centered Care,'' and ''Triage and Intake'' of ''A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents.'' Sexual assault victims shall be treated uniformly, consistent with ''Victim Centered Care'' of ''A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents'' and DD Form 2911 and accompanying instructions, regardless of their behavior because when severely traumatized, sexual assault patients may appear to be calm, indifferent, submissive, jocular, angry, emotionally distraught, or even uncooperative or hostile towards those who are trying to help.

(k) Service members and their dependents who are 18 years of age or older covered by this part (see § 103.2(d)) and DoDI 6495.02 who are sexually assaulted have two reporting options: Unrestricted or Restricted Reporting. Complete, Unrestricted Reporting of sexual assault is favored by the DoD. See DoDI 6495.02 for additional information on the DoD sexual assault reporting options and exceptions as they apply to Restricted Reporting. Consult DoDD 5400.11 and DoD 6025.18–R for protections of personally identifiable information solicited, collected, maintained, accessed, used, disclosed, and disposed during the treatment and reporting processes. The two reporting options are as follows:

(1) Unrestricted Reporting allows an eligible person who is sexually assaulted to access medical treatment and counseling and request an official investigation of the allegation using existing reporting channels (e.g., chain of command, law enforcement, healthcare personnel, the SARC). When a sexual assault is reported through Unrestricted Reporting, a SARC shall be notified as soon as possible, respond, assign a SAPR VA, and offer the victim medical care and a SAFE.

(2) Restricted Reporting allows sexual assault victims (see eligibility criteria in § 103.2(c) of this part) to confidentially disclose the assault to specified individuals (i.e., SARC, SAPR VA, or healthcare personnel), in accordance with DoDD 5400.11, and receive medical treatment, including emergency care, counseling, and assignment of a SARC and SAPR VA, without triggering an official investigation. The victim's report to healthcare personnel (including the information acquired from a SAFE Kit), SARCs, or SAPR VAs will not be reported to law enforcement or to the victim's command, to initiate the official investigative process, unless the victim consents or an established exception applies in accordance with DoDI 6495.02. When a sexual assault is reported through Restricted Reporting, a SARC shall be notified as soon as possible, respond, assign a SAPR VA, and offer the victim medical care and a SAFE.

(i) Eligibility for Restricted Reporting. The Restricted Reporting Program applies to Service Members and their military dependents 18 years of age and older. For additional persons who may be entitled to Restricted Reporting, see eligibility criteria in DoDI 6495.02.

(ii) DoD Dual Objectives. The DoD is committed to ensuring victims of sexual assault are protected; treated with dignity and respect; and provided support, advocacy, and care. The DoD supports effective command awareness and preventive programs. The DoD also strongly supports applicable law enforcement and criminal justice procedures that enable persons to be held accountable for sexual assault offenses and criminal dispositions, as appropriate. To achieve these dual objectives, DoD preference is for complete Unrestricted Reporting of sexual assaults to allow for the provision of victims' services and to pursue accountability. However,

Unrestricted Reporting may represent a barrier for victims to access services, when the victim desires no command or law enforcement involvement. Consequently, the Department recognizes a fundamental need to provide a confidential disclosure vehicle via the Restricted Reporting option.

(iii) Designated Personnel Authorized to Accept a Restricted Report. Only the SARC, SAPR VA, or healthcare personnel are designated as authorized to accept a Restricted Report.

(iv) SAFE Confidentiality Under Restricted Reporting. A SAFE and its information shall be afforded the same confidentiality as is afforded victim statements under the Restricted Reporting option. See DoDI 6495.02 for additional information.

(v) Disclosure of Confidential Communications. In cases where a victim elects Restricted Reporting, the SARC, assigned SAPR VA, and healthcare personnel may not disclose confidential communications or SAFE Kit information to law enforcement or command authorities, either within or outside the DoD, except as provided in DoDI 6495.02. In certain situations when information about a sexual assault comes to the commander's or law enforcement official's attention from a source independent of the Restricted Reporting avenues and an independent investigation is initiated, a SARC, SAPR VA, or healthcare personnel may not disclose confidential communications if obtained under Restricted Reporting (see exceptions to Restricted Reporting in DoDI 6495.02). Improper disclosure of confidential communications under Restricted Reporting, improper release of medical information, and other violations of this part are prohibited and may result in discipline pursuant to the UCMJ, or other adverse personnel or administrative actions.

(l) Enlistment or commissioning of personnel in the Military Services shall be prohibited and no waivers allowed when the person has a qualifying conviction (see § 103.3) for a crime of sexual assault.

(m) The focus of this part and DoDI 6495.02 is on the victim of sexual assault. The DoD shall provide support to an active duty Service member regardless of when or where the sexual assault took place.

§ 103.5 Responsibilities.

(a) In accordance with the authority in DoDD 5124.02, the USD(P&R) shall:

(1) Develop overall policy and provide oversight for the DoD SAPR Program, except legal processes in the UCMJ and criminal investigative matters assigned to the Judge Advocates General of the Military Departments and IG, DoD respectively.

(2) Develop strategic program guidance, joint planning objectives, standard terminology, and identify legislative changes needed to ensure the future availability of resources in support of DoD SAPR policies.

(3) Develop metrics to measure compliance and effectiveness of SAPR training, awareness, prevention, and response policies and programs. Analyze data and make recommendations regarding the SAPR policies and programs to the Secretaries of the Military Departments.

(4) Monitor compliance with this part and DoDI 6495.02, and coordinate with the Secretaries of the Military Departments regarding Service SAPR policies.

(5) Collaborate with Federal and State agencies that address SAPR issues and serve as liaison to them as appropriate. Strengthen collaboration on sexual assault policy matters with U.S. Department of Veterans Affairs on the issues of providing high quality and accessible health care and benefits to victims of sexual assault.

(6) Oversee the DoD SAPRO. Serving as the DoD single point of authority, accountability, and oversight for the SAPR program, SAPRO provides recommendations to the USD(P&R) on the issue of DoD sexual assault policy matters on prevention, response, and oversight. SAPRO is responsible for:

(i) Implementing and monitoring compliance with DoD sexual assault policy on prevention and response, except for legal processes in the UCMJ and Manual for Courts-Martial and criminal investigative matters assigned to the Judge Advocates General of the Military Departments and IG respectively.

(ii) Providing technical assistance to the Heads of the DoD Components in addressing matters concerning SAPR.

(iii) Acquiring quarterly and annual SAPR data from the Military Services, assembling annual congressional reports involving persons covered by this part and DoDI 6495.0, and consult with and relying on the Judge Advocates General of the Military Departments in questions concerning disposition results of sexual assault cases in their respective departments.

(iv) Establishing reporting categories and monitoring specific goals included in the annual SAPR assessments of each Military Service, in their respective departments.

(v) Overseeing the creation, implementation, maintenance, and function of DSAID, an integrated database that will meet congressional reporting requirements, support Service SAPR Program management, and inform DoD SAPRO oversight activities.

(b) The Assistant Secretary of Defense for Health Affairs (ASD(HA)), under the authority, direction, and control of the USD(P&R), shall advise the USD(P&R) on DoD sexual assault healthcare policies, clinical practice guidelines, related procedures, and standards governing DoD healthcare programs for victims of sexual assault. The ASD(HA) shall direct that all sexual assault patients be given priority, so that they shall be treated as emergency cases.

(c) The Director of the Defense Human Resources Activity (DoDHRA), under the authority, direction, and control of USD(P&R), shall provide operational support to the USD(P&R) as outlined in paragraph (a)(6) of this section.

(d) The General Counsel of the DoD (GC, DoD), shall provide advice and assistance on all legal matters, including the review and coordination of all proposed issuances and exceptions to policy and the review of all legislative proposals affecting mission and responsibilities of the DoD SAPRO.

(e) The IG, DoD, shall:

(1) Develop and oversee the promulgation of criminal investigative and law enforcement policy regarding sexual assault and establish guidelines for the collection and preservation of evidence with non-identifiable personal information on the victim, for the Restricted Reporting process, in coordination with the ASD(HA).

(2) Oversee criminal investigations of sexual assault conducted by the DoD Components.

(3) Collaborate with the DoD SAPRO on sexual assault matters.

(f) The Secretaries of the Military Departments shall:

(1) Establish departmental policies and procedures to implement the SAPR Program consistent with the provisions of this part and DoDI 6495.02, to include the Military Academies within their cognizance; monitor departmental compliance with this part and DoDI 6495.02.

(2) Coordinate all Military Service SAPR policy changes with the USD(P&R).

(3) In coordination with USD(P&R), implement recommendations regarding Military Service compliance and effectiveness of SAPR training, awareness, prevention, and response policies and programs.

(4) Align Service SAPR Strategic Plans with the DoD SAPR Strategic Plan.

(5) Align Service prevention strategy with the Spectrum of Prevention, consistent with the DoD Sexual Assault

Prevention Strategy, which consists of six pillars:

(i) Influencing Policy

(ii) Changing Organizational Practices

(iii) Fostering Coalitions and Networks

(iv) Educating Providers

(v) Promoting Community Education

(vi) Strengthening Individual Knowledge and Skills

(6) Require commanders to ensure that medical treatment (including emergency care) and SAPR services are provided to victims of sexual assaults in a timely manner unless declined by the victim.

(7) Utilize the terms ''Sexual Assault Response Coordinator (SARC)'' and ''SAPR Victim Advocate (VA),'' as defined in this part and DoDI 6495.02, as standard terms to facilitate communications and transparency regarding sexual assault response capacity.

(8) Establish the position of the SARC to serve as the single point of contact for ensuring that sexual assault victims receive appropriate and responsive care. The SARC should be a Service member, DoD civilian employee, or National Guard technician.

(9) Provide program-appropriate resources to enable the Combatant Commanders to achieve compliance with the policies set forth in this part and DoDI 6495.02.

(10) Establish and codify Service SAPR Program support to Combatant Commands and Defense Agencies, either as a host activity or in a deployed environment.

(11) Provide SAPR Program and obligation data to the USD(P&R), as required.

(12) Submit quarterly reports to the USD(P&R) that include information regarding all sexual assaults reported during the quarter, until DSAID becomes fully operational for each individual Service. Require confirmation that a multi-disciplinary case management group tracks each open Unrestricted Report and that a multi-disciplinary case management group meetings are held monthly for reviewing all Unrestricted Reports of sexual assaults.

(13) Provide annual reports of sexual assaults involving persons covered by this part and DoDI 6495.02 to the DoD SAPRO for consolidation into the annual report to Congress in accordance with sections 577 of Public Law 108–375.

(14) Provide data connectivity, or other means, to authorized users to ensure all sexual assaults reported in theater and other joint environments are incorporated into the DSAID, or authorized interfacing systems for the documentation of reports of sexual assault, as required by section 563 of Public Law 110–417.

(15) Ensure that Service data systems used to report case-level sexual assault information into the DSAID are compliant with DoD data reporting requirements, pursuant to section 563 of Public Law 110–417.

(16) Require extensive, continuing in-depth SAPR training for DoD personnel and specialized SAPR training for commanders, senior enlisted leaders, SARCs, SAPR VAs, investigators, law enforcement officials, chaplains, healthcare personnel, and legal personnel in accordance with DoDI 6495.02.

(17) Oversee sexual assault training within the DoD law enforcement community.

(18) Direct that Service military criminal investigative organizations require their investigative units to communicate with their servicing SARC and participate with the multi-disciplinary Case Management Group convened by the SARC, in accordance with this part and DoDI 6495.02.

(19) Provide commanders with procedures that:

(i) Establish guidance for when a Military Protective Order (MPO) has been issued, that the Service member who is protected by the order is informed, in a timely manner, of the member's option to request transfer from the command to which that member is assigned in accordance with section 567(c) of Public Law 111–84.

(ii) Ensure that the appropriate civilian authorities shall be notified of the issuance of a military protective order (MPO) and of the individuals involved in the order, when an MPO has been issued against a Service member or when any individual addressed in the MPO does not reside on a military installation at any time when an MPO is in effect. An MPO issued by a military commander shall remain in effect until such time as the commander terminates the order or issues a replacement order. (See section 561 of Pub. L. 110–417.) The issuing commander also shall notify the appropriate civilian authorities of any change made in a protective order covered by Chapter 80 of Title 10, U.S.C., and the termination of the protective order.

(iii) Ensure that the person seeking the MPO shall be advised that the MPO is not enforceable by civilian authorities off base and that victims desiring protection off base are advised to seek a civilian protective order (see section 561 of 110–417 and section 567(c) of Pub. L. 111–84).

(g) The Chairman of the Joint Chiefs of Staff shall:

(1) Assess SAPR as part of the overall force planning function of any force deployment decision, and periodically reassess the SAPR posture of deployed forces.

(2) Monitor implementation of this part, DoDI 6495.02, and implementing instructions, including during military operations.

(3) Utilize the terms ''Sexual Assault Response Coordinator (SARC)'' and ''SAPR Victim Advocate (VA),'' as defined in this part and DoDI 6495.02, as standard terms to facilitate communications and transparency regarding sexual assault response capacity.

(4) Review relevant documents, including the Combatant Commanders' joint plans, operational plans, concept plans, and deployment orders, to ensure they identify and include SAPR Program requirements.

(h) The Commanders of the Combatant Commands, in coordination with the other Heads of the DoD Components and through the Chairman of the Joint Chiefs of Staff, shall:

(1) Establish policies and procedures to implement the SAPR Program and oversee compliance with this part and DoDI 6495.02 within their areas of responsibility and during military operations.

(2) Formally document agreements with installation host Service commanders, component theater commanders, or other heads of another agency or organization, for investigative, legal, medical, counseling, or other response support provided to incidents of sexual assault.

(3) Direct that relevant documents are drafted, including joint operational plans and deployment orders, that establish theater-level requirements for the prevention of and response to incidents of sexual assault that occur, to include during the time of military operations.

(4) Require that sexual assault response capability information be provided to all persons within their area of responsibility covered by this part and DoDI 6495.02, to include reporting options and SAPR services available at deployed locations and how to access these options.

(5) Ensure medical treatment (including emergency care) and SAPR services are provided to victims of sexual assaults in a timely manner unless declined by the victim.

(6) Direct subordinate commanders coordinate relationships and agreements for host or installation support at forward-deployed locations to ensure a

sexual assault response capability is available to members of their command and persons covered by this part and DoDI 6495.02 as consistent with operational requirements.

(7) Direct that sexual assault incidents are given priority so that they shall be treated as emergency cases.

(8) Direct subordinate commanders provide all personnel with procedures to report sexual assaults.

(9) Require subordinate commanders at all levels to monitor the command climate with respect to SAPR, and take appropriate steps to address problems.

(10) Require that SAPR training for DoD personnel and specialized training for commanders, senior enlisted leaders, SARCs, SAPR VAs, investigators, law enforcement officials, chaplains, healthcare personnel, and legal personnel be conducted prior to deployment in accordance with DoDI 6495.02.

(11) Direct subordinate commanders to develop procedures that:

(i) Establish guidance for when an MPO has been issued, that the Service member who is protected by the order is informed, in a timely manner, of the member's option to request transfer from the command to which that member is assigned in accordance with section 567(c) of Public Law 111–84.

(ii) In OCONUS areas, if appropriate, direct that the appropriate civilian authorities be notified of the issuance of an MPO and of the individuals involved in an order when an MPO has been issued against a Service member or when any individual involved in the MPO does not reside on a military installation when an MPO is in effect. An MPO issued by a military commander shall remain in effect until such time as the commander terminates the order or issues a replacement order. (See section 561 of Pub. L. 110–417.) The issuing commander also shall notify the appropriate civilian authorities of any change made in a protective order covered by Chapter 80 of Title 10, U.S.C. and the termination of the protective order.

(iii) Ensure that the person seeking the MPO is advised that the MPO is not enforceable by civilian authorities off base and victims desiring protection off base should be advised to seek a civilian protective order in that jurisdiction pursuant to section 562 of Public Law 110–417.

(i) The Director, DoDHRA, shall provide operational support to the USD(P&R) as outlined in paragraph (a)(6) of this section.

Dated: January 20, 2012.

Patricia L. Toppings,

OSD Federal Register Liaison, Department of Defense.

[FR Doc. 2012–1785 Filed 1–26–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2011–1117]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway and Biscayne Bay, Miami, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviations from regulations.

SUMMARY: The Commander, Seventh Coast Guard District, has issued temporary deviations from the regulations governing the operation of the following two bridges in Miami, Florida: The Venetian Causeway Bridge (West), mile 1088.6, across the Atlantic Intracoastal Waterway; and the Venetian Causeway Bridge (East), across Biscayne Bay. The deviations are necessary due to the high volume of vessel and vehicle traffic anticipated because of the Miami International Boat Show. These deviations will result in the bridges only opening to navigation on the hour and half-hour before, during, and after the Miami International Boat Show.

DATES: These deviations are effective from 7 a.m. on February 13, 2012 through 9 p.m. on February 21, 2012.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2011–1117 and are available online by going to *http://www.regulations.gov,* inserting USCG–2011–1117 in the ''Keyword'' box and then clicking ''Search''. They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Michael Lieberum, Seventh District Bridge Branch, Coast Guard; telephone (305) 415–6744, email *Michael.B.Lieberum@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION: The Miami International Boat Show Operations Manager has requested temporary modifications to the operating schedules of the Venetian Causeway Bridge (West) and the Venetian Causeway Bridge (East) in Miami, Florida. These deviations will result in the bridges being allowed to open only on the hour and half-hour from 7 a.m. to 9 p.m. daily, from February 13, 2012 through February 21, 2012.

The Miami International Boat Show generates a high volume of vessel and vehicle traffic. In previous years, opening these bridges on demand has resulted in significant vehicle congestion. By opening the bridges only on the hour and half-hour (rather than on demand) traffic congestion will be reduced. The temporary deviation will be effective from 7 a.m. on February 13, 2012 through 9 p.m. on February 21, 2012.

The details, regular operating schedule, and deviation period for each bridge are set forth below.

1. *Venetian Causeway Bridge (West), mile 1088.6.* The vertical clearance of the Venetian Causeway Bridge (West), across the Atlantic Intracoastal Waterway is 12 feet. The normal operating schedule for the Venetian Causeway Bridge (West) is set forth in 33 CFR 117.261(nn). 33 CFR 117.261(nn) requires the bridge to open on signal; except that from 7 a.m. to 7 p.m., Monday through Friday, except Federal holidays, the bridge need only open on the hour and half-hour.

2. *Venetian Causeway Bridge (East).* The vertical clearance of the Venetian Causeway Bridge (East), across Biscayne Bay is 6 feet. The normal operating schedule for the Venetian Causeway Bridge (East) is set forth in 33 CFR 117.269. 33 CFR 117.269 requires the bridge to open on signal; except that from 7 a.m. to 7 p.m., Monday through Friday, except Federal holidays, the bridge need only open on the hour and half-hour.

As a result of these temporary deviations, the Venetian Causeway Bridge (West) and the Venetian Causeway Bridge (East) will only open to navigation on the hour and half-hour from 7 a.m. until 9 p.m. daily, including weekend days, from February 13, 2012 through February 21, 2012. At all other times the bridges will open on demand. However, the drawspans will open as soon as possible at any time for the passage of public vessels of the United States, tugs, with tows, and vessels in distress.

In accordance with 33 CFR 117.35(e), the drawbridges must return to their regular operating schedules immediately at the end of the designated time period. These deviations from the operating regulations are authorized under 33 CFR 117.35.

Dated: January 11, 2012.

B.L. Dragon,

Bridge Program Director, Seventh Coast Guard District.

[FR Doc. 2012–1729 Filed 1–26–12; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2011–0697; FRL–9332–5]

Cyazofamid; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for residues of cyazofamid in or on basil, fresh and dried. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on basil. This regulation establishes a maximum permissible level for residues of cyazofamid in or on these commodities. The time-limited tolerances expire on December 31, 2014.

DATES: This regulation is effective January 27, 2012. Objections and requests for hearings must be received on or before March 27, 2012, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2011–0697. All documents in the docket are listed in the docket index available in *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov,* or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Princess Campbell, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–8033; email address: *campbell.princess@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

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

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

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

Under section 408(g) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2011–0697 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before March 27, 2012. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit a copy of your non-CBI objection or hearing request, identified by docket ID number EPA–HQ–OPP–2011–0697, by one of the following methods:

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

II. Background and Statutory Findings

EPA, on its own initiative, in accordance with sections 408(e) and 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) and 346a(1)(6), is establishing time-limited tolerances for combined residues of the fungicide cyazofamid, in or on fresh basil at 12 parts per million (ppm), and on dried basil at 144 ppm. These time-limited tolerances expire on December 31, 2014.

Section 408(l)(6) of FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on FIFRA section 18 related time-limited tolerances to set binding precedents for the application of section 408 of FFDCA and the safety standard to other tolerances and exemptions. Section 408(e) of FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, i.e., without having received any petition from an outside party.

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

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemption for Cyazofamid on Basil and FFDCA Tolerances

The Illinois Department of Agriculture (IDA) submitted a Section 18 Specific Exemption request (10IL02). After having reviewed the submission, EPA determined that an emergency condition exists for this State, and that the criteria for approval of an emergency exemption were met. EPA has authorized a specific exemption under FIFRA section 18 for the use of cyazofamid on basil for control of downy mildew (*Peronospora balbahrii*) in Illinois. This new food use for cyazofamid triggered the requirement for the establishment of tolerances under FFDCA.

As part of its evaluation of the emergency exemption application, EPA assessed the potential risks presented by residues of cyazofamid in or on basil. In doing so, EPA considered the safety standard in section 408(b)(2) of FFDCA, and EPA decided that the necessary tolerance under section 408(l)(6) of FFDCA would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment as provided in section 408(l)(6) of FFDCA. Although these time-limited tolerances expire on December 31, 2014, under section 408(l)(5) of FFDCA, residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on basil after that date will not be unlawful, provided the pesticide was applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by these time-limited tolerances at the time of that application. EPA will take action to revoke these time-limited tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because these time-limited tolerances are being approved under emergency conditions, EPA has not made any decisions about whether cyazofamid meets FIFRA's registration requirements for use on basil or whether permanent tolerances for this use would be appropriate. Under these circumstances, EPA does not believe that this time-limited tolerance decision serves as a basis for registration of cyazofamid by a State for special local needs under FIFRA section 24(c). Nor does this tolerance by itself serve as the authority for persons in any State other than Illinois to use this pesticide on the applicable crops under FIFRA section 18 absent the issuance of an emergency exemption applicable within that State. For additional information regarding the emergency exemption for cyazofamid, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT**.

IV. Aggregate Risk Assessment and Determination of Safety

Consistent with the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure expected as a result of this emergency exemption request and the time-limited tolerances for combined residues of cyazofamid on fresh basil at 12 ppm, and on dried basil at 144 ppm. EPA's assessment of exposures and risks associated with establishing time-limited tolerances follows.

A. Toxicological Points of Departure/ Levels of Concern

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

A summary of the toxicological endpoints for cyazofamid used for human risk assessment is discussed in Unit III. B. of the final rule published in the **Federal Register** of July 14, 2010 (75 FR 40745) (FRL–8833–1).

B. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to cyazofamid, EPA considered exposure under the time-

limited tolerances established by this action as well as all existing cyazofamid tolerances in 40 CFR 180.601. EPA assessed dietary exposures from cyazofamid in food as follows:

i. *Acute exposure.* No acute toxicity endpoint was identified for cyazofamid for the general population including infants and children, because no acute effects were observed which could be attributed to a single-dose exposure. Nevertheless, EPA estimated acute exposure for the subpopulation, females 13–49 years, based on the developmental toxicity risk. In estimating acute dietary exposure, EPA used food consumption information from the United States Department of Agriculture (USDA) 1994–1996 and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII). Tolerance level residues and 100 percent crop treated (PCT) assumptions were used. Anticipated residues and PCT information were not used.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA 1994–1996 and 1998 CSFII. Tolerance level residues and 100 PCT assumptions were used. Anticipated residues and PCT information were not used.

iii. *Cancer.* Based on the data summarized in Unit III.A., July 14, 2010, and at *http://www.regulation.gov* in document ''Cyazofamid. Human Health Risk Assessment for Proposed Section 18 Use on Basil, item 4.4 Dietary Exposure and Risk,'' p.14, EPA has concluded that cyazofamid does not pose a cancer risk to humans. Cyazofamid has been classified as ''not likely to be carcinogenic in humans,'' based on the absence of significant tumor increases in two rodent carcinogenic studies. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

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

Based on the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS), the estimated drinking water concentrations (EDWCs) of cyazofamid for acute exposures are estimated to be 136 parts per billion (ppb) for surface water and 2.18 ppb for ground water. For chronic exposures for non-cancer assessments EDWCs are estimated to be 133 ppb for surface water and 2.18 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute dietary risk assessment, the water concentration value of 136 ppb was used to assess the contribution to drinking water. For chronic dietary risk assessment, the water concentration of value 133 ppb was used to assess the contribution to drinking water.

3. *Sources of non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Cyazofamid is currently registered for the following uses that could result in residential exposures: Commercially-treated residential turf and ornamentals. EPA assessed residential exposure using the following assumptions: Non-occupational handler exposures are not expected; however, post-application exposure is possible for children and adults. Non-occupational/residential MOEs were estimated for ''Day 0'' exposure. The post-application children's aggregate MOE (including incidental oral exposures) is 1,600. The Agency is concerned when MOEs are <100. All MOEs, including the children's aggregate, are >100, and therefore not a risk concern.

Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at: *http://www.epa.gov/pesticides/trac/science/trac6a05.pdf*.

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

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

C. Safety Factor for Infants and Children

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

2. *Prenatal and postnatal sensitivity.* The prenatal and postnatal toxicology database for cyazofamid includes rat and rabbit developmental toxicity studies and a 2-generation reproduction toxicity study in rats. There was some evidence of increased susceptibility following *in utero* exposure to rats in the prenatal developmental toxicity study; the increased incidence of bent ribs in the high dose fetuses was considered adverse and was used for setting the developmental NOAEL/LOAEL.

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

i. The toxicity database for cyazofamid is sufficient to characterize the hazard, to conduct FQPA assessment, and to select toxicity endpoints for risk assessment. Under current data requirement guidelines, functional immunotoxicity data (OPPTS 780.7800) is a data gap. However, the cyazofamid toxicology database does not show any evidence of biologically relevant effects on the immune system that relate to this chemical. The Agency does not believe that conducting a functional immunotoxicity study will result in a lower NOAEL than the regulatory dose for this risk assessment, and an additional uncertainty factor (UF) for the data gap is unnecessary.

ii. There is no indication that cyazofamid is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional UFs to account for

neurotoxicity for this time-limited tolerance.

iii. There was some evidence of increased susceptibility following *in utero* exposure to rats in the prenatal developmental toxicity study. As described earlier, the increased incidence of bent ribs in the high dose fetuses was considered adverse and was used for setting the developmental NOAEL/LOAEL. EPA considers this approach conservative and highly protective because bent ribs are a reversible developmental anomaly rather than a malformation.

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100 PCT and tolerance-level residues. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to cyazofamid in drinking water. EPA used similarly conservative assumptions to assess post-application exposure of children as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by cyazofamid.

D. Aggregate Risks and Determination of Safety

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

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to cyazofamid will occupy 1.2% of the aPAD for females 13–49 years, the only subpopulation assessed. For the population of concern, the acute dietary (food and drinking water) risk assessment represents acute aggregate risk.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to cyazofamid from food and water will utilize <1% of the cPAD for children 1–2 years old, the population group receiving the greatest exposure. Based on the explanation in Unit III.C.3. regarding residential use patterns, chronic residential exposure to residues of cyazofamid is not expected.

3. *Short-term and intermediate term risk.* Short-term and intermediate-term risks have been assessed together because both scenarios have the same endpoints and PODs. Short-intermediate term aggregate exposure takes into account short-intermediate term residential exposure plus chronic exposure to food and drinking water (considered to be a background exposure level). Cyazofamid is currently registered for uses that could result in short-term and/or intermediate term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-intermediate term residential exposures to cyazofamid.

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

4. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent (both the rat and the mouse) carcinogenicity studies, cyazofamid is not expected to pose a cancer risk to humans.

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

V. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodologies are available to enforce the tolerance expression. Cyazofamid its and metabolite CCIM are completely recovered (≤80% recovery) using FDA's Multiresidue Protocol D (without cleanup). In addition, an acceptable high performance liquid chromatography/ultraviolet/detector (HPLC/UV) method (''Independent Laboratory Validation of the Residue Method for IKF–916 and CCIM in Tomatoes'', Document Number 013033–0, Pyxant Labs Inc., with slight modification) is available for use as a single analyte confirmatory method.

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

B. International Residue Limits

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

The Codex has not established a MRL for cyazofamid on basil.

VI. Conclusion

Therefore, time-limited tolerances are established for residues of cyazofamid, 4-chloro-2-cyano-*N,N*-dimethyl-5-(4-methylphenyl)-1*H*-imidazole-1-sulfonamide,and its metabolites and degradates in or on basil, fresh, at 12 ppm, and basil, dried, at 144 ppm. These tolerances expire on December 31, 2014.

VII. Statutory and Executive Order Reviews

This final rule establishes time-limited tolerances under sections 408(e) and 408(l)(6) of FFDCA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income*

Populations (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established in accordance with sections 408(e) and 408(l)(6) of FFDCA, such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

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

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

VIII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C.

List of Subjects in 40 CFR Part 180

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

Dated: January 18, 2012.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. Section 180.601 is amended by revising paragraph (b) to read as follows:

§ 180.601 Cyazofamid; tolerances for residues.

* * * * *

(b) *Section 18 emergency exemptions.* Time-limited tolerances are established for residues of the fungicide cyazofamid, including its metabolites and degradates, in or on the commodities in the following table. Compliance with the tolerance levels specified in the following table is to be determined by measuring only the sum of cyazofamid, 4-chloro-2-cyano-*N,N*-dimethyl-5-(4-methylphenyl)-1H-imidazole-1-sulfonamide and its metabolite CCIM, 4-chloro-5-(4-methylphenyl)-1H-imidazole-2-carbonitrile, calculated as the stoichiometric equivalent of cyazofamid, resulting from use of the pesticide under FIFRA section 18 emergency exemptions. The tolerances expire and are revoked on the date specified in the table.

Commodity	Parts per million	Expiration/ revocation date
Basil, dried	144	12/31/14
Basil, fresh	12	12/31/14

* * * * *

[FR Doc. 2012–1815 Filed 1–26–12; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 95

[ET Docket No. 09–36; RM–11404; FCC 11–176]

Additional Spectrum for the Medical Device Radiocommunication Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document expands the Commission's Medical Device Radiocommunication (MedRadio) Service rules to permit the use of new wideband medical implant devices that employ neuromuscular microstimulation techniques to restore sensation, mobility, and other functions to paralyzed limbs and organs. These medical devices hold enormous promise to advance the state of medical care, lower health costs, and improve the quality of life for countless Americans. The rules will allow these new types of MedRadio devices to access 24 megahertz of spectrum in the 413–419 MHz, 426–432 MHz, 438–444 MHz, and 451–457 MHz bands on a secondary basis.

DATES: Effective February 27, 2012.

ADDRESSES: Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Nicholas Oros, Office of Engineering and Technology, 202–418–063, *Nicholas.oros@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, ET Docket No. 09–36; RM 11404, FCC 11–176, adopted November 30, 2011 and released November 30, 2011. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street SW., Washington, DC 20554. The complete text of this document also may be purchased from the Commission's copy contractor, Best

Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at: *www.fcc.gov.*

People with disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (tty).

Summary of the Report and Order

1. In this Report and Order (R&O), the Commission expands the Medical Device Radiocommunication (MedRadio) Service under part 95 of the Commission's rules to permit the use of new wideband medical implant devices that employ neuromuscular microstimulation techniques to restore sensation, mobility, and other functions to paralyzed limbs and organs. These medical devices hold enormous promise to advance the state of medical care, lower health costs, and improve the quality of life for countless Americans. The rules adopted by the Commission will allow these new types of MedRadio devices to access 24 megahertz of spectrum in the 413–419 MHz, 426–432 MHz, 438–444 MHz, and 451–457 MHz bands on a secondary basis.

2. The Commission's action is part of a larger effort to recognize and facilitate the significant advances in wireless medical technologies that are revolutionizing treatment for a wide variety of medical conditions and creating new health care models to benefit all Americans. Such advances have the potential to significantly improve the quality of life and sophistication of therapy for countless Americans living with a variety of medical conditions and, in turn, could result in lower medical costs and extend the time between hospital visits and surgical procedures. The devices that we expect to be deployed under the rules we adopt herein hold the promise of safer, less invasive, and more effective treatment options than those available under current medical practice.

3. The Wireless Medical Telemetry Service (WMTS) and MedRadio services, together with unlicensed medical applications developed and operated under our general part 15 rules, have supported countless vital therapeutic and diagnostic medical applications. The Commission recognizes, however, that the dynamic nature of medical technology means that our existing rules may need to evolve to keep pace with the newest cutting edge therapies. Thus, the Commission included in the *MedRadio Proceeding* a notice of inquiry seeking information in a broader context relating to future spectrum needs for wireless medical technologies. On September 5, 2007, the Alfred Mann Foundation for Scientific Research (AMF or Alfred Mann) filed a petition for rulemaking that serves as the basis of this proceeding.

4. In its petition, Alfred Mann asked the Commission to designate up to 24 megahertz of spectrum in the 413–457 MHz range to support new medical micro-power networks (MMNs) consisting of implantable neuromuscular microstimulation devices and associated external control units. Alfred Mann's petition was based on its research dating to 1989 on implantable medical devices to treat neurological injuries and disorders. Since 2005, AMF has conducted extensive work under the authority of an experimental license from the Commission to operate its devices in the 400–470 MHz band. Alfred Mann's wideband MMN equipment is designed to replace damaged nerve connections by performing functional electric stimulation (FES) to activate and monitor nerves and muscles in order to restore sensation, mobility, and other functions to nonfunctioning limbs and organs.

5. The work that AMF has done with the Veterans Administration and other hospitals under its experimental license has proven the potential benefits of MMNs. The Commission strongly believes that widespread MMN deployment can foster important advancements in medical care by, significantly improving the quality of life for the many Americans suffering from spinal cord injuries, traumatic brain injuries, and strokes. However, it also recognizes that MMNs represent a new type of radio communication which does not readily fit into any of the existing spectrum allocations. Because of the significant benefits that MMNs are poised to deliver, the Commission has concluded that the public interest warrants modifying its rules to allow their use. First, the Commission discussed the characteristics of MMN operations and concluded that this service is best accommodated by modifying and expanding our existing part 95 MedRadio rules. Second, it evaluated the frequency allocations necessary to support MMN operations and provide a secondary allocation in the 413–419 MHz, 426–432 MHz, 438–444 MHz, and 451–457 MHz bands for use by MMNs as proposed. This means these devices cannot cause interference to and must accept interference from stations of a primary service. This restriction ensures that the potential for interference—*i.e.,* the only cost that would be imposed on other parties—is negligible. Finally, the Commission sets forth the service and technical rules that will allow MMNs operating on a secondary basis to share these bands with incumbent services.

7. The Commission's decision to allow MMNs to share spectrum with existing services supports the Commission's commitment to promoting efficient spectrum use to meet growing demand. In the March 2010 *National Broadband Plan,* the Commission underscored the importance of expanding opportunities for innovative spectrum access models made possible by advanced technologies. The Commission sought to promote the development of such technologies through its dynamic spectrum use technologies *Notice of Inquiry.* MMNs, which make use of advanced technology such as spectrum sensing, dynamic frequency selection, and notching out of interference signals to share spectrum with other services, demonstrate one such spectrum access model. These techniques will allow MMNs to use available spectrum to provide life-changing health benefits without impairing the ability of other licensed users in these frequency bands to continue providing service.

Medical Micro-Power Networks (MMNs)

8. In the *NPRM,* the Commission sought comments on authorizing MMN devices to operate in the 413–457 MHz band as an extension of our existing part 95 MedRadio rules. As a part 95 MedRadio service, MMNs would qualify for license-by-rule operation pursuant to Section 307(e) of the Communications Act (Act). Under this approach, medical devices would operate in the band on a shared, non-exclusive basis with respect to each other. AMF supports the license-by-rule framework and no one objects to this approach or suggests alternative licensing methods.

9. As discussed in the NPRM, the Commission will authorize MMN operations under the existing part 95 MedRadio rules. For MedRadio devices, the Commission determined that the license-by-rule approach minimized regulatory procedures and would facilitate more expeditious deployment of new generations of beneficial wireless medical devices. Also, MMNs share many characteristics with devices that operate in the existing MedRadio service. The core MedRadio band from 402–405 MHz is restricted to communication between an implanted medical device and an external

programmer/controller. This is the same architecture employed for AMF's MMNs. As with MedRadio implant devices, the MMN implant devices are sophisticated medical devices that are intended to be deployed by or under the direction of a duly authorized health care professional. The power levels proposed by AMF for MMN devices are on par with the power levels used by MedRadio devices. Additionally, both MedRadio devices and MMN systems are designed to operate in the 400 MHz frequency range, although MMNs require greater bandwidth than is available under the existing MedRadio rules. For the reasons provided, the Commission believes that the MedRadio license-by-rule framework is the best way to structure our MMN rules.

10. In the NPRM the Commission sought comment on a number of definitions that AMF proposed be added to the part 95 MedRadio Service rules for devices operating in the 413–457 MHz band. These definitions were for a Medical Micropower Network (MMN), MMN control transmitter, MMN implant transmitter, and MMN transmitter. The Commission adopted a single definition for MMN, as follows:

> *Medical Micropower Network* (MMN): An ultra-low power wideband network consisting of a MedRadio programmer/control transmitter and medical implant transmitters, all of which transmit or receive non-voice data or related device control commands for the purpose of facilitating functional electric stimulation, a technique using electric currents to activate and monitor nerves and muscles.

This definition tracks AMF's proposal in substance, with some word alterations to be consistent with the other MedRadio definitions. It is important to make these frequency bands available for medical applications such as AMF's MMNs that cannot be accommodated in other frequency bands and to avoid use of the band by non-medical devices or for non-medical purposes. The definition adopted by the Commission accomplishes this goal. Because the existing MedRadio definitions in the part 95 rules for MedRadio programmer/control transmitter, Medical implant transmitter, and MedRadio transmitter can also describe the functions of the MMN control transmitter, MMN implant transmitter, and MMN transmitter, respectively, the Commission will not adopt MMN-specific definitions for these devices.

11. The Commission declines to adopt the more expansive definitions proposed by Sienkiewicz and the Cleveland FES Center or to substantially deviate from the framework proposed in the NPRM. It recognizes that the existing programmer/control transmitter definition does not permit use of implanted programmer/control transmitters or the deployment of an MMN that functions without a programmer/control transmitter, as Sienkiewicz and the Cleveland FES Center have suggested should be permitted for MMNs. The record in this proceeding is largely based on AMF's MMN system, which uses an external programmer/control transmitter which implements a number of interference mitigation techniques to allow the MMN to share spectrum with other services in these bands and which has been subject to extensive testing. The Commission has no information at this time to determine whether an MMN without an external programmer/controller could mitigate the effects of interference and successfully coexist in these bands. Other use of these frequency bands such as for non-FES medical applications or allowing transmission of voice data is speculative at this point. No one has provided guidance on what alternative specifications would appropriately accommodate other uses while not compromising the potential of MMNs. Further modification to the rules may be readily sought if and when a need arises.

12. Based on this definition and the rules the Commission adopts under it, the Commission can be sure that all MMNs will be designed with sufficient interference mitigation techniques and design elements to be able to operate on a secondary basis under the Commission's part 95 rules. At the same time, and because it wants parties to be able to tap the vast potential MMN technologies have to transform lives and advance the state of medical care, the Commission rejected those comments that would have us bind our rules too tightly to AMF's specific equipment design. Because manufacturers may develop new MMN devices with different interference mitigation techniques, the Commission does not think it is appropriate to require that all MMN devices function in an identical fashion to AMF's devices. Future systems, may rely on technologies that have an even greater capability to reject interference than AMF's current design, and the Commission will evaluate individual devices as part of its equipment authorization process.

13. Finally, the Commission sought comments in the *NPRM* on the service and technical rules that would apply to medical devices in the 413–457 MHz band. The discussion generally followed the framework of the MedRadio Service rules with, for example, modified power and emission bandwidth requirements to accommodate the proposed MMNs. While the Commission did not include a separate appendix of proposed rules, the NPRM stated that the Commission was seeking comment on allowing additional spectrum to be used under the MedRadio Service in part 95 of the Commission's rules, referenced new rules that AMF had proposed in its filing, and discussed specific service and technical issues at length. For this reason parties have had ample opportunity to provide meaningful comments on the proposals, and the Commission rejected suggestions to the contrary. Because the Commission is including MMNs within the existing framework of the MedRadio Service, it will apply the existing MedRadio service and technical regulations to MMNs to the extent possible and only amend the rules in part 95, Subparts E and I, as necessary to distinguish between MMNs and other MedRadio devices. As observed in the NPRM, such an approach ''is desirable as it would maintain consistency with rules applicable to wireless medical devices, particularly for implanted and related therapeutic devices.''

Frequency Bands

14. Although the Commission concluded that it is appropriate to license MMNs as a MedRadio service, it does not follow that it is feasible for MMNs to operate on the existing MedRadio frequencies. This is because MMNs are different from existing MedRadio applications in important technical and design elements. For example, a typical MMN is expected to contain multiple implant devices, which will require the transmission of much more data than the MedRadio devices operating under the existing rules. Moreover, due to their small size, MMN implant devices must be even more energy efficient than typical MedRadio implants. This efficiency is achieved by using short transmissions, which necessitate the use of much wider bandwidth signals than the 300 kHz currently permitted in the existing MedRadio bands. This limit was put in place to maximize the number of medical devices that can use the 5 megahertz available in the 401–406 MHz band and is consistent with the operational needs of existing MedRadio applications. By contrast, MMNs are designed to operate with a 5 megahertz emission bandwidth. Thus, the current MedRadio frequencies are insufficient to support MMN operation.

15. *Decision.* Consistent with our proposal, the Commission will allocate the 24 megahertz of spectrum in four

segments of the 413–457 MHz band for MMN use on a secondary basis, *i.e.,* 413–419 MHz, 426–432 MHz, 438–444 MHz, and 451–457 MHz. As described by AMF, the propagation characteristics of the 400 MHz band make it particularly well suited to host MMN devices, and the band is already used for other MedRadio implanted devices. Further, because these four band segments will allow for the wide bandwidth signals required to transmit large amounts of data in a short amount of time, they will provide the emission bandwidth that MMNs require. As explained, the Commission does not believe operation on a secondary basis will detrimentally impact the development or deployment of MMNs as they are designed to be able to operate on a secondary basis.

16. The Commission also concluded that allocating four band segments for MMN use is necessary to ensure that an MMN has sufficient spectrum to operate while avoiding causing interference to or receiving interference from primary users in the band. An MMN will occupy only one band segment at any given time. By having a variety of authorized frequency bands available and employing protocols that will allow MMNs to quickly migrate from band to band, an MMN licensee will be able to make robust use of the available spectrum and respond to changing spectrum conditions. In addition, the four band segments serve a mix of Federal and non-Federal use. By permitting MMN use of all four segments, the Commission will give MMNs more flexibility to operate in differing RF interference environments. Commenters expressed concern that heavy band use situations could render a particular frequency band unavailable to MMNs for extended periods of time. However, the Commission does not believe that such a possibility should categorically preclude us from allocating the four proposed frequency bands. Similarly, the fact that certain interference mitigation techniques might work in some situations but not in others is not a reason to prevent MMNs from being authorized to operate in all four frequency bands. Even in a worst-case situation, the Commission can expect that many patients with MMN implants will still be able to make effective use of at least one of the allocated frequency segments.

17. The Commission will implement this allocation by modifying footnote US345 to the Table of Allocations for the MedRadio service to add a secondary mobile, except aeronautical mobile, allocation for the 413–419 MHz, 426–432 MHz, 438–444 MHz, and 451–457 MHz frequency bands and renumbering this footnote as US64. This allocation will be in addition to the existing allocations in these four frequency bands and will be limited to use solely by MedRadio operations. The Commission is making this allocation through a footnote rather than a direct entry in the Table for consistency with the existing MedRadio allocation and to emphasize the limited nature of this allocation.

18. The Commission will place this footnote in both the Federal Table and non-Federal Table for each of these four frequency bands to allow use in a variety of settings such as in health care facilities operated by the Department of Veterans Affairs or the United States military, as well as non-Federal health care facilities. Even though this allocation will be both a Federal and non-Federal allocation, the Commission does not expect any changes in the primary use of any of these frequency bands. The 413–419 MHz band will continue to be used primarily for Federal mobile and space research services. The 451–457 MHz band will continue to be used primarily for non-Federal land mobile services. The 426–432 MHz and 438–444 MHz bands will continue to be shared by the Federal radiolocation service and the non-Federal Amateur service. Because MedRadio use of these bands will be on a secondary basis, MedRadio stations will not be allowed to cause interference to and must accept interference from primary services sharing the bands. Consequently, there is no reason for any changes to the current coordination procedures between FCC and NTIA for these frequency bands. NTIA will continue to manage the 413–419 MHz band, the FCC will continue to manage the 451–457 MHz band, and both agencies will continue to share management responsibilities of the 426–432 MHz and 438–444 MHz bands.

19. The Commission also notes that the spectrum it is adding to the MedRadio Service is allocated to similar services in both the United States Table and in all regions of the world in the International Table. Thus, the Commission believes that MMN devices designed to be compatible with U.S. radiocommunications services will be equally compatible with the services found elsewhere in the world. However, it is not aware of any other administrations that have made provisions for MMNs. Although individuals using MMNs should not encounter significantly different electromagnetic environments when traveling abroad, the use of MMNs may be restricted in other countries. The Commission finds that the benefits promised by MMNs as well as the ability for MMNs to coexist with the radiocommunications services already allocated internationally in the bands under consideration support our decision to adopt the proposed allocation.

20. The Commission rejected other frequency band suggestions made by commenters and find that they would not be suitable for MMN use. It rejected suggestions by the National Association for Amateur Radio (ARRL), the Land Mobile Communications Council (LMCC), the Enterprise Wireless Alliance (EWA), and Motorola that the WMTS bands are more appropriate for MMNs. In the MedRadio proceeding, the Commission stated that frequencies below 216 MHz and above 470 MHz are ''outside the range of spectrum generally considered to be the most suitable for propagation of radio signals within the human body.'' Because implanted MMN devices must operate with minimal power, efficient propagation of signals through the human body is extremely important for their operation. The WMTS bands from 608–614 MHz, 1395–1400 MHz, and 1429–1432 MHz are far above the suitable range for signal propagation in the human body. While the use of additional power might overcome the decreased propagation of signals in the human body in these bands as compared to the 400 MHz band, it appears that it is not practical to substantially increase the size of batteries in the MMN implant devices. In addition, the 608–614 MHz WMTS band is heavily used in medical facilities and could complicate reliable MMN service in such close proximity. The Commission therefore concludes that the WMTS bands are not a practical alternative for use by MMNs.

21. The Commission's NPRM envisioned, and AMF has designed, MMNs that are capable of operating on a secondary basis in frequency bands with existing, established incumbent use. Through the use of harmful interference mitigation techniques, operations on multiple frequency bands, and pre-established shutdown protocols in the event that no frequency bands are available, MMNs will be able to operate successfully in the lower 400 MHz band. The Commission is further encouraged by the fact that the MMN concept is not just theoretical: AMF has engaged in prototype development under an experimental license that it has held since January 2005 and in actual evaluation and testing in cooperation with Federal stakeholders. AMF notes that it has developed prototype programmer/controllers that

implement these interference mitigation techniques and points out that these techniques have been independently tested and shown to be effective against a wide range of potential interference signals.

22. AMF submitted interference analyses, test reports, and technical studies that it had commissioned to evaluate MMN use in the identified bands. These materials were the product of a process that began in August 2009, when AMF and the Joint Spectrum Center (JSC) (a field office within the U.S. Defense Spectrum Organization that provides spectrum planning and support for U.S. military interests) entered into a memorandum of agreement (MOA) for JSC to conduct a technical analysis to determine whether MMN devices could co-exist with incumbent government systems in the 413–457 MHz band.

23. Pursuant to the MOA, JSC directed a contractor, ITT, to collect, validate, and evaluate technical data regarding MMN devices and incumbent government systems. The resulting report (JSC Report) contained a theoretical analysis to evaluate the electromagnetic compatibility (EMC) of incumbent government system receivers in the presence of radiofrequency (RF) emissions from MMN transmitters and the EMC of MMN receivers of both the programmer/controller (P/C) and implanted microstimulator devices—in the presence of RF emissions from incumbent systems. The JSC reviewed the report and approved it for publication in October 2010.

24. The JSC Report concluded that, with respect to the MMN-to-government system interference potential, (1) ''relatively small [required separation distances] result from the low EIRP and duty cycle of the MMN transmitters combined with the low antenna heights of the MMN,'' and (2) MMN systems ''should be operationally compatible and not cause unacceptable interference into [incumbent government] systems currently authorized to operate in the 410–450 MHz band.''

25. In addition, AMF commissioned Aerospace Corporation (the operator of a federally funded research and development center and provider of comprehensive technical service to national security space programs) to conduct laboratory tests to determine whether MMNs could successfully operate in the presence of incumbent users. To evaluate the performance of the MMN network in the 413–457 MHz band, the Aerospace testers conducted a wired simulation of the frequency bands. Specifically they tested signals representing Federal mobile radio (data and voice), radar (ground and airborne), and the Enhanced Position Location Reporting System, as well as non-Federal amateur television. The tests specifically targeted four MMN interference mitigation techniques: spectral excising of narrowband incumbent signals; changing frequency bands without suspending critical functions; shutting down in a communication link loss scenario; and incumbent signal level sensing to avoid interference. The resulting report (Aerospace Report) concluded that the AMF MMN System performs according to its specifications and can successfully operate in presence of incumbent users.

26. The JSC Report and Aerospace Report offer detailed evaluations of specific interference scenarios involving a broad spectrum of incumbent operations backed up by testing with actual equipment. Based on these reports, the Commission concluded that the record demonstrates that MMNs can operate on a compatible secondary basis with primary Federal operations in the 413–419 MHz, 426–432 MHz, and 438–444 MHz band segments.

27. The Commission is also convinced that MMNs can operate on a compatible secondary basis with primary non-Federal operations. The findings of the JSC Report, which focused on Federal systems, and the simulations conducted by AMF and the Aerospace Corporation, which looked at a wider variety of high-powered signals, support this conclusion. In this regard, non-Federal fixed and land mobile radio systems in the 451–457 MHz frequency band use the same technologies as Federal fixed and land mobile radio systems in the 420–450 MHz frequency band. Moreover, the mitigation techniques that the Aerospace Report examined have broad applicability. For example a P/C that incorporates ''notching'' techniques could filter out a 100 kHz RPU signal from a BAS operator.

28. The Commission believes that the JSC Report, Aerospace Report, and associated materials filed by AMF are responsive to these concerns. In addition, because these materials provide extensive technical details about the interference mitigation techniques employed by AMF's MMN devices, the Commission disagrees with the contention of the Engineers for the Integrity of the Broadcast Auxiliary Service Spectrum (EIBASS) that AMF has provided insufficient technical details about its interference mitigating protocols.

29. A number of parties claim that incumbent operators could receive harmful interference from MMN devices. The Commission disagrees. Several factors serve to reduce any risk that MMNs could cause harmful interference. First, the JSC Report concluded that the MMN systems would not cause unacceptable interference into government systems in the 413–419 MHz, 426–432 MHz, and 438–444 MHz bands. Again, because the non-Federal land mobile systems in the 451–457 MHz are virtually identical to the types of government systems considered in the JSC Report, there is no basis for us to expect interference to non-Federal land mobile systems. Such non-Federal land mobile systems must overcome interference caused by the high-powered operations of other incumbents in the band. For this reason, they are well equipped to tolerate the presence of any signals they might receive from an MMN system operating at a much lower power. The Aerospace Report, which tested actual prototype MMN devices and concluded that incumbent services would not receive significant interference, further bolsters our conclusion. The Commission further notes that some commenters have rejected the likelihood of interference from MMN devices to their services which, like land mobile systems, operate at much higher powers than MMNs. Finally, the Commission adopts service rules that will require an MMN to switch to another frequency if it appears that there is an incumbent operating in close proximity.

30. The studies commissioned by AMF show that MMNs are able to function with a significant amount of interference from incumbent operations. As such, the Commission is not persuaded by those comments that claim that MMNs are incompatible with incumbent non-Government licensees. Incumbent systems that operate in the bands under consideration share the same high-powered operational attributes that MMNs have been specifically designed to tolerate.

31. To the extent that objections from commenters focus on the fact that a transmitter of a particular service may cause interference when operating in close proximity to an MMN device, commenters fail to acknowledge that the MMN system design anticipates such a scenario. There is no dispute that MMN devices may not be able to function in one or more of the four bands at a particular moment because of interference. AMF's MMN devices are capable of switching among the four different bands and are designed to operate on one band at a time, and the Aerospace Report found that this design feature worked as planned. Moreover, because MMNs are designed to operate in a variety of bands with a diverse set

of Government and non-Government users, a band that is rarely available for use in a particular place or at a specific time may be uncongested in other situations. Under this reasoning, the Commission is not troubled by EIBASS's claim that the tests submitted by AMF did not specifically consider RPU operations, a claim AMF refutes. EIBASS states that RPU broadcasts are distinct because they often employ a long duty cycle and postulates a scenario where extended RPU operations would take place at a health care facility. In such a case, the MMNs operating in that place and time would simply not be able to access the portion of the MedRadio band that is being used by the RPU operator.

32. Several parties argue that it would be inappropriate for us to permit medical devices—and MMNs in particular—to operate on a secondary basis. The Commission disagrees with parties that argue that it should never allocate spectrum to medical devices on a secondary basis. As a general matter, the Commission takes many factors into account in deciding whether a given service should operate with a primary or secondary status in a designated frequency band or even whether a device should operate on an unlicensed basis under part 15 of its rules. Each case is evaluated on its own merits. This is also true of our allocations for medical devices. At the present time, the Commission's rules allow medical devices to operate on a primary basis, on a secondary basis, and on an unlicensed basis. The Commission finds in this order that the characteristics of the MMN devices at issue here warrant operation on a secondary basis. The MMN devices that will be deployed under the rules that it adopted herein will be frequency agile and can switch to other frequency bands when interference occurs. Thus, the MMN devices will be designed with capabilities that enable them to share spectrum with primary services successfully. Rigorous testing has shown that MMN devices can perform as intended.

33. The Commission acknowledges that there may be instances when MMN devices cannot operate due to interference on all frequency bands. However, it also notes that AMF has accounted for this possibility by designing its MMN devices to shut down in a controlled, pre-planned manner that is designed to avoid harm to the patient or others if interference in all four frequency bands prevents successful reception of signals by the MMN system. The Commission rejects the notion that the potential for such a shutdown should categorically bar us from designating spectrum for MMNs and, thus, deny the benefits associated with these devices. The Food and Drug Administration (FDA), as part of its independent review process, will take into account these ''graceful shutdowns'' when it determines when and how MMN use can be prescribed. Further, the Commission will require that MMN devices be authorized under the direction of a duly authorized health care professional who will inform patients of the risks associated with MMN use, including ''graceful shutdowns.''

34. The Commission must balance the cost of allowing MMNs to operate on a secondary basis in these bands against the benefits that patients could potentially receive from their use. Given the extremely low risk of incumbent services suffering interference from MMNs and the yet lower risk of a harmful result from any such interference, the potential benefits of establishing a secondary allocation and adopting rules to allow MMN operation outweigh the slight risk to incumbent services. Because of the great potential of MMNs to improve the lives of people who suffer from a range of illnesses such as spinal cord injuries, traumatic brain injuries, strokes, and various neuromusculoskeletal disorders, the Commission recognizes the enormous potential benefit of allowing MMNs to become a reality. The benefits of making this secondary allocation and adopting rules to facilitate MMN operations therefore far exceed any potential costs.

35. Lastly, the Commission addressed several commenters' overarching concerns that new MedRadio applications must remain truly secondary—neither interfering with incumbent operations nor creating an expectation that MMNs must be protected from the types of interference that higher-powered primary uses may legitimately cause. The Commission fully intends that MMN devices will operate within the constraints of their secondary status, and it does not adopt here any limitations on the operations of incumbent primary services in these bands for the benefit of MMN operation. Because AMF has designed its MMNs to anticipate interference and to operate in a challenging spectrum environment, the Commission is confident that they will remain secondary in both rule and practice. The Commission also clarified that MMNs, the Amateur Radio Service, and the non-Federal radiolocation service—all of which operate under a secondary allocation in the 426–432 MHz and 438–444 MHz bands—will have equal status. Given that MMN devices are expected to implement measures to mitigate the effects of interference, it is reasonable to expect the MMN devices to tolerate some interference from the Amateur Service or to move to another frequency band as needed. As ARRL concedes, MMN devices are ''unlikely generally'' to cause interference to Amateur Radio communications in these bands.

Service and Technical Rules

36. In the NPRM the Commission asked about the service and technical rules that should apply to medical devices in the 413–457 MHz band. The discussion generally followed the framework of the existing MedRadio Service rules and proposed to modify specific rules, such as those pertaining to power and emission bandwidth requirements, to accommodate the proposed MMNs. The Commission also noted that the service and technical rules discussed in the NPRM were essentially consistent with recommendations made in the Alfred Mann petition.

37. The Commission adopted the overall approach proposed in the NPRM. Thus, rather than creating a new rule subpart for MMNs, it will only amend the service and technical rules contained in part 95 subparts E and I of its rules to the extent necessary. The Commission also adopted service and technical rules that are based on the research undertaken for AMF's MMN devices. This approach offers incumbent operators greater certainty as to the types and characteristics of MedRadio devices that may be deployed in the band and, because it is backed by extensive testing, provides greater certainty that MMNs and other new medical technologies will be able to thrive on a secondary basis in these frequencies. The Commission is confident that the state of medical radiocommunication technology will evolve and improve over time, as will mitigation techniques that maximize sharing potential on a secondary basis. Further development and testing of future generations of MMNs may allow us to adopt service rules that provide even greater flexibility while still protecting incumbent services. However, the service and technical rules it adopts here are appropriate based on the record before us today.

38. *Interference Mitigation.* Because MMNs will operate under the secondary MedRadio Service, they must be designed to function in the presence of signals from other services operating in the same frequency bands. The interference analysis, test reports, and technical studies that AMF submitted

have demonstrated that it is possible to build MMNs that are highly resistant to interference, and as technology continues to advance, the Commission believes it will be possible to build MMN devices that are even more capable of functioning in the presence of interference. To ensure future flexibility for equipment designers, the Commission will not require that MMNs include all of the types of interference mitigation techniques that AMF has employed in its MMN devices. Instead, the Commission will adopt the general requirement that P/C transmitters have the ability to operate in the presence of other users in the 413–457 MHz band, and it will incorporate several basic interference mitigation provisions into its rules. The Commission expects that MMN technology developed in the future will be at least as capable of co-existing with other services as the system AMF has demonstrated.

39. Regardless of the interference mitigation techniques employed, the Commission expects that there will be instances where MMNs will not be able to function in a particular frequency band because of a high level of interference from other stations. To provide a greater probability that an MMN will continue to function in the presence of interference, the Commission adopted the requirement that all MMNs be capable of operating in any of the four frequency bands and that they be able to switch to another frequency band when the band on which they are operating becomes unavailable due to interference. The Commission concludes that these requirements will not increase the cost of equipment unreasonably or be burdensome for manufacturers to meet. As AMF has noted, these four bands are nearly adjacent in frequency and thus incorporation of a multi-channel operating capability requires no significant change in antenna or transmitter design and ''imposes no undue economic burden.'' Only a single transmitter and one antenna are necessary to cover these four bands. Components to enable manufacturers of MMNs to meet this requirement should be readily available since equipment is currently designed to operate across the Federal mobile bands between 406.1 MHz and 450 MHz and non-Federal mobile bands between 450 MHz and 512 MHz. Thus, the Commission concluded that the improved robustness of MMNs that will result from these requirements will more than offset the expected minimal cost of implementing them.

40. The Commission also notes that AMF has proposed several rules regarding interference mitigation techniques for MMNs. These suggested rules are based on AMF's experience in building and testing MMN systems. Because of AMF's expertise in this area and the lack of input from other parties on this issue, the Commission is adopting technical provisions to add assurance that any MMN technology developed in the future will be able to operate successfully in the heavily used 413–457 MHz frequency range.

41. To be able to switch to another frequency band when an existing band becomes unavailable due to high levels of interference, it will be necessary for an MMN to be aware of the potential for interference in all four frequency bands. To that end, the Commission adopted the requirement suggested by AMF that the programmer/controller (P/C) of an MMN monitor all four available frequency bands. For the band in which the MMN is operating, the P/C must check at least once a second for interference so as to be able to switch frequency bands to avoid disabling amounts of interference. Because most of the potential interferers in these bands such as land mobile, BAS, and amateur stations, typically transmit far longer than one second, a once-a-second monitoring interval should be sufficient to detect interfering signals. The P/C must be capable of determining when either direction of the communication link between the P/C and the implanted devices is being degraded to the extent that communication is likely to be lost for more than 45 milliseconds. The Commission will require the P/C to move the MMN to another frequency band upon making this determination. It will also require the P/C to monitor the other frequency bands often enough such that when it must switch frequency bands it has determined which frequency band is available based on monitoring of that band during the two second period prior to switching. According to AMF, incorporating a requirement to monitor MMN channels prior to executing a channel change ''will not materially increase production costs.'' This is not surprising considering that radios now operating in these bands also have a requirement to monitor channels prior to transmitting on them and that the technology and techniques to accomplish spectrum monitoring in these bands are well established. Thus, the Commission concludes that the benefits of these monitoring requirements far outweigh the expected costs to comply.

42. Because the MMN devices operate with such low power, the Commission does not believe that they will cause interference to other stations sharing the same frequency bands. However, out of an abundance of caution it adopted one additional monitoring requirement to further reduce the risk of interference. The Commission will require the P/C to switch to another frequency band if during the monitoring of the occupied frequency band it determines that there is a received signal with power greater than −60 dBm in any 12.5 kHz bandwidth being used by the MMN device that persists for at least fifty milliseconds. A received signal of this strength is likely to be caused by a station in close proximity to the P/C. The Commission is using a measurement bandwidth of 12.5 kHz for this determination because this is the signal bandwidth used by all Federal land mobile stations. Non-Federal land mobile operations are currently undergoing a migration from using 25 kHz channels to 12.5 kHz channels, and consequently, in the near future the majority of licensees will also be limited to signal bandwidths of 12.5 kHz. The Commission chose this measurement bandwidth based on land mobile stations because they are the most numerous stations that will share these frequency bands with MMNs. This requirement should prevent the unlikely occurrence of interference from an MMN device to another service sharing the same frequency band.

43. There may occasionally be instances when MMNs may not be able to function because of high levels of interference in all four frequency bands. To account for these infrequent occurrences, the rules the Commission adopted will require that all MMN transmitters incorporate a programmable means to implement a system shutdown process in the event of a communication failure or on command from the P/C. Because MMNs are used to provide therapeutic benefits to patients, such as providing them with a means to move muscles that they would not otherwise be able to move, it is important that the Commission require the MMNs to incorporate a means to implement a pre-defined system shutdown process. The Commission believes that this requirement offers vital benefits to patients and is integral to the success of the MMN system design. Because MMNs are sophisticated electronic devices and the programming necessary to implement a system shutdown process should represent only a portion of the overall design costs, the Commission concludes that the benefits of a system shutdown requirement far outweigh any associated costs. The Commission will require that this shutdown process commence within 45

milliseconds after loss of the communication link or receipt of the shutdown command from the P/C.

44. *Contention Protocol Requirement.* In the NPRM, the Commission sought comment on a number of questions related to contention protocols, such as whether a contention protocol should be applied to MMN transmitting devices, what kinds of contention protocols should or should not be used, and how a contention protocol might be developed. A contention protocol would be aimed at allowing multiple MMN systems to share the specified frequency bands without causing interference to each other. This approach differs from the interference mitigation techniques that AMF's MMN devices employ. These techniques are designed to allow the MMNs to function in the presence of interference from other services sharing the same frequency bands. Commenters supported the idea of MMNs using a contention protocol, but no one specified a particular contention protocol that the Commission could adopt.

45. The Commission appreciates that requiring MMNs to use a common contention protocol would enable MMNs to more efficiently share the available spectrum. However, as no commenters have suggested a specific contention protocol, it cannot adopt a requirement for use of a specific contention protocol at this time. The Commission also will not require the development of a contention protocol by a particular date. Given the novelty of MMN technologies, the Commission is not able to predict when entities other than AMF will develop MMNs for use in these bands and therefore have no grounds to speculate on how and in what timeframe a contention protocol may be developed. The Commission does encourage manufacturers of MMN devices to cooperate in the development of a contention protocol so that the MMN devices may more effectively share the limited available spectrum. If, in the future, parties establish a specific contention protocol that they believe should be applied to these bands, they are welcome to file a Petition for Rulemaking to bring such information to our attention.

46. In the NPRM, the Commission also sought comment on using the listen-before-talk (LBT) approach of the existing MedRadio service rules to share spectrum between different MMNs. Under this approach, a transmitting device must monitor a frequency band for the presence of other MedRadio transmitters before beginning transmissions in that frequency band. If a signal with power above a certain threshold is detected, the transmitting device is not allowed to transmit in that frequency band. The Commission has adopted a similar requirement with a high power threshold (−60 dBm in a 12.5 kHz bandwidth) to help guard against the unlikely occurrence of interference from MMNs to other services sharing the same frequency band. Use of this high threshold will not be effective in facilitating MMN-to-MMN sharing because MMNs transmit such low power over a wide bandwidth. The Commission will not adopt a similar requirement with a lower LBT threshold because it would interfere with the functioning of the interference mitigation techniques employed by AMF's MMN devices. The MMN devices would not be able to determine whether a detected signal with a power above the LBT threshold is from another MMN or is a signal from another service sharing the same frequency band. Because MMNs should be designed to operate in the presence of a certain level of interference from other services operating in the same frequency band, not transmitting when signals above a lower LBT threshold are present would lead to MMNs not making use of the available spectrum effectively.

47. *Permissible Communications and Operator Eligibility.* In the NPRM, the Commission sought comment on restricting implant devices for use by persons only for diagnostic and therapeutic purposes and only to the extent that such devices have been provided to a human patient under the direction of a duly authorized health care professional. This requirement is present in our existing MedRadio rules and is consistent with how the Commission expects MMNs to be used. No one has raised an objection to this requirement. The Commission will therefore apply this restriction for MMNs.

48. The Commission also sought comment on prohibiting the medical implant programmer/controller (P/C) from relaying information to a receiver that is not included with a medical implant device. This prohibition is included in the existing MedRadio rules. The Commission will allow P/Cs in different MMNs to communicate with each other for the purposes of coordination of the use of the spectrum resource. This differs from our existing MedRadio rules, which prohibit controller-to-controller communication. The Commission expects that each MMN will use a spectrum band for short periods of time as is the case for AMF's MMNs. Because of this, multiple MMNs should be able to share a frequency band without causing interference to each other. If the P/Cs for different MMNs from the same manufacturer are able to communicate with each other, they can coordinate their networks' respective transmissions to avoid transmitting at the same time in the same frequency bands.

49. While the Commission will allow P/C-to-P/C communications to facilitate sharing of the scarce spectrum resource, it will not permit P/Cs to communicate with non-implanted devices for other purposes. This will prevent the 413–457 MHz spectrum from being used as backhaul to move data from an MMN to devices outside the network. This is the rule currently in place for MedRadio devices under our existing rules and is needed because the 413–457 MHz band remains reserved only for those medical applications that cannot be achieved in other spectrum and allowing other transmissions would cause undesirable spectrum congestion.

50. The Commission also sought comment in the NPRM on whether implant-to-implant communications should be allowed, whether each programmer/controller must always control the transmitters implanted in a single patient, and whether all implants in a patient must be controlled by a single programmer/controller.

51. The Commission will not permit implant-to-implant communications. In making the decision to allow MMNs to use spectrum in the 413–457 MHz band, it has been favorably impressed by the interference mitigation techniques that AMF has demonstrated in the independent test described in the Aerospace Report. The system tested relied on a P/C external to the body to schedule the implant transmissions in accordance with these mitigation techniques. The Commission has no evidence on the record that MMNs can successfully mitigate the effects of interference if implants are permitted to communicate with each other outside the control of a P/C. As a result, the Commission cannot reach the conclusion that such a network would be able to function in these bands with the incumbent services.

52. The Commission will allow multiple MMNs to exist within a single patient with each network having its own separate P/C. The configuration of the networks for a particular patient should be determined by the medical needs of the patient and the limits of existing technology. This may require the use of different networks to accomplish different functions. On the other hand, the Commission will not permit a P/C to control implanted devices in multiple patients. Given the power limits of the MMN devices, it

expects that the P/C will have to be within a few meters of the patient at all times. Allowing a single P/C to control implants in more than one patient would require the patients to remain in close proximity at all times, which does not appear to be practical. No commenter has suggested a scenario for which such an accommodation would be useful.

53. *Emission Bandwidth.* In the NPRM, the Commission sought comment on the maximum emission bandwidth that should be allowed for MMN devices. Each of the four segments of the 413–457 MHz band allocated in this proceeding for use by MMN devices occupies six megahertz of spectrum. Alternatively, it also sought comments on whether a smaller maximum emission bandwidth (*e.g.,* three megahertz) might be sufficient for MMN purposes and might further improve spectrum use and efficiency.

54. The Commission adopted a maximum emission bandwidth of six megahertz. It sees no reason to limit the emission bandwidth to three or five megahertz considering that we are allocating six megahertz bands for use by MMNs. This will provide flexibility for future, more efficient system design. The Commission notes that the maximum emission bandwidth of the MMN signals will also be constrained by the unwanted emission limits that it is adopting.

55. *Channelization.* In the NPRM, the Commission suggested that one approach to channelization would be to adopt rules that do not specify any particular channeling plan, thereby following the approach used with the existing MedRadio Service. The Commission sought comment on whether it should require a specific channel plan.

56. No parties suggested a channelization plan other than AMF's proposal for centering the signals in each of the four bands. Given that no parties suggest a channelization plan, the Commission has no grounds for adopting one, nor does it see any reason to specify that emissions be based around a center frequency in each of the four bands as AMF has proposed. Because MMN manufacturers will have to design equipment to operate on specific frequencies, the Commission recognizes that there would be little or no added equipment design cost if it were to specify a particular channel plan or center frequency. Nevertheless, the Commission sees no benefit in doing so, as it would limit the flexibility available for future system design. Accordingly, the Commission will not adopt rules specifying a channelization plan for MMN devices.

57. *Transmitter Power.* In the NPRM, the Commission sought comment on the appropriate transmitted power for MMNs. AMF suggested in its petition that each implantable microstimulator could be limited to a maximum EIRP of 200 microwatts and each P/C transmitter could be limited to a maximum EIRP of 1 milliwatt.

58. The Commission shall adopt the transmitter power limits in AMF's proposed rules with one minor change to reflect the fact that it is allowing MMNs to use a six megahertz maximum emission bandwidth instead of a five megahertz emission bandwidth as AMF proposed. The Commission will limit the maximum EIRP of any MMN transmitter to the lesser of 1 mW or (10 log B − 7.782) dBm where B is the 20 dB emission bandwidth of the transmitted signal in MHz. The Commission believes that these devices transmitting at these power limits will not cause interference to other services in the 413–457 MHz band. The rules it adopted will apply the same transmitter power limits to both implanted transmitters and the P/C transmitter. The Commission sees no reason to apply a stricter power limit to implanted transmitters considering that the signals from these devices will be attenuated by body tissue. For this reason an implanted transmitter is even less likely to cause interference than a P/C transmitter operating at the same power level. The Commission will also not place a limit on the number of devices in an MMN network or aggregate the powers of the devices. No one has suggested a limit on the number of devices or how the power of multiple devices may be aggregated. The Commission notes that because the implant devices in an MMN will only transmit under the control of the P/C, as a practical matter only one implant device in an MMN would transmit at any one time. Consequently, it sees no need to aggregate the powers of the multiple devices in the MMN for purposes of establishing a transmitter power limit.

59. *Duty Cycle.* In the NPRM, the Commission sought comment on the appropriate duty cycle requirements for MMNs. In its petition AMF stated that ''each implanted microstimulator transmits data for approximately *5* microseconds every 11 milliseconds and receives data for approximately 6 microseconds every 11 milliseconds (*i.e.,* less than 0.05 percent transmit duty cycle). For a system with 10 to 20 implanted microstimulators, the transmit duty cycle of the MCU is approximately 3 percent.'' AMF made a similar statement in its comments filed subsequent to the NPRM when describing the operation of its prototype MMNs, but it did not include a duty cycle specification in the rules it concurrently proposed. In a recent *ex parte* submission, AMF indicated that it had reached agreement with the United States Department of Defense that a 3 percent maximum duty cycle for P/Cs would be appropriate.

60. The Commission finds that it is important to specify a maximum duty cycle for MMNs. Because each P/C will occupy a frequency band for a fraction of the time, other MMNs will be able to make use of the frequency band during the remainder of the time, thus facilitating sharing among multiple MMNs. Specifying a maximum duty cycle will also help the MMNs share the frequency bands with pulse radars with short duration signals that are present in the 426–432 MHz and 438–444 MHz bands. Based on the JSC Report and Aerospace Report, the Commission concluded that the record demonstrates that MMNs can operate on a compatible secondary basis with primary Federal systems in these bands. The JSC Report assumed a P/C duty cycle of 3 percent in conducting the analysis that concluded that MMNs would be operationally compatible and not cause interference to Federal systems. Because the Commission has no information on how the conclusions of the JSC Report would be affected if the P/C duty cycle were allowed to rise above 3 percent, and in recognition of the concurrence of AMF and the Department of Defense that a 3 percent maximum duty cycle is appropriate for MMNs, it adopted rules that specify a maximum duty cycle of 3 percent for P/Cs.

61. *Unwanted Emissions.* The existing MedRadio rules under part 95 set limits on unwanted emissions from medical transmitting devices operating in the 401–406 MHz band. As delineated therein, these provisions include limits on both in-band and out-of-band radiation. AMF has proposed emissions limits that are similar to the existing MedRadio rules. No parties commented on the unwanted emissions limits. The rule the Commission adopted applies these emissions limits to these frequency bands. Under this approach, in the first 2.5 megahertz beyond any of the frequency bands authorized for MMN operation, the EIRP level associated with any unwanted emission must be attenuated within a 1 megahertz bandwidth by at least 20 dB relative to the maximum EIRP level within any 1 megahertz of the fundamental emission. In addition, emissions more than 2.5

megahertz outside of the authorized bandwidth must meet the frequency-dependent set of electric field strength limits of new § 95.635(d)(1)(iv) of the rules as set forth in Appendix A of the R&O.

62. *Frequency Stability.* In the NPRM, the Commission sought comment on whether each MMN transmitter should be required to maintain a frequency stability as specified in the current MedRadio rules of +/−100 ppm of the operating frequency over the range: (1) 25 °C to 45 °C in the case of MMN implant transmitters; and (2) 0 °C to 55 °C in the case of MMN programmer/control transmitters. AMF suggested extending this existing frequency stability criterion in its rulemaking petition. Sienkiewicz argues that a frequency stability requirement is unnecessary if there is no channelization scheme and that devices from different manufacturers do not need to talk to each other (*i.e.,* if there is no common contention protocol). Even if a frequency stability criterion is needed, he thinks that the criterion can be ten times more relaxed than the suggested standard, but he acknowledges that the +/−100 ppm standard is common in off-the-shelf oscillators.

63. The +/−100 ppm frequency stability criterion is the standard for MedRadio devices in the current rules and represents good engineering practice. As Sienkiewicz acknowledges, oscillators that meet this standard are readily available. AMF, which has built functioning equipment, believes it is an appropriate standard. The Commission agrees and sees no reason to depart from the current MedRadio frequency stability criterion. The Commission will apply this standard to MMN devices.

64. *Antenna Locations.* In the NRPM, the Commission sought comment on applying the existing MedRadio requirement that no antenna for a control transmitter be configured for permanent outdoor use. No one objected to this proposal, and the Commission will retain this rule for MMNs. Additionally, ARRL stated that only portable, body-worn MMN devices should be permitted and that no fixed antenna is appropriate in this frequency range. The rules adopted by the Commission will only permit MMNs that contain implanted devices and a programmer/controller transmitter to operate in the MedRadio Service in these frequency bands and the limited transmit power permitted under our rules will limit the programmer/controller to locations on or in close proximity to the patient. Because the rules will effectively restrict MMNs to portable body-worn devices and preclude the use of fixed antennas, the Commission concluded that it is unnecessary for us to adopt a new rule containing these restrictions.

65. *RF Safety.* In the NPRM, the Commission noted that portable devices are subject to § 2.1093 of its rules, pursuant to which an environmental assessment must be prepared under § 1.1307, and that these rule sections also govern existing MedRadio devices. The Commission further noted that its ongoing RF safety proceeding (ET Docket No. 03–137) anticipated dealing with proposed changes in the Commission's rules regarding human exposure to RF electromagnetic fields in a more comprehensive fashion. The NPRM only sought comment on whether MMN implant and programmer/controller transmitters should be deemed portable devices subject to §§ 2.1093 and 1.1307 of the existing rules. No commenters addressed this issue. Because existing MedRadio devices are considered portable devices and the Commission has no reason to treat MMN devices differently, it shall deem MMN devices to be portable devices subject to §§ 2.1093 and 1.1307 of its rules.

66. The ARRL stated that ''no rules should be enacted without a comprehensive series of field tests that assure patient safety in the presence of typical RF fields in the bands at issue in this proceeding.'' To the extent that these comments relate to RF safety matters, they are misplaced. Given the ongoing Commission proceeding on RF safety in ET Docket 03–137, the NPRM did not request duplicative comment in this proceeding. Rather, the only question we raised in the NPRM that implicated RF safety concerns was the categorization issue, *i.e.,* whether MMN devices should be subject to the RF exposure limits applicable to portable devices, as are other MedRadio devices, or the limits applicable to mobile devices. Consequently, because matters concerning RF safety are more appropriately addressed in ET Docket 03–137 and not here ARRL should raise any specific concerns it has regarding RF safety directly in ET Docket 03–137.

67. *Miscellaneous Provisions.* In the NPRM, the Commission sought comment on a number of provisions regarding equipment certification, authorized locations, station identification, station inspection, disclosure policy, labeling requirements, and marketing limitations that mirror the existing MedRadio rules.

68. As the Commission proposed in the NPRM, it will require each MMN transmitter authorized to operate in the 413–457 MHz band to be certificated. This requirement will not apply to transmitters that are not marketed for use in the United States, are being used in the United States by individuals who have traveled to the United States from abroad, and comply with the applicable technical requirements. The Commission also adopted the proposals in the NPRM that MedRadio devices in the 413–457 MHz band be authorized to operate anywhere CB station operation is authorized under § 95.405 and not be required to transmit a station identification announcement. In addition, it will apply the existing MedRadio rule that requires that all non-implanted MMN transmitters be made available for inspection upon request by an authorized FCC representative. Under this provision, persons operating implanted MMN transmitters are required to cooperate reasonably with duly authorized FCC representatives in the resolution of interference. These requirements are all the same as the existing MedRadio rules for the 401–406 MHz band.

69. In the NPRM, the Commission sought comment on whether to require the manufacturers of MMN transmitters to include with each transmitting device the following disclosure statement:

> This transmitter is authorized by rule under the MedRadio Service (47 CFR part 95). This transmitter must not cause harmful interference to stations authorized to operate on a primary basis in the 413–419 MHz, 426–432 MHz, 438–444 MHz, and 451–457 MHz bands, and must accept interference that may be caused by such stations, including interference that may cause undesired operation. This transmitter shall be used only in accordance with the FCC Rules governing the MedRadio Service. Analog and digital voice communications are prohibited. Although this transmitter has been approved by the Federal Communications Commission, there is no guarantee that it will not receive interference or that any particular transmission from this transmitter will be free from interference.

The Commission also sought comment on requiring that MMN programmer/control transmitters be labeled and bears the following statement in a conspicuous location on the device:

> This device may not interfere with stations authorized to operate on a primary basis in the 413–419 MHz, 426–432 MHz, 438–444 MHz, and 451–457 MHz bands, and must accept any interference received, including interference that may cause undesired operation.

The Commission did not propose an analogous labeling requirement for implant transmitters but instead sought comment on whether to require that the implant transmitters be identified with a serial number.

70. The Commission does not believe that the proposed labeling will be ''useless'' once the implanted MMN devices are placed within the body as claimed by SBE because only the P/C transmitter will bear a label, and it will not be implanted in the body. The proposed disclosure and labeling statements are based on the requirements for the MedRadio Services (and the MICS before that) that have been in place since 1999. These notices have served us well since that time, and it sees no reason to change them now. The Commission notes that MMN devices are medical devices which will be used only under the direction of knowledgeable medical personnel. As such, the notices are not aimed at consumers but instead at medical professionals who are in the best position to give appropriate patient advice. The Commission therefore believes that the notice and labeling requirements are sufficient and adopted them as proposed. These disclosure and labeling requirements provide an important benefit to medical professionals by warning of the secondary status of the MMN devices. These requirements are consistent with those that are in place for similar medical devices that are authorized under the Commission's rules, and so the costs should be similar. Therefore, the Commission sees no reason why disclosure and labeling requirements should be more burdensome in the case of MMNs.

71. No one commented on the proposal that implant transmitters be identified with a serial number. This is the same requirement that MedRadio devices must meet under our existing rules. The Commission therefore adopts this requirement. Doing so will make it easier to identify particular MMN implant devices, and this information is limited enough to be placed on tiny devices. As proposed, the Commission will allow the FCC ID number associated with the transmitter and the information required by § 2.925 of the FCC rules to be placed in the instruction manual for the transmitter in lieu of being placed directly on the transmitter.

72. In the NPRM the Commission also proposed to provide that MMN transmitters intended for operation in any portions of the 413–419 MHz, 426–432 MHz, 438–444 MHz, and 451–457 MHz bands may be marketed and sold only for those permissible uses described above. No one objected to this proposal, which currently is part of the existing MedRadio rules. Given our expressed intent to limit use of these frequency bands to MedRadio applications that cannot be achieved in other spectrum, the Commission believes that this requirement is necessary, and therefore adopts it.

Final Regulatory Flexibility Analysis

73. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[1] an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Notice of Proposed Rulemaking (NPRM).[2] The Commission sought written public comment on the proposals in the NPRM, including comment on the IRFA. No comments were received addressing the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.[3]

A. Need for, and Objectives of, the Report and Order

74. The Report and Order (R&O) expands the Medical Device Radiocommunication (MedRadio) Service under part 95 of the Commission's rules to enable the operation of medical micro-power networks (MMNs) consisting of implantable medical devices and associated external programmer/controllers (P/C). These MMNs will employ functional electric stimulation (or FES) techniques to serve as an artificial nervous system to restore sensation, mobility, and function to paralyzed limbs and organs. The R&O establishes a secondary allocation in the 413–419 MHz, 426–432 MHz, 438–444 MHz, and 451–457 MHz bands for MedRadio with use limited to MMNs.

75. The *R&O* adopts technical and service rules to govern the operation of MMNs in these four frequency bands. Because MMNs will operate on a secondary basis, they must accept interference from and not cause interference to primary services operating in these frequency bands. Consequently, these rules must prevent MMNs from causing interference to the other services operating in these bands. Since MMNs will be used for medical purposes, the rules must also provide assurance that they can reliably function in these frequency bands in the presence of signals from primary services operating these bands. For the most part the adopted rules mirror the existing rules that apply to MedRadio in the 401–406 MHz band in part 95 of the Commission's rules with modifications to account for the MMN's wider bandwidth, higher transmission power, and need to operate in the presence of other primary services.

76. The proposed action is authorized under sections 4(i), 301, 302, 303(e), 303(f), 303(r), and 307(e) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 301, 302, 303(e), 303(f), 303(r), and 307(e).

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

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

C. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

78. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the rules and policies adopted herein.[4] The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.''[5] In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act.[6] A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.[7] Nationwide, there are a total of approximately 27.5 million small businesses, according to the SBA.

79. *Personal Radio Services.* The Medical Device Radio Communications Services are being placed within part 95 of our rules (''Personal Radio Services''). The Commission has not developed a small business size standard specifically applicable to these services. Therefore, for purposes of this analysis, the Commission uses the SBA small business size standard for the category

[1] *See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 104–121, Title II, 110 Stat. 857 (1996).

[2] In the Matter of Amendment of parts 2 and 95 of the Commission's Rules to Provide Additional Spectrum for the Medical Device Radiocommunication Service in the 413–457 MHz band, ET Docket No. 09–36, RM–11404, *Notice of Proposed Rulemaking,* 24 FCC Rcd 3445, 3463 (2009).

[3] *See* 5 U.S.C. 604.

[4] 5 U.S.C. 603(b)(3).

[5] 5 U.S.C. 601(6).

[6] 5 U.S.C. 601(3) (incorporating by reference the definition of ''small-business concern'' in the Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.''

[7] 15 U.S.C. 632 (1996).

Wireless Telecommunications Carriers (except Satellite), which is 1,500 or fewer employees.[8] Census data for 2007 show that there were 1,383 firms that operated that year.[9] Of those 1,368 had fewer than 100 employees. Personal radio services provide short-range, low power radio for personal communications, radio signaling, and business communications not provided for in other services. The Personal Radio Services include spectrum licensed under part 95 of our rules and cover a broad range of uses.[10] Many of the licensees in these services are individuals and thus are not small entities. In addition, due to the fact that licensing of operation under part 95 is accomplished by rule (rather than by issuance of individual license), and due to the shared nature of the spectrum utilized by some of these services, the Commission lacks direct information other than the census data above upon which to base an estimation of the number of small entities under an SBA definition that might be directly affected by the proposed rules adopted herein.

80. *Wireless Communications Equipment Manufacturers.* The Census Bureau does not have a category specific to medical device radiocommunication manufacturing. The appropriate category is that for wireless communications equipment manufacturers. The Census Bureau defines this category as follows: ''This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment.'' The SBA has developed a small business size standard for Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing, which is: all such firms having 750 or fewer employees.[11] According to Census bureau data for 2007, there were a total of 919 firms in this category that operated for the entire year. Of this total, 771 had fewer than 100 employees and 148 had more than 100 employees.[12] Thus, under this size standard, the majority of firms can be considered small.

81. We do note, however, that the allocation for the twenty-four megahertz of spectrum in four frequency bands for the Medical Device Radio Communications Service would be limited to use by MMNs. To date no entities are producing MMNs on a commercial basis. However, one entity, the Alfred Mann Foundation (AMF), has produced prototype MMN devices. We have no data on the size of AMF in terms of number of employees or revenue, but we presume that AMF is a small entity. In general, there are only a small number of manufacturers who produce wireless implanted medical devices (less than ten), and FDA approval must be secured before such devices are brought to market. Due to the stringent FDA approval requirements, the small number of existing medical device manufacturers tend to focus very narrowly on this highly specialized niche market.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

82. The *R&O* adopts no reporting or record keeping requirements. However, the R&O does adopt a number of service and technical rules that apply to all entities who manufacture and use MMN devices in the four frequency bands. Under the adopted rules the MMNs will not require individual licenses but instead will qualify for license-by-rule operation [13] pursuant to section 307(e) of the Communications Act (Act).[14] The rules generally require that MMNs be able to operate in the presence of other primary and secondary users in these frequency bands.[15] MMNs must be capable of operating on any of the four allocated frequency bands.[16] The programmer/controller (P/C) in the MMN will be required to monitor the frequency band in which the MMN is operating at least once a second and must monitor the other frequency bands often enough that when it does switch frequency bands it has monitored the band it is switching to in the two seconds prior to switching.[17] The P/C must be capable of determining when either direction of the communication link between the P/C and the implanted devices is becoming degraded to the extent that communication is likely to be lost for more than 45 milliseconds. When the P/C makes this determination the MMN is required to move to another frequency band. The P/C will also be required to switch to another frequency band if during the monitoring of the occupied frequency band it determines that there is a received signal with power greater than -60 dBm in any 12.5 kHz bandwidth that persists for at least fifty milliseconds.[18] The MMN transmitters must incorporate a programmable means to implement a system shutdown process within 45 milliseconds of a communication failure or on command from the P/C.[19]

83. MMN use shall be restricted for use by persons only for diagnostic and therapeutic purposes and only to the extent that such devices have been provided to a human patient under the direction of a duly authorized health care professional.[20] P/Cs in different MMNs may communicate with each other for the purposes of coordination of the use of the spectrum resource.[21] However, P/Cs may not communicate with non-implanted devices for other purposes.[22] Implanted MMN devices may not communicate directly with other MMN implanted devices. Multiple MMNs may be present within one patient with each MMN having its own P/C.[23] However, a P/C may not control implanted devices in multiple patients.

84. MMNs may transmit in a maximum emission bandwidth of six megahertz. MMN transmitters may transmit with a maximum EIRP of lesser of 1 mW or (10 log B $-$ 7.782) dBm here B is the 20 dB emission bandwidth of the transmitted signal in MHz.[24] The P/C of an MMN may transmit with a maximum duty cycle of 3 percent.[25] The MMN must meet specific limits on both in-band and out-of-band emissions.[26]

85. MMN transmitters will be required to maintain a frequency stability as specified in the current

[8] *See* 13 CFR 121.201, NAICS code 517210.

[9] U.S. Census Bureau, 2007 Economic Census, Sector 51, 2007 NAICS code 517210 (rel. Oct. 20, 2009), *http://factfinder.census.gov/servlet/IBQTable?_bm=y&-geo_id=&-fds_name=EC0700A1&-_skip=700&-ds_name=EC0751SSSZ5&-_vlang=en.*

[10] 47 CFR part 90.

[11] 13 CFR 121.201 NAICS code 334220.

[12] *See http://factfinder.census.gov/servlet/IBQTable?_bm=y&-geo_id=&-fds_name=EC0700A1&-_skip=4500&-ds_name=EC0731SG3&-_lang=en.*

[13] *See* 47 CFR 95.1201.

[14] Under section 307(e) of the Act, the Commission may authorize the operation of radio stations by rule without individual licenses in certain specified radio services when the Commission determines that such authorization serves the public interest, convenience, and necessity. The services set forth in this provision for which the Commission may authorize operation by rule include: (1) The Citizens Band Radio Service; (2) the Radio Control Service; (3) the Aviation Radio Service; and (4) the Maritime Radio Service. *See* 47 U.S.C. 307(e)(1).

[15] *See* paragraph 56 in this Report and Order.

[16] *See* paragraph 57 in this Report and Order.

[17] *See* paragraph 59 in this Report and Order.

[18] *See* paragraph 60 in this Report and Order..

[19] *See* paragraph 61 in this Report and Order.

[20] *See* paragraph 65 in this Report and Order.

[21] *See* paragraph 67 in this Report and Order.

[22] *See* paragraph 68 in this Report and Order.

[23] *See* paragraph 70 in this Report and Order.

[24] *See* paragraph 79 in this Report and Order.

[25] *See* paragraph 81 in this Report and Order.

[26] *See* paragraph 82 in this Report and Order.

MedRadio rules of +/− 100 ppm of the operating frequency over the range: (1) 25 °C to 45 °C in the case of MMN implant transmitters; and (2) 0 °C to 55 °C in the case of MMN programmer/control transmitters.[27]

86. MMN transmitters must be certificated except for such transmitters that are not marketed for use in the United States, are being used in the United States by individuals who have traveled to the United States from abroad, and comply with the applicable technical requirements.[28] MMNs may be operated anywhere that CB station operation is authorized under § 95.405 and not be required to transmit a station identification announcement.[29] All non-implanted MMN transmitters must be made available for inspection upon request by an authorized FCC representative. Manufacturers of MMN transmitters must include with each transmitting device a disclosure statement and each MMN programmer/controller must be labeled with a statement.[30] MMN transmitters must be labeled with a serial number, but this serial number may be placed in the instruction manual for the transmitter in lieu of being placed directly on the transmitter.[31]

E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

87. The RFA requires an agency to describe any significant alternatives that it has considered in developing its approach, which may include the following four alternatives (among others): ''(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.'' [32]

88. We are adopting a license-by-rule approach for MMN operations. This should decrease the cost of MMN use for small entities as compared to a licensing approach because they will not be subject to the expense of obtaining a license.

89. The Commission has adopted a requirement that MMNs be capable of operating in any of the four allocated frequency bands. It do not believe this requirement will increase the cost of equipment unreasonably or be burdensome for manufacturers to meet. We note that these four bands are relatively close in frequency and thus only a single transmitter and one antenna are necessary to cover these four bands. We believe that the components to enable manufacturers of MMNs to meet this requirement should be readily available since equipment is currently designed to operate across the Federal mobile bands between 406.1 MHz and 450 MHz and non-Federal mobile bands between 450 MHz and 512 MHz.

90. As described we have adopted requirements that the P/C of an MMN monitor the frequency bands and switch frequency bands under certain circumstances. We considered not imposing any frequency monitoring requirements on MMNs. However, we believe that this requirement is necessary because MMNs will operate in frequency bands where other services will operate on a primary basis. The MMNs must therefore be capable of detecting signals from these other services and taking steps to minimize the effects of these signals on MMN operations or switching frequency bands. Because MMNs will be used for medical purposes, they must be reliable and therefore these frequency monitoring requirements are necessary. We do not believe this monitoring requirement will add significant cost to MMN equipment since radios now operating in these bands also have a requirement to monitor channels prior to transmitting on them.[33]

91. The requirement that MMN transmitters maintain a frequency stability of +/−100 ppm will not impose significant costs on small entities because oscillators that meet this standard are readily available.

92. We have adopted various provisions regarding equipment certification, authorized locations, station identification, station inspection, disclosure policy, labeling requirements and marketing limitations that mirror the existing MedRadio rules. We note that the certification and inspection requirements apply to a broad range of wireless devices within the Commission's jurisdiction and are a necessary part of insuring that the Commission's technical rules are followed. We therefore did not consider alternatives to these requirements. The disclosure and labeling requirements inform interested parties about limitations on use of the MMN devices, such as the fact that they may not cause interference to and must accept interference from other stations operating on a primary basis in these bands. We therefore believe that the disclosure and labeling requirements are useful and that they will not have a significant cost. The marketing limitation permits MMNs to be marketed and sold only for the types of communication that are permitted under the rules the Commission has adopted. We do not believe this will impose significant costs on small entities.

93. *Report to Congress:* The Commission will send a copy of the Report and Order, including this FRFA, in a report to Congress pursuant to the Congressional Review Act.[34] In addition, the Commission will send a copy of the Report and Order, including this FRFA, to the Chief Counsel for Advocacy of the SBA.

Ordering Clauses

94. Pursuant to the authority contained in Sections 4(i), 301, 302, 303(e), 303(f), 303(r), and 307(e) of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 301, 302, 303(e), 303(f), 303(r), and 307(e), this Report and Order *is adopted* and Parts 2 and 95 of the Commission's Rules *are amended* as set forth in the Appendix February 27, 2012.

List of Subjects in 47 CFR Parts 2 and 95

Communications equipment, Radio.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Final Rules

For the reasons discussed above, the Federal Communications Commission amends title 47 of the Code of Federal Regulations, Parts 2 and 95, as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

■ 1. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

■ 2. Section 2.106, the Table of Frequency Allocations, is amended as follows:

■ a. Pages 26 through 28 are revised.

■ b. In the list of United States (US) Footnotes, footnote US64 is added and footnote US345 is removed.

[27] *See* paragraphs 83–84, in this Report and Order.

[28] *See* paragraph 89 in this Report and Order.

[29] *See* paragraph 89 in this Report and Order.

[30] *See* paragraph 92 in this Report and Order.

[31] *See* paragraph 93 in this Report and Order.

[32] 5 U.S.C. 603(c)(1)–(c)(4).

[33] *See* paragraph 59 in this Report and Order.

[34] *See* 5 U.S.C. 801(a)(1)(A).

The revisions and addition read as follows:

§ 2.106 Table of Frequency Allocations.

* * * * *

399.9-400.05 MOBILE-SATELLITE (Earth-to-space) 5.209 5.224A RADIONAVIGATION-SATELLITE 5.222 5.224B 5.260 5.220	399.9-400.05 MOBILE-SATELLITE (Earth-to-space) US319 US320 RADIONAVIGATION-SATELLITE 5.260		Satellite Communications (25)
400.05-400.15 STANDARD FREQUENCY AND TIME SIGNAL-SATELLITE (400.1 MHz) 5.261 5.262	400.05-400.15 STANDARD FREQUENCY AND TIME SIGNAL-SATELLITE (400.1 MHz) 5.261		
400.15-401 METEOROLOGICAL AIDS METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 5.208A 5.208B 5.209 SPACE RESEARCH (space-to-Earth) 5.263 Space operation (space-to-Earth) 5.262 5.264	400.15-401 METEOROLOGICAL AIDS (radiosonde) US70 METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) US319 US320 US324 SPACE RESEARCH (space-to-Earth) 5.263 Space operation (space-to-Earth) 5.264	400.15-401 METEOROLOGICAL AIDS (radiosonde) US70 MOBILE-SATELLITE (space-to-Earth) US320 US324 SPACE RESEARCH (space-to-Earth) 5.263 Space operation (space-to-Earth) 5.264 US319	Satellite Communications (25)
401-402 METEOROLOGICAL AIDS SPACE OPERATION (space-to-Earth) EARTH EXPLORATION-SATELLITE (Earth-to-space) METEOROLOGICAL-SATELLITE (Earth-to-space) Fixed Mobile except aeronautical mobile	401-402 METEOROLOGICAL AIDS (radiosonde) US70 SPACE OPERATION (space-to-Earth) EARTH EXPLORATION-SATELLITE (Earth-to-space) METEOROLOGICAL-SATELLITE (Earth-to-space) US64 US384	401-402 METEOROLOGICAL AIDS (radiosonde) US70 SPACE OPERATION (space-to-Earth) Earth exploration-satellite (Earth-to-space) Meteorological-satellite (Earth-to-space) US64 US384	MedRadio (95I)
402-403 METEOROLOGICAL AIDS EARTH EXPLORATION-SATELLITE (Earth-to-space) METEOROLOGICAL-SATELLITE (Earth-to-space) Fixed Mobile except aeronautical mobile	402-403 METEOROLOGICAL AIDS (radiosonde) US70 EARTH EXPLORATION-SATELLITE (Earth-to-space) METEOROLOGICAL-SATELLITE (Earth-to-space) US64 US384	402-403 METEOROLOGICAL AIDS (radiosonde) US70 Earth exploration-satellite (Earth-to-space) Meteorological-satellite (Earth-to-space) US64 US384	
403-406 METEOROLOGICAL AIDS Fixed Mobile except aeronautical mobile	403-406 METEOROLOGICAL AIDS (radiosonde) US70 US64 G6	403-406 METEOROLOGICAL AIDS (radiosonde) US70 US64	
406-406.1 MOBILE-SATELLITE (Earth-to-space) 5.266 5.267	406-406.1 MOBILE-SATELLITE (Earth-to-space) 5.266 5.267		Maritime (EPIRBs) (80V) Aviation (ELTs) (87F) Personal Radio (95)
406.1-410 FIXED MOBILE except aeronautical mobile RADIO ASTRONOMY 5.149	406.1-410 FIXED MOBILE RADIO ASTRONOMY US74 US13 US117 G5 G6	406.1-410 RADIO ASTRONOMY US74 US13 US117	Private Land Mobile (90) Page 26

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International Table			United States Table			FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table		
410-420 FIXED MOBILE except aeronautical mobile SPACE RESEARCH (space-to-space) 5.268			410-420 FIXED MOBILE SPACE RESEARCH (space-to-space) 5.268 US13 US64 G5	410-420 US13 US64		Private Land Mobile (90) MedRadio (95I)
420-430 FIXED MOBILE except aeronautical mobile Radiolocation 5.269 5.270 5.271			420-450 RADIOLOCATION G2 G129 5.286 US64 US87 US230 US269 US270 US397 G8	420-450 Amateur US270 5.282 5.286 US64 US87 US230 US269 US397		Private Land Mobile (90) MedRadio (95I) Amateur Radio (97)
430-432 AMATEUR RADIOLOCATION 5.271 5.272 5.273 5.274 5.275 5.276 5.277	430-432 RADIOLOCATION Amateur 5.271 5.276 5.277 5.278 5.279					
432-438 AMATEUR RADIOLOCATION Earth exploration-satellite (active) 5.279A 5.138 5.271 5.272 5.276 5.277 5.280 5.281 5.282	432-438 RADIOLOCATION Amateur Earth exploration-satellite (active) 5.279A 5.271 5.276 5.277 5.278 5.279 5.281 5.282					
438-440 AMATEUR RADIOLOCATION 5.271 5.273 5.274 5.275 5.276 5.277 5.283	438-440 RADIOLOCATION Amateur 5.271 5.276 5.277 5.278 5.279					
440-450 FIXED MOBILE except aeronautical mobile Radiolocation 5.269 5.270 5.271 5.284 5.285 5.286						
450-455 FIXED MOBILE 5.286AA 5.209 5.271 5.286 5.286A 5.286B 5.286C 5.286D 5.286E			450-454 5.286 US64 US87	450-454 LAND MOBILE 5.286 US64 US87 NG112 NG124		Remote Pickup (74D) Low Power Auxiliary (74H) Private Land Mobile (90) MedRadio (95I)
			454-456	454-455 FIXED LAND MOBILE US64 NG12 NG112 NG148		Public Mobile (22) Maritime (80) MedRadio (95I)
455-456 FIXED MOBILE 5.286AA 5.209 5.271 5.286A 5.286B 5.286C 5.286E	455-456 FIXED MOBILE 5.286AA MOBILE-SATELLITE (Earth-to-space) 5.286A 5.286B 5.286C 5.209	455-456 FIXED MOBILE 5.286AA 5.209 5.271 5.286A 5.286B 5.286C 5.286E	US64	455-456 LAND MOBILE US64		Remote Pickup (74D) Low Power Auxiliary (74H) MedRadio (95I)

456-459 FIXED MOBILE 5.286AA 5.271 5.287 5.288			456-459 5.287 5.288 US64	456-460 FIXED LAND MOBILE 5.287 5.288 US64 NG12 NG112 NG124 NG148	Public Mobile (22) Maritime (80) Private Land Mobile (90) MedRadio (95I)
459-460 FIXED MOBILE 5.286AA 5.209 5.271 5.286A 5.286B 5.286C 5.286E	459-460 FIXED MOBILE 5.286AA MOBILE-SATELLITE (Earth-to-space) 5.286A 5.286B 5.286C 5.209	459-460 FIXED MOBILE 5.286AA 5.209 5.271 5.286A 5.286B 5.286C 5.286E	459-460		
460-470 FIXED MOBILE 5.286AA Meteorological-satellite (space-to-Earth)			460-470 Meteorological-satellite (space-to-Earth)	460-462.5375 FIXED LAND MOBILE 5.289 US201 US209 NG124	Private Land Mobile (90)
				462.5375-462.7375 LAND MOBILE 5.289 US201	Personal Radio (95)
				462.7375-467.5375 FIXED LAND MOBILE 5.287 5.289 US73 US201 US209 NG124	Private Land Mobile (90)
				467.5375-467.7375 LAND MOBILE 5.287 5.289 US201	Personal Radio (95)
			5.287 5.288 5.289 US73 US201 US209	467.7375-470 FIXED LAND MOBILE 5.288 5.289 US73 US201 NG124	Maritime (80) Private Land Mobile (90)
5.287 5.288 5.289 5.290 470-790 BROADCASTING 5.149 5.291A 5.294 5.296 5.300 5.302 5.304 5.306 5.311A 5.312	470-512 BROADCASTING Fixed Mobile 5.292 5.293	470-585 FIXED MOBILE BROADCASTING 5.291 5.298	470-608	470-512 FIXED LAND MOBILE BROADCASTING NG5 NG14 NG66 NG115 NG149	Public Mobile (22) Broadcast Radio (TV)(73) LPTV, TV Translator/Booster (74G) Low Power Auxiliary (74H) Private Land Mobile (90)
	512-608 BROADCASTING 5.297	585-610 FIXED MOBILE		512-608 BROADCASTING NG5 NG14 NG115 NG149	Broadcast Radio (TV)(73) LPTV, TV Translator/Booster (74G) Low Power Auxiliary (74H)
	608-614 RADIO ASTRONOMY Mobile-satellite except aeronautical mobile-satellite (Earth-to-space)	608-614 BROADCASTING RADIONAVIGATION 5.149 5.305 5.306 5.307	608-614 LAND MOBILE (medical telemetry and medical telecommand) RADIO ASTRONOMY US74		Personal Radio (95)
	614-698 BROADCASTING Fixed Mobile 5.293 5.309 5.311A	610-890 FIXED MOBILE 5.313A 5.317A BROADCASTING 5.149 5.305 5.306 5.307 5.311A 5.320	US246 614-698	614-698 BROADCASTING NG5 NG14 NG115 NG149	Broadcast Radio (TV)(73) LPTV, TV Translator/Booster (74G) Low Power Auxiliary (74H)

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UNITED STATES (US) FOOTNOTES

* * * * *

US64(a) In the band 401–406 MHz, the mobile, except aeronautical mobile, service is allocated on a secondary basis and is limited to, with the exception of military tactical mobile stations, Medical Device Radiocommunication Service (MedRadio) operations. MedRadio stations are authorized by rule on the condition that harmful interference is not caused to stations in the meteorological aids, meteorological-satellite, and Earth exploration-satellite services, and that MedRadio stations accept interference from stations in the meteorological aids, meteorological-satellite, and Earth exploration-satellite services.

(b) The bands 413–419 MHz, 426–432 MHz, 438–444 MHz, and 451–457 MHz are also allocated on a secondary basis to the mobile, except aeronautical mobile, service. The use of this allocation is limited to MedRadio operations. MedRadio stations are authorized by rule and operate in accordance with 47 CFR part 95.

* * * * *

PART 95—PERSONAL RADIO SERVICES

Subpart E—Technical Regulations

■ 3. The authority citation for part 95 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat, 1066, 1082, as amended; 47 U.S.C. 154, 303.

§§ 95.627 and 95.628 [Redesignated as §§ 95.626 and 95.627]

■ 4. Sections 95.627 and 95.628 are redesignated as §§ 95.626, and 95.627, respectively.

■ 5. Newly redesignated § 95.627 is amended by revising the heading and adding introductory text to read as follows:

§ 95.627 MedRadio transmitters in the 401–406 MHz band.

The following provisions apply only to MedRadio transmitters operating in the 401–406 MHz band.

* * * * *

■ 6. New § 95.628 is added to read as follows:

§ 95.628 MedRadio transmitters in the 413–419 MHz, 426–432 MHz, 438–444 MHz, and 451–457 MHz bands.

The following provisions apply only to MedRadio transmitters operating in the 413–419 MHz, 426–432 MHz, 438–444 MHz, and 451–457 MHz bands as part of a Medical Micropower Network (MMN).

(a) *Operating frequency.* Only MedRadio stations that are part of an MMN may operate in the 413–419 MHz, 426–432 MHz, 438–444 MHz, and 451–457 MHz frequency bands. Each MedRadio station that is part of an MMN must be capable of operating in each of the following frequency bands: 413–419 MHz, 426–432 MHz, 438–444 MHz, and 451–457 MHz. All MedRadio stations that are part of a single MMN must operate in the same frequency band. A MedRadio station authorized under this part must have out-of-band emissions that are attenuated in accordance with § 95.635.

(b) *Frequency monitoring.* MedRadio programmer/control transmitters must incorporate a mechanism for monitoring the authorized bandwidth of the frequency band that the MedRadio transmitters intend to occupy. The monitoring system antenna shall be the antenna used by the programmer/control transmitter for a communications session.

(1) The MedRadio programmer/control transmitter shall be capable of monitoring any occupied frequency band at least once every second and monitoring alternate frequency bands within two seconds prior to executing a change to an alternate frequency band.

(2) The MedRadio programmer/control transmitter shall move to another frequency band within one second of detecting a persistent (*i.e.,* lasting more than 50 milliseconds in duration) signal level greater than −60 dBm as received by a 0 dBi gain antenna in any 12.5 kHz bandwidth within the authorized bandwidth.

(3) The MedRadio programmer/control transmitter shall be capable of monitoring the authorized bandwidth of the occupied frequency band to determine whether either direction of the communications link is becoming degraded to the extent that communications is likely to be lost for more than 45 milliseconds. Upon making such a determination the MedRadio programmer/control transmitter shall move to another frequency band.

(c) *MedRadio transmitters.* MedRadio transmitters shall incorporate a programmable means to implement a system shutdown process in the event of communication failure, on command from the MedRadio programmer/control transmitter, or when no frequency band is available. The shutdown process shall commence within 45 milliseconds after loss of the communication link or receipt of the shutdown command from the MedRadio programmer/control transmitter.

(d) *MedRadio programmer/control transmitters.* MedRadio programmer/control transmitters shall have the ability to operate in the presence of other primary and secondary users in the 413–419 MHz, 426–432 MHz, 438–444 MHz, and 451–457 MHz bands.

(e) *Authorized bandwidth.* The 20 dB authorized bandwidth of the emission from a MedRadio station operating in the 413–419 MHz, 426–432 MHz, 438–444 MHz, and 451–457 MHz bands shall not exceed 6 MHz.

(f) *Frequency stability.* Each transmitter in the MedRadio service must maintain a frequency stability of ±100 ppm of the operating frequency over the range:

(1) 25 °C to 45 °C in the case of medical implant transmitters; and

(2) 0 °C to 55 °C in the case of MedRadio programmer/control transmitters.

(g) *Shared access.* The provisions of this section shall not be used to extend the range of spectrum occupied over space or time for the purpose of denying fair access to spectrum for other MedRadio systems.

(h) *Measurement procedures.* (1) MedRadio transmitters shall be tested for frequency stability, radiated emissions and EIRP limit compliance in accordance with paragraphs (h)(2) and (h)(3) of this section.

(2) Frequency stability testing shall be performed over the temperature range set forth in (f) of this section.

(3) Radiated emissions and EIRP limit measurements may be determined by measuring the radiated field from the equipment under test at 3 meters and calculating the EIRP. The equivalent radiated field strength at 3 meters for 1 milliwatt, 25 microwatts, 250 nanowatts, and 100 nanowatts EIRP is 115.1, 18.2, 1.8, or 1.2 mV/meter, respectively, when measured on an open area test site; or 57.55, 9.1, 0.9, or 0.6 mV/meter, respectively, when measured on a test site equivalent to free space such as a fully anechoic test chamber. Compliance with the maximum transmitter power requirements set forth in § 95.639(f) shall be based on measurements using a peak detector function and measured over an interval of time when transmission is continuous and at its maximum power level. In lieu of using a peak detector function, measurement procedures that have been found to be acceptable to the Commission in accordance with § 2.947 of this chapter may be used to demonstrate compliance. For a transmitter intended to be implanted in a human body, radiated emissions and EIRP measurements for transmissions by stations authorized under this section may be made in accordance with a Commission-approved human body simulator and test technique. A formula for a suitable tissue substitute material is defined in OET Bulletin 65 Supplement C (01–01).

■ 7. Section 95.633 is amended by revising paragraph (e) to read as follows:

§ 95.633 Emission bandwidth.

* * * * *

(e) For transmitters in the MedRadio Service:

(1) For stations operating in 402–405 MHz, the maximum authorized emission bandwidth is 300 kHz. For stations operating in 401–401.85 MHz or 405–406 MHz, the maximum authorized emission bandwidth is 100 kHz. For stations operating in 401.85–402 MHz, the maximum authorized emission bandwidth is 150 kHz. For stations operating in 413–419 MHz, 426–432 MHz, 438–444 MHz, or 451–457 MHz, the maximum authorized emission bandwidth is 6 megahertz.

(2) Lesser emission bandwidths may be employed, provided that the unwanted emissions are attenuated as provided in § 95.635. See §§ 95.627(g), § 95.628(h), and 95.639(f) regarding maximum transmitter power and measurement procedures.

(3) Emission bandwidth will be determined by measuring the width of the signal between points, one below the carrier center frequency and one above the carrier center frequency, that

are 20 dB down relative to the maximum level of the modulated carrier. Compliance with the emission bandwidth limit is based on the use of measurement instrumentation employing a peak detector function with an instrument resolution bandwidth approximately equal to 1.0 percent of the emission bandwidth of the device under measurement.

* * * * *

■ 8. Section 95.635 is amended by revising paragraph (d) to read as follows:

95.635 Unwanted radiation.

* * * * *

(d) For transmitters designed to operate in the MedRadio service, emissions shall be attenuated in accordance with the following:

(1) Emissions from a MedRadio transmitter shall be attenuated to a level no greater than the field strength limits shown in the following table when they:

(i) Are more than 250 kHz outside of the 402–405 MHz band (for devices designed to operate in the 402–405 MHz band);

(ii) Are more than 100 kHz outside of either the 401–402 MHz or 405–406 MHz bands (for devices designed to operate in the 401–402 MHz or 405–406 MHz bands);

(iii) Are in the 406.000–406.100 MHz band (for devices designed to operate in the 401–402 MHz or 405–406 MHz bands); or

(iv) Are more than 2.5 MHz outside of the 413–419 MHz, 426–432 MHz, 438–444 MHz, or 451–457 MHz bands (for devices designed to operate in the 413–457 MHz band).

Frequency (MHz)	Field strength (μV/m)	Measurement distance (m)
30–88	100	3
88–216	150	3
216–960	200	3
960 and above	500	3

NOTE—At band edges, the tighter limit applies.

(2) The emission limits shown in the table of paragraph (d)(1) are based on measurements employing a CISPR quasi-peak detector except that above 1 GHz, the limit is based on measurements employing an average detector. Measurements above 1 GHz shall be performed using a minimum resolution bandwidth of 1 MHz. See also § 95.605.

(3) The emissions from a MedRadio transmitter must be measured to at least the tenth harmonic of the highest fundamental frequency designed to be emitted by the transmitter.

(4) For devices designed to operate in the 402–405 MHz band: Emissions within the band more than 150 kHz away from the center frequency of the spectrum the transmission is intended to occupy and emissions 250 kHz or less below 402 MHz or above 405 MHz band will be attenuated below the maximum permitted output power by at least 20 dB.

(5) For devices designed to operate in the 401–402 MHz or 405–406 MHz bands: Emissions between 401–401.85 MHz or 405–406 MHz within the MedRadio bands that are more than 50 kHz away from the center frequency of the spectrum the transmission is intended to occupy (or more than 75 kHz away from the center frequency of MedRadio transmitters operating between 401.85–402 MHz) and emissions 100 kHz or less below 401 MHz or above 406 MHz shall be attenuated below the maximum permitted output power by at least 20 dB.

(6) For devices designed to operate in the 413–419 MHz, 426–432 MHz, 438–444 MHz, and 451–457 MHz bands: In the first 2.5 megahertz beyond any of the frequency bands authorized for MMN operation, the EIRP level associated with any unwanted emission must be attenuated within a 1 megahertz bandwidth by at least 20 dB relative to the maximum EIRP level within any 1 megahertz of the fundamental emission.

(7) Compliance with the limits described in subparagraphs (4) through (6) are based on the use of measurement instrumentation employing a peak detector function with an instrument resolution bandwidth approximately equal to 1.0 percent of the emission bandwidth of the device under measurement.

* * * * *

■ 9. Section 95.639 is amended by revising paragraph (f) to read as follows:

§ 95.639 Maximum transmitter power.

* * * * *

(f) In the MedRadio Service:

(1) For transmitters operating in the 401–406 MHz band that are not excepted under § 95.627(b) from the frequency monitoring requirements of § 95.627(a), the maximum radiated power in any 300 kHz bandwidth by MedRadio transmitters operating at 402–405 MHz, or in any 100 kHz bandwidth by MedRadio transmitters operating at 401–402 MHz or 405–406 MHz shall not exceed 25 microwatts EIRP. For transmitters that are excepted under § 95.627(b) from the frequency monitoring requirements of § 95.627(a), the power radiated by any station operating in 402–405 MHz shall not exceed 100 nanowatts EIRP confined to a maximum total emission bandwidth of 300 kHz centered at 403.65 MHz, the power radiated by any station operating in 401–401.85 MHz or 405–406 MHz shall not exceed 250 nanowatts EIRP in any 100 kHz bandwidth and the power radiated by any station operating in 401.85–402 MHz shall not exceed 25 microwatts in the 150 kHz bandwidth. See §§ 95.633(e).

(2) For transmitters operating in 413–419 MHz, 426–432 MHz, 438–444 MHz, or 451–457 MHz bands, the peak EIRP over the frequency bands of operation shall not exceed the lesser of 1 mW or 10 log B—7.782 dBm, where B is the 20 dB emission bandwidth in MHz; and the peak power spectral density shall not exceed 800 microwatts per megahertz in any 1 megahertz band.

(3) The antenna associated with any MedRadio transmitter must be supplied with the transmitter and shall be considered part of the transmitter subject to equipment authorization. Compliance with these EIRP limits may be determined as set forth in § 95.627(g) or § 95.628(h), as applicable.

* * * * *

■ 10. Appendix 1 to subpart E of part 95 is amended by adding in alphabetical order the definition ''Medical Micropower Network'' to read as follows:

Appendix 1 to Subpart E of Part 95—Glossary of Terms

* * * * *

Medical Micropower Network (MMN). An ultra-low power wideband network consisting of a MedRadio programmer/control transmitter and medical implant transmitters, all of which transmit or receive non-voice data or related device control commands for the purpose of facilitating functional electric stimulation, a technique using electric currents to activate and monitor nerves and muscles.

* * * * *

Subpart I—Medical Device Radiocommunications Service (MedRadio)

■ 11. Section 95.1209 is amended by revising paragraphs (b), (d), and (e) and by adding paragraphs (f) and (g) to read as follows:

§ 95.1209 Permissible communications.

* * * * *

(b) Except as provided in § 95.627(b) no MedRadio implant or body-worn transmitter shall transmit except in response to a transmission from a

MedRadio programmer/control transmitter or in response to a non-radio frequency actuation signal generated by a device external to the body with respect to which the MedRadio implant or body-worn transmitter is used.

* * * * *

(d) For the purpose of facilitating MedRadio system operation during a MedRadio communications session, as defined in § 95.627, MedRadio transmitters in the 401–406 MHz band may transmit in accordance with the provisions of § 95.627(a) for no more than 5 seconds without the communications of data; MedRadio transmitters may transmit in accordance with the provisions of § 95.627(b)(2) and (b)(3) for no more than 3.6 seconds in total within a one hour time period; and MedRadio transmitters may transmit in accordance with the provisions of § 95.627(b)(4) for no more than 360 milliseconds in total within a one hour time period.

(e) MedRadio programmer/control transmitters may not be used to relay information in the 401–406 MHz band to a receiver that is not included with a medical implant or medical body-worn device. Wireless retransmission of information intended to be transmitted by a MedRadio programmer/control transmitter or information received from a medical implant or medical body-worn transmitter shall be performed using other radio services that operate in spectrum outside of the 401–406 MHz band.

(f) MedRadio programmer/control transmitters and medical implant transmitters may not be used to relay information in the 413–419 MHz, 426–432 MHz, 438–444 MHz, and 451–457 MHz bands to a receiver that is not part of the same Medical Micropower Network. Wireless retransmission of information to a receiver that is not part of the same Medical Micropower Network must be performed using other radio services that operate in spectrum outside of the 413–419 MHz, 426–432 MHz, 438–444 MHz, and 451–457 MHz bands. Not withstanding the above restrictions, a MedRadio programmer/control transmitter of an MMN may communicate with the MedRadio programmer/control transmitter of another MMN to coordinate transmissions so as to avoid interference between the two MMNs.

(g) MedRadio programmer/control transmitters operating in the 413–419 MHz, 426–432 MHz, 438–444 MHz, and 451–457 MHz bands shall not transmit with a duty cycle greater than 3 percent.

■ 12. Section 95.1211 is amended by revising paragraphs (b) and (c) to read as follows:

§ 95.1211 Channel use policy.

* * * * *

(b) To reduce interference and make the most effective use of the authorized facilities, MedRadio transmitters must share the spectrum in accordance with §§ 95.627 or 95.628.

(c) MedRadio operation is subject to the condition that no harmful interference is caused to stations operating in the 400.150–406.000 MHz band in the Meteorological Aids, Meteorological Satellite, or Earth Exploration Satellite Services, or to other authorized stations operating in the 413–419 MHz, 426–432 MHz, 438–444 MHz, and 451–457 MHz bands. MedRadio stations must accept any interference from stations operating in the 400.150–406.000 MHz band in the Meteorological Aids, Meteorological Satellite, or Earth Exploration Satellite Services, and from other authorized stations operating in the 413–419 MHz, 426–432 MHz, 438–444 MHz, and 451–457 MHz bands.

■ 13. Section 95.1215 is revised to read as follows:

§ 95.1215 Disclosure policies.

(a) Manufacturers of MedRadio transmitters operating in the 401–406 MHz band must include with each transmitting device the following statement:

''This transmitter is authorized by rule under the Medical Device Radiocommunication Service (in part 95 of the FCC Rules) and must not cause harmful interference to stations operating in the 400.150–406.000 MHz band in the Meteorological Aids (*i.e.,* transmitters and receivers used to communicate weather data), the Meteorological Satellite, or the Earth Exploration Satellite Services and must accept interference that may be caused by such stations, including interference that may cause undesired operation. This transmitter shall be used only in accordance with the FCC Rules governing the Medical Device Radiocommunication Service. Analog and digital voice communications are prohibited. Although this transmitter has been approved by the Federal Communications Commission, there is no guarantee that it will not receive interference or that any particular transmission from this transmitter will be free from interference.''

(b) Manufacturers of MedRadio transmitters operating in the 413–419 MHz, 426–432 MHz, 438–444 MHz, and 451–457 MHz bands must include with each transmitting device the following statement:

''This transmitter is authorized by rule under the MedRadio Service (47 CFR part 95). This transmitter must not cause harmful interference to stations authorized to operate on a primary basis in the 413–419 MHz, 426–432 MHz, 438–444 MHz, and 451–457 MHz bands, and must accept interference that may be caused by such stations, including interference that may cause undesired operation. This transmitter shall be used only in accordance with the FCC Rules governing the MedRadio Service. Analog and digital voice communications are prohibited. Although this transmitter has been approved by the Federal Communications Commission, there is no guarantee that it will not receive interference or that any particular transmission from this transmitter will be free from interference.''

■ 14. Section 95.1217 is amended by revising paragraph (a) to read as follows:

§ 95.1217 Labeling requirements.

(a)(1) MedRadio programmer/control transmitters operating in the 401–406 MHz band shall be labeled as provided in part 2 of this chapter and shall bear the following statement in a conspicuous location on the device:

''This device may not interfere with stations operating in the 400.150–406.000 MHz band in the Meteorological Aids, Meteorological Satellite, and Earth Exploration Satellite Services and must accept any interference received, including interference that may cause undesired operation.''

The statement may be placed in the instruction manual for the transmitter where it is not feasible to place the statement on the device.

(2) MedRadio programmer/control transmitters operating in the 413–419 MHz, 426–432 MHz, 438–444 MHz, and 451–457 MHz bands shall be labeled as provided in part 2 of this chapter and shall bear the following statement in a conspicuous location on the device:

''This device may not interfere with stations authorized to operate on a primary basis in the 413–419 MHz, 426–432 MHz, 438–444 MHz, and 451–457 MHz bands, and must accept any interference received, including interference that may cause undesired operation.''

The statement may be placed in the instruction manual for the transmitter

where it is not feasible to place the statement on the device.

* * * * *

[FR Doc. 2012–1540 Filed 1–26–12; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 179

[HM–233A]

Special Permit Marking Removal

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Removal of obsolete Special Permit markings.

SUMMARY: On January 25, 2011, FRA published a **Federal Register** document stating that markings on tank cars related to certain gross weight on rail (GRL) Special Permits that had been incorporated into the hazardous materials regulations (HMR) by a Pipeline and Hazardous Materials Safety Administration (PHMSA) rulemaking were required to be removed or obliterated by January 25, 2012, or at each subject tank car's first shopping event, whichever occurred first. This document relieves tank car owners from that previously stated deadline and extends the time for removal of the markings until the date of each subject tank car's next required qualification.

DATES: January 27, 2012.

FOR FURTHER INFORMATION CONTACT: Karl Alexy, Acting Staff Director, Hazardous Materials Division, FRA, 1200 New Jersey Avenue SE., Mailstop 25, Washington, DC 20590, (202) 493–6245.

SUPPLEMENTARY INFORMATION:

I. Background

Historically, the HMR, at 49 CFR 179.13, limited rail tank cars transporting hazardous materials to a GRL limitation of 263,000 pounds. Certain tank cars were able to operate in excess of that GRL limitation if permitted to do so via a Special Permit issued by PHMSA. However, on May 14, 2010, PHMSA published a final rule amending the HMR to incorporate provisions contained in several widely used or longstanding Special Permits that had an established safety record. 75 FR 27205. The final rule amended the HMR to allow, upon the approval of FRA, certain rail tank cars transporting hazardous materials to exceed the GRL limitation of 263,000 pounds without the need for a Special Permit. On January 25, 2011, FRA published a **Federal Register** notice providing such approval for certain tank cars. 76 FR 4250. In that notice, FRA stated that all markings on tank cars subject to the GRL Special Permits that had been incorporated into the HMR by the final rule and approved by FRA were required to be removed or obliterated by January 25, 2012, or at the car's first shopping event, whichever date occurred first.[1]

As background, the requirement to mark Special Permit packagings is provided for in the HMR at 49 CFR 172.302(c). That section requires that a tank car operating under a Special Permit must have the permit number marked on the car (unless this requirement was waived under the terms of a Special Permit). These markings are typically applied to tank cars at the time of their qualification. Certain tank cars exceeding the GRL limitation of 263,000 pounds were previously required to operate under a Special Permit. Those tank cars were required to be marked with the appropriate Special Permit number. However, upon the PHMSA final rule incorporating the applicable GRL Special Permits into the HMR (and FRA's subsequent approval notice) those Special Permits and their corresponding Special Permit number markings on the subject tank cars became obsolete.

Since FRA's publication of the notice, FRA has received a number of requests to extend the deadline for removal of the Special Permit markings on tank cars subject to that notice. Such requests were based on the fact that owners of large fleets of tank cars would have to remove such cars from service in order to send them to an appropriate tank car facility or a loading/unloading facility to have the markings removed. Such a procedure could potentially be both costly to industry and inefficient. The requesters also pointed out that loading/unloading facilities may not be configured to allow for safe access to the location of the existing markings. Finally, personnel at loading/unloading facilities may not have the proper equipment or training to remove or obliterate the appropriate markings.

FRA recognizes the logistical and cost concerns regarding the ability of the railroad industry to comply with the pending January 25, 2012, deadline to remove these now obsolete GRL Special Permit markings. FRA also recognizes that markings are typically applied to tank cars at the time of qualification, and that tank car facilities performing such qualification inspections are equipped to safely access all areas of the tank car and properly remove and/or apply required markings. Also, the obsolete GRL Special Permit markings remaining on the tank cars subject to the FRA notice do not represent a safety or environmental risk. There is no risk as these cars were previously permitted to operate at a GRL of greater than 263,000 pounds via Special Permit, and the now obsolete markings merely reflected such. The PHMSA final rule incorporated the applicable Special Permits into the HMR, which alleviated the need for a Special Permit.

Based on the above discussion, the absence of any safety risk, and in order to avoid annual requests for the extension of the deadline listed in FRA's January 25, 2011, **Federal Register** notice, FRA has decided to extend the deadline for the removal of the obsolete Special Permit markings to the date of each subject tank car's next required qualification pursuant to 49 CFR Part 180.

II. Extension of Deadline To Remove Obsolete PHMSA Special Permit Markings From Tank Cars

Each rail tank car subject to FRA's January 25, 2011, **Federal Register** notice (76 FR 4250) may continue in transportation with the obsolete GRL Special Permit markings present until the date of each car's next required qualification pursuant to 49 CFR Part 180. If a subject tank car continues in transportation after the date of its next required qualification without such marking being removed, FRA reserves the right to take appropriate enforcement action.

Issued in Washington, DC, on January 24, 2012.

Robert C. Lauby,

Acting Associate Administrator for Railroad Safety/Chief Safety Officer.

[FR Doc. 2012–1861 Filed 1–26–12; 8:45 am]

BILLING CODE 4910–06–P

[1] The rail tank cars subject to the notice which were required to have such markings removed were cars previously operating under PHMSA Special Permits 11241, 11654,11803, 12423, 12561,12613, 12768, 12903, 13856, 13936, 14004, 14038, 14207, 14398, 14505, and 14734.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 001005281–0369–02]

RIN 0648–XA952

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Trip Limit Reduction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; trip limit reduction.

SUMMARY: NMFS reduces the commercial trip limit of Atlantic migratory group Spanish mackerel in or from the exclusive economic zone (EEZ) in the southern zone to 1,500 lb (680 kg) per day. This trip limit reduction is necessary to maximize the socioeconomic benefits of the quota.

DATES: Effective 6 a.m., local time, January 27, 2012, until 12:01 a.m., local time, March 1, 2012, unless changed by further notification in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Susan Gerhart, telephone: (727) 824–5305, or email: *susan.gerhart@noaa.gov*.

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero, cobia, little tunny, dolphin, and, in the Gulf of Mexico only, bluefish) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act by regulations at 50 CFR part 622.

Based on the Councils' recommended total allowable catch and the allocation ratios in the FMP, NMFS implemented a commercial quota of 3.87 million lb (1.76 million kg) for the Atlantic migratory group of Spanish mackerel (65 FR 41015, July 3, 2000). Atlantic migratory group Spanish mackerel are divided into a northern and southern zone for management purposes. The southern zone for Atlantic migratory group Spanish mackerel extends from 30°42′45.6″ N. lat., which is a line directly east from the Georgia/Florida boundary, to 25°20.4′ N. lat., which is a line directly east from the Miami-Dade/Monroe County, Florida, boundary.

For the southern zone, seasonally variable trip limits are based on an adjusted quota of 3.62 million lb (1.64 million kg). The adjusted quota is calculated to allow continued harvest in the southern zone at a set rate for the remainder of the fishing year, until February 29, 2012, in accordance with 50 CFR 622.44(b)(2).

Beginning December 1, the trip limit is unlimited on weekdays and limited to 1,500 lb (680 kg) of Spanish mackerel per day on weekends. After 75 percent of the adjusted quota of Atlantic migratory group Spanish mackerel is taken until 100 percent of the adjusted quota is taken, Spanish mackerel in or from the EEZ in the southern zone may not be possessed on board or landed from a permitted vessel in amounts exceeding 1,500 lb (680 kg) per day.

NMFS has determined that 75 percent of the adjusted quota for Atlantic group Spanish mackerel has been taken. Accordingly, the 1,500-lb (680-kg) per day commercial trip limit applies to Spanish mackerel in or from the EEZ in the southern zone effective 6 a.m., local time, January 27, 2012, until 12:01 a.m., local time, March 1, 2012, unless changed by further notification in the **Federal Register**.

Classification

This action responds to the best available information recently obtained regarding the status of the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds the need to immediately implement this commercial trip limit reduction constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures would be unnecessary and contrary to the public interest. Such procedures would be unnecessary because the rule itself already has been subject to notice and comment, and all that remains is to notify the public of the trip limit reduction.

Allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to immediately implement this action to protect the fishery resource because the capacity of the commercial fleet allows for rapid harvest of the quota. Prior notice and opportunity for public comment would require time and potentially result in a harvest well in excess of the established quota.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in effectiveness of this action under 5 U.S.C. 553(d)(3).

This action is taken under 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: January 24, 2012.

James P. Burgess,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2012–1792 Filed 1–24–12; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 77, No. 18
Friday, January 27, 2012

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

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 202

[Docket No. FDA–2009–N–0582]

RIN 0910–AG27

Direct-to-Consumer Prescription Drug Advertisements; Presentation of the Major Statement in Television and Radio Advertisements in a Clear, Conspicuous, and Neutral Manner; Notice of Availability of Study Data

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; reopening of comment period on specific data.

SUMMARY: The Food and Drug Administration (FDA) is reopening the comment period on specific data related to a proposed rule published in the **Federal Register** of March 29, 2010 (75 FR 15376), to establish standards that would be considered in determining whether the major statement in direct-to-consumer (DTC) television and radio advertisements relating to the side effects and contraindications of an advertised prescription drug intended for use by humans is presented in a clear, conspicuous, and neutral manner. FDA is announcing that it has added a document to the docket for the proposed rulemaking concerning a study entitled: ''Experimental Evaluation of the Impact of Distraction on Consumer Understanding of Risk and Benefit Information in Direct-to-Consumer Prescription Drug Television Advertisements'' (Distraction Study). This study was designed to investigate some advertising factors that could influence consumers' understanding of a drug's risks. This document reopens the comment period for the rulemaking proceeding to allow an opportunity for comment on the study as it relates to the proposed standards.

DATES: Interested persons may submit either electronic or written comments on the Distraction Study report as it relates to the proposed standards by February 27, 2012.

ADDRESSES: You may submit comments, identified by Docket No. FDA–2009–N–0582 and/or RIN 0910–AG27, by any of the following methods.

Electronic Submissions

Submit electronic comments in the following way:

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

Written Submissions

Submit written submissions in the following ways:

- *FAX:* (301) 827–6870.
- *Mail/Hand delivery/Courier (For paper CD–ROM submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

Instructions: All submissions received must include the Agency name, FDA–2009–N–0582, and RIN 0910–AG27 for this rulemaking. All comments received may be posted without change to *http://www.regulations.gov,* including any personal information provided. For additional information on submitting comments, see the ''Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and insert the docket number(s), found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT:

For information concerning human drug products: Ernest S. Voyard, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Building 51, Suite 3200, Silver Spring, MD 20993–0002, (301) 796–1200.

For information concerning human biological drug products: Stephen Ripley, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Suite 200N, Rockville, MD 20852–1448, (301) 827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of March 29, 2010 (75 FR 15376), FDA published a proposed rule entitled:''Direct-to-Consumer Prescription Drug Advertisements; Presentation of the Major Statement in Television and Radio Advertisements in a Clear, Conspicuous, and Neutral Manner'' to amend its regulations concerning DTC advertisements of prescription drugs. Specifically, the proposed rule would implement a new requirement of the Federal Food, Drug, and Cosmetic Act, added by section 901(d)(3)(A) of the Food and Drug Administration Amendments Act of 2007 (FDAAA). This section requires that the major statement in DTC television or radio advertisements relating to the side effects and contraindications of an advertised prescription drug intended for use by humans be presented in a clear, conspicuous, and neutral manner, and directs FDA to publish regulations establishing the standards for determining whether a major statement meets these requirements. As directed by section 901(d)(3)(B) of FDAAA, the proposed rule described standards that the Agency would consider in determining whether the major statement is clear, conspicuous, and neutral. The proposed rule provided a 90-day period for public comment. The comment period closed June 28, 2010.

In the proposed rule (75 FR 15376 at 15379), we noted that FDA had conducted a study on the impact of distraction on consumer understanding of risk and benefit information in DTC prescription drug television advertisements (72 FR 47051, August 22, 2007) (Distraction Study). We further stated that there would be an opportunity for public comment on FDA's analyses of the results of the Distraction Study. Therefore, FDA has added the Distraction Study report to the docket and is reopening the comment period to provide an opportunity for interested parties to comment on the results of the analyses as it relates to the proposed standards.

The Distraction Study examined three factors which might influence people's understanding of the risk information in the audio portion of the advertisement: (1) The presence or absence of superimposed text, (2) the emotional (affective) tone of visual images, and (3) the consistency of the visual images

with the risk information. The results of the Distraction Study indicate that presenting risk information at the same time in text and in audio improves consumers' understanding of the risk information. The results of the Distraction Study did not find support for the idea that consumers' understanding of the risk information is influenced by the emotional (affective) tone of visual images or the consistency of the visual images with the risk information on the screen during the major statement.

II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) either electronic or written comments regarding the Distraction Study as it relates to the proposed standards. It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document and labeled ''ATTN: Distraction Study.'' The data and received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 20, 2012.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2012–1672 Filed 1–26–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 21

[Docket No. FWS–R9–MB–2011–0033; 91200–1231–9BPP]

RIN 1018–AX82

Migratory Bird Permits; Double-Crested Cormorant Management in the United States

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Request for comments; extension of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service, extend the comment period for public comments to guide the preparation of a Supplemental Environmental Impact Statement or Environmental Assessment on the development of revised regulations governing the management of double-crested cormorants. Under current regulations, cormorant damage management activities are conducted annually at the local level by individuals or agencies operating under USFWS depredation permits, the existing Aquaculture Depredation Order, or the existing Public Resource Depredation Order. The depredation orders are scheduled to expire on June 30, 2014. Our analysis will update the 2003 Final Environmental Impact Statement (FEIS): *Double-crested cormorant management in the United States* (USFWS 2003). If you have previously submitted comments, please do not resubmit them, because we have already incorporated them in the public record and will fully consider them in our final decision.

DATES: Electronic comments via *http://www.regulations.gov* must be submitted by 11:59 p.m. Eastern Time on April 6, 2012. Comments submitted by mail must be postmarked no later than April 6, 2012.

ADDRESSES: You may submit comments by either one of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments on Docket No. FWS–R9–MB–2011–0033.

U.S. Mail or hand delivery: Public Comments Processing, Attn: FWS–R9–MB–2011–0033; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 North Fairfax Drive, Mail Stop 2042–PDM; Arlington, VA 22203–1610.

We will not accept email or faxes. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information that you provide. See the Public Comments section below for more information.

FOR FURTHER INFORMATION CONTACT: Terry Doyle, Wildlife Biologist, at (703) 358–1799.

SUPPLEMENTARY INFORMATION:

Public Comments

We request comments and suggestions on this topic from other concerned governmental agencies, the scientific community, industry, or any other interested parties. You may submit your comments and materials concerning this issue by one of the methods listed in the **ADDRESSES** section. We will not consider comments sent by email or fax or to an address not listed in the **ADDRESSES** section.

If you submit a comment via *http://www.regulations.gov,* your entire comment—including any personal identifying information—will be posted on the Web site. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy comments on *http://www.regulations.gov.*

Comments and materials we receive, as well as supporting documentation we use in preparing a proposed rule, will be available for public inspection at *http://www.regulations.gov,* or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service (contact the person listed under **FOR FURTHER INFORMATION CONTACT**).

Background

On November 8, 2011, we published a request for comments for consideration as we revise the regulations governing double-crested cormorant management (76 FR 69225). We requested comments on a variety of issues related to double-crested cormorants, and asked a number of questions for consideration as we develop a proposal to revise the regulations at 50 CFR 21.47 and 21.48. See that document for detailed information.

We have received requests from two Flyways for an extension of the comment period so that they may consider the regulations and management issues at their upcoming meetings. To accommodate these requests, we extend the comment period for an additional 60 days, until April 6, 2012.

Dated: January 18, 2012.

Rachel Jacobson,

Acting, Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2012–1807 Filed 1–26–12; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 77, No. 18
Friday, January 27, 2012

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

January 23, 2012.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Rural Utilities Service

Title: 7 CFR Part 1724 and Part 1738 Electric Engineering, Architectural Services and Design Policies and Procedures; and Rural Broadband Access Loans and Loan Guarantees.

OMB Control Number: 0572–0118.

Summary of Collection: The Rural Electrification Act of 1936, 7 U.S.C. 901 *et seq.,* as amended, authorizes Rural Utilities Service (RUS) to make loans in several States and Territories of the United States for broadband access and rural electrification and the furnishing and improving of electric energy to persons in rural areas. Title 7 CFR 1724 requires each borrower to select a qualified architect to perform certain architectural services and to use the designated form that provides for these services. The agency has developed standardized contractual forms used by borrowers to contract for services.

Need and Use of the Information: The information collected stipulates the parties to the agreement, contains certain information relating to the approved loan or loan guarantee, and provides detailed contractual obligations and services to be provided and performed relating to construction, project design, construction management, compensation, and related information. The contractual forms provide standardized contract agreements between the electric or broadband borrower and the engineering or architectural firm providing services to the borrower. This has resulted in substantial savings to borrowers by reducing preparation of the documentation and the costly review by the government.

Description of Respondents: Business or other for-profit; Not-for-profit institutions.

Number of Respondents: 99.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 104.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2012–1736 Filed 1–26–12; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Extension of Public Comment Period for Draft Environmental Impact Statement: Rosemont Copper Project

AGENCY: Forest Service, USDA.

ACTION: Notice of extension.

SUMMARY: The USDA Forest Service, Coronado National Forest, is extending the public comment period for a draft environmental impact statement (DEIS) that discloses the potential impacts of a proposed action to construct; operate with concurrent reclamation; and close an open-pit mine about 30 miles southeast of Tucson, Arizona (Rosemont Copper Project). The U.S. Environmental Protection Agency (EPA) published a notice of availability (NOA) of the DEIS in the **Federal Register** on October 21, 2011 [76 FR 65509]. The NOA provided for a public comment period ending on January 18, 2012.

DATES: Because of a short-term, temporary malfunction of an electronic mailbox for receiving public comments on the DEIS, several individuals and organizations have requested an extension of the comment period. The Forest Service has decided to accommodate these requests; therefore, comments on the Rosemont Copper Project DEIS will now be accepted through January 31, 2012. Comments received or postmarked after January 31, 2012, will be considered to the extent practicable. Those parties who submit comments on or before this date will be eligible to appeal a decision on the project in accordance with 36 CFR part 215.

ADDRESSES: Copies of the DEIS are available for public review at the following locations:

* *Nogales Ranger District:* 303 Old Tucson Road, Nogales, Arizona.
* *Coronado National Forest Supervisor's Office:* 300 West Congress Street, 6th Floor, Tucson, Arizona.

Written comments on the DEIS are best submitted electronically by accessing *http://RosemontEIS.us* and following the link to ''Comment Here''. Written comments may be mailed to: Rosemont Comments, P.O. Box 4207, Logan, UT 84323–4207.

Written comments may also be submitted by facsimile to (435) 750–

8799 and by electronic mail (email) to *CoronadoNF@RosemontEIS.us.* The subject line of a facsimile or email should include the words ''Rosemont Copper Project EIS''.

Oral comments can be made by calling toll-free (888) 654–6646.

FOR FURTHER INFORMATION CONTACT: For further information, please contact Ms. Melinda Roth, Coronado National Forest, at (520) 388–8300.

Dated: January 20, 2012.

Jim Upchurch,

Forest Supervisor, Coronado National Forest.

[FR Doc. 2012–1751 Filed 1–26–12; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

National Urban and Community Forestry Advisory Council

AGENCY: Forest Service, USDA.

ACTION: Notice; Correction.

SUMMARY: The Forest Service published a notice in the **Federal Register** on December 28, 2011, stating the intent to hold a Federal Advisory Committee, (FACA) meeting of the National Urban and Community Forestry Advisory Council. The official FACA meeting scheduled in Washington, DC, on January 25–26, 2012, at the Department of Agriculture (USDA) Whitten Building has been cancelled. However, members will attend a Forest Service meeting for the purpose of training and informational exchange during the same time period.

DATES: January 25 from 9 a.m. to 4 p.m. and January 26, from 8:30 a.m. to 12 noon, 2012.

ADDRESSES: USDA Whitten Building, 12th and Jefferson Drive SW., Washington, DC 20250; Phone: (202) 205–7829.

FOR FURTHER INFORMATION CONTACT: Nancy Stremple, 201 14th Street SW., Yates Building (1 Central) MS–1151, Washington, DC 20250–1151, phone (202) 205–7829.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–(800) 877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

Correction

In the **Federal Register** of December 28, 2011, in FR doc. 2011–33216 on page 81472 in the first column, correct the ''Purpose of meeting'' has changed to read: The official FACA meeting of the National Urban and Community Forestry Advisory Council scheduled in Washington, DC, on January 25–26, 2012, at the Department of Agriculture (USDA) Whitten Building has been cancelled. However, members will attend a Forest Service meeting for the purpose of training and informational exchange during the same time period.

Dated: January 19, 2012.

Robin L. Thompson,

Associate Deputy Chief, State and Private Forestry.

[FR Doc. 2012–1731 Filed 1–26–12; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Eastern Washington Cascades Provincial Advisory Committee and the Yakima Provincial Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Eastern Washington Cascades Provincial Advisory Committee and the Yakima Provincial Advisory Committee will meet on February 22, 2012 from 9 a.m. to 3 p.m. at the Okanogan-Wenatchee National Forest Headquarters Office, 215 Melody Lane, Wenatchee, WA. During this meeting information will be shared about Washington State Discover Pass, wolf management in Washington State and Forest Plan Revision update and public response. All Eastern Washington Cascades and Yakima Province Advisory Committee meetings are open to the public.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Clint Kyhl, Designated Federal Official, USDA, Okanogan-Wenatchee National Forest, 215 Melody Lane, Wenatchee, Washington 98801, phone (509) 664–9200.

Dated: January 20, 2012.

Clinton Kyhl,

Designated Federal Official, Okanogan-Wenatchee National Forest.

[FR Doc. 2012–1816 Filed 1–26–12; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Rural Utilities Service

Notice of Funds Availability (NOFA) for the Biorefinery Assistance Program

AGENCY: Rural Business-Cooperative Service and Rural Utilities Service, USDA.

ACTION: Notice on funding availability.

SUMMARY: This notice announces there will be no funds available for the Biorefinery Assistance Program for FY 2012. Applications will not be accepted under this program until further notice.

FOR FURTHER INFORMATION CONTACT: Kelley Oehler, Energy Branch, Biorefinery Assistance Program, U.S. Department of Agriculture, 1400 Independence Avenue SW., Mail Stop 3225, Washington, DC, 20250–3225. Telephone: (202) 720–6819. Email: *kelley.oehler@wdc.usda.gov*.

SUPPLEMENTARY INFORMATION: The Biorefinery Assistance Program provides guaranteed loans for the development and construction of commercial-scale biorefineries and for the retrofitting of existing facilities using eligible technology for the development of advanced biofuels. For Fiscal Year 2012, the Agency has not been allocated funding to support this program. Applications will not be accepted until such funds are made available to the program.

Nondiscrimination Statement

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and, where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, *etc.*) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

To file a complaint of discrimination write to USDA, Director, Office of Adjudication and Compliance, 1400 Independence Avenue SW., Washington, DC 20250–9410 or call (800) 795–3272 (voice) or (202) 720–6382 (TDD). USDA is an equal opportunity provider, employer, and lender.

Dated: January 20, 2012.

Dallas Tonsager,

Under Secretary, Rural Development.

[FR Doc. 2012–1701 Filed 1–26–12; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF COMMERCE

Bureau of the Census

[Docket Number 120103003–1757–01]

Proposed Data Sharing Activity

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Notice and request for public comment.

SUMMARY: The U.S. Bureau of the Census (Census Bureau) of the Department of Commerce proposes to share business data for statistical purposes. More specifically, the Census Bureau will share selected business data of multi-location businesses with the U.S. Bureau of Labor Statistics (BLS) of the Department of Labor. In accordance with the requirement of Section 524(d) of the Confidential Information Protection and Statistical Efficiency Act of 2002, we are providing the opportunity for public comment on this data sharing action. Through the use of these shared data, BLS will use the Census Bureau's multi-location company data to achieve efficiencies in the maintenance of its universe list of U.S. businesses. The BLS employees and agents who will have access to the Census Bureau data protected by the confidentiality provisions of Title 13 are required to obtain Census Bureau Sworn Special Status. These BLS employees and agents must have suitable background clearance and must complete an annual Title 13 Awareness Training.

DATES: Written comments must be submitted on or before March 27, 2012.

ADDRESSES: Direct all written comments on this proposed program to the Director, U.S. Census Bureau, Room 8H001, Mail Stop 0100, Washington, DC 20233.

FOR FURTHER INFORMATION CONTACT: Shirin A. Ahmed, Assistant Director for Economic Programs; Room 8K108, U.S. Census Bureau, Washington, DC 20233; phone (301) 763–2558; or email *Shirin.Anne.Ahmed@census.gov.*

SUPPLEMENTARY INFORMATION:

Introduction

The Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA) (Pub. L. 107–347, sections 501–526, 44 U.S.C. 3501 note), and 13 U.S.C. 402 allow the Census Bureau to share business data for statistical purposes with the BLS. Section 524(d) of CIPSEA requires public notice of the intent to share data (allowing 60 days for public comment), whenever the data to be shared were collected through mandatory reporting, and the respondents were not informed that the data could be shared among the statistical agencies. Section 524 also requires the Census Bureau to provide information about the terms of the written data sharing agreement. The following are covered in this notice:

- Background;
- Data items to be shared with BLS;
- Improvement or creation of products by use of data for statistical purposes; and
- Legal authority regarding confidentiality and data access.

Background

Both the Census Bureau and the BLS compile and maintain their own, separate comprehensive lists of active U.S. businesses called universe lists. The Census Bureau and BLS universe lists are similar in content, and are costly for the government to maintain. The lists can also be burdensome on businesses that are required to respond to multiple surveys. However, these lists are critical to the quality of source data and the timely preparation of many key indicators of U.S. economic performance.

The Census Bureau and the BLS can achieve major qualitative enhancements and cost efficiencies through increased data sharing. Specifically, the sharing of these data will allow the two bureaus to develop consistent industry classifications of establishments and companies and improve multi-location coverage, thus improving the comparability and accuracy of Federal economic statistics.

In the *2002 Economic Report of the President,* the Council of Economic Advisers noted the critical need for reliable statistical data, and stated that expanded sharing among Federal statistical agencies would increase data quality. In an October 2005 *Workshop on the Benefits of Interagency Business Data Sharing* sponsored by the National Research Council, representatives of several agencies advocated an increase of business data sharing among Federal statistical agencies. Moreover, subsection 521(a) of CIPSEA finds that enhanced sharing of business data among these three Federal statistical agencies will improve their ability to track the large and rapidly changing nature of U.S. business more accurately. Consequently, section 522 of CIPSEA authorizes the sharing of business data among three designated statistical agencies—the Census Bureau, the BLS, and the Department of Commerce's Bureau of Economic Analysis (BEA). In addition, section 523 of CIPSEA mandates that heads of these agencies identify opportunities to eliminate duplication, reduce reporting burdens and costs imposed on the public in providing information for statistical purposes, and enter into joint statistical projects to improve the quality and reduce the cost of statistical programs.

Over the past several years, the Census Bureau and the BLS have conducted comprehensive research to evaluate each other's business lists and to analyze opportunities to improve each list through increased data sharing. This research confirms that data sharing not only will improve the comparability and accuracy of Federal economic statistics, but will also produce efficiencies.

Data Items To Be Shared With BLS

The BLS will benefit from selected multi-location data, which already exists in the Census Bureau's Business Register. The Business Register combines administrative data with Census-collected information to produce a comprehensive business universe list. Data from the 5-hear Economic Censuses and the annual Company Organization Survey (COS) provide much of the organizational, structural, and establishment-level data for multi-lation companies. The Economic Census also provides precise industrial classifications based on the value of product and/or service outputs. The Census Bureau carries out a separate data collection regarding multi-location companies, because administrative records do not identify the relationship among multi-location companies and their affiliated Employer Identification Number (EIN) entities and establishments. All of these Census Bureau data are collected under the provisions of Title 13 of the United States Code, sections 182, 195, 224, and 225.

The Census Bureau will furnish the BLS with several categories of multi-location company data:

- North American Industry Classification System (NAICS) codes and associated multi-location information, including the business name and address; state, county, and place geocodes; EINs; the source of the NAICS codes; first quarter employment; and first quarter and annual payroll.
- Enterprise linkages for multi-location companies, including the EINs

and establishment-level linkages for multi-location companies across states.

• Product-level codes from the Economic Census and other economic programs.

• Non-profit indicators from the Economic Census.

• Foreign-ownership information from the Economic Census and the COS, including the names, addresses, and EINs of multi-location companies with indications of foreign ownership, together with the foreign country codes.

The Census Bureau will provide only data that are free of Federal Tax Information.

Improvement or Creation of Products by Use of Data for Statistical Purposes

The BLS will use these shared data exclusively for authorized statistical purposes, as defined in section 502(9) of CIPSEA. As a result, a number of benefits will accrue to the Federal government from this data-sharing initiative. These benefits include the improvement of existing data products or creation of new data products. For example, the sampling frames for BLS' Producer Price Index and International Price Program can be enhanced. The BLS will use the Census Bureau's product-level codes and the associated data to augment the sampling frames and improve sampling strategies of these two programs.

The comparability and accuracy of Federal economic statistics will be improved, through the use of more consistent industry classifications. In addition, certain statistical products such as BLS' Business Establishment List will benefit from improved coverage provided by the additional Census Bureau data. The BEA will also benefit from more consistent macroeconomic statistics provided by the Census Bureau and the BLS in conducting its national accounts programs.

Legal Authority Regarding Confidentiality and Data Access

The sharing of confidential Census Bureau business data is authorized under Title 13, U.S.C., sections 8(b), 23(c), and 402; and CIPSEA. The Census Bureau data are confidential under Title 13, U.S.C., sections 9 and 214. The BLS data are protected under CIPSEA, Subtitle A; the Trade Secrets Acts, 18 U.S.C., section 1905, and BLS Commissioner's Order No. 1–06, ''Confidential Nature of BLS Statistical Data.''

Subtitle A of CIPSEA addresses confidential information protection afforded data that are acquired by Federal agencies for exclusively statistical purposes under a pledge of confidentiality. In accordance with the requirements of section 512 of CIPSEA, the BLS will use the shared data, which was acquired under a pledge of confidentiality, for exclusively statistical purposes. BLS will ensure that all confidential data will be protected and will be accessible only to authorized personnel with a work-related ''need to know.''

In addition, the BLS employees and agents who will have authorized access to confidential Census Bureau data are required to obtain Census Bureau Sworn Special Status. They will be sworn to observe the provisions of Title 13, U.S.C., section 9, and will be advised of the penalties for improper disclosure under Title 13, U.S.C., section 214, and section 513 of CIPSEA. Under both provisions, the penalties are imprisonment for no more than five years, a fine of no more than $250,000, or both. These BLS employees and agents must also have suitable background clearances and must complete an annual Title 13 Awareness Training.

To ensure the adequate safeguarding of confidential business data, the Census Bureau will also conduct annual security reviews. The BLS will permit access for the purpose of conducting these reviews by appropriately sworn employees.

Pursuant to section 524(d) of CIPSEA, the Census Bureau and BLS intend to enter into a written agreement for this data sharing action, after taking into consideration comments received in response to this notice.

Dated: January 23, 2012.

Robert M. Groves,

Director, Bureau of the Census.

[FR Doc. 2012–1804 Filed 1–26–12; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–815]

Light-Walled Rectangular Pipe and Tube From Turkey: Extension of Time Limits for Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* January 27, 2012.

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 June 28, 2011, the Department published a notice of initiation of an antidumping duty administrative review for, *inter alia,* light-walled rectangular pipe and tube from Turkey for the May 1, 2010, through April 30, 2011, period of review (POR). *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 76 FR 37781 (June 28, 2011) (*Initiation Notice*). This review covers Noksel Celik Boru Sanayi A.S. (Noksel). The preliminary results for this administrative review are due no later than January 31, 2012.

Extension of Time Limit for Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to complete the preliminary results of an administrative review within 245 days after the last day of the anniversary month of an order for which a review is requested. However, if it is not practicable to complete the review within this time period, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary results to a maximum of 365 days after the last day of the anniversary month of an order for which a review is requested.

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 include complicated issues involving Noksel's sales terms, use of multiple currencies in both markets, duty drawback claims, and certain movement expenses. The Department requires additional time to analyze sufficiently information submitted by the respondent in this administrative review. Accordingly, the Department is extending the time limit for completion of the preliminary results of this administrative review until no later than May 30, 2012, which is 120 days from the January 31, 2012, deadline and less than 365 days after the last day of the anniversary month of the order for which this review was requested. The final results continue to be due 120 days after publication of the preliminary results.

This notice is issued and published in accordance with section 351.213(d)(4) of the Department's regulations and

sections 751(a)(3)(A) and 777(i)(1) of the Act.

Dated: January 20, 2012.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2012–1811 Filed 1–26–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–869]

Large Residential Washers From the Republic of Korea: Initiation of Countervailing Duty Investigation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* January 27, 2012.

FOR FURTHER INFORMATION CONTACT: Justin Neuman or Dana Mermelstein, AD/CVD Operations, Office 6, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0486 or (202) 482–1391, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On December 30, 2011, the Department of Commerce (the Department) received a countervailing duty (CVD) petition concerning imports of large residential washers (washing machines) from the Republic of Korea (Korea) filed in proper form by Whirlpool Corporation (the petitioner), a domestic producer of washing machines. *See* ''Large Residential Washers from the Republic of Korea and Mexico: Antidumping and Countervailing Duty Petitions on Behalf of Whirlpool Corporation,'' dated December 30, 2011 (Korea CVD Petition). On January 5 and 6, 2012, the Department issued additional requests for information and clarification of certain areas of the Korea CVD Petition. Based on the Department's requests, the petitioner timely filed additional information pertaining to the Korea CVD Petition on January 9, 2012 (First Supplement to the AD/CVD Petitions). The Department made an additional request for information on January 9, 2012, to which the petitioner timely filed additional information pertaining to the Korea CVD Petition on January 11, 2012 (Second Supplement to the AD/CVD Petitions).

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended, (the Act), the petitioner alleges that producers/exporters of washing machines in Korea received countervailable subsidies within the meaning of sections 701 and 771(5) of the Act, and that imports from these producers/exporters materially injure, or threaten material injury to, an industry in the United States.

The Department finds that the petitioner has filed this CVD petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act, and the petitioner has demonstrated sufficient industry support with respect to the CVD investigation that it is requesting the Department to initiate (*see* ''Determination of Industry Support for the CVD Petition'' below).

Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, the Department held consultations in Washington, DC with the Government of Korea (GOK) with respect to the Korea CVD Petition on January 12, 2012. *See* Memorandum to The File, ''Consultations with the Government of Korea Regarding the Countervailing Duty Petition on Large Residential Washers from Korea,'' dated January 17, 2012, a public document on file in the Central Records Unit (CRU), Room 7046 of the main Department of Commerce building.

Period of Investigation

The period of investigation (POI) is calendar year 2011, *i.e.,* January 1, 2011, through December 31, 2011. *See* 19 CFR 351.204(b)(2).

Scope of the Investigation

The products covered by this investigation are washing machines from Korea. For a full description of the scope of this investigation, please see the ''Scope of the Investigation'' Appendix to this notice.

Comments on Scope of the Investigation

During our review of the Korea CVD Petition, we discussed the scope with the petitioner to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the regulations (*See Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments by the close of business February 8, 2012, 20 calendar days from the signature date of this notice. All comments must be filed on the records of the simultaneously initiated Korea (A–580–868) and Mexico (A–201–841) antidumping duty investigations as well as the Korea CVD investigation. All comments and submissions to the Department must be filed electronically using Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS).[1] An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by the time and date noted above. Documents excepted from the electronic submission requirements must be filed manually (*i.e.,* in paper form) with the Import Administration's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, and stamped with the date and time of receipt by the deadline noted above.

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the industry.

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the

[1] *See http://www.gpo.gov/fdsys/pkg/FR–2011–07–06/pdf/2011–16352.pdf* for details of the Department's Electronic Filing Requirements, which went into effect on August 5, 2011. Information on help using IA ACCESS can be found at *https://iaaccess.trade.gov/help.aspx* and a handbook can be found at *https://iaaccess.trade.gov/help/Handbook%20on%20Electronic%20Filling%20Procedures.pdf.*

domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (*see* section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001), citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989).

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that washing machines constitute a single domestic like product and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like product analysis in this case, *see* Countervailing Duty Investigation Initiation Checklist: Large Residential Washers from the Republic of Korea (Korea CVD Initiation Checklist) at Attachment II, Analysis of Industry Support for the Petitions Covering Large Residential Washers from the Republic of Korea and Mexico, on file electronically in the CRU via IA ACCESS.

In determining whether the petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the petition with reference to the domestic like product as defined in the ''Scope of the Investigation'' section above. To establish industry support, the petitioner provided its shipments of the domestic like product in 2010, and compared its shipments to the estimated total shipments of the domestic like product for the entire domestic industry. *See* Volume I of the petition, at 10–14; Volume II of the petition, at Exhibits 2–3, 5–8, and 9; First Supplement to the AD/CVD Petitions, at 4–8 and Exhibits A–C; and Second Supplement to the AD/CVD Petitions, at 4–5 and Exhibits Q–R. Because total industry production data for the domestic like product for 2010 is not reasonably available and the petitioner has established that shipments are a reasonable proxy for production data, we have relied upon the shipment data provided by the petitioner for purposes of measuring industry support. For further discussion, *see* Korea CVD Initiation Checklist, at Attachment II.

Our review of the data provided in the petition, supplemental submissions, and other information readily available to the Department indicates that the petitioner has established industry support. First, the petition established support from domestic producers accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.,* polling). *See* section 702(c)(4)(D) of the Act and Korea CVD Initiation Checklist, at Attachment II. Second, the domestic producers have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the petition account for at least 25 percent of the total production of the domestic like product. *See* Korea CVD Initiation Checklist, at Attachment II. Finally, the domestic producers have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Accordingly, the Department determines that the petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act. *See id.*

The Department finds that the petitioner filed the petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it has demonstrated sufficient industry support with respect to the countervailing duty investigation that it is requesting the Department initiate. *See id.*

Injury Test

Because Korea is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from Korea materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.

The petitioner contends that the industry's injured condition is illustrated by reduced market share, reduced shipments, underselling and price depression or suppression, a decline in financial performance, lost sales and revenue, and an increase in the volume of imports and import penetration. *See* Volume I of the Korea CVD Petition, at 1–6 and 156–181; Volume II of the petitions, at Exhibits 1–4, 9, 33–38, and 49; and First Supplement to the AD/CVD Petitions, at 8–13 and Exhibits C–L. We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by information reasonable available to the petitioner and meet the statutory requirements for initiation. *See* Korea CVD Initiation Checklist at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Petitions Covering Large Residential Washers from the Republic of Korea and Mexico.

Initiation of Countervailing Duty Investigation

Section 702(b)(1) of the Act requires the Department to initiate a CVD investigation whenever an interested party files a CVD petition on behalf of an industry that: (1) Alleges the elements necessary for an imposition of a duty under section 701(a) of the Act; and (2) is accompanied by information reasonably available to the petitioner supporting the allegations.

The Department has examined the countervailing duty petition on washing machines from Korea and finds that it complies with the requirements of

section 702(b)(1) of the Act. Therefore, in accordance with section 702(b)(1) of the Act, we are initiating a CVD investigation to determine whether Korean producers/exporters of washing machines receive countervailable subsidies. For a discussion of evidence supporting our initiation determination, *see* Korea CVD Initiation Checklist.

We are including in our investigation the following programs alleged in the Korea CVD Petition to provide countervailable subsidies to producers/exporters of the subject merchandise:

1. Daewoo Electronics Corporation (Daewoo) Restructuring

a. GOK-Directed Equity Infusions under the Daewoo Workout

b. GOK-Directed Ongoing Preferential Lending under the Daewoo Workout

2. GOK Facilities Investment Support: Article 26 of the Restriction of Special Taxation Act (RSTA)

3. Tax Reduction for Research and Manpower Development: RSTA Article 10(1)(3)

4. GOK Targeted Green ''Stimulus'' Subsidies

a. Research, Supply, or Workforce Development Investment Tax Deductions for ''New Growth Engines'' Under RSTA Art. 10(1)(1)

b. Research, Supply, or Workforce Development Expense Tax Deductions for ''Core Technologies'' Under RSTA Art. 10(1)(2)

c. RSTA Art. 25(2) Tax Deductions for Investments in Energy Economizing Facilities

d. GOK Subsidies for ''Green Technology R&D'' and its Commercialization

e. Industrial Bank of Korea (IBK) Preferential Loans to Green Enterprises

f. Support for SME ''Green Partnerships''

5. Korea Trade Insurance Corporation—Short-Term Export Credit Insurance

6. Korea Export-Import Bank—Export Factoring

7. Korea Development Bank and IBK Short-Term Discounted Loans for Export Receivables

8. GOK 21st Century Frontier and Other R&D Programs

9. Gwangju Metropolitan City Production Facilities Subsidies: Tax Reductions/Exemptions under Article 276 of the Local Tax Act

10. GOK Supplier Support Fund Tax Deduction

For a description of each of these programs and a full discussion of the Department's decision to initiate an investigation of these programs, see Korea CVD Initiation Checklist.

Respondent Selection

The petition identifies three Korean producers that export washing machines to the United States: Samsung Electronics Co., Ltd. (Samsung), LG Electronics, Inc. (LG), and Daewoo Electronics Corporation (Daewoo). There is no information indicating that there are other Korean producers/exporters of the subject merchandise. Accordingly, the Department is selecting Samsung, LG, and Daewoo as mandatory respondents in this investigation pursuant to section 777A(e)(1) of the Act. Interested parties may submit comments regarding respondent selection within five calendar days of publication of this notice. Comments should be filed electronically using IA ACCESS.

Distribution of Copies of the CVD Petition

In accordance with section 702(b)(4)(A)(i) of the Act and 19 CFR 351.202(f) copies of the public versions of the Korea CVD Petition and amendments thereto have been provided to the GOK. To the extent practicable, we will attempt to provide a copy of the public version of the Korea CVD Petition to each exporter named in the petition, as provided under 19 CFR 351.203(c)(2).

ITC Notification

We have notified the ITC of our initiation, as required by section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the petition was filed, whether there is a reasonable indication that imports of allegedly subsidized washing machines from Korea materially injure, or threaten material injury to, a U.S. industry. *See* section 703(a)(2) of the Act. A negative ITC determination will result in the investigation being terminated. *See* section 703(a)(1) of the Act. Otherwise, the investigation will proceed according to statutory and regulatory time limits.

Notification to Interested Parties

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305(b). On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures* (73 FR 3634). Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (*e.g.,* the filing of letters of appearance as discussed at 19 CFR 351.103(d)). Instructions for filing such applications may be found on the Department's Web site at *http://ia.ita.doc.gov/apo*.

Any party submitting factual information in an AD/CVD proceeding must certify to the accuracy and completeness of that information. *See* section 782(b) of the Act. Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in all segments of any AD/CVD proceedings initiated on or after March 14, 2011. *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Interim Final Rule,* 76 FR 7491 (February 10, 2011) (*Interim Final Rule*) and *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Supplemental Interim Final Rule,* 76 FR 54697 (September 2, 2011) (*Supplement*) (amending 19 CFR 351.303(g)). The formats for the revised certifications are provided at the end of the *Interim Final Rule* and the *Supplement*. In this proceeding, the Department intends to reject factual submissions if the submitting party does not comply with the revised certification requirements.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: January 19, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix I—Scope of the Investigation

The products covered by this investigation are all large residential washers and certain subassemblies thereof from Korea.

For purposes of this investigation, the term ''large residential washers'' denotes all automatic clothes washing machines, regardless of the orientation of the rotational axis, with a cabinet width (measured from its widest point) of at least 24.5 inches (62.23 cm) and no more than 32.0 inches (81.28 cm).

Also covered are certain subassemblies used in large residential washers, namely: (1) All assembled cabinets designed for use in large residential washers which incorporate, at a minimum: (a) At least three of the six cabinet surfaces; and (b) a bracket; (2) all assembled tubs [2] designed for use in large residential washers which incorporate, at a minimum: (a) A tub; and (b) a seal; (3) all assembled baskets [3] designed for use in large

[2] A ''tub'' is the part of the washer designed to hold water.

[3] A ''basket'' (sometimes referred to as a ''drum'') is the part of the washer designed to hold clothing or other fabrics.

residential washers which incorporate, at a minimum: (a) A side wrapper;[4] (b) a base; and (c) a drive hub;[5] and (4) any combination of the foregoing subassemblies.

Excluded from the scope are stacked washer-dryers and commercial washers. The term ''stacked washer-dryers'' denotes distinct washing and drying machines that are built on a unitary frame and share a common console that controls both the washer and the dryer. The term ''commercial washer'' denotes an automatic clothes washing machine designed for the ''pay per use'' market meeting either of the following two definitions:

(1) (a) It contains payment system electronics;[6] (b) it is configured with an externally mounted steel frame at least six inches high that is designed to house a coin/token operated payment system (whether or not the actual coin/token operated payment system is installed at the time of importation); (c) it contains a push button user interface with a maximum of six manually selectable wash cycle settings, with no ability of the end user to otherwise modify water temperature, water level, or spin speed for a selected wash cycle setting; and (d) the console containing the user interface is made of steel and is assembled with security fasteners;[7] *or*

(2) (a) It contains payment system electronics; (b) the payment system electronics are enabled (whether or not the payment acceptance device has been installed at the time of importation) such that, in normal operation,[8] the unit cannot begin a wash cycle without first receiving a signal from a *bona fide* payment acceptance device such as an electronic credit card reader; (c) it contains a push button user interface with a maximum of six manually selectable wash cycle settings, with no ability of the end user to otherwise modify water temperature, water level, or spin speed for a selected wash cycle setting; and (d) the console containing the user interface is made of steel and is assembled with security fasteners.

The products subject to this investigation are currently classifiable under subheading 8450.20.0090 of the Harmonized Tariff System of the United States (HTSUS). Products subject to this investigation may also enter under HTSUS subheadings 8450.11.0040, 8450.11.0080, 8450.90.2000, and 8450.90.6000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this scope is dispositive.

[FR Doc. 2012–1697 Filed 1–26–12; 8:45 am]

BILLING CODE 3510–DS–P

[4] A ''side wrapper'' is the cylindrical part of the basket that actually holds the clothing or other fabrics.

[5] A ''drive hub'' is the hub at the center of the base that bears the load from the motor.

[6] ''Payment system electronics'' denotes a circuit board designed to receive signals from a payment acceptance device and to display payment amount, selected settings, and cycle status. Such electronics also capture cycles and payment history and provide for transmission to a reader.

[7] A ''security fastener'' is a screw with a non-standard head that requires a non-standard driver. Examples include those with a pin in the center of the head as a ''center pin reject'' feature to prevent standard Allen wrenches or Torx drivers from working.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA939

Atlantic Highly Migratory Species; Meeting of the Atlantic Highly Migratory Species Advisory Panel

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: NMFS will hold a 3-day Atlantic Highly Migratory Species (HMS) Advisory Panel (AP) meeting in March 2012. The intent of the meeting is to consider options for the conservation and management of Atlantic HMS. The meeting is open to the public.

DATES: The AP meeting will be held March 13, 2012, through March 15, 2012.

ADDRESSES: The meeting will be held at the Crowne Plaza Hotel, 8777 Georgia Avenue, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Jenni Wallace or Margo Schulze-Haugen at (301) 427–8503.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.,* as amended by the Sustainable Fisheries Act, Public Law 104–297, provided for the establishment of an AP to assist in the collection and evaluation of information relevant to the development of any Fishery Management Plan (FMP) or FMP amendment for Atlantic HMS. NMFS consults with and considers the comments and views of AP members when preparing and implementing FMPs or FMP amendments for Atlantic tunas, swordfish, billfish, and sharks.

The AP has previously consulted with NMFS on: Amendment 1 to the Billfish FMP (April 1999); the HMS FMP (April 1999); Amendment 1 to the HMS FMP (December 2003); the Consolidated HMS FMP (October 2006); and Amendments 1, 2, 3, 4 and 5 to the Consolidated HMS FMP (April and October 2008, February and September 2009, May 2010, and September 2011); among other things.

At the March 2012 AP meeting, NMFS plans to discuss overall bluefin tuna management; revitalizing the swordfish fishery; shark management measures such as rebuilding scalloped hammerhead, dusky, and blacknose sharks and catch shares; and items contained in the Advanced Notice of Proposed Rulemaking that published on June 1, 2009 (74 FR 26174), which considered a variety of potential management options/measures for HMS fisheries. The meeting will also include updates on the 2011 ICCAT meeting and any implementation requirements; electronic dealer reporting; smoothhound shark management; and recreational monitoring methods for Atlantic HMS fisheries.

Additional information on the venue and an agenda will be provided at a later date.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Jenni Wallace at (301) 427–8503 at least 7 days prior to the meeting.

Dated: January 24, 2012.

James P. Burgess,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2012–1828 Filed 1–26–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA962

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Council to convene a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene a meeting of the Shrimp Stock Assessment Workshop.

DATES: The meeting will convene at 8:30 a.m.–5 p.m. daily on Tuesday, February 14 through Thursday, February 16, 2012.

ADDRESSES: The meeting will be held at the NOAA Fisheries Galveston Laboratory, 4700 Avenue U, Galveston, TX 77551–5997.

Council address: Gulf of Mexico Fishery Management Council, 2203 N. Lois Avenue, Suite 1100, Tampa, FL 33607.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Leard, Deputy Executive Director/Senior Fishery Biologist; Gulf of Mexico Fishery Management Council; telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION: The Shrimp Stock Assessment Review Workshop will evaluate the data used in the assessment and whether data uncertainties acknowledged/reported are within normal or expected levels, *e.g.,* recruitment deviations; whether data were applied properly within the assessment model; are input data series reliable and sufficient to support the assessment approach and findings; whether selectivity functions are acceptable and biologically realistic for both fisheries independent and dependent data. The Workshop will also evaluate the assessment findings with respect to the following: Are abundance, exploitation, and biomass estimates reliable and consistent with input data and population biological characteristics, and useful to support status inferences; are quantitative estimates of the status determination criteria for this stock reliable; consider how uncertainties in the assessment, and their potential consequences, are addressed, *e.g.,* sensitivity analysis runs. A Panel Review Report summarizing the evaluation of the stock assessment and addressing each Term of Reference will be developed along with a list of tasks to be completed following the workshop.

Note: The Workshop will address the aforementioned issues for each of the three shrimp species (brown, white, and pink), and a separate Panel Review Report for each species will be developed.

Copies of the agenda and other related materials can be obtained by calling (813) 348–1630.

Although other non-emergency issues not on the agenda may come before the Scientific and Statistical Committee's workgroup for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Actions will be restricted to those issues specifically identified in the agenda and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kathy Pereira at the Council (see **ADDRESSES**) at least 5 working days prior to the meeting.

Dated: January 24, 2012.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2012–1748 Filed 1–26–12; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds products to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Effective Date:* 2/27/2012.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia, 22202–3259.

FOR FURTHER INFORMATION CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On 9/30/2011 (76 FR 60810) and 11/14/2011 (76 FR 70423–70424), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and impact of the additions on the current or most recent contractors, the Committee has determined that the products listed below are suitable for procurement by the Federal Government under 41 USC 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products to the Government.

2. The action will result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 USC 8501–8506) in connection with the products proposed for addition to the Procurement List.

End of Certification

Accordingly, the following products are added to the Procurement List:

Products

NSN: 2510–01–210–2748—Door Assembly, Heater/Defroster, HMMWV series M998.
NPA: Opportunities, Inc. of Jefferson County, Fort Atkinson, WI.
Contracting Activity: Defense Logistics Agency Land and Maritime, Columbus, OH.
Coverage: C-List for 100% of the requirement of the Department of Defense, as aggregated by the Defense Logistics Agency Land and Maritime, Columbus, OH.

NSN: 8040–00–NIB–0019—Dispenser, Disposable, Permanent Adhesive Tape.
NPA: Industries for the Blind, Inc., West Allis, WI.
Contracting Activity: General Services Administration, Kansas City, MO.
Coverage: B-List for the Broad Government Requirement as aggregated by the General Services Administration.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2012–1777 Filed 1–26–12; 8:45 am]

BILLING CODE 6353–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Information Collection; Submission for OMB Review, Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (the Corporation), has submitted a public information collection request (ICR) entitled Disaster Response Cooperative Agreement (DRCA) application for review and approval in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, (44 U.S.C. Chapter 35). Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Kelly DeGraff, at (202) 606–3612 or email to dsu@cns.gov. Individuals who use a telecommunications device for the deaf (TTY–TDD) may call 1–(800) 833–3722

between 8 a.m. and 8 p.m. Eastern Time, Monday through Friday.

ADDRESSES: Comments may be submitted, identified by the title of the information collection activity, to the Office of Information and Regulatory Affairs, Attn: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service, by any of the following two methods within 30 days from the date of publication in the **Federal Register**:

(1) By fax to: (202) 395–6974, Attention: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service; and

(2) Electronically by email to: *smar@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Comments

A 60-day public comment Notice was published in the **Federal Register** on October 18, 2011. This comment period ended December 18, 2011. No public comments were received from this Notice.

Description: The Corporation is seeking approval of Disaster Response Cooperative Agreement (DRCA) application which is used by state service commissions and current grantee and sub-grantees of CNCS to engage members and participants in disaster response efforts to federally declared disasters and to be eligible to be reimbursed for expenses occurred while engaged in such efforts. This document describes eligibility criteria, the nature of disaster deployments, the Corporation's expectations for performance upon selection, and the application process. This agreement is the legal instrument by which organizations can be reimbursed by the Corporation for expenses incurred by the response, when it occurs under authority of a Mission Assignment from FEMA or another agency.

Copies of the information collection request can be obtained by contacting the office listed in the addresses section of this notice.

Type of Review: Renewal.

Agency: Corporation for National and Community Service.

Title: Disaster Response Cooperative Agreements.

OMB Number: 3045–0133.

Agency Number: None.

Affected Public: Current grantees and Corporation-supported programs.

Total Respondents: 100.

Frequency: Frequency.

Average Time per Response: 2 hours.

Estimated Total Burden Hours: 200

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Dated: January 23, 2012.

Kelly DeGraff,

Director, Disaster Services, Senior Advisor, Strategic Plan Disaster Services Focus Area.

[FR Doc. 2012–1806 Filed 1–26–12; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Reserve Forces Policy Board (RFPB); Notice of Advisory Committee Meeting

AGENCY: Department of Defense, Office of the Secretary of Defense Reserve Forces Policy Board.

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Sunshine in the Government Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense announces the following Federal advisory committee meeting of the Reserve Forces Policy Board (RFPB).

DATES: Wednesday, March 7, 2012, from 7:20 a.m.–3:30 p.m.

ADDRESSES: Meeting address is Pentagon Library and Conference Center, Room B6, Arlington, VA. Mailing address is Reserve Forces Policy Board, 5113 Leesburg Pike, Suite 601, Falls Church, VA 22041.

FOR FURTHER INFORMATION CONTACT: Lt. Col. Ken Olivo, Designated Federal Officer, (703) 681–0600 (Voice), (703) 681–0002 (Facsimile), *RFPB@osd.mil.* Mailing address is Reserve Forces Policy Board, 5113 Leesburg Pike, Suite 601, Falls Church, VA 22041. Web site: *http://ra.defense.gov/rfpb/.*

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting: A preparatory meeting, not open to the public from 7:20 a.m. to 1:30 p.m., and an open meeting from 1:30 p.m. to 3:30 p.m. of the Reserve Forces Policy Board.

Agenda: Operational Readiness/Top Issues Briefs, and Subcommittee Briefs.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.165, and the availability of space, the open portion of the meeting is open to the public. To request a seat, contact the Designated Federal Officer not later than February 27, 2012 at (703) 681–0600, or by email, *RFPB@osd.mil.*

Written Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to the membership of the Reserve Forces Policy Board at any time or in response to the stated agenda of a planned meeting. Written statements should be submitted to the Reserve Forces Policy Board's Designated Federal Officer. The Designated Federal Officer's contact information can be obtained from the GSA's FACA Database—*https://www.fido.gov/facadatabase/public.asp.*

Written statements that do not pertain to a scheduled meeting of the Reserve Forces Policy Board may be submitted at any time. However, if individual comments pertain to a specific topic being discussed at a planned meeting then these statements must be submitted no later than five business days prior to the meeting in question. The Designated Federal Officer will review all submitted written statements and provide copies to all the committee members.

Dated: January 24, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2012–1788 Filed 1–26–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Renewal of Department of Defense Federal Advisory Committees

AGENCY: DoD.

ACTION: Renewal of Federal Advisory Committee.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972, (5 U.S.C. Appendix), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b), and 41 CFR 102–3.50(d), the Department of Defense gives notice that it is renewing the charter for the National Intelligence University Board of Visitors (hereafter referred to as ''the Board''). The Board was formerly known as the Board of Visitors for the National Defense Intelligence College. The National Intelligence University Board of Visitors, pursuant to 41 CFR 102–3.50(d), is a discretionary Federal advisory committee established to provide the Secretary of Defense through the Under Secretary of Defense for Intelligence and the Director of the Defense Intelligence Agency, advice and recommendations on matters relating to mission, policy, accreditation, faculty, student, facilities, curricula, educational methods, research, and administration of the National Intelligence University.

The Director, Defense Intelligence Agency, may act upon the Board's advice and recommendations.

The Board shall be comprised of no more than 12 members, who are distinguished members of the national intelligence community, defense, and academia. Board members shall be appointed by the Secretary of Defense, and their membership must be renewed by the Secretary of Defense on an annual basis.

Board members appointed by the Secretary of Defense, who are not full-time or permanent part-time federal employees, shall be appointed to serve as experts and consultants under the authority of 5 U.S.C. 3109, and to serve as special government employees.

The Secretary of Defense may approve the appointment of Board members for one to four year terms of service; however, no member, unless authorized by the Secretary of Defense, may serve more than two consecutive terms of service. This same term of service limitation also applies to any DoD authorized subcommittees.

Regardless of the individual's approval term of service, all appointments to the Board shall be renewed on an annual basis. In addition, they shall serve without compensation, except for travel and per diem for official Board-related travel.

Each Board member is appointed to provide advice on behalf of the government on the basis of his or her best judgment without representing any particular point of view and in a manner that is free from conflict of interest.

With DoD approval, the Board is authorized to establish subcommittees, as necessary and consistent with its mission. These subcommittees shall operate under the provisions of the Federal Advisory Committee Act of 1972, the Government in the Sunshine Act of 1976 (5 U.S.C. 552b), and other governing Federal regulations.

Such subcommittees shall not work independently of the chartered Board, and shall report all their recommendations and advice to the Board for full deliberation and discussion. Subcommittees have no authority to make decisions on behalf of the chartered Board; nor can they report directly to the Department of Defense or any Federal officers or employees who are not Board members.

Subcommittee members, who are not Board members, shall be appointed in the same manner as the Board members. Such individuals, if not full-time or part-time government employees, shall be appointed to serve as experts and consultants under the authority of 5 U.S.C. 3109, and serve as special government employees, whose appointments must be renewed by the Secretary of Defense on an annual basis. With the exception of travel and per diem for official travel, subcommittee members shall serve without compensation.

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Deputy Advisory Committee Management Officer for the Department of Defense, (703) 692–5952.

SUPPLEMENTARY INFORMATION: The Board shall meet at the call of the Board's Designated Federal Officer, in consultation with the Board's Chairperson and the Director of the Defense Intelligence Agency. The estimated number of Board meetings is four per year.

In addition, the Designated Federal Officer is required to be in attendance at all Board and subcommittee meetings for the entire duration of each and every meeting; however, in the absence of the Designated Federal Officer, the Alternate Designated Federal Officer shall attend the entire duration of the Board or subcommittee meeting.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to Defense Intelligence Agency Advisory Board's membership about the Board's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of Defense Intelligence Agency Advisory Board.

All written statements shall be submitted to the Designated Federal Officer for the Defense Intelligence Agency Advisory Board, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the Defense Intelligence Agency Advisory Board Designated Federal Officer can be obtained from the GSA's FACA Database—*https://www.fido.gov/facadatabase/public.asp.*

The Designated Federal Officer, pursuant to 41 CFR 102–3.150, will announce planned meetings of the Defense Intelligence Agency Advisory Board. The Designated Federal Officer, at that time, may provide additional guidance on the submission of written statements that are in response to the stated agenda for the planned meeting in question.

Dated: January 23, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2012–1730 Filed 1–26–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID: USAF–2012–0002]

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, DoD.

ACTION: Notice to Delete a System of Records.

SUMMARY: The Department of the Air Force is deleting a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective on February 27, 2012 unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

* *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

* *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are

received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mr. Charles J. Shedrick, Department of the Air Force Privacy Office, Air Force Privacy Act Office, Office of Warfighting Integration and Chief Information Officer, ATTN: SAF/XCPPI, 1800 Air Force Pentagon, Washington, DC 20330–1800 or at (202) 404–6575.

SUPPLEMENTARY INFORMATION: The Department of the Air Force systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT**.

The Department of the Air Force proposes to delete one system of records notice from its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The proposed deletion is not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: January 24, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DELETION:

F036 AFPC H

SYSTEM NAME:

Medical Opinions on Board for Correction of Military Records Cases (BCMR) (May 9, 2003, 68 FR 24949).

Reason: Documents are no longer required to be maintained by Air Force Personnel Center (AFPC), Medical Officer Accessions and Special Programs. The Secretary of the Air Force (SAF), Air Force Board for the Correction of Military Records (BCMR) is responsible for maintaining documentation. F036 AFPC H, Medical Opinions on Board for Correction of Military Records Cases (BCMR) (May 9, 2003, 68 FR 24949) therefore can be deleted. Records in this system will not be destroyed until the National Archives and Records Administration (NARA) retention has been fulfilled.

[FR Doc. 2012–1762 Filed 1–26–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID: USAF–2012–0003]

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, DoD.

ACTION: Notice to amend a system of records.

SUMMARY: The Department of the Air Force is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective on February 27, 2012 unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

* *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

* *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mr. Charles J. Shedrick, Department of the Air Force Privacy Office, Air Force Privacy Act Office, Office of Warfighting Integration and Chief Information officer, ATTN: SAF/XCPPI, 1800 Air Force Pentagon, Washington DC 20330–1800 or at (202) 404–6575.

SUPPLEMENTARY INFORMATION: The Department of the Air Force systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT**.

The Department of the Air Force proposes to amend one system of records notice from its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The proposed amendment is not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: January 24, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

F036 AF PC H

SYSTEM NAME:

Air Force Enlistment/Commissioning Records System (June 11, 1997, 62 FR 31793).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with ''Air Force Personnel Center, 550 C Street West, Randolph Air Force Base, TX 78150–4703; Headquarters Recruiting Service, 550 D Street West, Randolph Air Force Base, TX 78150–4527; Recruiting Offices; Military Entrance Processing Stations, and Liaison Noncommissioned Officer offices in all states. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.''

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''10 U.S.C. Chapter 31, Enlistments; Air Force Instruction 36–2002, Regular Air Force and Special Category Accessions; Air Force Instruction 36–2013, Officer Training School (OTS) and Enlisted Commissioning Programs (ECPS); and E.O. 9397 (SSN), as amended.''

* * * * *

STORAGE:

Delete entry and replace with ''Paper files maintained in file folders/cabinets.''

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with ''Commissioning records at Headquarters Recruiting Service are maintained for one year. Files of applicants not enlisted are retained in the local recruiting office and destroyed after two years. Records of commissioned officers and enlistees that are not forwarded to Master and Unit Personnel Records files are destroyed after two years. Records are destroyed by tearing into pieces, burning, shredding, macerating or pulping.''

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Commander, Air Force Personnel

Center, 550 C Street West, Randolph Air Force Base, TX 78150–4703; Commander, Headquarters Recruiting Service, 550 D Street West, Randolph Air Force Base, TX 78150–4527.''

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the system manager or recruiting officials at the respective recruiting office location. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices. Written request should contain individual's full name and SSN.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the system manager or recruiting officials at the respective recruiting office location. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of record notices. Written request should contain individual's full name and SSN.''

CONTESTING RECORD PROCEDURES:

Delete entry and replace with ''The Air Force rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Air Force Instruction 33–332, Air Force Privacy Program; 32 CFR part 806b; or may be obtained from the system manager.''

* * * * *

[FR Doc. 2012–1799 Filed 1–26–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Comment request.

SUMMARY: The Department of Education (the Department), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the reporting burden on the public and helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Interested persons are invited to submit comments on or before March 27, 2012.

ADDRESSES: Written comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov* or mailed to U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Washington, DC 20202–4537. Please note that written comments received in response to this notice will be considered public records.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that Federal agencies provide interested parties an early opportunity to comment on information collection requests. The Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: January 24, 2012.

Darrin A. King,

Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

Office of Postsecondary Education

Type of Review: Revision.

Title of Collection: Child Care Access Means Parents in School Program Annual Performance Report.

OMB Control Number: 1840–0763.

Total Estimated Number of Responses: 153.

Total Estimated Number of Burden Hours: 1,071.

Abstract: This is a revision of the Child Care Access Means Parent in School Program (CCAMPIS) Annual Performance Report (APR) which grantees must submit annually. The report provides the Department of Education with information needed to evaluate a grantee's performance and compliance with program requirements in accordance with the program authorizing statute. The data collected is aggregated to provide national information on project participants and the results demonstrated by program outcomes. The burden hours are increased due to additional queries that have been added to the APR that capture more specific data needed to enhance the understanding of results demonstrated by this program in accordance with Office of Management and Budget mandates.

Copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 4790. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to (202) 401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–(800) 877–8339.

[FR Doc. 2012–1832 Filed 1–26–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Comment request.

SUMMARY: The Department of Education (the Department), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the reporting burden on the public and helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Director, Information Collection Clearance

Division, Privacy, Information and Records Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Interested persons are invited to submit comments on or before March 27, 2012.

ADDRESSES: Written comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov* or mailed to U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Washington, DC 20202–4537. Please note that written comments received in response to this notice will be considered public records.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that Federal agencies provide interested parties an early opportunity to comment on information collection requests. The Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: January 24, 2012.

Darrin A. King,

Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

Institute of Education Sciences

Type of Review: New.

Title of Collection: Study of Promising Features of Teacher Preparation Programs; Phase 1—Recruitment.

OMB Control Number: 1850–NEW.

Agency Form Number(s): N/A.

Total Estimated Number of Annual Responses: 2,570.

Total Estimated Number of Annual Burden Hours: 2,513.

Abstract: This Information Collection Request (ICR) seeks clearance to select teacher preparation programs, and recruit districts and schools, collect student rosters, and administer a baseline student achievement test for an experimental study of the effect on student learning of teachers who have experienced certain types of clinical practice features within university-based preparation programs.

The objective of this study is to use causal methods to examine the effectiveness of certain university-based clinical practice features for novice teachers. Teachers who have experienced certain types of clinical practice features and who have completed those features are hypothesized to produce higher average student test scores than teachers who have not done so. Using a randomized controlled trial, students will be randomly assigned to a pair of teachers in the same school and grade level, one of whom will have experienced the type of clinical practice of interest (''treatment'') while the other will not have experienced the feature (''control''). Average test scores of the two groups will then be compared.

The Phase I—Recruitment ICR entails the identification of recently-hired teacher pairs who meet the study's eligibility requirements. The study will use a multi-step process to identify these teachers, including identifying feasible states for the study, selecting the specific features related to clinical practice (i.e., the ''program''), identifying university-based teacher preparation programs that require such clinical practice, identifying feasible districts and schools for the study, and finally, confirming eligibility of potential teachers for the study. The Phase I—Recruitment ICR requests approval to collect information from preparation programs about their requirements, focusing on aspects of clinical practice specifically, and to collect preliminary information from teachers about their training to determine their eligibility for the study. This package also provides an overview of the study, including its design and data collecting procedures.

Copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 4792. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to (202) 401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1 (800) 877–8339.

[FR Doc. 2012–1834 Filed 1–26–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Arbitration Panel Decision Under the Randolph-Sheppard Act

AGENCY: Department of Education.

ACTION: Notice of decision.

SUMMARY: The Department of Education (Department) gives notice that on August 29, 2011, an arbitration panel rendered a decision in the matter of the *Oregon Commission for the Blind* v. *United States Department of Veterans Affairs,* Case no. R–S/09–2. This panel was convened by the Department under the Randolph-Sheppard Act (Act) after the Department received a complaint filed by the Oregon Commission for the Blind.

FOR FURTHER INFORMATION CONTACT: You can obtain a copy of the full text of the arbitration panel decision from Mary Yang, U.S. Department of Education, 400 Maryland Avenue SW., room 5162, Potomac Center Plaza, Washington, DC 20202–2800. Telephone: (202) 245–6327. If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll-free, at 1–(800) 877–8339.

Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION: Under section 6(c) of the Act, 20 U.S.C. 107d–2(c), the Secretary publishes in the **Federal Register** a synopsis of each arbitration panel decision affecting the administration of vending facilities on Federal and other property.

Background

The Oregon Commission for the Blind (Complainant) alleged the United States Department of Veterans Affairs (DVA) violated the Act and its implementing regulations in 34 CFR part 395 when it denied Complainant's February 5, 2009, permit application to operate vending machines at the Southern Oregon Rehabilitation Center and Clinic (Clinic) in White City, Oregon.

On September 28, 2009, Complainant contacted the DVA requesting that it

process Complainant's permit application. On December 9, 2009, DVA's Regional Counsel denied Complainant's request to process the permit application.

The DVA's position was that it properly denied the Complainant's application for two reasons. One, the Clinic did not support a vending facility because of its scattered buildings, and two, the DVA was not obligated to ensure the Clinic supported a vending facility. Specifically, the DVA's position was that the regulations requiring a satisfactory site or sites for the location and operation of a vending facility by a blind vendor under certain circumstances did not apply to the Clinic because the DVA has operated the clinic since 1949 and its buildings contain fewer than 15,000 square feet of interior space and house less than 100 Federal employees during normal working hours.

Complainant filed a request for Federal arbitration with the Department. A hearing on this matter was held on April 13 and 14, 2011. The issue as determined by the arbitration panel was ''whether the Department of Veterans Affairs violated the Randolph-Sheppard Act by denying the request to process the permit application of the Oregon Commission for the Blind for a permit to operate the Clinic vending machines.''

Arbitration Panel Decision

After reviewing all of the testimony and evidence, the panel found that the Clinic is a single facility and that its vending machines are part and parcel of that facility. The panel noted that the parties' differing interpretations stem from the fact that regulations in 34 CFR, part 395, do not specifically address a State licensing agency's (SLA's) permit application covering a building that was not new or renovated after January 1, 1975. The panel determined that, in cases of statutory ambiguity, ''regulations must be interpreted in a way that will serve the objectives of the statute and reasonably be consistent with the statute.''

The panel first determined that the purpose of the Act clearly is to enlarge economic opportunities of the blind. The panel then recognized that section 395.31 of the regulations attempts to implement this statutory purpose through the satisfactory site requirements. The panel also considered the last sentence in 395.31(e) to be relevant, although it did not apply directly to the facts in this case. This section provides that nothing in section 395.31 precludes an SLA and a Federal property managing department from agreeing to a vending facility even if the site does not meet minimum requirements under the satisfactory site provisions.

The panel found that the DVA's position of strictly interpreting the regulations ''contradicts section 107 [of the Act] by restricting and thwarting opportunities for the blind.'' Accordingly, the panel found that: (1) The priority provisions of the Randolph-Sheppard Act applied to the Clinic; (2) The DVA improperly denied Complainant's application for a permit to operate vending machines at the Clinic; and (3) the existing Clinic vending machines are not exempted from the Award and Order.

One panel member dissented. This panel member found that the Clinic buildings constructed or substantially modified after January 1, 1975, are exempt from the Randolph-Sheppard Act by application of the minimum standards of 34 CFR 395.31(d). This panel member also determined that the remaining Clinic buildings existing on January 1, 1975, that were not substantially renovated since that date are exempt from the priority provisions of the Act. Thus, the DVA was justified in declining Complainant's application for a permit to place vending machines at the Clinic.

The views and opinions expressed by the panel do not necessarily represent the views and opinions of the Department.

Electronic Access to This Document: The Official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys*. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at this site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov*. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: January 24, 2012.

Alexa Posny,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2012–1822 Filed 1–26–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

President's Board of Advisors on Historically Black Colleges and Universities

AGENCY: U.S. Department of Education, President's Board of Advisors on Historically Black Colleges and Universities (Board).

ACTION: Notice of an open meeting.

SUMMARY: This notice sets forth the schedule and agenda of the meeting of the President's Board of Advisors on Historically Black Colleges and Universities. The notice also describes the functions of the Board. Notice of the meeting is required by section 10(a)(2) of the Federal Advisory Committee Act and intended to notify the public of its opportunity to attend.

DATES: Tuesday, February 7, 2012.

Time: 9 a.m.–2 p.m.

ADDRESSES: Morgan State University, Calvin and Tina Tyler Ballroom, University Student Center, 1700 E. Cold Spring Lane, Baltimore, Maryland 21251, (443) 885–4369.

FOR FURTHER INFORMATION CONTACT: John Silvanus Wilson, Jr., Executive Director, White House Initiative on Historically Black Colleges and Universities, 400 Maryland Avenue SW., Washington, DC 20204; telephone: (202) 453–5634, fax: (202) 453–5632.

SUPPLEMENTARY INFORMATION: The President's Board of Advisors on Historically Black Colleges and Universities (the Board) is established by Executive Order 13532 (February 26, 2010). The Board is governed by the provisions of the Federal Advisory Committee Act (FACA), (Pub. L. 92–463; as amended, 5 U.S.C.A., Appendix 2) which sets forth standards for the formation and use of advisory committees. The purpose of the Board is to advise the President and the Secretary of Education (Secretary) on all matters pertaining to strengthening the educational capacity of Historically Black Colleges and Universities (HBCUs).

The Board shall advise the President and the Secretary in the following areas: (i) Improving the identity, visibility, and distinctive capabilities and overall competitiveness of HBCUs; (ii) engaging the philanthropic, business, government, military, homeland-security, and education communities in a national dialogue regarding new HBCU programs and initiatives; (iii) improving the ability of HBCUs to remain fiscally secure institutions that can assist the nation in reaching its goal of having the highest proportion of

college graduates by 2020; (iv) elevating the public awareness of HBCUs; and (v) encouraging public-private investments in HBCUs.

Agenda:

The Board will receive updates from the Chairman of the President's Board of Advisors on HBCUs, the Board's subcommittees and the Executive Director of the White House Initiative on HBCUs on their respective activities during Fiscal Year 2011 including activities that have occurred since the Board's last meeting, which was held on September 21, 2011. In addition, the Board will discuss the federal government's support of HBCUs in Fiscal Year 2010, the budget outlook for federal support in Fiscal Year 2012 and possible strategies to meet its duties under its charter.

Individuals who will need accommodations for a disability in order to attend the meeting (*e.g.,* interpreting services, assistive listening devices, or material in alternative format) should notify John P. Brown, Associate Director, White House Initiative on HBCUs, at (202) 453–5645, no later than Friday, February 3, 2012. We will attempt to meet requests for such accommodations after this date, but cannot guarantee their availability. The meeting site is accessible to individuals with disabilities.

An opportunity for public comment is available on Tuesday, February 7, 2012, from 1:30 p.m.–2 p.m. Individuals who wish to provide comments will be allowed three to five minutes to speak. Those members of the public interested in submitting written comments may do so by submitting them to the attention of John S. Wilson, Jr., White House Initiative on Historically Black Colleges and Universities, U.S. Department of Education, 400 Maryland Avenue SW., Washington, DC 20202, by Friday, February 3, 2012.

Records are kept of all Board proceedings and are available for public inspection at the office of the White House Initiative on Historically Black Colleges and Universities, U.S. Department of Education, 400 Maryland Avenue SW., Washington, DC 20202, Monday through Friday (excluding federal holidays) during the hours of 9 a.m. to 5 p.m.

Electronic Access to the Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *www.ed.gov/fedregister/index.html.* To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free at 1–(866) 512–1830; or in the Washington, DC, area at (202) 512–0000.

Dated: January 24, 2012.

Martha J. Kanter,

Under Secretary, U.S. Department of Education.

[FR Doc. 2012–1824 Filed 1–26–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF09–11–000]

TransCanada Alaska Company, LLC; Notice of Public Scoping Meeting for the Planned Alaska Pipeline Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) hereby announces a public scoping meeting in Anchorage, Alaska, for the planned Alaska Pipeline Project (APP). The meeting will take place at:

Date and time	Location
Monday, February 13, 2012, 7 p.m.	Dena'ina Center, Kahtu Room, 600 West 7th Avenue, Anchorage, AK 99501.

This meeting was previously cancelled on January 4, 2012, because TransCanada Alaska Company, LLC (TC Alaska) had not filed its draft Resource Reports, which we deemed necessary to properly evaluate and comment on this unique and complex project. On January 13, 2012, TC Alaska filed its draft Resource Reports, thereby allowing us to reschedule this scoping meeting.

More information about the Commission's environmental impact statement, the APP, and how to file comments is available in the *Notice of Intent to Prepare an Environmental Impact Statement for the Planned Alaska Pipeline Project and Request for Comments on Environmental Issues* (NOI), issued on August 1, 2011. The NOI describes the scoping process that is underway seeking public participation in the environmental review of this planned project. Please note that the scoping period for the APP will close on February 27, 2012.

Dated: January 20, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–1732 Filed 1–26–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13089–002]

Conway Ranch Hydropower Project; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On July 27, 2011, KC LLC, California, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Conway Ranch Hydropower Project to be located on Virginia Creek, near the city of Mono, Mono County, California. The project affects federal lands administered by the Bureau of Land Management. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following new facilities: (1) A diversion on Virginia Creek (notched weir design); (2) a de minimus reservoir operated run-of river at approximately 8,800 feet elevation above mean sea level; (3) a 2-mile-long, 8-inch-diameter pressurized pipe connecting the reservoir to a powerhouse; (4) a powerhouse containing a single turbine totaling 500 kilowatts of generating capacity; and (5) an approximately 360-foot-long transmission line connecting with the existing Southern California Edison secondary distribution facilities. The project's annual energy output would be approximately 2.3 gigawatthours.

Applicant Contact: Ms. Kelly Sackheim, KC LLC, 5096 Cocoa Palm Way, Fair Oaks, CA 95628; phone (301) 401–5978.

FERC Contact: Carolyn Templeton; phone: (202) 502–8785.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web

site *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–(866) 208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–13089–002) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: January 20, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–1734 Filed 1–26–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2299–075]

Turlock Irrigation District; Modesto Irrigation District; Notice of Proposed Restricted Service List for a Programmatic Agreement for Managing Properties Included in or Eligible for Inclusion in the National Register of Historic Places

Rule 2010 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure provides that, to eliminate unnecessary expense or improve administrative efficiency, the Secretary may establish a restricted service list for a particular phase or issue in a proceeding.[1] The restricted service list should contain the names of persons on the service list who, in the judgment of the decisional authority establishing the list, are active participants with respect to the phase or issue in the proceeding for which the list is established.

The Commission staff is consulting with the California State Historic Preservation Officer (hereinafter, California SHPO), and the Advisory Council on Historic Preservation (hereinafter, Council) pursuant to the Council's regulations, 36 CFR Part 800, implementing section 106 of the National Historic Preservation Act, *as amended,* (16 U.S.C. 470 f), to prepare and execute a programmatic agreement for managing properties included in, or eligible for inclusion in, the National Register of Historic Places at the Don Pedro Hydroelectric Project No. 2299.

The programmatic agreement, when executed by the Commission and the California SHPO would satisfy the Commission's section 106 responsibilities for all individual undertakings carried out in accordance with the license until the license expires or is terminated (36 CFR 800.13[e]). The Commission's responsibilities pursuant to section 106 for the Don Pedro Hydroelectric Project would be fulfilled through the programmatic agreement, which the Commission proposes to draft in consultation with certain parties listed below. The executed programmatic agreement would be incorporated into any Order issuing a license.

Turlock Irrigation District and Modesto Irrigation District, as the licensees for the Don Pedro Hydroelectric Project No. 2299, and the Central Sierra Me-Wuk, Tuolumne Band of Me-Wuk Indians, North Fork Mono Tribe, Southern Sierra Miwuk Nation, Chicken Ranch Rancheria of Me-Wuk Indians, Buena Vista Rancheria, California Valley Miwok Tribe, Picayune Rancheria of the Chukchansi Indians, National Park Service, and Bureau of Land Management have expressed an interest in this preceding and are invited to participate in consultations to develop the programmatic agreement.

For purposes of commenting on the programmatic agreement, we propose to restrict the service list for the aforementioned project as follows:

John Eddins or Representative, Office of Planning and Review, Advisory Council on Historic Preservation, 1100 Pennsylvania Ave. NW., Suite 809, Washington, DC 20004.

Reba Fuller or Representative, Central Sierra Me-Wuk Cultural and Historic Preservation Committee, P.O. Box 699, Tuolumne, CA 95379.

Kevin Day or Representative, Tuolumne Band of Me-Wuk Indians, P.O. Box 699, Tuolumne, CA 95379.

Ron Goode or Representative, North Fork Mono Tribe, 13396 Tollhouse Road, Clovis, CA 93611.

Sandy Vasquez or Representative, Southern Sierra Miwuk Nation, P.O. Box 1200, Mariposa, CA 95338.

Stephen Bowes or Representative, National Park Service, 111 Jackson Street, Suite 700, Oakland, CA 94607.

Amanda Blosser or Representative, Office of Historic Preservation, Department of Parks and Recreation, 1725 23rd Street, Suite 100, Sacramento, CA 95816–7100.

Lloyd Mathiesen or Representative, Chicken Ranch Rancheria of Me-Wuk Indians, P.O. Box 1159, Jamestown, CA 95327.

Rhonda Morningstar Pope or Representative, Buena Vista Rancheria, P.O. Box 162283, Sacramento, CA 95816.

Silvia Burley or Representative, California Valley Miwok Tribe, 10601 N. Escondido Place, Stockton, CA 95212.

Robert Nees or Representative, Turlock Irrigation District, P.O. Box 949, Turlock, CA 95381.

Greg Dias or Representative, Modesto Irrigation District, P.O. Box 4060, Modesto, CA 95352.

James Barnes or Representative, Bureau of Land Management, Mother Load Field Office, 5152 Hillsdale Circle, El Dorado Hills, CA 95762.

Reggie Lewis or Representative, Picayune Rancheria of the Chukchansi Indians, 46575 Road, 417#A, Coarsegold, CA 93614.

Any person on the official service list for the above-captioned proceeding may request inclusion on the restricted service list, or may request that a restricted service list not be established, by filing a motion to that effect within 15 days of this notice date. In a request for inclusion, please identify the reason(s) why there is an interest to be included. Also please identify any concerns about historic properties, including Traditional Cultural Properties. If historic properties are to be identified within the motion, please use a separate page, and label it NON-PUBLIC Information.

Any such motions may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov/docs-filing/ferconline.asp*) under the ''eFiling'' link. For a simpler method of submitting text only comments, click on ''eComment.'' For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov;* call toll-free at (866) 208–3676; or, for TTY,

[1] 18 CFR 385.2010.

contact (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Please put the project number (P–2299–075) on the first page of the filing.

If no such motions are filed, the restricted service list will be effective at the end of the 15 day period. Otherwise, a further notice will be issued ruling on any motion or motions filed within the 15 day period.

Dated: January 20, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–1733 Filed 1–26–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–165–000]

Midwest Independent Transmission System Operator, Inc.; Notice of Filing of Response to Data Request

Take notice that on January 19, 2012, Midwest Independent Transmission System Operator, Inc. (MISO), in response to a request for additional information relevant to the unexecuted Generator Interconnection Agreement filed in the above-captioned proceeding, submitted responses to questions from Commission staff.

MISO states that copies of the response were served on all parties in the Commission's eService list for the proceeding, on all Tariff Customers under the Tariff, MISO Members, member representatives of Transmission Owners and Non-Transmission Owners, MISO Advisory Committee participants, and all state commissions within the region.

Any person desiring to intervene or to comment on this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Comments and protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make commenters or protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on February 8, 2012.

Dated: January 20, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–1735 Filed 1–26–12; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2010–1008; FRL 9511–4]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; TSCA Sec. 8(a) Preliminary Assessment Information Rule (PAIR)

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: TSCA Sec. 8(a) Preliminary Assessment Information Rule (PAIR); EPA ICR No. 0586.12, OMB Control No. 2070–0054. 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 February 27, 2012.

ADDRESSES: Submit your comments, referencing docket ID Number EPA–HQ–OPPT–2010–1008 to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *oppt.ncic@epa.gov* 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, 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: Pamela Myrick, Acting Director, Environmental Assistance Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, Mail code: 7408–M, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 554–1404; email 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 10, 2011 (76 FR 49469), EPA sought comments on this renewal pursuant to 5 CFR 1320.8(d). EPA received one supportive comment during the comment period, which did not result in any change to the Supporting Statement. Any 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–2010–1008, 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 *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 ''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 *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 *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 *www.regulations.gov.* For further information about the electronic docket, go to *www.regulations.gov.*

Title: TSCA Sec. 8(a) Preliminary Assessment Information Rule (PAIR).

ICR Status: This is a request to renew an existing approved collection. This ICR is scheduled to expire on January 31, 2012. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract: Section 8(a) of the Toxic Substances Control Act (TSCA) authorizes EPA to promulgate rules under which manufacturers, importers and processors of chemical substances and mixtures must maintain records and submit reports to EPA. EPA has promulgated the Preliminary Assessment Information Rule (PAIR) under TSCA section 8(a). EPA uses PAIR to collect information to identify, assess and manage human health and environmental risks from chemical substances, mixtures and categories. PAIR requires chemical manufacturers and importers to complete a standardized reporting form to help evaluate the potential for adverse human health and environmental effects caused by the manufacture or importation of identified chemical substances, mixtures or categories. Chemicals identified by EPA or any other federal agency, for which a justifiable information need for production, use or exposure-related data can be satisfied by the use of the PAIR are proper subjects for TSCA section 8(a) PAIR rulemaking. In most instances the information that EPA receives from a PAIR report is sufficient to satisfy the information need in question. This information collection addresses the reporting and recordkeeping requirements associated with TSCA section 8(a).

Responses to the collection of information are mandatory (see 40 CFR parts 712, 766, and 792). 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 28.7 hours per response. Burden is defined in 5 CFR 1320.3(b).

Respondents/Affected Entities: Entities potentially affected by this action are manufacturers, processors or importers of chemical substances, mixtures or categories.

Frequency of Collection: On occasion.

Estimated average number of responses for each respondent: 2.2.

Estimated No. of Respondents: 15.

Estimated Total Annual Burden on Respondents: 948 hours.

Estimated Total Annual Costs: $59,158.

Changes in Burden Estimates: This request reflects a decrease of 620 hours (from 1,568 hours to 948 hours) in the total estimated respondent burden from that currently in the OMB inventory. This decrease reflects a decrease in the assumed number of PAIR reports filed annually, and the average annual number of respondents, based on the past five fiscal years of PAIR reporting data. The Supporting Statement provides details about the change in burden estimate. The change is an adjustment.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2012–1776 Filed 1–26–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2011–0233; FRL 9511–3]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Plating and Polishing 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 February 27, 2012.

ADDRESSES: Submit your comments, referencing Docket ID number EPA–HQ–OECA–2011–0233, to (1) EPA online using *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 Williams, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2223A, Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; email address: *williams.learia@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On May 9, 2011 (76 FR 26900), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2011–0233, 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 Plating and Polishing Operations (Renewal).

ICR Numbers: EPA ICR Number 2294.03, OMB Control Number 2060–0623.

ICR Status: This ICR is scheduled to expire on January 31, 2012. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while 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: 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 General Provisions specified at 40 CFR part 63, subpart WWWWWW.

Owners or operators of the affected facilities must submit initial notification, 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 16 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 plating and polishing operations.

Estimated Number of Respondents: 2,900.

Frequency of Response: Initially, and annually.

Estimated Total Annual Hour Burden: 33,108.

Estimated Total Annual Cost: $3,180,693, which includes $3,172,379 in labor costs, $8,314 in capital/startup costs, and no operating and maintenance costs.

Changes in the Estimates: There is a decrease in the total hours as currently identified in the OMB Inventory of Approved Burdens due to a mathematical error in determining the person hours per respondent in the previous ICR. There is an increase in labor costs. This is not due to any program changes. The change in the cost estimates occurred due to adjustments in labor rates for both respondents and the Agency.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2012–1747 Filed 1–26–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2011–0742; FRL 9511–1]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Air Pollution Regulations for Outer Continental Shelf (OCS) Activities (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. This ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before February 27, 2012.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OAR–2011–0742, to (1) the EPA on-line at *www.regulations.gov,* or by mail to: U.S. Environmental Protection Agency, EPA Docket Center, Air and Radiation Docket and Information Center, Mail Code 28221T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, and (2) the OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David Painter, Office of Air Quality Planning and Standards, Air Quality Policy Division (C504–03), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541–5515; fax number: (919) 541–5509; email address: *painter.david@epa.gov.*

SUPPLEMENTARY INFORMATION: The EPA has submitted the following ICR to the OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On September 20, 2011 (76 FR 58273), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. EPA completed an active consultation with the U.S. Department of Interior's Bureau of Ocean Energy Management (BOEM) (formerly the Minerals Management Service) in November 2011. Three comments were received, and the EPA has addressed the comments. Any

additional comments on this ICR should be submitted to the EPA and the OMB within 30 days of this notice.

The EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OAR–2011–0742, which is available for online viewing at *www.regulations.gov,* or in person viewing at the Air and Radiation Docket and Information Center 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 Air Docket is (202) 566–1742.

Use the EPA's electronic docket and comment system at *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 the EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *www.regulations.gov* as the 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: Air Pollution Regulations for Outer Continental Shelf (OCS) Activities (Renewal).

ICR numbers: EPA ICR No. 1601.08, OMB Control No. 2060–0249.

ICR Status: This ICR is currently scheduled to expire on January 31, 2012. Under OMB regulations, the agency may continue to conduct or sponsor the collection of information while this submission is pending at the 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 the 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: Section 328 of the Clean Air Act gives EPA responsibility for regulating air pollution from outer continental shelf (OCS) sources located offshore of the states along the Pacific, Arctic and Atlantic Coasts, and along the eastern Gulf of Mexico coast (off the coast of Florida). In general, these OCS sources must obtain preconstruction permits (usually Prevention of Significant Deterioration or ''PSD'' permits) and title V operating permits, and then maintain ongoing compliance with their permit conditions. Industry respondents include owners or operators of existing and new or modified OCS sources. These respondents must prepare permit applications and, after receiving their permits, conduct testing, monitoring, recordkeeping and reporting as required by their permits. The recordkeeping and reporting requirements are necessary so that EPA can determine whether these sources are meeting all the requirements that apply to them. EPA has delegated the authority to implement and enforce the OCS regulations for sources located off the coast of California to four local air pollution control agencies.

These agency respondents must review sources' permit applications and reports, issue permits, observe performance tests and conduct inspections to ensure that the sources are meeting all the requirements that apply to them. Section 176(c) of the Clean Air Act (42 U.S.C. 7401 *et seq.*) requires that all federal actions conform with the State Implementation Plans (SIPs) to attain and maintain the NAAQS. Depending on the type of action, the federal entities must collect information themselves, hire consultants to collect the information or require applicants/sponsors of the federal action to provide the information.

The type and quantity of information required will depend on the circumstances surrounding the action. First, the entity must make an applicability determination. If the source is located within 25 miles of the state's seaward boundaries as established in the regulations, the requirements are the same as those that would be applicable if the source were located in the corresponding onshore area. State and local air pollution control agencies are usually requested to provide information concerning regulation of offshore sources and are provided opportunities to comment on the proposed determinations. The public is also provided an opportunity to comment on the proposed determinations.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 124 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.

Estimated Total Number of Potential Respondents: 42 (38 sources and 4 local agencies).

Estimated Number of Responses: 228.

Frequency of Response: Annual.

Estimated Total Annual Burden Hours: 28,174.

Estimated Total Annual Costs: $2,532,877, which includes no annualized capital/startup costs, $34,900 in O&M costs and $2,497,977 in annual labor costs.

Changes in the Estimates: There is a decrease of 2,623 hours and $7,856 in capital/startup and O&M costs in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This decrease has occurred because projections from BOEM and other considerations have resulted in changes in the number, mix and types of sources projected to occur in the upcoming clearance period. As a result of the decrease in annual burden hours, which is partially offset by updated 2011 wage rates, the estimated annual labor cost has decreased by $70,212.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2012–1746 Filed 1–26–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–RCRA–2011–0626, FRL 9511–2]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Facility Ground-Water Monitoring Requirements (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before February 27, 2012.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–RCRA–2011–0626, to (1) EPA, either online using *www.regulations.gov* (our preferred method), or by email 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: William Schoenborn, Office of Resource Conservation and Recovery (mail code 5303P), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (703) 308–8483; fax number: (703) 308–8433; email address: *schoenborn.william@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On August 9, 2011 (76 FR 48859), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No EPA–HQ–RCRA–2011–0626, 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 *www.regulations.gov*, to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *www.regulations.gov* 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: Facility Ground-Water Monitoring Requirements (Renewal).

ICR numbers: EPA ICR No. 0959.14, OMB Control No. 2050–0033.

ICR Status: This ICR is scheduled to expire on January 31, 2012. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: This ICR examines the ground-water monitoring standards for permitted and interim status facilities at 40 CFR parts 264 and 265, as specified. The ground-water monitoring requirements for regulated units follow a tiered approach whereby releases of hazardous contaminants are first detected (detection monitoring), then confirmed (compliance monitoring), and if necessary, are required to be cleaned up (corrective action). Each of these tiers requires collection and analysis of ground-water samples. Owners or operators that conduct ground-water monitoring are required to report information to the oversight agencies on releases of contaminants and to maintain records of ground-water monitoring data at their facilities. The goal of the ground-water monitoring program is to prevent and quickly detect releases of hazardous contaminants to groundwater, and to establish a program whereby any contamination is expeditiously cleaned up as necessary to protect human health and environment. Subtitle C of the Resource Conservation and Recovery Act of 1976 (RCRA) creates a comprehensive program for the safe management of hazardous waste. Section 3004 of RCRA requires owners and operators of facilities that treat, store, or dispose of hazardous waste to comply with standards established by EPA that are to protect the environment. Section 3005 provides for implementation of these standards under permits issued to owners and operators by EPA or authorized States. Section 3005 also allows owners and operators of facilities in existence when the regulations came into effect to comply with applicable notice requirements to operate until a permit is issued or denied. This statutory authorization to operate prior to permit determination is commonly known as ''interim status.'' Owners and operators of interim status facilities also must comply with standards set under Section 3004.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 103 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: Entities potentially affected by this action are Business or other for-profit; and State, Local, or Tribal Governments.

Estimated Number of Respondents: 818.

Frequency of Response: quarterly, semi-annually, and annually.

Estimated Total Annual Hour Burden: 84,391.

Estimated Total Annual Cost: $18,322,083, includes $3,770,485 annualized labor costs and $14,551,598 annualized capital or O&M costs.

Changes in the Estimates: There is a decrease of 37,186 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This is due to a decrease in the universe from 989 facilities to 818 facilities.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2012–1745 Filed 1–26–12; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2003–0078; FRL–9623–5]

Agency Information Collection Activities; Proposed Collection; Comment Request; Reporting Under EPA's Landfill Methane Outreach Program; EPA ICR No. 1849.06

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 EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR is scheduled to expire on 04/30/2012. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before March 27, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2003–0078 by one of the following methods:

- *http://www.regulations.gov:* Follow the online instructions for submitting comments.
- *Email: a-and-r-Docket@epa.gov.*
- *Fax Number:* (202) 566–9744.
- *Phone Number:* (202) 566–1742.
- *Mail:* Docket ID No. EPA–HQ–OAR–2003–0078, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.
- *Hand Delivery:* EPA Docket Center, 1301 Constitution Ave. NW., Room 3334, Washington, DC 20460 (Attention Docket ID No. EPA–HQ–OAR–2003–0078). Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2003–0078. EPA's policy is that all comments received will be included in the public docket without change and may be made available on line at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. 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 email comment directly to EPA without going through *http://www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/dockets/index.htm.*

FOR FURTHER INFORMATION CONTACT: Victoria Ludwig, Climate Change Division, Office of Atmospheric Programs, 6207J, Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (202) 343–9291; fax number: (202) 343–2202; email address: *ludwig.victoria@epa.gov.*

SUPPLEMENTARY INFORMATION:

How can I access the docket and/or submit comments?

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OAR–2003–0078, which is available for online viewing at *http://www.regulations.gov,* or in person viewing at the Air and Radiation 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 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 Air and Radiation Docket is (202) 566–1742.

Use *http://www.regulations.gov* to obtain a copy of the existing approved Information Collection Request EPA ICR No. 1849.05, submit or view public comments, access the index listing of the contents of the docket, and access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified in this document.

What information is EPA particularly interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) 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;

(ii) 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;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What should I consider when I prepare my comments for EPA?

You may find the following suggestions helpful for preparing your comments:

(1) Explain your views as clearly as possible and provide specific examples.

(2) Describe any assumptions that you used.

(3) Provide copies of any technical information and/or data you used that support your views.

(4) If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

(5) Offer alternative ways to improve the collection activity.

(6) Make sure to submit your comments by the deadline identified under **DATES**.

(7) To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What information collection activity or ICR does this apply to?

Affected entities: Entities potentially affected by this action are those private companies and municipalities that own or operate landfills; manufacturers and suppliers of equipment/knowledge to capture and utilize landfill gas; utility companies; end users of energy from landfills; developers of landfill gas energy projects; State agencies; and other landfill gas energy stakeholders.

Title: Reporting Under EPA's Landfill Methane Outreach Program.

ICR Numbers: EPA ICR Number 1849.06, OMB Control Number 2060–0446.

ICR Status: This ICR will expire on 4/30/12. 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 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: The Landfill Methane Outreach Program (LMOP), created by EPA as part of the Climate Change Action Plan, is a voluntary program designed to encourage and facilitate the development of environmentally and economically sound landfill gas (LFG) energy projects across the United States in order to reduce methane emissions from landfills. LMOP does this by educating local governments and communities about the benefits of LFG recovery and use; building partnerships between state agencies, industry, energy service providers, local communities, and other stakeholders interested in developing this valuable resource in their community; and providing tools to evaluate LFG energy potential. LMOP signs voluntary Memoranda of Understanding (MOUs) with these organizations to enlist their support in promoting cost-effective LFG utilization. The information collection includes completion and submission of the MOU, and annual completion and submission of information forms that include basic information on landfill methane projects with which the organizations are involved as an effort to update the LMOP Landfill and Landfill Gas Energy Project Database. The information collection is to be utilized to maintain up-to-date data and information about LMOP Partners and landfill methane projects with which they are involved. The data will also be used by the public to assess LFG energy project development opportunities in the United States. In addition, the information collection will assist LMOP in evaluating the reduction of methane emissions from landfills. Responses to the information collection are voluntary.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 3.2 hours for each respondent. 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.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

- Estimated total number of potential respondents: An average of 1,220 existing Partners and an additional 113 new Partners per year.
- Frequency of response: On occasion.
- Estimated total average number of responses for each respondent: 1.8 responses per new respondent and 0.8 responses per existing respondent.
- Estimated total annual burden hours: 4,215 hours.
- Estimated total annual costs: $334,298 per year. This includes an estimated burden cost of $333,959 and an estimated cost of $339 for maintenance and operational costs.

Are there changes in the estimates from the last approval?

There is a decrease of 1,670 hours in the total estimated annual respondent burden and a decrease in average annual burden per respondent of 1.5 hours compared with the burdens identified in the existing ICR approved by OMB. The existing approved ICR included a one-time, large-scale outreach to 1,000 additional landfill owners and operators. This activity and group of entities are not included in the scope of this ICR renewal, resulting in the overall decreases in total hours and hours per respondent. This change is the result of a program change. However, in the last approved ICR, Energy Partners were not requested to update landfill gas energy project data, and under this renewal, Energy Partners will be requested to provide updates on their involvement in these projects. Also, there has been growth in the number of overall Partners since the last renewal. There were 675 Partners as of July 2007, whereas there are 994 Partners as of September 2011, a 47 percent increase in four years. These changes offset the magnitude of the overall burden decrease. There have been no major changes in how the information forms or MOU are dispersed or collected since the last renewal. LMOP has previously implemented simplifications and other changes to increase the efficiency of its ICR process.

What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. EPA's policy is that all comments received will be included in the public docket without change and may be made available on line at *http://www.regulations.gov.* EPA's responses to any comments received will also be included in the public docket, as part of the supporting statement document. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR

1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

Dated: January 19, 2012.

Rona Birnbaum,

Acting Director, Climate Change Division.

[FR Doc. 2012–1821 Filed 1–26–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OA–2012–0033; FRL–9623–7]

Agency Information Collection Activities; Proposed Collection; Comment Request; Valuing Improved Water Quality in the Chesapeake Bay Using Stated Preference Methods; EPA ICR No. 2456.01

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request for a new Information Collection Request (ICR) to the Office of Management and Budget (OMB). Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before March 27, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OA–2012–0033 by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: oei.docket@epa.gov.*
- *Fax:* (202) 566–9744.
- *Mail:* Office of Environmental Information, Environmental Protection Agency, Mailcode: 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OA–2012–0033. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

FOR FURTHER INFORMATION CONTACT: Dr. Nathalie Simon, National Center for Environmental Economics, Office of Policy, (1809T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 566–2347; fax number: (202) 566–2363; email address: *simon.nathalie@epa.gov.*

SUPPLEMENTARY INFORMATION:

How can I access the docket and/or submit comments?

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OA–2012–0033, which is available for online viewing at *www.regulations.gov,* or in person viewing at the Office of Environmental Information (OEI) 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 OEI Docket is (202) 566–1752.

Use *www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified in this document.

What information is EPA particularly interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) 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;

(ii) 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;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What should I consider when I prepare my comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Offer alternative ways to improve the collection activity.
6. Make sure to submit your comments by the deadline identified under **DATES**.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What information collection activity or ICR does this apply to?

Docket ID No. EPA–HQ–OA–2012–0033.

Affected entities: Entities potentially affected by this action are members of the general public who may be contacted to participate in the study.

Title: Willingness to Pay for Improved Water Quality in the Chesapeake Bay.

ICR numbers: EPA ICR No. 2456.01, OMB Control No. 2012–new.

ICR status: This ICR is for a new information collection activity. 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: On May 12, 2009 the President signed Executive Order 13508 calling for the protection and restoration of the Chesapeake Bay. In response to the Executive Order and other considerations the Environmental Protection Agency established Total Maximum Daily Loads (TMDLs) of nitrogen, phosphorus, and sediment for the Chesapeake Bay. These TMDLs called for reductions of 25, 24, and 20%, respectively, of these pollutants (EPA 2011).

The Chesapeake Bay watershed encompasses 64,000 square miles in parts of six states and the District of Columbia. While efforts have been underway to restore the Bay for more than 25 years, and significant progress has been made over that period, the TMDLs are necessary to continue progress toward the goal of a healthy Bay. As might be expected, a program on this scale is likely to be expensive. A 2004 report on implementation of the ''tributary strategies'' proposed under an earlier plan for Bay restoration estimated their cost at $28 billion in capital costs plus an additional $2.7 billion dollars per year in perpetuity for operating and maintenance costs (Blue Ribbon Panel 2004). The watershed states of New York, Pennsylvania, Delaware, West Virginia, Virginia, and Maryland, as well as the District of Columbia, have developed Watershed Implementation Plans (WIPs) detailing the steps each will take to meet its obligations under the TMDLs. EPA has begun a new study to estimate costs of compliance with the TMDLs. While these costs may prove high, a multitude of benefits may also be anticipated to arise from restoring the Chesapeake Bay. It is important to put cost estimates in perspective by estimating corresponding benefits.

EPA's National Center for Environmental Economics (NCEE) is undertaking a benefits analysis of improvements in Bay water quality under the TMDLs, as well as of ancillary benefits that might arise from terrestrial measures taken to improve water quality. As part of this analysis, NCEE plans to conduct a broad-based inquiry into benefits using a state-of-the-art stated preference survey. Benefits from the TMDLs for the Chesapeake will accrue to those who live on or near the Bay and its tributaries, as well as to those who live further away and may never visit the Bay but have a general concern for the environment. The latter category of benefits is typically called ''non-use values'' and estimating the monetary value can only be achieved through a stated preference survey.

In addition, a stated preference survey is able to estimate ''use values,'' those benefits that accrue to individuals who choose to live on or near the Bay or recreate in the watershed. Stated preference surveys allow the analyst to define a specific object of choice or suite of choices such that benefits are defined in as precise a manner as feasible. While use benefits of water quality improvements in the Chesapeake Bay watershed will also be estimated through other revealed preference methods, the stated preference survey allows for careful specification of the choice scenarios and will complement estimates found using other methods.

Participation in the survey will be voluntary and the identity of the participants will be kept confidential.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 0.5 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.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 1,500.

Frequency of response: once.

Estimated total average number of responses for each respondent: 1.

Estimated total annual burden hours: 750 hours.

Estimated total annual costs: $15,975. This includes estimated respondent burden costs only as there are no capital costs or operating and maintenance costs associated with this collection of information.

What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: January 18, 2012.

Al McGartland,

Office Director, National Center for Environmental Economics.

[FR Doc. 2012–1809 Filed 1–26–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2011–0542; FRL–9608–8]

Notice of Data Availability Concerning Renewable Fuels Produced From Palm Oil Under the RFS Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of data availability (NODA).

SUMMARY: This Notice provides an opportunity to comment on EPA's analyses of palm oil used as a feedstock to produce biodiesel and renewable diesel under the Renewable Fuel Standard (RFS) program. EPA's analysis of the two types of biofuel shows that

biodiesel and renewable diesel produced from palm oil have estimated lifecycle greenhouse gas (GHG) emission reductions of 17% and 11% respectively for these biofuels compared to the statutory baseline petroleum-based diesel fuel used in the RFS program. This analysis indicates that both palm oil-based biofuels would fail to qualify as meeting the minimum 20% GHG performance threshold for renewable fuel under the RFS program.

DATES: Comments must be received on or before February 27, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2011–0542, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: asdinfo@epa.gov.*
- *Mail:* Air and Radiation Docket and Information Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.
- *Hand Delivery:* Air and Radiation Docket and Information Center, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2011–0542. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or *asdinfo@epa.gov.* The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. 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 *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.go* v or in hard copy at the Air and Radiation Docket and Information Center, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC 20004. 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 Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Aaron Levy, Office of Transportation and Air Quality, Transportation and Climate Division, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460 (MC: 6041A); telephone number: (202) 564–2993; fax number: (202) 564–1177; email address: *levy.aaron@epa.gov.*

SUPPLEMENTARY INFORMATION:

Outline of This Preamble

I. General Information
A. Does this action apply to me?
B. What should I consider as I prepare my comments for EPA?
1. Submitting CBI
2. Tips for Preparing Your Comments
II. Analysis of Lifecycle Greenhouse Gas Emissions
A. Methodology
1. Scope of Analysis
2. Models Used
3. Scenarios Modeled
4. Analysis of Projected Land Use Changes in Indonesia and Malaysia
5. Analysis of Palm Oil Mills
B. Results of Lifecycle Analysis for Biodiesel From Palm Oil
C. Results of Lifecycle Analysis for Renewable Diesel From Palm Oil
D. Consideration of Lifecycle Analysis Results
1. Implications for Threshold Determinations
2. Consideration of Uncertainty

I. General Information

A. Does this action apply to me?

Entities potentially affected by this action are those involved with the production, distribution, and sale of transportation fuels, including gasoline and diesel fuel or renewable fuels such as biodiesel and renewable diesel. Regulated categories include:

Category	NAICS[1] Codes	SIC[2] Codes	Examples of Potentially Regulated Entities
Industry	324110	2911	Petroleum Refineries
Industry	325193	2869	Ethyl alcohol manufacturing
Industry	325199	2869	Other basic organic chemical manufacturing
Industry	424690	5169	Chemical and allied products merchant wholesalers
Industry	424710	5171	Petroleum bulk stations and terminals
Industry	424720	5172	Petroleum and petroleum products merchant wholesalers
Industry	454319	5989	Other fuel dealers

[1] North American Industry Classification System (NAICS)
[2] Standard Industrial Classification (SIC) system code.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to engage in activities that may be affected by today's action. To determine whether your activities would be affected, you should carefully examine the applicability criteria in 40 CFR part 80, Subpart M. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding section.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

II. Analysis of Lifecycle Greenhouse Gas Emissions

A. Methodology

1. Scope of Analysis

On March 26, 2010, the Environmental Protection Agency (EPA) published changes to the Renewable Fuel Standard program regulations as required by 2007 amendments to CAA 211(o). This rulemaking is commonly referred to as the ''RFS2'' final rule. As part of the RFS2 final rule we analyzed various categories of biofuels to determine whether the complete lifecycle GHG emissions associated with the production, distribution, and use of those fuels meet minimum lifecycle greenhouse gas reduction thresholds as specified by CAA 211(o) (i.e., 60% for cellulosic biofuel, 50% for biomass-based diesel and advanced biofuel, and 20% for other renewable fuels). Our final rule focused our lifecycle analyses on fuels that were anticipated to contribute relatively large volumes of renewable fuel by 2022 and thus did not cover all fuels that either are contributing or could potentially contribute to the program. In the preamble to the final rule EPA indicated that it had not completed the GHG emissions impact analysis for several specific biofuel production pathways but that this work would be completed through a supplemental rulemaking process. Since the March 2010 final rule was issued, we have continued to examine several additional pathways not analyzed for the final rule. This Notice of Data Availability (''NODA'') focuses on our analysis of the palm oil biodiesel and palm oil renewable diesel pathways. The modeling approach EPA used in this analysis is the same general approach used in the final RFS2 rule for lifecycle analyses of other biofuels.[1] The RFS2 final rule preamble and Regulatory Impact Analysis (RIA) provides further discussion of our approach.

This Notice provides an opportunity to comment on EPA's analyses of lifecycle GHG emissions related to the production and use of biodiesel and renewable diesel produced from palm oil feedstock. We intend to consider all of the relevant comments received. In general, comments will be considered relevant if they pertain to EPA's analysis of lifecycle GHG emissions related to palm oil biofuels, and especially if they provide specific information for consideration in our modeling. When all relevant comments have been considered we intend to inform the public of any resulting revisions in our analyses or any other relevant information pertaining to our

[1] U.S. Environmental Protection Agency (EPA). 2011. Summary of Modeling Inputs and Assumptions for the Notice of Data Availability (NODA) Concerning Renewable Fuels Produced from Palm Oil under the Renewable Fuel Standard (RFS) Program. Memorandum to Air and Radiation Docket EPA–HQ–OAR–2011–0542.

consideration of the comments received. Public notification regarding our consideration of comments could be accomplished in several formats, such as a **Federal Register** notice, a rulemaking action or a guidance document. The appropriate form of public notification will depend on the outcome of the public comment process and any reanalysis we deem appropriate. In the event that EPA does not significantly modify its analyses, no regulatory amendments will be necessary since the existing regulations currently do not identify any palm oil-based biofuel production pathways as satisfying minimum lifecycle GHG reduction requirements.

2. Models Used

EPA's analysis of the palm oil biodiesel and renewable diesel pathways uses the same model of international agricultural markets that was used for the final RFS2 rule: the Food and Agricultural Policy and Research Institute international models as maintained by the Center for Agricultural and Rural Development at Iowa State University (the FAPRI–CARD model). For more information on the FAPRI–CARD model refer to the RFS2 final rule preamble (75 FR 14670) or the RFS2 Regulatory Impact Analysis (RIA).[2] These documents are available in the docket or online at *http://www.epa.gov/otaq/fuels/renewablefuels/regulations.htm*. The models require a number of inputs that are specific to the pathway being analyzed, including projected yields of feedstock per acre planted, projected fertilizer use, and energy use in feedstock processing and fuel production. The docket includes detailed information on model inputs, assumptions, calculations, and the results of our assessment of the lifecycle GHG emissions performance for palm oil biodiesel and renewable diesel.

As in our analysis of sugarcane ethanol in the RFS2 final rule, we did not use the Forestry and Agricultural Sector Optimization Model (FASOM) in our analysis of palm oil biodiesel and renewable diesel. FASOM is a highly detailed partial equilibrium model of the United States agricultural and forestry sectors. In the RFS2 final rule FASOM was used to determine the domestic U.S. agricultural sector impacts of domestically grown biofuel feedstocks. As palm oil is not grown domestically in any significant volume, the FAPRI–CARD model was the only model of agricultural markets used in the analysis. Our modeling indicates that any impacts to U.S. agriculture from using palm oil for biofuel production are small in comparison to the international impacts.[3] Therefore, we determined that for this analysis the FAPRI–CARD model is better suited for modeling domestic agricultural impacts and, as such, FASOM modeling is unnecessary.

3. Scenarios Modeled

To assess the impacts of an increase in renewable fuel volume from business-as-usual (what is likely to have occurred without the RFS biofuel mandates) to levels required by the statute, we established reference and control cases for a number of biofuels analyzed for the RFS2 final rulemaking. The reference case includes a projection of renewable fuel volumes without the RFS renewable fuel volume mandates. The control cases are projections of the volumes of renewable fuel that might be used in the future to comply with the volume mandates. The final rule reference case volumes were based on the Energy Information Administration's (EIA) Annual Energy Outlook (AEO) 2007 reference case projections. In the RFS2 rule, for each individual biofuel, we analyzed the incremental GHG emission impacts of increasing the volume of that fuel to the total mix of biofuels needed to meet the EISA requirements. Rather than focus on the GHG emissions impacts associated with a specific gallon of fuel and tracking inputs and outputs across different lifecycle stages, we determined the overall aggregate impacts across sectors of the economy in response to a given volume change in the amount of biofuel produced. For this analysis we compared impacts in the control case to the impacts in a new palm oil biofuel case.

Our ''control'' case volumes are based on projections of a feasible set of fuel types and feedstocks. The control case for our modeling assumes no renewable fuel made from palm oil is used in the United States. For the ''palm biofuel'' case, our modeling assumes approximately 200 million gallons of biodiesel and 200 million gallons of renewable diesel from palm oil are used in the United States in the year 2022. The modeled scenario includes 1.46 million metric tonnes (MMT) of crude palm oil used as feedstock to produce the additional 400 million gallons of palm oil biofuel in 2022. The projected lifecycle GHG emissions associated with this increased production and use of palm oil biofuel in 2022 are normalized per tonne of crude palm oil. The lifecycle GHG emissions per gallon of biofuel are then calculated based on the yields of biodiesel and renewable diesel per tonne of crude palm oil.

Our volume scenario of approximately 200 million gallons of biodiesel and 200 million gallons of renewable diesel from palm oil in 2022 is based on several factors including historical volumes of palm oil production, potential feedstock availability and other competitive uses (e.g., for food or export elsewhere instead of for U.S. transportation fuel). Our assessment is described further in the inputs and assumptions document that is available through the docket (EPA 2011). Based in part on consultation with experts at the United States Department of Agriculture (USDA) and industry representatives, we believe that these volumes are reasonable for the purposes of evaluating the impacts of producing biodiesel and renewable diesel from palm oil.

The FAPRI–CARD model, described above, projects in which countries the palm oil will most likely be grown to supply these biofuel volumes to the U.S. based on the relative economics of palm oil production, yield trends in different regions and other factors. Palm oil is currently grown in several regions internationally but the vast majority, close to 90%, is produced in Indonesia and Malaysia. Our modeled scenario projects that Indonesia and Malaysia would be the primary suppliers of palm oil for use as biofuel feedstocks, with other regions, such as Africa, Thailand and South America, contributing much smaller amounts. Because we anticipate that the great majority of palm oil for use in biofuels would be produced in Indonesia and Malaysia our modeling efforts focus on evaluating the lifecycle GHG emissions associated with palm oil production in these countries.

Table II–1 provides a summary of projected palm oil production in 2022 according to the FAPRI–CARD model.[4] As discussed above, in the palm biofuel case 1.46 MMT of additional palm oil is used as biofuel feedstock in 2022 as compared to the control case. We project that global palm oil production would expand by 0.562 MMT in the palm biofuel case; the remaining volume of palm oil for biofuel production would be diverted from other sectors, such as food and chemical uses. In response we project that

[2] EPA. 2010. Renewable Fuel Standard Program (RFS2) Regulatory Impact Analysis. EPA–420–R–10–006. *http://www.epa.gov/oms/renewablefuels/420r10006.pdf.*

[3] For example, in the scenarios modeled only 1% of land use change GHG emissions originate in the United States. These results are discussed more below and in the supporting materials available through the docket.

production of other vegetable oils would increase to back fill the palm oil diverted to the biofuels industry (See Table II–2). Due to market-mediated responses vegetable oil production does not increase enough to make up for the full amount of palm oil diverted to biofuel production in the palm biofuel case. There are several explanations for this including demand substitution away from vegetable oils and towards other products such as grains, meat and dairy. For more information refer to the full results from the FAPRI–CARD model which are available through the docket.

TABLE II–1—PROJECTED PALM OIL PRODUCTION IN 2022

[Thousand metric tonnes]

	Control case	Palm biofuel case	Difference
Indonesia	31,254	31,575	321
Malaysia	25,992	26,196	204
Rest of World	7,739	7,777	38
World	64,986	65,548	562

TABLE II–2—PROJECTED VEGETABLE OIL PRODUCTION IN 2022

[Thousand metric tonnes]

	Control case	Palm biofuel case	Difference
Palm Oil	64,986	65,548	562
Soybean Oil	308,553	308,620	67
Rapeseed/Canola Oil	68,845	68,963	118
Other Vegetable Oils*	28,219	28,317	97
Total	470,603	471,448	845

* Includes cottonseed oil, peanut oil, sunflower oil and palm kernel oil.

As shown in the tables above, the primary response in the scenarios modeled is to increase palm oil production in Malaysia and Indonesia. In our analysis, projected palm oil yields in 2022 are approximately 5 tonnes per hectare in both Indonesia and Malaysia. The EPA projection for palm oil yields is an extension of the historical data trend forward to 2022, based on historical data from the USDA.[5] Palm oil yields vary in other countries, but in general they are somewhat less than the yields achieved in Indonesia and Malaysia. (More information on projected palm oil yields is available in the inputs and assumptions document available through the docket.) Projected harvested areas of palm oil are reported in Table II–3. As discussed below, the land use change GHG emissions associated with the incremental expansion of palm oil areas in Indonesia and Malaysia are a focal point in our analysis.

TABLE II–3—PROJECTED PALM OIL HARVESTED AREA IN 2022

[Thousand harvested hectares]

	Control case	Palm biofuel case	Difference
Indonesia	6,179	6,243	63
Malaysia	5,202	5,242	41
Rest of World	4,035	4,055	20
World	15,416	15,504	124

4. Analysis of Projected Land Use Changes in Indonesia and Malaysia

As in our analysis of other feedstocks in the RFS2 final rule, we assessed what the GHG emissions impacts would be relating to palm oil production (including land use changes) due to the use of additional volumes of palm oil for biofuel production. Today's assessment of palm oil as a biofuel feedstock considers GHG emissions from international land use changes related to the production and use of palm oil, and uses the same land use change modeling approach used in the final RFS2 rule for analyses of other biofuel pathways. However, given our focus today on the use of palm oil as a biofuel feedstock, this analysis for palm oil is more detailed and considers new data for Indonesia and Malaysia, including higher resolution satellite imagery and maps of relevant geographic features, such as the location of existing oil palm plantations, soil types, roads, etc. EPA decided to undertake a more detailed assessment of

[4] In the tables throughout this preamble totals may not sum due to rounding errors and negative numbers are commonly listed in parentheses.

[5] Historical palm oil yields are based on data from USDA's Production, Supply and Distribution (PSD) database and reports from USDA's Global Agricultural Information Network (GAIN).

Malaysia and Indonesia as compared to other regions, based on a number of factors including the concentration of the palm oil industry in this region and the availability of new data on palm oil land use.

The goal of our Indonesia and Malaysia land use change analysis is to estimate GHG emissions from the incremental expansion of palm oil plantations that would result from the increased demand for palm oil to produce the modeled 400 million gallons of biodiesel and renewable diesel (i.e., land use change GHG emissions in Indonesia and Malaysia in the palm biofuel case versus the control case). This analysis involved projecting the locations of future palm oil expansion, the types of land impacted and the resulting GHG emissions. First, we gathered spatially explicit data on factors that could be expected to influence the location of palm oil plantations. In our analysis the spatial data are analyzed using the GEOMOD land use change simulation model, described in more detail below, to project the locations of incremental palm oil expansion in the scenarios modeled. We used the latest available data to set land conversion GHG emissions factors for Indonesia and Malaysia. Finally, we considered the uncertainty in our estimates and factor that into our assessment of threshold determinations for palm oil biodiesel and palm oil renewable diesel. An overview of our Indonesia and Malaysia land use change analysis is provided below, including references to materials that are available through the docket which provide more details about all of the inputs, assumptions and results.

A key input in our analysis is newly available data on the historic locations of palm oil cultivation. These data are important because they establish a baseline area where palm oil is currently grown or has been grown in recent years. Past changes in the location of palm oil plantations were evaluated using relevant spatial information to determine what geographic factors were correlated with the changes. We then used this new understanding to predict the locations of future expansion related to increased palm oil biofuel production. This section includes the following:

- Description of data on the location of palm oil plantations in Indonesia and Malaysia;
- Summary of the geographic data sources considered in our analysis;
- Background on the GEOMOD model and our methodology for land use change projections;
- Summary of projected locations for palm oil expansion;
- Description of land use change emissions factors used in our analysis; and
- Estimated land use change GHG emissions in the scenarios modeled.

Data on the historic locations of palm oil plantations in Indonesia and Malaysia—For Indonesia a literature search was conducted which found an absence of available spatial data on the locations of palm oil plantations. To fill this data gap EPA developed such maps for the time period from 2000 to 2009 using satellite imagery and other remotely sensed information. As described below, the mapping project required intensive effort in terms of both data analysis and visual inspection. To enhance data quality and mapping accuracy we limited the geographic scope of the project to the islands of Sumatra and Kalimantan where close to 90% of Indonesia's palm oil is known to be located.[6] In recent years palm oil expansion has also been encouraged in more remote locations on the islands of Sulawesi and Papua, but as mentioned above our mapping efforts did not consider these islands. This source of uncertainty in our analysis is discussed in a reference document available through the public docket which describes our consideration of uncertainty.

To map the location of palm oil plantations in Indonesia we leveraged data from the complete Landsat archive, high-resolution data via Google Earth, and data from the National Geospatial-Intelligence Agency (NGA) Unclassified National Informational Library (UNIL), among others. Analysis of palm oil plantation areas using Landsat data was performed both visually and through an automated detection algorithm to ensure a robust analysis. The project mitigated cloud cover and data gaps, executed final plantation identification, and estimated the total area of medium- to large-scale oil palm plantations. Using high-resolution remote sensing data yielded an estimated ground cover area for oil palm of 3.2 million hectares in the year 2000 and 4.0 million hectares in the year 2009. Detailed documentation of the analysis as well as electronic maps showing the results are available through the docket.[7] [8]

For Malaysia, data on the locations of palm oil plantations in 2003 and 2009 were provided by the Malaysian Palm Oil Board (MPOB), an agency of the Malaysian government. The data were provided in the form of electronic maps showing mature and immature palm oil plantations. The map of 2003 palm oil plantations utilizes remote sensing data from the Landsat database,[9] and the map of 2009 plantations is based on SPOT satellite images.[10] The data show the location of roughly 3.8 million hectares of palm oil plantations in 2003 and roughly 5.2 million hectares in 2009. The original maps, in a format compatible with Geographic Information System (GIS) software, were provided under a claim of confidential business information (CBI) and then returned to the source. Therefore, the original files are not available for public review. However, based on our agreement with the MPOB, electronic image files depicting the maps are available for review in the public docket.

Spatial analysis of land use change in Indonesia and Malaysia—In addition to the historic locations of palm oil plantations, our analysis considers other relevant geographic suitability factors for Indonesia and Malaysia. For our analysis of land use change in Indonesia fourteen factor maps were created: Elevation, precipitation, temperature, slope, soil type, land cover type in 2001, distance to roads, distance to rivers, distance to railroads, distance to settlements, distance to palm oil mills, peat soil location, land allocation (e.g., protected areas), and distance to existing plantations. For our analysis of Malaysia eleven factor maps were created: elevation, precipitation, temperature, slope, soil type, land cover type in 2001, distance to roads, distance to rivers, distance to railroads, distance to settlements, and distance to existing plantations. The factor maps were selected based on data availability and their relevance for projecting the location of future palm oil plantations. More details about the data used in our projections, including the source for each data element, are provided in technical reports available through the

[6] USDA Foreign Agricultural Service (USDA–FAS). 2009. Indonesia: Palm Oil Production Growth To Continue. Commodity Intelligence Report. *http://www.pecad.fas.usda.gov/highlights/2009/03/Indonesia/.*

[7] Integrity Applications Incorporated (IAI). 2010. High Resolution Land Use Change Analysis of Oil Palm in Sumatra and Kalimantan Circa 2010. Report to EPA. BPA–09–03. September 20, 2010.

[8] IAI. 2011. High Resolution Land Use Change Analysis for Sumatra and Kalimantan Circa 2000. Report to EPA. BPA–09–03. April 8, 2011.

[9] Wahid, B. O., Nordiana, A. Aand Tarmizi, A., M. 2005. Satellite Mapping of Oil Palm Land Use. MPOB Information Series. June 2005.

[10] MPOB. 2010. Additional Information Requested by United States Environmental Protection Agency: Agricultural Input. Data submitted by MPOB. June 4, 2010.

docket.[11] [12] We welcome public comments on additional data sources for consideration in our modeling.

To analyze the spatial data described above and use it to project the most likely locations for future palm oil expansion, we used a well-established land use change simulation model called GEOMOD. GEOMOD is a spatially explicit simulation model of land cover change that uses maps of bio-geophysical attributes and of existing land cover to extrapolate the known pattern of land cover from one point in time to other points in time. GEOMOD was developed by researchers at the SUNY College of Environmental Science and Forestry with funding from the U.S. Department of Energy.[13] It has been used to model land cover changes across the world in many different ecosystems including Costa Rica,[14] Indonesia [15] and India.[16]

Using spatial data described above, the GEOMOD land use change simulation model was used to project the locations of future palm oil expansion in Indonesia and Malaysia until the year 2022. First, we created maps of factors that could influence where future palm oil expansion occurs, such as elevation, slope, proximity to roads, etc. Second, we compared the factor maps against a map of existing palm oil plantations in 2000 and 2003 for Indonesia and Malaysia respectively to construct a series of suitability maps. In the calibration stage, for each suitability map the model assigned higher suitability values to locations that have a combination of characteristics similar to the land already cultivated in palm oil and low suitability values to locations that are less similar to existing palm oil areas. In the validation stage, each candidate suitability map was overlain with a map of existing plantations in the year 2009. Each suitability map was evaluated with a set of statistics to assess its ability to accurately project the location of palm oil areas from the first time period to the second time period, e.g., 2000 to 2009.

After single factor suitability maps were tested, we used this information to create suitability maps from several combined factors and with different weighting schemes. Results from the validation procedures of each scenario were used to refine subsequent simulations until a simulation model achieved the best validation results. The best model was defined as the model that most accurately projects the location of palm oil expansion between the first and second time periods. When the best model was identified based on the validation exercises, we used this model to simulate expansion of oil palm plantations from 2000 to 2022 in Indonesia and from 2003 to 2022 in Malaysia.

For this analysis 34 different suitability maps were created for Indonesia. After applying lessons learned from the Indonesia analysis we were able to narrow the field to 18 different suitability maps for Malaysia. After all of the trials, in both countries the combined suitability map that weighted all of the factors equally performed the best across a number of accuracy metrics. For both countries the accuracy metrics for the selected suitability maps indicated good model performance. Thus, the suitability maps created by weighting all factors equally were chosen to simulate expansion of oil palm plantations to 2022 in Indonesia and Malaysia. More details about our GEOMOD analysis are provided in technical reports available through the docket.[17]

Projected land use changes in Malaysia and Indonesia—This section provides a summary of our results regarding projected land use changes in Indonesia and Malaysia. As discussed above, we used the FAPRI–CARD model to simulate a roughly 400 million gallon increase in palm oil biodiesel and renewable diesel production in 2022, resulting in additional palm oil harvested area in Indonesia and Malaysia of 63 and 41 thousand hectares respectively. Using the GEOMOD model we projected where the additional 104 thousand hectares of palm oil would be located, what types of land cover would be impacted, and the extent of resulting peat soil drainage.

Table II–4 summarizes the projected locations of palm oil crops in Indonesia and Malaysia in 2022. Our analysis considers 45 different administrative units in Indonesia and Malaysia, but here the results are summarized into 5 aggregate regions. In the modeled scenario we project that close to 90% of the incremental palm oil expansion in Indonesia would occur in the Kalimantan region. This is consistent with USDA's reporting that Kalimantan has been the fastest expanding region for palm oil over the last decade.[18] In Malaysia we project that most of the incremental palm oil expansion would occur on the mainland, i.e., Peninsular Malaysia. USDA reports that almost all of the highly suitable land for palm oil production has already been developed in Malaysia. According to USDA, Sarawak has the most remaining development potential, but the available areas on Sarawak are primarily coastal peatlands and/or degraded inland forest with native claims,[19] which makes these areas less desirable for cultivation due to complications arising from peat soil characteristics and land rights issues. Our modeling indicates that the most likely area for incremental expansion is on the mainland where existing plantations may be able to expand around the fringes in order to increase productive area.

TABLE II–4—PROJECTED LOCATION OF PALM OIL IN INDONESIA AND MALAYSIA IN 2022

[Thousand harvested hectares]

Country	Region	Control case	Palm biofuel case	Difference
Indonesia	Kalimantan	1,396	1,452	56
	Sumatra	4,782	4,790	8
Malaysia	Peninsular Malaysia	3,016	3,048	32

[11] Harris, N., and Grimland, S. 2011a. Spatial Modeling of Future Oil Palm Expansion in Indonesia, 2000 to 2022. Winrock International. Draft report submitted to EPA.

[12] Harris, N., and Grimland, S. 2011b. Spatial Modeling of Future Oil Palm Expansion in Malaysia, 2003 to 2022. Winrock International. Draft report submitted to EPA.

[13] Hall, C., A., S., Tian, H., Qi, Y., Pontius, R., G., Cornell, J., and Uhlig, J. 1995. Modeling spatial and temporal patterns of tropical land use change. Journal of Biogeography, 22, 753–757.

[14] Pontius Jr., R. G., Cornell, J., and Hall, C. 2001. Modeling the spatial pattern of land-use change with Geomod2: application and validation for Costa Rica. Agriculture, Ecosystems & Environment 85 (1–3) p.191–203.

[15] Harris, N. L, Petrova, S., Stolle, S., and Brown, S. 2008. Identifying optimal areas for REDD intervention: East Kalimantan, Indonesia as a case study. Environmental Research Letters 3: 035006.

[16] Rashmi, M. and Lele, N. 2010. Spatial modeling and validation of forest cover change in Kanakapura region using GEOMOD. Journal of the Indian Society of Remote Sensing p. 45–54.

[17] Harris *et al.* (2011a) and (2011b).

[18] USDA–FAS (2009).

[19] USDA–FAS. 2011. Malaysia: Obstacles May Reduce Future Palm Oil Production Growth. Commodity Intelligence Report. June 28, 2011, *http://www.pecad.fas.usda.gov/highlights/2011/06/Malaysia/*.

TABLE II–4—PROJECTED LOCATION OF PALM OIL IN INDONESIA AND MALAYSIA IN 2022—Continued

[Thousand harvested hectares]

Country	Region	Control case	Palm biofuel case	Difference
	Sabah	1,351	1,357	6
	Sarawak	834	837	3

Following the lifecycle analysis methodology in RFS2 final rule, our analysis of land use change GHG emissions looks at the impacts associated with incremental expansion in harvested crop area in the scenarios analyzed. Typically palm oil is harvested for the first time 3–5 years after planting, followed by approximately 20–25 years of annual harvesting before the cycle is repeated.[20] This implies that in a steady state the ratio of immature (non-harvested) area to harvested area would be about 12–25%. Data published by MPOB shows that on average the ratio of immature to harvested area was 15% during the period from 1990 to 2009.[21]

Projecting the amount of palm oil area that would be immature in 2022 depends on several factors such as expansion and replanting rates which can vary over time and by geographic region. For example, high palm oil prices may induce growers to continue harvesting their old plantations despite decreasing yields. This is because growers do not want to miss selling palm oil during a period of high prices while they are waiting for their replanted crops to mature. In fact, this is the current situation in Malaysia where many growers have delayed replanting to take advantage of high palm oil prices.[22] Furthermore, replanting rates could change based on technological developments. Currently, palm oil is replanted when it reaches 25 feet in height due to the length of the long sickle poles often used for harvesting.[23] The development of new clonal varieties and harvesting techniques could increase the economically viable lifetime of palm oil plantations, and thus reduce the ratio of immature to harvested area.

Accounting for the land use changes associated with expansion of immature as well as harvested areas of palm oil would be an additional source of land use change GHG emissions in our analysis. We invite comment on whether we should account for incremental expansion in the area of immature palm oil plantations in our analysis, and if so on which factors should be considered in making such a projection.

To evaluate land use change GHG emissions resulting from palm oil expansion we considered the soil and land cover types in the areas projected for conversion. Land cover types were determined based on MODIS satellite data, the same land cover data set that was used in the RFS2 final rule. According to our analysis, over the previous decade over 50% of palm oil has been grown on areas classified as forest in Indonesia,[24] and the figure is over 60% in Malaysia.[25] Table II–5 shows the projected types of land cover impacted in Indonesia and Malaysia by incremental palm oil expansion in 2022 in the scenarios modeled. We project that the forest and mixed land cover types would account for over 80% of the land cover impacted by palm oil expansion. (The mixed land cover category assumes equal shares of forest, grassland, shrubland and cropland.) These projections are in line with recent historical data,[26] USDA reports [27] and peer-reviewed literature,[28] which all indicate that much of the recent expansion in palm oil has been at the expense of tropical forest.

TABLE II–5—PROJECTED LAND COVER TYPES IMPACTED BY PALM OIL EXPANSION IN INDONESIA AND MALAYSIA IN 2022

Land cover type	Indonesia (%)	Malaysia (%)
Forest	43	54
Mixed	38	35

TABLE II–5—PROJECTED LAND COVER TYPES IMPACTED BY PALM OIL EXPANSION IN INDONESIA AND MALAYSIA IN 2022—Continued

Land cover type	Indonesia (%)	Malaysia (%)
Shrubland	0	0
Savanna	10	1
Grassland	1	1
Cropland	7	5
Wetland	1	3

An even more critical factor in terms of estimating land use change GHGs in this region is the extent of tropical peat soil drained in order to prepare land for palm oil production. Almost all of the undisturbed tropical peat land in the world is located in Indonesia and Malaysia, with much smaller amounts also found in Philippines and Thailand.[29] Undisturbed tropical peat swamp forest removes carbon dioxide (CO2) from the atmosphere and stores it in biomass and peat deposits. The incomplete decomposition of dead tree material under waterlogged, anaerobic conditions has led to slow accumulation of peat deposits over millennia, giving this ecosystem a very high carbon density. Typical estimates are that tropical peat soils sequester approximately 20 times more carbon than forest biomass on a per hectare basis.[30]

In their natural state, tropical peat lands are unfavorable for agricultural production compared to mineral soils, primarily because peat swamp has a ground water table that is at or close to the peat surface throughout the year. Despite these harsh conditions, peat swamps have recently been exploited to make room for agricultural and forest plantations as the global demand for food, wood and other resources has

[20] Unnasch, S. S. T. Sanchez, and B. Riffel (2011) Well-to-Wheel GHG Emissions and Land Use Change Impacts of Biodiesel from Malaysian Palm Oil. Prepared for Malaysian Palm Oil Council. Life Cycle Associates Report LCA.6015.50P.2011.

[21] Department of Statistics, Malaysia. Table 1.2 Area Under Oil Palm Mature and Immature. MPOB Web site, *http://econ.mpob.gov.my/economy/annual/stat2009/Area1_2.pdf.* Accessed December 2011.

[22] USDA–FAS (2011).

[23] Unnasch *et al.*

[24] Harris *et al.* (2011a), Table 9.

[25] Harris *et al.* (2011b), Table 9.

[26] Harris *et al.* (2011a) and (2011b).

[27] USDA–FAS (2009) and (2011).

[28] Koh, L. P., Miettinen, J., Liew, S. C. & Ghazoul, J. 2011. Remotely sensed evidence of tropical peatland conversion to oil palm. *Proceedings of the National Academy of Scientists of the United States of America,* 108, 5127–5132.

[29] Paramananthan, S. 2008. Tussle over Tropical Peatlands. *Global Oils & Fats: Business Magazine.* (5)3, 1–16.

[30] Page, S. E., Morrison, R., Malins, C., Hooijer, A., Rieley, J. O. & Jauhiainen, J. 2011. *Review of peat surface greenhouse gas emissions from oil palm plantations in Southeast Asia* (ICCT White Paper 15). Washington: International Council on Clean Transportation.

increased.[31] Some reasons that have been given for the recent development of peat swamps include that other suitable areas have already been used, advanced land conversion and drainage technologies have been developed, and in some cases seizing the swamps is less likely to result in native land disputes.[32] Koh *et al.* found that approximately 6% of tropical peatlands in Indonesia and Malaysia had been converted to palm oil plantations by the early 2000s.[33] Based on our analysis of 2009 data we find that palm oil plantations have been developed disproportionately on peat soils, which occupy 13% of the total land area in Indonesia (Sumatra and Kalimantan) but host 25% of palm oil plantations.[34] For Malaysia, we estimate that in 2009 approximately 13% of palm oil plantations were on peat soils compared with only 8% of the country displaying that type of soil.[35] Table II–6 summarizes our analysis regarding the historical and projected extent of palm oil on tropical peat soil. The values in the last row, projected incremental expansion in 2022, are used in our analysis. Taking the weighted averages for Indonesia and Malaysia, based on the data in Table II–4 and Table II–6, we project that 11.5% of incremental palm oil expansion in 2022 will occur on tropical peat lands in the scenarios modeled.

TABLE II–6—PERCENT OF PALM OIL PLANTATIONS ON PEAT SOIL, HISTORICAL AND PROJECTED

Year	Indonesia (%)	Malaysia (%)
2009 (Historical) ...	22	13
2022 (Projected) ...	15	10
2022 (Projected Incremental Expansion)	13	9

Land use change emissions factors—In our analysis, GHG emissions per hectare of land conversion are determined using the emissions factors developed for the RFS2 final rule following IPCC guidelines.[36] [37] In addition, several updates have been made to refine our land use change emissions factors for Indonesia and Malaysia. First, average above and below ground carbon stocks in palm oil plantations were revised based on new data. Second, GHG emissions associated with draining peat soils were updated according to new studies which consider data from hundreds of new field measurements. Finally, estimated average forest carbon stocks were updated based on a new study which uses a more robust and higher resolution analysis. In this section we briefly describe each of these updates. More information is available in a technical memorandum available through the docket.[38]

Palm Oil Carbon Stocks. In the final RFS2 rule, carbon stocks in palm oil plantations after one year of growth were estimated to be 15 tonnes carbon dioxide-equivalent per hectare (tCO_2e/ha). This was based on Table 5.3 of the 2006 IPCC Guidelines for Agriculture, Forestry and Other Land Use (AFOLU),[39] which gives biomass stocks on oil palm plantations as 136 tCO_2e/ha. The total carbon stock value reported by IPCC was divided by an assumed 15-year growth period to derive a linear growth rate. Our original analysis accounted for only one year of growth when estimating carbon storage on palm oil plantations.

We have revised our analysis of palm oil carbon stocks in favor of a more accurate time-averaged approach, using average carbon stocks over the life of the plantation. Since a typical rotation period for palm oil is approximately 30 years (e.g., 3–5 years as immature plus 20–25 years of harvesting), this approach is more appropriate for our lifecycle analysis methodology as established in the RFS2 final rule, which considers land use change emissions over a 30-year period. A literature review of palm oil carbon stocks was conducted, and based on this review we modified the carbon stocks of palm oil plantations to a time-averaged value of 128 tCO_2e/ha.[40]

Peat Soil Emissions Factors. Development of tropical peatland for palm oil production requires removal of the vegetative cover and typical drainage depths of 0.6 to greater than 1.0 meter. Drainage is accomplished by construction of a network of deep canals and shallower ditches. Additionally, the peat surface is often compacted by the weight of heavy vehicles to improve its load-bearing characteristics and increase the stability of palm trees. These changes remove carbon from the peatland system by lowering the peat water table, ensuring continuous aerobic decomposition of organic material and greatly reducing preservation of new carbon inputs to the peat from biomass. As a result the peat swamp ecosystem switches from a net carbon sink to a large source of carbon emissions. On completion of a productive palm oil cycle, the plantation is typically renewed by land clearance, drainage and replanting.[41]

In the RFS2 final rule peat soil emissions in Indonesia and Malaysia were estimated based on a relationship developed by Hooijer *et al.* (2006) that correlates peat drainage depth with annual peat CO_2 emissions.[42] Assuming average drainage depth of 0.8 meters, average emissions from drained peat soils were estimated to be 73 tCO_2 per hectare per year.

For our palm oil analysis average peat soil emissions have been updated based on a newly available study (Hooijer *et al.* 2011)[43] which considers over 200 subsidence measurements (more than were previously available for all peatlands in Southeast Asia combined), taken at various locations including palm oil and acacia plantations on peat soil.[44] Earlier studies had assumed constant annual emissions over time following peat soil drainage. Hooijer *et al.* (2011) is the only source with enough data to calculate peat carbon emissions over various time scales. These data showed higher rates of emission in the years immediately following drainage. As such, average annual emissions are no longer derived as a function of drainage depth but are instead based on the time scale of analysis. Based on Hooijer *et al.* (2011), our analysis assumes that average emissions from peat soil drainage are 95 tCO_2e/ha/yr over a 30-year time period. This is supported by Page *et al.*, who

[31] Hooijer, A., Page, S., Canadell, J. G., Silvius, M., Kwadijk, J., Wösten, H., & Jauhiainen, J. 2010. Current and future CO2 emissions from drained peatlands in Southeast Asia. *Biogeosciences,* 7, 1505–1514.

[32] Miettinen, J., Chenghua S., Liew, S.C. 2011. Two decades of destruction in Southeast Asia's peat swamp forests. *Frontiers in Ecology and the Environment.*

[33] Koh *et al.* (2011).

[34] Harris *et al.* (2011a), Table 22.

[35] Harris *et al.* (2011b), Table 19.

[36] Harris, N., Brown, S., and Grimland, S. 2009a. Global GHG Emission Factors for Various Land-Use Transitions. Winrock International. Report Submitted to EPA. April 2009.

[37] Harris, N., Brown, S., and Grimland, S. 2009b. Land Use Change and Emission Factors: Updates since the RFS Proposed Rule. Winrock International. Report Submitted to EPA. December 2009.

[38] Harris, N. 2011. Revisions to Winrock's Land Conversion Emission Factors since the RFS2 Final Rule. Winrock International report to EPA.

[39] 2006 IPCC Guidelines for National Greenhouse Gas Inventories Volume 4 Agriculture, Forestry and Other Land Use. Chapter 5. *http://www.ipcc-nggip.iges.or.jp/public/2006gl/vol4.html.*

[40] Harris (2011).

[41] Page *et al.*

[42] Hooijer, A., M. Silvius, H. Wösten and S. Page. 2006. PEAT–CO_2, Assessment of CO_2 emissions from drained peatlands in SE Asia. Delft Hydraulics report Q3943.

[43] Hooijer, A., Page, S. E., Jauhiainen, J., Lee, W. A., Idris, A., & Anshari, G. 2011. Subsidence and carbon loss in drained tropical peatlands: reducing uncertainty and implications for CO_2 emission reduction options. *Biogeosciences Discussions,* 8, 9311–9356.

[44] Page *et al.*, 53.

reviewed studies of carbon emissions from peat drainage and concluded that this is the most robust estimate of emissions over a 30-year period. They noted that this estimate, which is based on subsidence measurements, closely matches estimates from similar recent studies which use other measurement techniques such as direct gas fluxes.[45]

Forest Carbon Stocks. For the RFS2 final rule, international forest carbon stocks were estimated from several data sources each derived using a different methodological approach. Two new analyses on forest carbon stock estimation were completed since the release of the final RFS2 rule, one for three continental regions by Saatchi *et al.*[46] and the other for the EU by Gallaun *et al.*[47] We have updated our estimates based on these new studies because they represent significant improvements as compared to the data used in the RFS2 rule. Forest carbon stocks across the tropics are particularly important in our analysis of palm oil biofuels because palm oil is grown in tropical regions. In the scenarios modeled there are also much smaller amounts of land use change impacts in the EU related to palm oil biofuel production. As such, we took this opportunity to incorporate the improved forest carbon stocks data in both of these regions.

Preliminary results for Latin America and Africa from Saatchi *et al.* were incorporated into the final RFS2 rule, but Asia results were not included due to timing considerations. The Saatchi *et al.* analysis is now complete, and so the final map was used to calculate updated area-weighted average forest carbon stocks for the entire area covered by the analysis (Latin America, sub-Saharan Africa and South and Southeast Asia). The Saatchi *et al.* results represent a significant improvement over previous estimates because they incorporate data from more than 4,000 ground inventory plots, about 150,000 biomass values estimated from forest heights measured by space-borne light detection and ranging (LIDAR), and a suite of optical and radar satellite imagery products. Estimates are spatially refined at 1-km grid cell resolution and are directly comparable across countries and regions.

In the final RFS2 rule, forest carbon stocks for the EU were estimated using a combination of data from three different sources. Issues with this 'patchwork' approach were that the biomass estimates were not comparable across countries due to the differences in methodological approaches, and that estimates were not spatially derived (or, the spatial data were not provided to EPA). Since the release of the final rule, Gallaun *et al.* developed EU-wide maps of above-ground biomass in forests based on remote sensing and field measurements. MODIS data were used for the classification, and comprehensive field measurement data from national forest inventories for nearly 100,000 locations from 16 countries were also used to develop the final map. The map covers the whole European Union, the European Free Trade Association countries, the Balkans, Belarus, the Ukraine, Moldova, Armenia, Azerbaijan, Georgia and Turkey.

For both data sources, Saatchi *et al.* and Gallaun *et al.,* we added belowground biomass to reported aboveground biomass values using an equation in Mokany *et al.*[48] More details regarding updated forest carbon stock estimates are available in a technical report to the docket.[49]

In our analysis, forest stocks are estimated for over 750 regions across 160 countries. For some regions the carbon stocks increased as a result of the updates and in others they declined. For comparison, we ran our palm oil analysis using the old forest carbon stock values used in the RFS2 rule and with the updated forest carbon values described above. Using the updated forest carbon stocks decreased the land use change GHG emissions related to palm oil biofuels by only 0.1%.

Harvested Wood Products. Another update that was incorporated into our analysis of Indonesia and Malaysia is related to harvested wood products (HWP). When forest is cleared a fraction of the vegetation is harvested as valuable timber for use in wood products such as sawn wood, wood panels, paper and paperboard. Accounting for HWP in our analysis involves estimating the amount of carbon that is sequestered in these wood products for at least the length of the analysis period (i.e., greater than 30 years). For the final RFS2 rule we addressed the potential significance of the HWP pool and concluded that for most regions of the world the amount of carbon stored in wood products long-term was insignificant, especially when considering a timeframe of 30 years. Therefore, carbon storage in HWP was not incorporated into the emission factors for deforestation in the RFS2 final rule.

For this analysis we have estimated carbon storage in HWP for timber extraction in Indonesia and Malaysia. Our updated assessment is based on the approved Verified Carbon Standard methodology for estimation of carbon stocks in the long-term wood products pool.[50] We undertook this update because based on our analysis Indonesia and Malaysia have the highest average timber extraction rates in the world, equaling 52 and 42 cubic meters per hectare (m^3/ha), respectively.[51] The fraction of extracted biomass that ends up as wood waste during production was estimated as a constant 19% based on Winjum *et al.*[52] We also estimated the fraction of wood products which will be retired and oxidized to the atmosphere in 30 years or less after harvesting. After accounting for wood waste and carbon in products that will not last for more than 30 years, the remainder is assumed to be the carbon stored in HWP after 30 years. We estimate that on average the carbon stored in harvested wood products after 30 years equals 3.0 and 1.9 tonnes of carbon per hectare of forest cleared (tC/ha) in Indonesia and Malaysia, respectively. These values are quite small compared to the forest carbon stocks in the region, which are typically in the range of 150–200 tC/ha. For more details on our updated assessment of HWP refer to the technical report available through the docket.[53]

Land use change emissions results—Based on the analysis described above we estimated land use change GHG emissions related to the production and use of biodiesel and renewable diesel from palm oil feedstock. Most of the land use change emissions associated with these two biofuels occur in

[45] Jauhiainen, J., Hooijer, A., & Page, S. E. (2011). Carbon Dioxide Fluxes in an Acacia Plantation on Tropical Peatland. Biogeosciences Discussions, 8, 8269–8302.

[46] Saatchi, S.S., Harris, N.L., Brown, S., Lefsky, M., Mitchard, E.T.A., Salas, W., Zutta, B.R., Buermann, W., Lewis, S.L., Hagen, S., Petrova, S., White, L., Silman, M. and Morel, A. 2011. Benchmark map of forest carbon stocks in tropical regions across three continents. *PNAS* doi: 10.1073/pnas.1019576108.

[47] Gallaun, H., Zanchi, G., Nabuurs, G.J., Hengeveld, G., Schardt, M., Verkerk, P.J. 2010. EU-wide maps of growing stock and above-ground biomass in forests based on remote sensing and field measurements. *Forest Ecology and Management* 260: 252–261.

[48] Mokany, K., R.J. Raison, and A.S. Prokushkin. 2006. Critical analysis of root:shoot ratios in terrestrial biomes. Global Change Biology 12: 84–96.

[49] Harris (2011).

[50] Verified Carbon Standard (VCS) methodology module VMD0005: Estimation of carbon stocks in the long-term wood products pool (CP–W), Sectoral Scope 14, *http://www.v-c-s.org/methodologies/find.*

[51] Only two other countries have extraction rates above 20 m^3/ha: India with 33 m^3/ha and China with 22 m^3/ha.

[52] Winjum, J.K., Brown, S., Schlamadinger, B. 1998. Forest harvests and wood products: Sources and sinks of atmospheric carbon dioxide. *Forest Science* 44: 272–284.

[53] Harris (2011).

Indonesia and Malaysia. Table II–7 includes the land use change GHG emissions results for the scenarios modeled, in terms of million metric tonnes of carbon-dioxide equivalent over 30 years (MMT CO_2e/yr over 30 yrs). These are the incremental emissions related to the production and use of approximately 400 million additional gallons of palm oil biofuels in the palm biofuel case compared to the control case. For Indonesia and Malaysia the emissions are broken out by land conversion category, showing that the dominant sources of emissions are from peat swamp drainage and forest clearing in these two countries.

TABLE II–7—LAND USE CHANGE GHG EMISSIONS

[MMT CO_2e/yr over 30 yrs]

Source of emissions	Indonesia	Malaysia	Rest of world
Forest Clearing	0.33	0.46	NA
Other Land Cover Clearing	(0.02)	0.03	.....
Peat Soil Drainage	0.81	0.33	.....
Total	1.11	0.83	0.37

5. Analysis of Palm Oil Mills

A key part of our analysis focuses on palm oil mills where bunches of fresh palm fruit are separated into palm kernels, empty fruit bunches, and the remaining fruit which contains crude palm oil. This is a similar step to soybean crushing which is included in the soybean biodiesel lifecycle analysis in the RFS2 rule. EPA's analysis for palm oil mills includes an assessment of the energy and materials flows for an average palm oil mill and the resulting lifecycle GHG emissions.

Palm oil mills extract crude palm oil using steam for sterilization, mechanical stirring, screw presses and other filtering, purifying and drying processes. The main solid wastes from the process (*i.e.,* empty fruit bunches, mesocarp fiber, shells) are commonly returned to the field as fertilizer or used as fuel to generate steam and electricity for use in the mill. The main liquid waste called palm oil mill effluent (POME) is a dark brown slurry containing waste water, plant oil, and debris from the palm fruit. To meet environmental standards for discharge into local waterways the POME is treated in a series of anaerobic lagoons or tanks. When the POME is digested it generates biogas containing various concentrations of carbon dioxide and methane. If POME is digested in open ponds or tanks, the methane and carbon dioxide is emitted to the atmosphere. Our analysis indicates that the methane emissions from POME digestion can represent a substantial portion of the lifecycle GHG emissions associated with palm oil biodiesel. However, if covered lagoons or closed digester tanks are used, at least some of this methane can be captured and then either flared or used to generate electricity and/or steam. This process converts methane, which has a high global warming potential (GWP) of 21, to CO_2, which has a lower GWP of 1, thus preventing the higher impact methane from entering the atmosphere.

Because POME methane emissions are an important part of the lifecycle GHG emissions associated with palm oil biofuels, we collected information specifically looking at the deployment of POME methane capture/use technologies at palm oil mills. According to a mandatory survey of 422 Malaysian palm oil mills conducted by the Malaysian Palm Oil Board in 2010, 38 mills were capturing POME biogas, 34 mills had POME biogas capture projects under construction, and 47 mills were in various stages of planning to implement biogas capture at some point between 2012 and 2020. Among the mills that are currently capturing POME biogas, 63% use closed tank digesters and 37% use covered lagoons. Forty percent of the mills that are capturing POME biogas destroy it with flaring, 34% use it to generate electricity, 5% use it to produce steam, and 21% employ combined heat and power to generate steam and electricity.

Information about POME methane capture was also provided by the Indonesian Embassy. According to the information provided, 3.5% of Indonesia's 608 palm oil mills are currently capturing POME biogas with an additional 2% of the mills in the process of constructing biogas capture/use projects. Thus, we estimate that 33 of Indonesia's 608 mills have methane capture/use projects in operation or under construction. All of the mills that currently capture POME biogas have covered lagoons and use the captured methane to generate electricity, based on data provided by the Indonesian Embassy.

We are using the data from the Malaysian survey of palm oil mills and the information provided by the Indonesian Embassy to derive the industry average used in our lifecycle analysis. Based on the information collected and described above, our assessment of the lifecycle GHG emissions from industry average palm oil mills assumes that 10% of palm oil mills capture the methane from anaerobic digestion of POME (i.e., 105 mills capture methane out of 1,030 total mills in Indonesia and Malaysia). Of the mills that capture POME methane we assume, based on the data described above, that 27% of the mills flare captured methane, 55% use the methane for electricity generation, 3% use the methane to produce steam and 14% use the methane to produce electricity and steam (the percentages do not sum to 100% due to rounding). We believe that deriving the industry average in this manner is reasonable because palm oil mills in Malaysia and Indonesia represent close to 90% of crude palm oil production, and we do not have any reason to believe that biogas capture rates would be different enough in the other palm oil producing regions to affect our determinations.

As discussed above, our analysis is based on average practices at palm oil mills in Indonesia and Malaysia. This is because the vast majority of palm oil for biofuel production would be extracted in these two countries. If the portion of facilities capturing biogas outside of Malaysia and Indonesia is different than currently within Malaysia and Indonesia or if the methane capture/use efficiencies are different than assumed in our analysis, then the average GHG emissions from palm mill operations would be different and the overall GHG performance of the biofuels produced from palm oil would be different than determined in our analysis. Because the vast majority of palm oil biofuel production is likely to occur in Indonesia and Malaysia, the impact of these differences on our results would be minimized because our analysis

looks at average palm oil production practices.

For this analysis, we determined the percentage of facilities employing methane capture/use based on projects currently in operation or under construction (facilities in the planning stage are not included). The analysis does not include any projected increases in the number of facilities that will employ these technologies above and beyond those currently operating or being installed between now and 2022. We do not project an increase because we are not aware of a technical or economic basis for making such a projection. For example, we do not have a sufficient technical or economic basis for determining how many of the mills in Malaysia that are at some stage of planning methane capture and use projects will actually follow through with construction and operation. For Indonesia and other countries we have even less information about additional possible deployment of such projects. Methane capture and use as applied to palm oil mills is a relatively new technology which has not been widely adopted (i.e., 10% of mills are currently using this technology in Indonesia and Malaysia). At this time, adoption of methane capture and use technology is entirely done voluntarily; there are no laws requiring its deployment.

There are no mandatory requirements to install methane capture and use technologies, and no other strong reasons on which to base a projection of increased adoption of these technologies. Methane capture and use involves clear and significant costs, both in terms of equipment purchase and installation as well as in routine maintenance. If the captured methane is flared, the only option for a facility to recoup a portion of its costs would be through some type of certified emission reduction credit program, such as through the CDM.[54] Certification under the CDM, though, requires additional time and costs and after more than a decade of operation the incentives provided by the CDM have spurred limited adoption of biogas capture at palm oil mills, as evidenced by the data on adoption of methane capture and use technologies at palm oil mills in Malaysia and Indonesia discussed above.

We recognize that in some cases, it may make economic sense to, at additional cost, install equipment for using the methane as a fuel to generate electricity. Currently, palm oil mills in remote areas which do not have access to grid electricity tend to burn waste palm material to generate necessary process energy. EPA does not have sufficient information on which to determine how many facilities will, for economic reasons, choose to replace current equipment using the burning of waste palm material with methane capture and electricity generation capacity.

This lack of information and basis for projecting the increased use of methane capture and use contrasts to other cases where, in the context of performing lifecycle GHG emissions analysis for the RFS program, we have been able to project technology improvements through 2022. For example, we have many years of data demonstrating a gradual increase in crop yields per acre for palm oil. Additionally, we know that substantial research continues in further improvements to palm oil yields and that as new varieties of oil palm come on market farmers have a natural economic incentive to adopt the enhanced crop varieties. We are thus able to project with a reasonably high degree of confidence a rate of continued improvement in palm oil crop yield through 2022. By contrast, we determined that biodiesel production technologies are mature and therefore we do not predict any improvements in process technology. In sum, where we have had sufficient information to predict improvements in the general state of technology across the industry, we have done so, but where no such basis exists—such as for methane capture/use at palm oil mills—we do not include such projections in our analysis.[55]

At least some methane capture/use projects at palm oil mills in Malaysia and Indonesia are registered under the CDM, but our analysis does not treat emission reductions differently based on whether or not a palm oil mill's methane capture/use project is CDM-registered. As defined in Article 12 of the Kyoto Protocol, the CDM allows a country with an emission-reduction or emission-limitation commitment under the Kyoto Protocol to implement emission-reduction projects in developing countries. Such projects can earn saleable certified emission reduction (CER) credits, each equivalent to one tonne of CO_2, which can be counted towards meeting Kyoto targets. For example, CERs can be used for compliance purposes under the European Union's (EU) Emissions Trading System (ETS). A CER from a palm oil methane destruction project in Malaysia, for example, could conceivably be used for compliance under the EU ETS. Under such a scenario, an argument could be made that counting the emission reductions from a ''retired'' CER as part of our lifecycle analysis would effectively be double counting the same emission reduction. While CDM's project database states that 47 palm oil mills in Indonesia and Malaysia have methane capture/use projects registered with the CDM,[56] [57] we have been unable to verify that any CERs generated by methane capture/use at the relevant palm oil mills have actually been used to meet obligations under the EU ETS.[58] However, even if all of the available CER credits for methane emissions reduction had been purchased and retired for compliance purposes (and were thus not counted in our analysis), this would increase our lifecycle GHG emission estimates by only a relatively small amount (on the order of 2%). A final factor informing our approach on this topic is uncertainty about whether the CDM and ETS programs will be extended in their current form. Based on our lack of evidence that relevant CERs had been purchased, the relative magnitude of the emissions in question, and general uncertainty about the future of the CDM and ETS programs, our approach for lifecycle analysis purposes is to treat emission reductions from CDM-registered palm oil projects as we treat any other emission reduction. While we believe we do not have a strong technical or economic basis treating them otherwise at this time, we ask for further comment on this topic.

According to the MPOB, another potential practice that can avoid methane emissions from palm oil mills entails recovering the organic solids

[54] For more information about the Clean Development Mechanism, which is implemented under the United Nations Framework Convention on Climate Change, refer to: *http://cdm.unfccc.int/.*

[55] We note, however, that, based on our analysis, our proposed determinations regarding lifecycle GHG thresholds would not change even if we assumed that all of the methane capture projects being planned in Malaysia will come to fruition. See Section II.D.2 for more information.

[56] Using the Web site: *http://cdm.unfccc.int/Projects/projsearch.html;* six project title searches were completed with the keywords ''palm'', ''POME'', ''wastewater'', ''waste water'', ''biogas'', and ''methane.'' Search results were then examined to determine which projects involved methane capture from anaerobic digestion of POME.

[57] These 47 mills represent approximately 79% of the mills with operational methane capture and use projects, but only about 5% of all mills in Indonesia and Malaysia.

[58] Cross-checking the registered mills with an EC list of CERs surrendered under the EU ETS as of March 19, 2010 yielded no matches. Unfortunately, due to the design of their electronic databases, the European Commission was unable to verify for us whether any of the CERs generated by methane capture at palm oil mills have been purchased and used by European companies. Personal communication with Thomas Bernheim (European Commission) from September 23, 2011.

from POME so that there is no anaerobic digestion and therefore no methane emissions.[59] Unless the recovered solids are used to replace other products the GHG reduction benefits of this technology are likely to be less than reductions associated with methane capture/use for electricity generation. MPOB data suggests that methane avoidance has not been deployed at a significant number of palm oil mills. Because we do not have a strong technical or economic basis for projecting the deployment of this technology it is not considered in our lifecycle analysis.

Our analysis also accounts for the co-products from palm oil mills. We assume that the biomass co-products (e.g., mesocarp fiber and shells) are used for heat and energy, with remaining empty fruit bunches trucked back to the field for use as fertilizer. We also account for the palm kernel co-product and model the emissions related to transporting the palm kernels to a separate milling facility where palm kernel oil and palm kernel meal are produced. Our agricultural modeling accounts for the use of the palm kernel oil and meal in the food and feed markets.

The docket includes a memorandum with more discussion of and justification for the data, inputs and assumptions used in our analysis of palm oil mills.[60] EPA invites comment on all aspects of its modeling of lifecycle GHG emissions from palm oil mills, including all of the assumptions and data inputs used.

B. Results of Lifecycle Analysis for Biodiesel from Palm Oil

We analyzed the lifecycle GHG emission impacts of producing biodiesel using palm oil as a feedstock assuming the same biodiesel production facility designs and conversion efficiencies as modeled in RFS2 for biodiesel produced from soybean oil. Our analysis looks at biodiesel produced in Indonesia or Malaysia which is then shipped to the United States via ocean tanker. As such, GHG emissions associated with electricity used at biodiesel production facilities were determined based on the emissions factors for grid average electricity generation in Indonesia and Malaysia.

As was the case for soybean oil biodiesel, production technology for palm oil biodiesel is mature and we have not projected in our assessment of palm oil biodiesel any significant improvements in plant technology; while unanticipated energy saving improvements would tend to improve GHG performance of the fuel pathway, there is no valid basis for projecting such improvements. Additionally, similar to soybean oil biodiesel production, we assumed that the co-product glycerin would displace residual oil as a fuel source on an energy equivalent basis.

As part of the RFS2 proposal we assumed the glycerin would have no value and would effectively receive no co-product credits in the soy biodiesel pathway. We received numerous comments, however, as part of the RFS2 final rule stating that the glycerin would have a beneficial use and should generate co-product benefits. Therefore, the biodiesel glycerin co-product determination made as part of the RFS2 final rule took into consideration the possible range of co-product credit results. The actual co-product benefit will be based on what products are replaced by the glycerin, or what new uses the co-product glycerin is applied to. The total amount of glycerin produced from the biodiesel industry will actually be used across a number of different markets with different GHG impacts. This could include for example, replacing petroleum glycerin, replacing fuel products (residual oil, diesel fuel, natural gas, etc.), or being used in new products that don't have a direct replacement, but may nevertheless have indirect effects on the extent to which existing competing products are used. The more immediate GHG reductions from glycerin co-product use will likely range from fairly high reductions when petroleum glycerin is replaced to lower reduction credits if it is used in new markets that have no direct replacement product, and therefore no replaced emissions. EPA does not have sufficient information (and received no relevant comments to the RFS2 proposal) on which to allocate glycerin use across the range of likely uses. EPA's approach is to pick a surrogate use for modeling purposes in the mid-range of likely glycerin uses, and focus on the more immediate GHG emissions results tied to such use. The replacement of an energy equivalent amount of residual oil is a simplifying assumption determined by EPA to reflect the mid-range of possible glycerin uses in terms of GHG credits, and EPA believes that it is appropriately representative of GHG reduction credit across the possible range without necessarily biasing the results toward high or low GHG impact. Given the fundamental difficulty of predicting possible glycerin uses and impacts of those uses many years into the future under different market conditions, EPA believes it is reasonable to use its more simplified approach to calculating co-product GHG benefit associated with glycerin production. To narrow this area of uncertainty in our analysis we invite commenters to submit data regarding the use of glycerin produced at biodiesel production facilities, and especially for glycerin produced at facilities that are based in Indonesia or Malaysia or that use palm oil as a feedstock.

As with other EPA analyses of fuel pathways with a significant land use impact, our analysis for palm oil biodiesel includes a mid-point estimate as well as a range of possible lifecycle GHG emission results based on uncertainty analysis conducted by the Agency. The graph included below (Figure II–1) depicts the results of our analysis (including the uncertainty in our land use change modeling) for palm oil biodiesel produced via trans-esterification using natural gas as process energy, because this is the primary source of process energy at existing plants. The docket also includes pathway analyses assuming coal or biomass is used instead of natural gas for process energy. Because the trans-esterification process requires a relatively small amount of energy, our threshold determinations would remain the same for the palm oil biodiesel pathway regardless of whether natural gas, coal or biomass is used for energy in the biodiesel production process.

Figure II–1 shows the results of our biodiesel modeling. It shows the percent difference between lifecycle GHG emissions for the modeled 2022 palm oil biodiesel, produced via trans-esterification using natural gas for process energy, and those for the petroleum diesel fuel 2005 baseline. Lifecycle GHG emissions equivalent to the statutory diesel fuel baseline are represented on the graph by the zero on the X-axis. The results for palm oil biodiesel are that the midpoint of the range of results is a 17% reduction in GHG emissions compared to the 2005 diesel fuel baseline.[61] As in the case of other biofuel pathways analyzed as part of the RFS2 rule, the range of results shown in Figure II–1 is based on our assessment of uncertainty regarding the location and types of land that may be impacted as well as the GHG impacts associated with these land use changes (See Section II.D.3. for further information). These results, if finalized,

[59] MPOB (2010).

[60] EPA (2011).

[61] The 95% confidence interval around that midpoint results in range of a 4% increase to a 35% reduction compared to the 2005 diesel fuel baseline.

would justify our determination that fuel produced by the modeled palm oil biodiesel pathway fails to meet the 20% reduction threshold required for the generation of conventional renewable fuel RINs.

Figure II-1. Distribution of Results for Palm Oil Biodiesel Produced Via Transesterification with Natural Gas for Process Energy

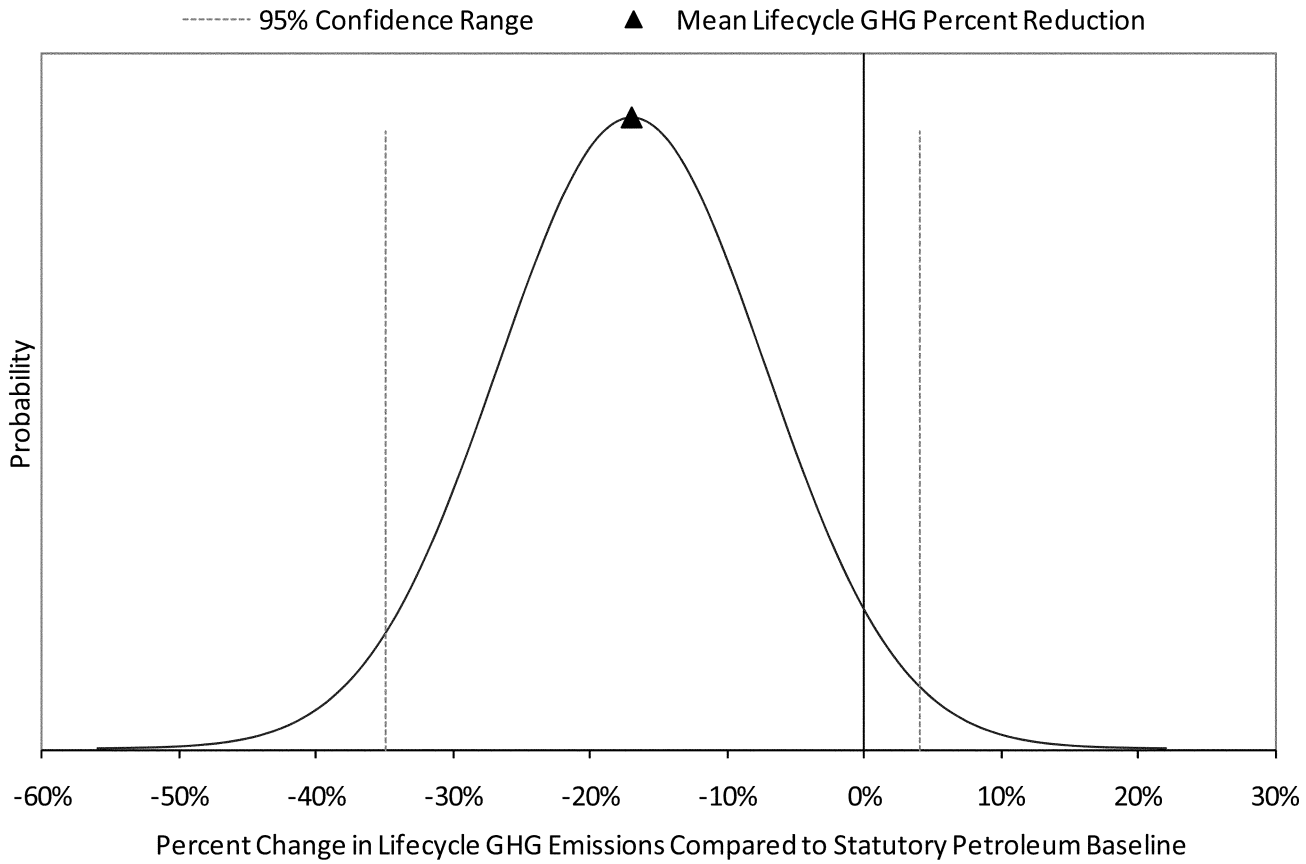

Table II–8 breaks down by stage the lifecycle GHG emissions for palm oil biodiesel in 2022 and the statutory 2005 diesel baseline.[62] Results are included using our mid-point estimate of land use change emissions, as well as with the low and high end of the 95% confidence interval. Net agricultural emissions include impacts related to changes in crop inputs, such as fertilizer, energy used in agriculture, livestock production and other agricultural changes in the scenarios modeled. Land use change emissions are discussed above in Section II.A.4. Emissions from fuel production include emissions from palm oil mills, palm kernel mills and the trans-esterification process to produce biodiesel. Fuel and feedstock transport includes emissions from transporting fresh fruit bunches, palm kernels, crude palm oil and finished biodiesel along each stage of the lifecycle. In our analysis we assume that palm oil is converted to biodiesel in Indonesia and Malaysia and then the biodiesel is transported via ocean tanker to the U.S. Transporting crude palm oil to the U.S. would result in greater GHG emissions because biodiesel has greater energy density than crude palm oil.

TABLE II–8—LIFECYCLE GHG EMISSIONS FOR PALM OIL BIODIESEL

[$kgCO_2e/mmBtu$]

Fuel type	Palm oil biodiesel	2005 Diesel baseline
Net Agriculture (w/o land use change)	5	
Land Use Change, Mean *(Low/High)*	46 *(28/66)*	
Fuel Production	25	18
Fuel and Feedstock Transport	4	*

[62] Totals in the table may not sum due to rounding.

TABLE II–8—LIFECYCLE GHG EMISSIONS FOR PALM OIL BIODIESEL—Continued

[$kgCO_2e/mmBtu$]

Fuel type	Palm oil biodiesel	2005 Diesel baseline
Tailpipe Emissions	1	79
Total Emissions, Mean *(Low/High)*	80 *(62/101)*	97
Midpoint Lifecycle GHG Percent Reduction Compared to Petroleum Baseline	17%	

* Emissions included in fuel production stage.

The docket for this NODA provides more details on our key model inputs and assumptions, e.g., crop yields, biofuel conversion yields, and agricultural energy use. These inputs and assumptions are based on our analysis of peer-reviewed literature and consideration of recommendations of experts from within the palm oil and biodiesel industries and those from USDA as well as the experts at Iowa State University who have designed the FAPRI-CARD models. EPA invites comment on all aspects of its modeling of palm oil biodiesel, including all assumptions made and modeling inputs.

C. Results of Lifecycle Analysis for Renewable Diesel From Palm Oil

Palm oil can also be used in a hydrotreating process to produce a slate of products, including diesel fuel, heating oil (defined as No. 1 or No. 2 diesel), jet fuel, naphtha, liquefied petroleum gas (LPG), and propane. Since the RFS regulations define the term renewable diesel to include the products diesel fuel, jet fuel and heating oil (40 CFR 80.1401), the following discussion uses the term renewable diesel to refer to all of these products. (The terms diesel fuel or diesel fuel replacement are used to refer to only the diesel fraction of the hydrotreating output.) While any propane (also referred to as fuel gas) produced as part of the hydrotreating process will most likely be combusted within the facility for process energy, the other co-products that can be produced (i.e., jet fuel, naphtha, LPG) are higher value products that could be used as transportation fuels or, in the case of naphtha, a blendstock for production of transportation fuel. The hydrotreating process maximized for producing a diesel fuel replacement as the primary fuel product requires more overall material and energy inputs than transesterification to produce biodiesel, but it also results in a greater amount of other valuable co-products, as listed above. The hydrotreating process can also be maximized for jet fuel production which requires even more process energy than the process optimized for producing a diesel fuel replacement and produces a greater amount of co-products per barrel of feedstock, especially naphtha.

Our lifecycle analysis accounts for the various uses of the co-products from hydrotreating. There are two main approaches to accounting for the co-products produced, the allocation approach and the displacement approach. In the allocation approach all the emissions from the hydrotreating process are allocated across all the different co-products. There are a number of ways to do this, but since the main use of the co-products would be as fuel products, we allocate based on the energy content of the co-products produced. So emissions from the process would be allocated equally to all the Btus produced. Therefore, on a per Btu basis all co-products would have the same emissions. The displacement approach would attribute all of the emissions of the hydrotreating process to one main product and then account for the emission reductions from the other co-products displacing alternative products. So for example, if the hydrotreating process is configured to maximize renewable diesel production all of the emissions from the process would be attributed to renewable diesel, but we would then assume the other co-products were displacing alternative products, for example, naphtha would displace gasoline, LPG would displace natural gas, etc. This assumes the other alternative products are not produced or used so we would subtract the emissions of gasoline production and use, natural gas production and use, etc. This would show up as a GHG emission credit associated with the production of the renewable diesel.

To account for a hypothetical scenario where RINs are generated from the renewable jet fuel, heating oil, naphtha and LPG in addition to the diesel replacement fuel produced, we would not give the diesel replacement fuel a displacement credit for these co-products. Instead, the lifecycle GHG emissions from the fuel production processes would be allocated to each of the RIN-generating products on an energy content basis. This has the effect of tending to increase the fuel production lifecycle GHG emissions associated with the diesel replacement fuel because there are fewer co-product displacement credits to assign than would be the case if RINs were not generated for the co-products.[63] On the other hand, the upstream lifecycle GHG emissions associated with producing and transporting the plant oil feedstocks will be distributed over a larger group of RIN-generating products. Assuming each product (except propane) produced via the palm oil hydrotreating process would generate RINs results in higher lifecycle GHG emissions for diesel fuel replacement as compared to the case where the co-products are not used to generate RINs. This general principle is also true when the hydrotreating process is maximized for jet fuel production. As a result, the best GHG performance (i.e., least lifecycle GHG emissions) for palm-oil renewable diesel via hydrotreating will occur when none of the co-products are RIN-generating (i.e., only the diesel replacement fuel is used to generate RINs).

We have evaluated information about the lifecycle GHG emissions associated with the hydrotreating process which can be maximized for renewable jet fuel or diesel production. Our evaluation considers information published in peer-reviewed journal articles and publicly available literature (Kalnes et al.,[64] Pearlson,[65] Stratton et al., Huo et al.[66]). Our analysis of GHG emissions from the hydrotreating process is based

[63] For a similar discussion see Stratton R.W., Wong, H.M., Hileman, J.I., 2011. Quantifying Variability in Lifecycle Greenhouse Gas Inventories of Alternative Middle Distillate Transportation Fuels. *Environmental Science & Technology*. 45, 4640.

[64] Kalnes, T.N., McCall, M.M., Shonnard, D.R., 2010. Renewable Diesel and Jet-Fuel Production from Fats and Oils. Thermochemical Conversion of Biomass to Liquid Fuels and Chemicals, Chapter 18, p. 475.

[65] Pearlson, M.N., 2011. A Techno-Economic and Environmental Assessment of Hydroprocessed Renewable Distillate Fuels. *http://dspace.mit.edu/handle/1721.1/65508.*

[66] Huo, H., Wang, M., Bloyd, C., Putsche, V., 2008. Life-Cycle Assessment of Energy and Greenhouse Gas Effects of Soybean-Derived Biodiesel and Renewable Fuels. Argonne National Laboratory. Energy Systems Division. ANL/ESD/08–2. March 12, 2008.

on the mass and energy balance data in Pearlson which analyzes a hydrotreating process maximized for diesel production and a hydrotreating process maximized for jet fuel production.[67] These data are summarized in Table II–9.[68]

TABLE II–9—HYDROTREATING PROCESS TO PRODUCE RENEWABLE DIESEL FUEL

	Maximized for diesel fuel production	Maximized for jet fuel production	Units (per gallon of fuel produced)
Inputs			
Crude Palm Oil	9.56	12.84	Lbs.
Hydrogen	0.04	0.08	Lbs.
Electricity	652	865	Btu.
Natural Gas	23,247	38,519	Btu.
Outputs:			
Diesel Fuel	123,136	55,845	Btu.
Jet Fuel	23,197	118,669	Btu.
Naphtha	3,306	17,042	Btu.
LPG	3,084	15,528	Btu.
Propane	7,454	9,881	Btu.

Table II–10 compares lifecycle GHG emissions from hydrotreating for palm-oil-based renewable diesel and jet fuel. The lifecycle GHG estimates for palm-oil diesel and jet fuel are based on the input/output data summarized in Table II–9. For the scenarios analyzed, we assume that the LPG and propane co-products do not generate RINs; instead, they are used for process energy displacing natural gas. We also assume that the naphtha does not generate RINs but is used as blendstock for production of transportation fuel displacing conventional gasoline. As discussed above, lifecycle GHG emissions per Btu of diesel or jet fuel would be higher if the naphtha or LPG were used to generate RINs.

TABLE II–10—HYDROTREATING LIFECYCLE GHG EMISSIONS

[gCO_2e/mmBtu]

Process	RIN-generating products	Other co-products	Hydrotreating emissions
Hydrotreating Maximized for Diesel	Diesel Jet Fuel ...	Naphtha LPG. Propane.	4,448
Hydrotreating Maximized for Jet Fuel	Diesel Jet Fuel ...	Naphtha LPG. Propane.	(3,358)

In Table II–10 the process maximized for jet fuel production results in negative emissions at the hydrotreating stage. This is due to the displacement credits for co-products, especially naphtha, replacing conventional gasoline.[69] As shown in Table II–9, the process maximized for jet fuel production requires significantly more crude palm oil per Btu of fuel output. Each additional pound of palm oil used in the process has related lifecycle GHG emissions associated with producing, processing and transporting the palm oil to the hydrotreating facility. As a result, when palm oil is used as the feedstock, the full lifecycle GHG emissions are greater for the process maximized for jet fuel when all of the stages of the lifecycle are factored into the analysis. Unless otherwise noted, the analysis of palm oil renewable diesel in this preamble refers to the first scenario in Table II–10: hydrotreating maximized for production of diesel fuel replacement. Supporting information for the values in Table II–10 is provided through the docket.

As discussed above, for a process that produces more than one RIN-generating output we allocate lifecycle GHG emissions to the RIN-generating products on an energy equivalent basis. We then normalize the allocated lifecycle GHG emissions per mmBtu of each fuel product. Therefore, each RIN-generating product from the same process will be assigned equal lifecycle GHG emissions per mmBtu from fuel processing. For example, based on the lifecycle GHG estimates in Table II–10, for the hydrotreating process maximized to produce diesel fuel, the diesel and jet fuel both have lifecycle GHG emissions of 4,448 gCO_2e/mmBtu. For the same reasons, the lifecycle GHG emissions from the diesel and jet fuel will stay equivalent if we consider upstream GHG emissions, such as emissions associated with palm oil cultivation and land use change. Lifecycle GHG emissions from fuel distribution and use could be somewhat different for the diesel and jet fuel, but since these stages produce a relatively small share of the emissions related to the full fuel lifecycle, the overall differences will be quite small. The results presented below include emissions related to transporting palm oil-based diesel fuel.

We model the production technology for palm oil renewable diesel as mature and therefore have not projected in our assessment any significant improvements in plant technology. Unanticipated energy saving

[67] We have also considered data submitted by companies involved in the hydrotreating industry which is claimed as confidential business information (CBI). The conclusions using the CBI data are consistent with the analysis presented here.

[68] Based on Pearlson, Table 3.1 and Table 3.2.

[69] Co-product displacement accounting is described further in the inputs and assumptions document available through the public docket for this notice.

improvements would improve GHG performance of the fuel pathway, but at this time we do not have a strong technical basis for including any such improvements.

Figure II–2 summarizes the results of our modeling of palm oil renewable diesel, with fuel production emissions allocated between the diesel fuel and jet fuel outputs and displacement credit given for the naphtha output. It shows the percent difference between lifecycle GHG emissions for palm oil renewable diesel produced in 2022 and those for the statutory petroleum baseline. Lifecycle GHG emissions equivalent to the diesel baseline are represented on the graph by the zero on the X-axis. The results for palm oil renewable diesel are that the midpoint of the range of results is an 11% reduction in GHG emissions compared to the diesel fuel baseline.[70] As with Figure II–1, the range of results shown in Figure II–2 is based on our assessment of uncertainty regarding the location and types of land that may be impacted as well as the GHG impacts associated with these land use changes. These results, if finalized, would justify our determination that fuel produced by the modeled palm oil renewable diesel pathway fails to meet the 20% reduction threshold required for the generation of conventional renewable fuel RINs.

Figure II-2. Distribution of Results for Palm Oil Renewable Diesel Produced Via Hydrotreating

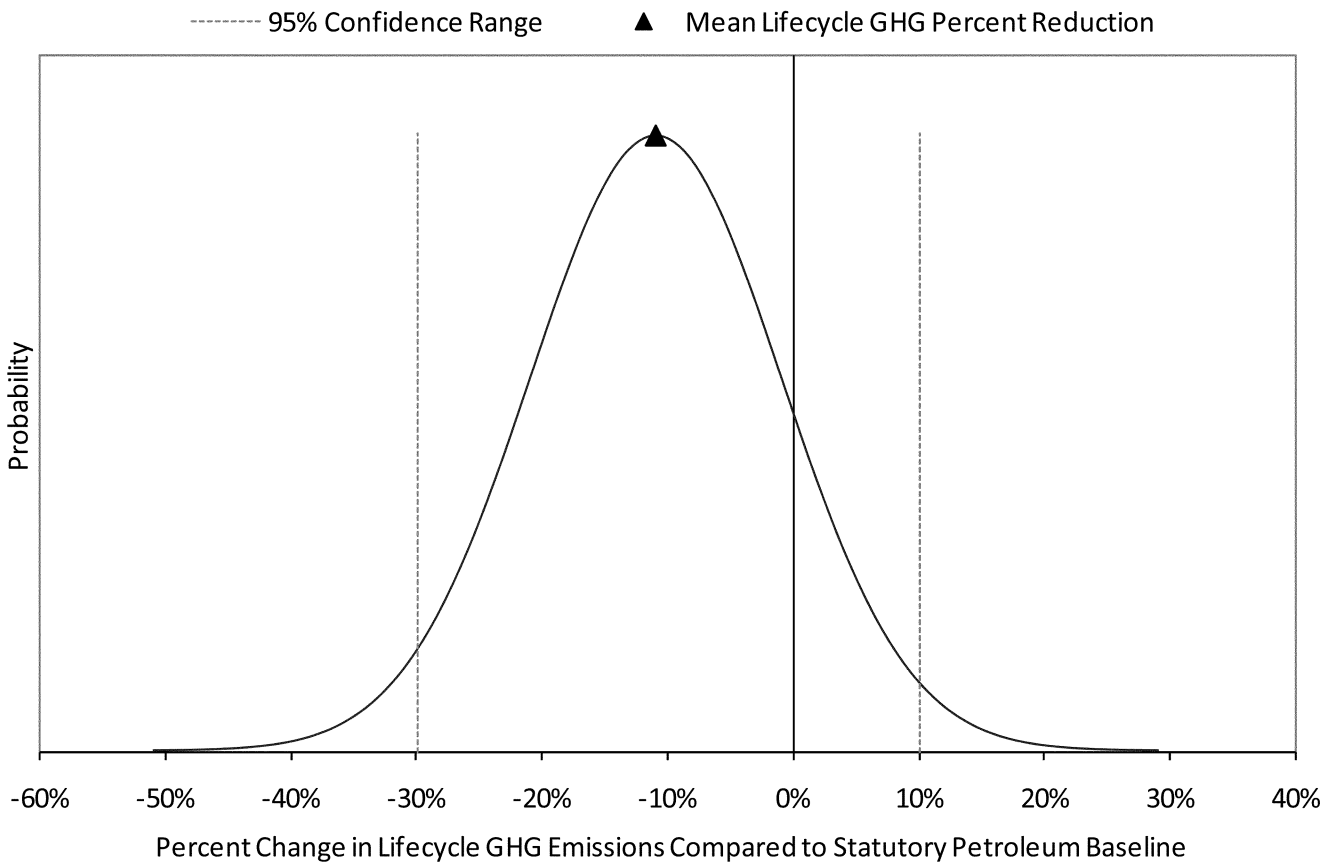

Table II–11 breaks down by stage the lifecycle GHG emissions for palm oil renewable diesel in 2022 and the statutory diesel baseline.[71] This table demonstrates the contribution of each stage and its relative significance. Results are included using our mid-point estimate of land use change emissions, as well as with the low and high end of the 95% confidence interval. Net agricultural emissions include impacts related to changes in crop inputs, such as fertilizer, energy used in agriculture, livestock production and other agricultural changes in the scenarios modeled. Land use change emissions are discussed above in Section II.A.4. Emissions from fuel production include emissions from palm oil mills, palm kernel mills and the hydrotreating process to produce renewable biodiesel. Fuel and feedstock transport includes emissions from transporting fresh fruit bunches, palm kernels, crude palm oil and finished renewable diesel along each stage of the lifecycle.

[70] The 95% confidence interval around that midpoint results in range of a 10% increase to a 30% reduction compared to the 2005 diesel fuel baseline.

[71] In the table totals may not sum due to rounding.

TABLE II–11—LIFECYCLE GHG EMISSIONS FOR PALM OIL RENEWABLE DIESEL

[$kgCO_2E/mmBtu$]

Fuel type	Palm oil renewable diesel	2005 diesel baseline
Net Agriculture (w/o land use change)	5	.....
Land Use Change, Mean *(Low/High)*	47 *(28/67)*	.....
Fuel Production	31	18
Fuel and Feedstock Transport	4	(*)
Tailpipe Emissions	1	79
Total Emissions, Mean *(Low/High)*	87 *(68/107)*	97
Midpoint Lifecycle GHG Percent Reduction Compared to Petroleum Baseline	11%	.....

* Emissions included in fuel production stage.

The docket includes a memorandum which summarizes relevant materials used for the palm oil renewable diesel analysis. Described in the memorandum, for example, are the input and assumptions document and detailed results spreadsheets (e.g., agricultural impacts, agricultural energy use, FAPRI–CARD model results) used to generate the results presented. The input and assumptions document available through the docket describes many aspects of our analysis, including our co-product accounting approach. EPA invites comment on all aspects of its modeling of palm oil renewable diesel including all assumptions made and modeling inputs.

D. Consideration of Lifecycle Analysis Results

1. Implications for Threshold Determinations

As discussed above, EPA's analysis of the two types of biofuel shows that, based on the mid-point of the range of results, biodiesel and renewable diesel produced from palm oil have estimated lifecycle GHG emission reductions of 17% and 11% respectively compared to the statutory petroleum baseline used in the RFS program. The results for palm oil biodiesel and for palm oil renewable diesel, if finalized, would justify treating these fuel pathways as failing to meet the minimum 20% lifecycle GHG reduction requirement in the RFS program for non-grandfathered biofuels.

Our analysis applies to the modeled palm oil biodiesel and palm oil renewable diesel pathways regardless of their country of origin (See 75 FR 14793 for a similar discussion regarding other pathways). We project that the vast majority of palm oil used to produce biofuels for use in the United States would be produced in Indonesia and Malaysia (See Table II–1). Although palm oil and palm oil biofuel production may occur in other countries that have not been specifically modeled, or may be supplied from countries in different proportions than we modeled, we anticipate their use would not impact our conclusions regarding the lifecycle GHG thresholds met by the palm oil biofuel pathways under consideration. The emissions of producing these fuels in other countries could be slightly higher or lower than what was modeled depending on a number of factors. Our analysis indicates that crop yields in other countries where palm oil would most likely be produced tend to be lower than Malaysia and Indonesia, pointing toward somewhat higher land use change and consequently potentially higher land use change GHG impacts. If the supply of palm oil from other countries were to reduce the amount of agricultural expansion in Indonesia and Malaysia, with potentially reduced amounts of peat soil drainage, as compared to the amount predicted in our modeling, this would tend to lower our estimate of GHG emissions per acre of land use change. Technologies for turning this palm oil into biofuel are well established and would be expected to be similar in different countries. Based on these offsetting land use impact factors, similar biofuel production technology, and the small amounts of palm oil for biofuel likely to come from other countries, we conclude that incorporating palm oil from other countries would not impact our threshold determinations.

2. Consideration of Uncertainty

Because of the inherent uncertainty and the state of evolving science regarding lifecycle analysis of biofuels, any threshold determinations that EPA makes for palm oil biodiesel and renewable diesel will be based on an approach that considers the weight of evidence currently available. For these two pathways the evidence considered includes the mid-point estimate as well as the range of results based on statistical uncertainty and sensitivity analyses conducted by the Agency. EPA will weigh all of the evidence available to it, while placing the greatest weight on the best-estimate value for the scenarios analyzed.

As part of our assessment of the two palm oil biofuel pathways we have identified key areas of uncertainty in our analysis. Although there is inherent uncertainty in all portions of the lifecycle modeling, we focused our uncertainty analysis on the factors that are the most uncertain and have the biggest impact on the results. For example, the energy and GHG emissions used by a natural gas-fired biodiesel plant to produce one gallon of biodiesel can be calculated through direct observations, though this will vary somewhat between individual facilities. The indirect, international emissions are the component of our analysis with the highest level of uncertainty. For example, identifying what type of land is converted internationally and the emissions associated with this land conversion are critical issues that have a large impact on the GHG emissions estimates. Therefore, we focused our efforts on the international indirect land use change emissions and worked to manage the uncertainty around those impacts in three ways: (1) Getting the best information possible and updating our analysis to narrow the uncertainty, (2) performing sensitivity analysis around key factors to test the impact on the results, and (3) establishing reasonable ranges of uncertainty and using probability distributions within these ranges in threshold assessment.

Our analysis of land use change GHG emissions includes an assessment of uncertainty that focuses on two aspects of indirect land use change—the types of land converted and the GHG emissions associates with different types of land converted. These areas of uncertainty were estimated statistically

using the Monte Carlo analysis methodology developed for the RFS2 final rule.[72] Figure II–1 and Figure II–2 show the results of our statistical uncertainty assessment. In analyzing both palm oil biofuel pathways, the midpoint results, and therefore the majority of the scenarios analyzed, fail to meet the 20% lifecycle GHG reduction requirement for non-grandfathered renewable fuels.

We have also identified areas of uncertainty that are not explicitly addressed in our Monte Carlo analysis due to time considerations. These areas of uncertainty have been assessed with sensitivity analysis and qualitative inspection. A majority of the areas of uncertainty considered could result in higher actual lifecycle GHG emissions than estimated in our midpoint results. These aspects of our analysis include uncertainties regarding: the total area of projected incremental palm oil expansion; the percent of palm oil expansion impacting tropical peat swamp forests; and indirect emissions related to peat soil drainage, such as from an increased risk of forest fires or collateral drainage of nearby uncultivated land. For these areas of uncertainty it is our judgment that our midpoint estimates likely underestimate the actual amount of lifecycle GHG emissions, but it is unlikely that they overestimate the actual emissions. We have also identified a smaller number of uncertainties which could result in less actual emissions. For example, increased adoption of methane capture/use technologies at palm oil mills and future government restrictions on peat soil development would likely result in less actual emissions than estimated in our midpoint results. Regarding methane capture and use projections, we conducted sensitivity analysis assuming that all mills use closed digester tanks with 90% methane capture efficiency, and convert the methane to electricity with 34% efficiency for export to the grid. In this sensitivity scenario, the mid-point results for palm oil biodiesel and renewable diesel are 42% and 36% reductions compared to the diesel baseline, respectively. Thus, even in this very optimistic scenario, neither of the palm oil biofuel pathways analyzed achieves a 50% GHG reduction. Our consideration of uncertainties in our lifecycle assessments is described further in a reference document available through the public docket.

Based on the weight of evidence considered, and putting the most weight on our mid-point estimate results, the results of our analysis indicate that both palm oil based biofuels pathways would fail to qualify as meeting the minimum 20% GHG performance threshold for qualifying renewable fuel under the RFS program. This conclusion is supported by our midpoint estimates, our statistical assessment of land use change uncertainty, as well as our consideration of other areas of uncertainty. A majority of the areas of uncertainty that we have identified, and discussed above, would lead to higher actual lifecycle GHG emissions than estimated in our midpoint results. Some of these areas of uncertainty appear to be fairly likely to result in greater actual emissions and in some cases by a substantial amount. In comparison, we identified a smaller number of uncertainties which could result in less actual emissions, but these factors appear less likely to reduce emissions by an equivalent amount. Based on the results of our analysis and considering key areas of uncertainty, the minimum 20% lifecycle GHG reduction requirements for non-grandfathered fuels under the RFS program is not achieved for the palm oil biofuel pathways evaluated.

The docket for this NODA provides more details on all aspects of our analysis of palm oil biofuels. EPA invites comment on all aspects of its modeling of palm oil biodiesel and renewable diesel. We also invite comment on the consideration of uncertainty as it relates to making GHG threshold determinations.

Dated: December 14, 2011.

Margo T. Oge,

Director, Office of Transportation & Air Quality.

[FR Doc. 2012–1784 Filed 1–26–12; 8:45 am]

BILLING CODE 6560–50–P

[72] The Monte Carlo analysis is described in EPA (2010a), Section 2.4.4.2.8.

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9001–3]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7146 or *http://www.epa.gov/compliance/nepa/.*

Weekly Receipt of Environmental Impact Statements

Filed 01/17/2012 Through 01/20/2012 Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EIS are available at: *http://www.epa.gov/compliance/nepa/eisdata.html.*

EIS No. 20120013, Final EIS, USFS, ID, Clearwater National Forest Travel Planning Project, Proposes to Manage Motorized and Mechanized Travel, Clearwater National Forest, Idaho, Clearwater, Latah and Shoshone Counties, ID, Review Period Ends: 02/27/2012, Contact: Heather Berg (208) 476–4541.

EIS No. 20120014, Revised Draft EIS, USFS, MT, East Deer Lodge Valley Landscape Restoration Management Project, To Conduct Landscape Restoration Management Activities, Additional Information Including the Addition of Alternative 3, Pintler Ranger District, Beaverhead Deerlodge National Forest, Powell and Deerlodge Counties, MT, Comment Period Ends: 03/12/2012, Contact: Brent Lignell (406) 494–2147.

EIS No. 20120015, Draft EIS, FTA, WA, Mukilteo Multimodal Project, To Improve the Operations, Safety and Security of Facilities Serving the Mukilteo-Clinton Ferry Route, Funding, USACE Section 10 and 404 Permits, Snohomish County, WA, Comment Period Ends: 03/12/2012, Contact: Daniel Drais (206) 220–4465.

EIS No. 20120016, Draft EIS, BLM, NV, Hycroft Mine Expansion Project, Proposes to Expand Mining Activities on BLM Managed Public Land and Private Land, Approval, Humboldt and Pershing Counties, NV, Comment Period Ends: 03/12/2012, Contact: Kathleen Rehberg (775) 623–1500.

EIS No. 20120017, Draft EIS, FHWA, NY, Tappan Zee Hudson River Crossing Project, To Provide an Improved Hudson River Crossing between Rockland and Westchester Counties Funding, USACE Section 10 and 404 Permits, Rockland and Westchester Counties, NY, Comment Period Ends: 03/15/2012, Contact: Jonathan D. McDade (518) 431–4125.

EIS No. 20120018, Final EIS, FHWA, CA, State Route 76 South Mission Road to Interstate 15 Highway Improvement Project, Widening and Realignment Including Interchange Improvements, USACE Section 404 Permit, San Diego County, CA, Review Period Ends: 02/27/2012, Contact: Manuel E. Sanchez (619) 699–7336.

Amended Notices

EIS No. 20110350, Draft EIS, USFS, AZ, Rosemont Copper Project, Proposed Construction, Operation with Concurrent Reclamation and Closure of an Open-Pit Copper Mine,

Coronado National Forest, Pima County, AZ, Comment Period Ends: 01/31/2012, Contact: Bev Everson (520) 388–8300. This document is available on the Internet at: *http://www.fs.fed.us/r3/coronado/RosemontDEISmain.htm.* Revision to FR Publication 10/21/2011; Extending Comment Period from 1/18/2012 to 1/31/2012.

EIS No. 20110420, Draft Supplement, USACE, TX, Clear Creek Reevaluation Study Project, Flood Risk Management and Ecosystem Restoration, Brazoria, Fort Bend, Galveston and Harris Counties, TX, Comment Period Ends: 01/30/2012, Contact: Andrea Catanzaro (409) 766–6346. Revision to FR Notice Published 12/16/2012; Extending Comment Period from 01/30/2012 to 02/14/2012.

Dated: January 24, 2012.

Cliff Rader,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2012–1814 Filed 1–26–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9623–6]

Notification of Two Public Teleconferences of the Science Advisory Board Ecological Processes and Effects Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA or Agency) Science Advisory Board (SAB) Staff Office announces two public teleconferences of the SAB Ecological Processes and Effects Committee (EPEC). The SAB EPEC will provide advice on the EPA Risk Assessment Forum (RAF) document, ''Integrating Ecological Assessment and Decision-Making at EPA, 2011 RAF Ecological Assessment Action Plan (August, 11, 2011).''

DATES: The SAB Ecological Processes and Effects Committee will conduct public teleconferences on February 22, 2012 and February 23, 2012. The teleconferences will begin at 12:00 noon and end at 4 p.m. (Eastern Time) on each day.

ADDRESSES: The public teleconferences will be conducted by telephone only.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information regarding the public teleconferences may contact Dr. Thomas Armitage, Designated Federal Officer (DFO), SAB Staff Office, by telephone/voice mail at (202) 564–2155 or via email at *armitage.thomas@epa.gov.* General information concerning the EPA Science Advisory Board can be found at the EPA SAB Web site at *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION: *Background:* The SAB was established pursuant to the Environmental Research, Development, and Demonstration Authorization Act (ERDAA) codified at 42 U.S.C. 4365, to provide independent scientific and technical peer review, advice, consultation and recommendations to the EPA Administrator on the technical basis for EPA actions. As a Federal Advisory Committee, the SAB conducts business in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2) and related regulations. Pursuant to FACA and EPA policy, notice is hereby given that the SAB EPEC, augmented with other experts, will hold two public teleconferences to provide advice through the chartered SAB on the EPA Risk Assessment Forum (RAF) document, ''Integrating Ecological Assessment and Decision-Making at EPA, 2011 RAF Ecological Assessment Action Plan (August, 11, 2011).'' The SAB Committee will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

In response to recommendations in a 2007 SAB Report, ''Advice to EPA on Advancing the Science and Application of Ecological Risk Assessment in Environmental Decision-Making'' (EPA–SAB–08–002), the EPA Risk Assessment Forum in the Office of the Science Advisor held an EPA ecological assessment colloquium and developed an action plan titled, ''Integrating Ecological Assessment and Decision-Making at EPA, 2011 RAF Ecological Assessment Action Plan (August, 11, 2011).'' The action plan proposes initiatives to improve the quality, scope, and application of the EPA's ecological assessments. Initiatives outlined in the action plan address high priority recommendations in the EPA colloquium report, ''Integrating Ecological Assessment and Decision-Making at EPA: A Path Forward'' (EPA/100/R–10/004). EPA's Office of the Science Advisor has requested that the SAB Ecological Processes and Effects Committee review the Agency's ecological assessment action plan and related background documents, and provide advice on the technical merit and implementation of proposed initiatives. The SAB EPEC will be augmented with experts who participated in the SAB 2007 review.

Availability of the review materials: The agenda and material in support of this meeting will be available on the SAB Web site at *http://www.epa.gov/sab.* For technical questions and information concerning EPA's review document, ''Integrating Ecological Assessment and Decision-Making at EPA, 2011 RAF Ecological Assessment Action Plan (August, 11, 2011),'' please contact Mr. Lawrence Martin of EPA's Risk Assessment Forum by phone (202) 564–6497 or via email at *martin.lawrence@epa.gov.*

Procedures for Providing Public Input: Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office. Federal advisory committees and panels, including scientific advisory committees, provide independent advice to EPA. Members of the public can submit relevant comments pertaining to EPA's charge, meeting materials and/or the group conducting the activity. Input from the public to the SAB will have the most impact if it consists of comments that provide specific scientific or technical information or analysis for the SAB Committee to consider or if it relates to the clarity or accuracy of the technical information. Members of the public wishing to provide comment on the February 22, 2012 public teleconference should contact the Designated Federal Officer for the relevant advisory committee directly. *Oral Statements:* In general, individuals or groups requesting an oral presentation will be limited to five minutes per speaker. Interested parties should contact Dr. Thomas Armitage, DFO, in writing (preferably via email), at the contact information noted above, by February 15, 2012 to be placed on the list of public speakers for February 22, 2012. *Written Statements:* Written statements should be received in the SAB Staff Office by February 15, 2012 so that the information may be made available to the SAB Committee for their consideration. Written statements should be supplied to the DFO in electronic format via email (acceptable file formats: Adobe Acrobat PDF, WordPerfect, MS Word, MS PowerPoint, or Rich Text files in IBM–PC/Windows 98/2000/XP format). It is the SAB Staff Office general policy to post written comments on the Web page for the advisory meeting or teleconference.

Submitters are requested to provide an unsigned version of each document because the SAB Staff Office does not publish documents with signatures on its Web sites. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the SAB Web site. Copyrighted material will not be posted without explicit permission of the copyright holder.

Accessibility: For information on access or services for individuals with disabilities, please contact Dr. Thomas Armitage at the phone number or email address noted above, preferably at least ten days prior to the teleconference, to give EPA as much time as possible to process your request.

Dated: January 20, 2012.

Vanessa T. Vu,

Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2012–1823 Filed 1–26–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9623–4]

Proposed Consent Decree, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Consent Decree; Request for Public Comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended (''CAA'' or the ''Act''), 42 U.S.C. 7413(g), notice is hereby given of a proposed consent decree to address a lawsuit filed by Sierra Club and Medical Advocates for Healthy Air (collectively ''Plaintiffs'') in the United States District Court for the Northern District of California: *Sierra Club, et al.* v. *Jackson,* No. C11–cv–03106–JSW (N.D. CA). On June 23, 2011, Plaintiffs filed a complaint alleging that EPA failed to perform a mandatory duty under section 110(k)(2) of the CAA, 42 U.S.C. 7410(k)(2) to take timely final action on the RACT demonstration that was submitted to EPA on June 18, 2009 (''2009 RACT SIP'') by the California Air Resources Board and the San Joaquin Valley Unified Air Pollution Control District (the ''District''), and that EPA found complete on December 11, 2009. The proposed consent decree establishes deadlines for EPA to take action.

DATES: Written comments on the proposed consent decree must be received by February 27, 2012.

ADDRESSES: Submit your comments, identified by Docket ID number EPA–HQ–OGC–2012–0037, online at *www.regulations.gov* (EPA's preferred method); by email to *oei.docket@epa.gov;* by mail to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD–ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: Jan Tierney, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone: (202) 564–5598; fax number (202) 564–5603; email address: *tierney.jan@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Additional Information About the Proposed Consent Decree

The proposed consent decree would resolve a lawsuit seeking to compel the Administrator to take timely final action under section 110(k) of the CAA on the Valley's 2009 RACT SIP on a specific timetable, and to promulgate a substitute FIP providing for the implementation of RACT on existing sources of volatile organic compounds and oxides of nitrogen in the Valley on a specific timetable where EPA has not approved a SIP for a specific source category. On December 15, 2011, EPA signed a final rule approving in part and disapproving in part the 2009 RACT SIP. *See* 77 FR 1417 (January 10, 2012). The proposed consent decree requires that for each source category for which EPA's final action on the 2009 RACT SIP identifies a RACT deficiency, EPA shall sign no later than September 15, 2012, a notice or notices approving a SIP rule in full, promulgating a FIP rule, or approving a SIP rule in part and promulgating a FIP as necessary to fully satisfy the RACT requirement in CAA section 182(b)(2) and (f). In addition, the proposed consent decree requires that for each source category described above for which EPA has not approved a SIP rule but has signed for publication in the **Federal Register** a proposed FIP rule by September 15, 2012, EPA shall sign no later than April 15, 2013, a notice or notices approving a SIP rule in full, promulgating a FIP rule, or approving a SIP rule in part and promulgating a FIP as necessary to fully satisfy the RACT requirement in CAA section 182(b)(2) and (f). Following signature on each notice described above, EPA shall deliver such notices to the Office of the Federal Register for publication. After EPA fulfills its obligations under the decree, the parties shall file a joint request to the Court to dismiss this matter with prejudice.

For a period of thirty (30) days following the date of publication of this notice, the Agency will accept written comments relating to the proposed consent decree from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines that consent to this consent decree should be withdrawn, the terms of the decree will be affirmed.

II. Additional Information About Commenting on the Proposed Consent Decree

A. How can I get a copy of the consent decree?

The official public docket for this action (identified by Docket ID No. EPA–HQ–OGC–2012–0037) contains a copy of the proposed consent decree. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

An electronic version of the public docket is available through *www.regulations.gov.* You may use *www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select ''search''.

It is important to note that EPA's policy is that public comments, whether submitted electronically or in paper,

will be made available for public viewing online at *www.regulations.gov* without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and to whom do I submit comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an email address or other contact information in the body of your comment and with any disk or CD ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the *www.regulations.gov* Web site to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an ''anonymous access'' system, which means EPA will not know your identity, email address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (email) system is not an ''anonymous access'' system. If you send an email comment directly to the Docket without going through *www.regulations.gov,* your email address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: January 19, 2012.

Patricia Embrey,

Acting Associate General Counsel.

[FR Doc. 2012–1808 Filed 1–26–12; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting; Open Commission Meeting; January 31, 2012

January 24, 2012

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Tuesday, January 31, 2012. The meeting is scheduled to commence at 10:30 a.m. in Room TW–C305, at 445 12th Street SW., Washington, DC.

Item No.	Bureau	Subject
1	Wireline Competition	*Title:* Lifeline and Link Up Reform and Modernization (WC Docket No. 11–42); Federal-State Joint Board on Universal Service (CC Docket No. 96–45) and Lifeline and Link Up (WC Docket No. 03–109) *Summary:* The Commission will consider a Report and Order and Further Notice of Proposed Rulemaking to comprehensively reform the Lifeline program to ensure universal availability of communications services to low-income Americans while minimizing the universal service contribution burden, including by eliminating waste, fraud, and abuse; strengthening program oversight and administration; and modernizing Lifeline to support broadband adoption.

The meeting site is fully accessible to people using wheelchairs or other mobility aids. Sign language interpreters, open captioning, and assistive listening devices will be provided on site. Other reasonable accommodations for people with disabilities are available upon request. In your request, include a description of the accommodation you will need and a way we can contact you if we need more information. Last minute requests will be accepted, but may be impossible to fill. Send an email to: fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (tty).

Additional information concerning this meeting may be obtained from Audrey Spivack, Office of Media Relations, (202) 418–0500; TTY 1–(888) 835–5322. Audio/Video coverage of the meeting will be broadcast live with open captioning over the Internet from the FCC Live web page at *www.fcc.gov/live.*

For a fee this meeting can be viewed live over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. To purchase these services call (703) 993–3100 or go to *www.capitolconnection.gmu.edu.*

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, Best Copy and Printing, Inc. (202) 488–5300; Fax (202) 488–5563; TTY (202) 488–5562. These copies are available in paper format and alternative media, including large print/type; digital disk; and audio and video tape. Best Copy and Printing, Inc. may be reached by email at *FCC@BCPIWEB.com.*

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2012–1970 Filed 1–25–12; 4:15 pm]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Update to Notice of Financial Institutions for Which the Federal Deposit Insurance Corporation Has Been Appointed Either Receiver, Liquidator, or Manager

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Update Listing of Financial Institutions in Liquidation.

SUMMARY: Notice is hereby given that the Federal Deposit Insurance Corporation (Corporation) has been appointed the sole receiver for the following financial institutions effective as of the Date Closed as indicated in the listing. This list (as updated from time to time in the **Federal Register**) may be relied upon as ''of record'' notice that the Corporation has been appointed receiver for purposes of the statement of policy published in the July 2, 1992 issue of the **Federal Register** (57 FR 29491). For further information concerning the identification of any institutions which have been placed in liquidation, please visit the Corporation Web site at *www.fdic.gov/bank/individual/failed/banklist.html* or contact the Manager of Receivership Oversight in the appropriate service center.

Dated: January 23, 2012.

Pamela Johnson,

Regulatory Editing Specialist, Federal Deposit Insurance Corporation.

INSTITUTIONS IN LIQUIDATION

[In alphabetical order]

FDIC Ref. No.	Bank name	City	State	Date closed
10417	American Eagle Savings Bank	Boothwyn	PA	1/20/2012
10418	Central Florida State Bank	Belleview	FL	1/20/2012
10419	The First State Bank	Stockbridge	GA	1/20/2012

[FR Doc. 2012–1810 Filed 1–26–12; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: Notice is hereby given of the final approval of a proposed information collection by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Cynthia Ayouch—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829). Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW., Washington, DC 20503.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, Without Revision, of the Following Report

Report title: Recordkeeping and Disclosure Requirements in Connection with Regulation E (Electronic Fund Transfer Act).

Agency form number: Reg E.

OMB control number: 7100–0200.

Frequency: Event-generated.

Reporters: State member banks, branches and agencies of foreign banks (other than federal branches, federal agencies, and insured state branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and Edge and agreement corporations.

Annual reporting hours: 62,725 hours.

Estimated average hours per response: Initial terms disclosure, 1.5 minutes; change in terms disclosure, 1 minute; periodic statements, 7 hours; error resolution rules, 30 minutes; Gift Card exclusion policies and procedures, 8 hours; and Gift Card Policy and procedures, 8 hours.

Number of respondents: Initial terms disclosure, 1,029; change in terms disclosure, 1,029; periodic statements, 221; error resolution rules, 1,029; Gift Card exclusion policies and procedures, 1,029; and Gift Card Policy and procedures, 1,029.

General description of report: This information collection is mandatory (15 U.S.C. 1693 *et seq.*). The disclosures required by the rule and information about error allegations and their resolution are confidential between the institution and the consumer. Since the Federal Reserve does not collect any information, no issue of confidentiality arises. However, the information, if made available to the Federal Reserve, may be protected from disclosure under exemptions (b)(4), (6), and (8) of the Freedom of Information Act (5 U.S.C. 552 (b)(4), (6), and (8)).

Abstract: The Electronic Funds Transfer Act and Regulation E are designed to ensure adequate disclosure of basic terms, costs, and rights relating to electronic fund transfer (EFT) services provided to consumers. Institutions offering EFT services must disclose to consumers certain information, including: Initial and updated EFT terms, transaction information, periodic statements of activity, the consumer's potential liability for unauthorized transfers, and error resolution rights and procedures. EFT services include automated teller machines, telephone bill payment, point-of-sale transfers in retail stores, fund transfers initiated through the Internet, and preauthorized transfers to or from a consumer's account.

Current Actions: On May 23, 2011, the Federal Reserve published a notice of proposed rulemaking (NPRM) in the **Federal Register** for public comment (76 FR 29902).[1] The proposal contained new protections for consumers who send remittance transfers to other consumers or entities in a foreign country by providing consumers with disclosures and error resolution rights. The proposed amendments would implement statutory requirements set forth in the Dodd-Frank Wall Street Reform and Consumer Protection Act (DFA). The comment period expired July 22, 2011. The Federal Reserve received 69 comment letters that, as stated in the notice, were transferred to the Consumer Financial Protection Bureau (CFPB) for completion of the

[1] Docket No. R–1419.

rulemaking process. Upon publication of the CFPB's final rulemaking, any final changes would be incorporated into the Federal Reserve's Regulation E information collection, as appropriate. In addition to the DFA amendments, the Federal Reserve proposed (in the NPRM) to extend for three years, without revision, the current Regulation E information collection. The Federal Reserve did not receive any comments on this part of the proposal and therefore will proceed with extending the information collection as proposed.

Board of Governors of the Federal Reserve System, January 23, 2012.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 2012–1696 Filed 1–26–12; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than February 13, 2012.

A. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Mark L. Hensley, Daniel J. Hensley, both of Kalispell, Montana, and Joan C. Hensley Brennan, Kirkland, Washington,* as proposed general partners of the Hensley Family Limited Partnership, Kalispell, Montana, to acquire additional voting shares of Valley Bancshares, Inc., Kalispell, Montana, and thereby indirectly acquire Valley Bank of Kalispell, Kalispell, Montana.

B. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Toby J. Strom and Julie A. Strom, both of Oskaloosa, Iowa; and Shawn P. Lueger, Seneca, Kansas;* to retain control of Community Bancshares, Inc., parent of Community National Bank, both in Seneca, Kansas.

Board of Governors of the Federal Reserve System, January 24, 2012.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2012–1761 Filed 1–26–12; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Revised Jurisdictional Thresholds for Section 7A of the Clayton Act

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: The Federal Trade Commission announces the revised thresholds for the Hart-Scott-Rodino Antitrust Improvements Act of 1976 required by the 2000 amendment of Section 7A of the Clayton Act.

DATES: *Effective Date:* February 27, 2012.

FOR FURTHER INFORMATION CONTACT: B. Michael Verne, Federal Trade Commission, Bureau of Competition, Premerger Notification Office, (202) 326–3100, Room 301, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by the Hart-Scott-Rodino Antitrust Improvements Act of 1976, Public Law 94–435, 90 Stat. 1390 (''the Act''), requires all persons contemplating certain mergers or acquisitions, which meet or exceed the jurisdictional thresholds in the Act, to file notification with the Commission and the Assistant Attorney General and to wait a designated period of time before consummating such transactions. Section 7A(a)(2) requires the Federal Trade Commission to revise those thresholds annually, based on the change in gross national product, in accordance with Section 8(a)(5). Note that while the filing fee thresholds are revised annually, the actual filing fees are not similarly indexed and, as a result, have not been adjusted for inflation in over a decade. The new thresholds, which take effect 30 days after publication in the **Federal Register**, are as follows:

Subsection of 7A	Original threshold (million)	Adjusted threshold (million)
7A(a)(2)(A)	$200	$272.8
7A(a)(2)(B)(i)	50	68.2
7A(a)(2)(B)(i)	200	272.8
7A(a)(2)(B)(ii)(i)	10	13.6
7A(a)(2)(B)(ii)(i)	100	136.4
7A(a)(2)(B)(ii)(II)	10	13.6
7A(a)(2)(B)(ii)(II)	100	136.4
7A(a)(2)(B)(ii)(III)	100	136.4
7A(a)(2)(B)(ii)(III)	10	13.6
Section 7A note: Assessment and Collection of Filing Fees [1] (3)(b)(1)	100	136.4
Section 7A note: Assessment and Collection of Filing Fees (3)(b)(2)	100	136.4
Section 7A note: Assessment and Collection of Filing Fees (3)(b)(2)	500	682.1
Section 7A note: Assessment and Collection of Filing Fees (3)(b)(3)	500	682.1

Any reference to these thresholds and related thresholds and limitation values in the HSR rules.

[1] Public Law 106–553, Sec. 630(b) amended Sec. 18a note.

(16 CFR Parts 801–803) and the Antitrust Improvements Act Notification and Report Form and its Instructions will also be adjusted, where indicated by the term ''(as adjusted)'', as follows:

Original threshold	Adjusted threshold (million)
$10 million	$13.6
50 million	68.2
100 million	136.4
110 million	150.1
200 million	272.8
500 million	682.1
1 billion	1,364.1

Authority: 15 U.S.C. 18a.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2012–1867 Filed 1–26–12; 8:45 a.m.]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

Revised Jurisdictional Thresholds for Section 8 of the Clayton Act

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: The Federal Trade Commission announces the revised thresholds for interlocking directorates required by the 1990 amendment of Section 8 of the Clayton Act.

DATES: *Effective Date:* January 27, 2012.

FOR FURTHER INFORMATION CONTACT: James F. Mongoven, Federal Trade Commission, Bureau of Competition, Office of Policy and Coordination, (202) 326–2879, Room NJ 7115, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Section 8 of the Clayton Act, as amended in 1990, prohibits, with certain exceptions, one person from serving as a director or officer of two competing corporations if two thresholds are met. Competitor corporations are covered by Section 8 if each one has capital, surplus, and undivided profits aggregating more than $10,000,000, with the exception that no corporation is covered if the competitive sales of either corporation are less than $1,000,000. Section 8(a)(5) requires the Federal Trade Commission to revise those thresholds annually, based on the change in gross national product. The new thresholds, which take effect immediately, are $27,784,000 for Section 8(a)(1), and $2,778,400 for Section 8(a)(2)(A).

Authority: 15 U.S.C. 19(a)(5).

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2012–1866 Filed 1–26–12; 8:45 a.m.]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Announcement of Requirements and Registration for ''Discharge Follow-Up Appointment Challenge''

AGENCY: Office of the National Coordinator for Health Information Technology, HHS.

ACTION: Notice.

SUMMARY: The ''Discharge Follow-Up Appointment Challenge'' challenges software developers to create an easy-to-use web-based tool that will make post-discharge follow-up appointment scheduling a more effective and shared process for care providers, patients and caregivers. In addition, developers will need to articulate a plan for broader adoption at the community level. Submissions can be existing applications, or applications developed specifically for this challenge.

The statutory authority for this challenge competition is Section 105 of the America COMPETES Reauthorization Act of 2010 (Pub. L. 111–358).

DATES: Effective on January 26, 2011.

FOR FURTHER INFORMATION CONTACT: Adam Wong, (202) 720–2866; Wil Yu, (202) 690–5920.

SUPPLEMENTARY INFORMATION:

Subject of Challenge Competition: The Office of the National Coordinator for Health Information Technology (ONC), in collaboration with the *Partnership for Patients,* seeks to support spread and adoption of promising IT-enabled solutions targeting improved care transitions in the ''Discharge Follow-Up Appointment Challenge.'' Nearly one in five patients from a hospital will be readmitted within 30 days. A large proportion of readmissions can be prevented by improving communications and coordinating care before and after discharge from the hospital.

This challenge is the second in a series of challenges calling attention to care transitions, particularly the time a patient is discharged from a hospital; these challenges are seeking development and spread of IT-enabled tools that will achieve better care and better health at lower cost. The first challenge, ''Ensuring Safe Transitions from Hospital to Home,'' called upon developers to create a web-based application that could empower patients and caregivers to better navigate and manage a transition from a hospital.

Research has shown that scheduling follow-up appointments and post-discharge testing before a patient is discharged, with input and engagement from patients and caregivers, is one of the critical elements of a safe and effective transition. While an increasing number of organizations have adopted this best practice, most patients across the country continue to leave the hospital without confirmed appointments and many providers remain frustrated by a highly manual and unreliable system.

Hospitals with IT-enabled scheduling processes for follow-up appointments often benefit from being in a delivery system where a single scheduling system is shared across many care settings and providers. A growing number of innovative consumer-facing tools are becoming available for patients and care givers to schedule appointments and rate providers. However these tools have not yet reached high levels of adoption within communities, and haven't to date targeted the appointment scheduling needs of patients, caregivers and providers at the point of discharge from a hospital.

The ideal application for will include the following components: Easy to navigate user interface, easy to navigate process for downstream accepting providers, information for patient and caregiver convenience and preference, critical background information for downstream providers, messaging capabilities to minimize no-shows and cancellations, and EHR interface capabilities where applicable.

To anticipate the needs of a test bed organization or community, successful applicants will also need to formally address the following pilot implementation considerations: estimated timeline for testing and pilot completion, description of ideal pilot environment, estimated resources needed for pilot, metrics to monitor pilot success, and proposed budget for a three-day site visit to support pilot development.

Eligibility Rules for Participating in the Competition:

To be eligible to win a prize under this challenge, an individual or entity:

(1) Shall have registered to participate in the competition under the rules promulgated by Office of the National Coordinator for Health Information Technology;

(2) Shall have complied with all the requirements under this section;

(3) In the case of a private entity, shall be incorporated in and maintain a primary place of business in the United States, and in the case of an individual, whether participating singly or in a group, shall be a citizen or permanent resident of the United States; and

(4) May not be a Federal entity or Federal employee acting within the scope of their employment.

An individual or entity shall not be deemed ineligible because the individual or entity used Federal facilities or consulted with Federal employees during a competition if the facilities and employees are made available to all individuals and entities participating in the competition on an equitable basis.

Registered participants shall be required to agree to assume any and all risks and waive claims against the Federal Government and its related entities, except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from their participation in a competition, whether the injury, death, damage, or loss arises through negligence or otherwise.

Participants shall be required to obtain liability insurance or demonstrate financial responsibility, in amounts determined by the head of the Office of the National Coordinator for Health Information Technology, for claims by—

(1) A third party for death, bodily injury, or property damage, or loss resulting from an activity carried out in connection with participation in a competition, with the Federal Government named as an additional insured under the registered participant's insurance policy and registered participants agreeing to indemnify the Federal Government against third party claims for damages arising from or related to competition activities; and

(2) the Federal Government for damage or loss to Government property resulting from such an activity.

Participants must be teams of at least two people.

All participants are required to provide written consent to the rules upon or before submitting an entry.

Dates:

• Submission Period Begins: 12:01 a.m., EDT, January 26, 2012.

• Submission Period Ends: 11:59 p.m., EDT, April 30, 2012.

Registration Process for Participants:

To register for this challenge participants should:

• Access the *www.challenge.gov* Web site and search for the ''Discharge Follow-Up Appointment Challenge''.

• Access the ONC Investing in Innovation (i2) Challenge Web site at:

○ *http://www.health2challenge.org/category/onc/*

○ A registration link for the challenge can be found on the landing page under the challenge description.

Prize:

• First Prize: Partnership consideration with a pilot test bed community candidate and up to $5,000 to support a three-day site visit to the pilot community involving two-to-three people.

• Second and Third Prize: Showcase and learning session with innovative communities and Federal payment pilot programs focused on improved care transitions and care coordination at the community level.

Awards may be subject to Federal income taxes and HHS will comply with IRS withholding and reporting requirements, where applicable.

Basis upon Which Winner Will be Selected:

The judging panel will make selections based upon the following criteria:

1. Effectively integrate inpatient data and provide structured support for self-care.

2. Integrate design and usability concepts to drive patient and provider adoption and engagement.

3. Demonstrate creative and innovative uses of mobile technologies.

4. Demonstrate potential to improve health status for individuals and the community.

5. Leverage NwHIN standards including transport, content, and vocabularies.

6. Demonstrate ability to implement the intervention in a pilot setting, and ultimately to scale in a community.

Additional Information:

Ownership of intellectual property is determined by the following:

• Each entrant retains title and full ownership in and to their submission. Entrants expressly reserve all intellectual property rights not expressly granted under the challenge agreement.

• By participating in the challenge, each entrant hereby irrevocably grants to Sponsor and Administrator a limited, non-exclusive, royalty free, worldwide, license and right to reproduce, publically perform, publically display, and use the Submission to the extent necessary to administer the challenge, and to publically perform and publically display the Submission, including, without limitation, for advertising and promotional purposes relating to the challenge.

Authority: 15 U.S.C. 3719.

Dated: January 23, 2012.

Farzad Mostashari,

National Coordinator for Health Information Technology.

[FR Doc. 2012–1852 Filed 1–26–12; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Announcement of Requirements and Registration for ''EHR Accessibility Challenge''

AGENCY: Office of the National Coordinator for Health Information Technology, HHS.

ACTION: Notice.

SUMMARY: The ''EHR Accessibility Challenge'' challenges multidisciplinary teams to create and test a module or application that makes it easy for disabled consumers to access and interact with the health data stored in their EHRs. Accessibility and usability in health IT are high priority issues for the disability community. A consumer-oriented system providing easy-to-use access to health information would be a valuable tool and significantly improve the health of disabled individuals.

The statutory authority for this challenge competition is Section 105 of the America COMPETES Reauthorization Act of 2010 (Pub. L. 111–358).

DATES: Effective on January 24, 2012.

FOR FURTHER INFORMATION CONTACT: Adam Wong, (202) 720–2866; Wil Yu, (202) 690–5920.

SUPPLEMENTARY INFORMATION:

Subject of Challenge Competition: According to 2000 estimates from the U.S. Bureau of Census, people with disabilities constitute 19.3% of the non-institutionalized population 5 years of age or older. Among adults, individuals with disabilities are four times as likely to report having fair or poor health compared to those without a disability (40% vs. 10%). Health expenditures for people with disabilities are estimated at $400 billion, more than a quarter of all heath expenditures.

Health information technology (HIT) and electronic health records (EHRs) hold great promise in improving the health outcomes and coordination of care for people with disabilities. However, the accessibility and usability of HIT is a matter of serious concern to people of diverse disabilities, including those who have vision, hearing,

intellectual, manual dexterity, mental health, developmental and other types of disabilities.

ONC is challenging multidisciplinary teams to create and test a module or application that makes it easy for disabled consumers to access and interact with the health data stored in their EHRs. The application should be easy for individuals with disabilities to consume and interact with their health data, be simple to install and learn to use, identify and link to relevant local or online communities and organizations, be able to download data from one or more EHR systems, and leverage and extend NwHIN standards and services.

Eligibility Rules for Participating in the Competition:

To be eligible to win a prize under this challenge, an individual or entity:

(1) Shall have registered to participate in the competition under the rules promulgated by Office of the National Coordinator for Health Information Technology;

(2) Shall have complied with all the requirements under this section;

(3) In the case of a private entity, shall be incorporated in and maintain a primary place of business in the United States, and in the case of an individual, whether participating singly or in a group, shall be a citizen or permanent resident of the United States; and

(4) May not be a Federal entity or Federal employee acting within the scope of their employment.

An individual or entity shall not be deemed ineligible because the individual or entity used Federal facilities or consulted with Federal employees during a competition if the facilities and employees are made available to all individuals and entities participating in the competition on an equitable basis.

Registered participants shall be required to agree to assume any and all risks and waive claims against the Federal Government and its related entities, except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from their participation in a competition, whether the injury, death, damage, or loss arises through negligence or otherwise.

Participants shall be required to obtain liability insurance or demonstrate financial responsibility, in amounts determined by the head of the Office of the National Coordinator for Health Information Technology, for claims by—

(1) A third party for death, bodily injury, or property damage, or loss resulting from an activity carried out in connection with participation in a competition, with the Federal Government named as an additional insured under the registered participant's insurance policy and registered participants agreeing to indemnify the Federal Government against third party claims for damages arising from or related to competition activities; and

(2) the Federal Government for damage or loss to Government property resulting from such an activity.

Participants must be teams of at least two people.

All participants are required to provide written consent to the rules upon or before submitting an entry.

Dates:

- Submission Period Begins: 12:01 a.m., EDT, January 24, 2012.
- Submission Period Ends: 11:59 p.m., EDT, July 23, 2012.

Registration Process for Participants:

To register for this challenge participants should:

- Access the *www.challenge.gov* Web site and search for the ''EHR Accessibility Challenge''.
- Access the ONC Investing in Innovation (i2) Challenge Web site at:
  - *http://www.health2challenge.org/onc-i2-challenges/*
  - A registration link for the challenge can be found on the landing page under the challenge description.

Amount of the Prize:

- First Prize: $60,000.
- Second Prize: $20,000.
- Third Prize: $5,000.

Awards may be subject to Federal income taxes and HHS will comply with IRS withholding and reporting requirements, where applicable.

Basis upon Which Winner Will be Selected:

The judging panel will make selections based upon the following criteria:

1. Design and Usability for the Disabled User.
2. Creative and Innovative Use of Technologies.
3. Compliance with disability and accessibility standards including 508 and W3C.
4. Integration of Module with HIT and EHR Systems.
5. Potential for Impact and Ability to Drive Adoption and Engagement.
6. Use of NwHIN standards including transport, content, and vocabularies.

Additional Information:

Ownership of intellectual property is determined by the following:

- Each entrant retains title and full ownership in and to their submission. Entrants expressly reserve all intellectual property rights not expressly granted under the challenge agreement.
- By participating in the challenge, each entrant hereby irrevocably grants to Sponsor and Administrator a limited, non-exclusive, royalty free, worldwide, license and right to reproduce, publically perform, publically display, and use the Submission to the extent necessary to administer the challenge, and to publically perform and publically display the Submission, including, without limitation, for advertising and promotional purposes relating to the challenge.

Authority: 15 U.S.C. 3719.

Dated: January 23, 2012.

Farzad Mostashari,

National Coordinator for Health Information Technology.

[FR Doc. 2012–1849 Filed 1–26–12; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Announcement of Requirements and Registration for ''Health Innovations in Commuting Challenge''

AGENCY: Office of the National Coordinator for Health Information Technology, HHS.

ACTION: Notice.

SUMMARY: The purpose of this challenge is to highlight the role of health data during commutes and how it may play a critical role in improving the health of commuters. The ''Health Innovations in Commuting Challenge'' invites innovators to submit their best ideas and models for improving the health of American commuters through better collection, exchange, and analysis of health data.

The statutory authority for this challenge competition is Section 105 of the America COMPETES Reauthorization Act of 2010 (Pub. L. 111–358).

DATES: Effective on January 23, 2012.

FOR FURTHER INFORMATION CONTACT: Adam Wong, (202) 720–2866; Wil Yu, (202) 690–5920.

SUPPLEMENTARY INFORMATION:

Subject of Challenge Competition: Commuting is an essential and growing component of daily life for most American workers, making up about 20% of all trips taken—a significant percentage of the lives of one of the most critical segments of the American economy. Among the 140 million workers in America, 86.1% commuted in a car, truck, or van in 2009; 76.1%

drove to work alone. The amount of time taken up by commuters in the U.S. is significant as workers took an average of 25.1 minutes to get to work; more than 3.2 million U.S. workers commute for more than 90 minutes. While commuting has been studied with regards to differences in gender, social status, ethnicity, and geographic location, relatively little is known about the health of workers during commutes beyond population studies on general health impact. Commuting has been shown to correlate with a variety of health factors, as long commutes are associated with health problems such as high cholesterol, recurring neck and back pain, and higher stress levels. The ''Health Innovations in Commuting Challenge'' is the first of a series of challenges dedicated to encouraging innovations that support improving the health of American commuters.

Eligibility Rules for Participating in the Competition:

To be eligible to win a prize under this challenge, an individual or entity:

(1) Shall have registered to participate in the competition under the rules promulgated by Office of the National Coordinator for Health Information Technology;

(2) Shall have complied with all the requirements under this section;

(3) In the case of a private entity, shall be incorporated in and maintain a primary place of business in the United States, and in the case of an individual, whether participating singly or in a group, shall be a citizen or permanent resident of the United States; and

(4) May not be a Federal entity or Federal employee acting within the scope of their employment.

An individual or entity shall not be deemed ineligible because the individual or entity used Federal facilities or consulted with Federal employees during a competition if the facilities and employees are made available to all individuals and entities participating in the competition on an equitable basis.

Registered participants shall be required to agree to assume any and all risks and waive claims against the Federal Government and its related entities, except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from their participation in a competition, whether the injury, death, damage, or loss arises through negligence or otherwise.

All participants are required to provide written consent to the rules upon or before submitting an entry.

Dates:

- Submission Period Begins: 12:01a.m., EDT, January 23, 2012.
- Submission Period Ends: 11:59 p.m., EDT, March 5, 2012.

Registration Process for Participants:

To register for this challenge participants should:

- Access the *www.challenge.gov* Web site and search for the ''Health Innovations in Commuting Challenge''.
- Access the ONC Investing in Innovation (i2) Challenge Web site at:
  - *http://www.health2challenge.org/category/onc/.*
  - A registration link for the challenge can be found on the landing page under the challenge description.

Amount of the Prize:

- Winner will present the submission on an ONC-hosted webinar and will have opportunities for future collaboration with industry leaders.

Basis upon Which Winner Will be Selected:

The judging panel will make selections based upon the following criteria:

1. Novelty of proposals for commuter health data collection, dissemination, and analysis to drive improvement in health outcomes.
2. Identification and utility of potential future partnerships to further innovative development.
3. Understanding of effects of automobile commutes on health outcomes.

Additional Information:

Ownership of intellectual property is determined by the following:

- Each entrant retains title and full ownership in and to their submission. Entrants expressly reserve all intellectual property rights not expressly granted under the challenge agreement.
- By participating in the challenge, each entrant hereby irrevocably grants to Sponsor and Administrator a limited, non-exclusive, royalty free, worldwide, license and right to reproduce, publically perform, publically display, and use the Submission to the extent necessary to administer the challenge, and to publically perform and publically display the Submission, including, without limitation, for advertising and promotional purposes relating to the challenge.

Authority: 15 U.S.C. 3719.

Dated: January 23, 2012.

Farzad Mostashari,

National Coordinator for Health Information Technology.

[FR Doc. 2012–1846 Filed 1–26–12; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10142 and CMS–R–262]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Extension of Comment Period

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the Agency's function; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Title of Information Collection:* Bid Pricing Tool (BPT) for Medicare Advantage (MA) Plans and Prescription Drug Plans (PDP). *Form Number:* CMS–10142 (OCN: 0938–0944). For policy questions regarding this collection contact Diane Spitalnic at (410) 786–5745. For all other issues call (410) 786–1326.

2. *Title of Information Collection:* Plan Benefit Package (PBP) and Formulary Submission for Medicare Advantage (MA) Plans and Prescription Drug Plans (PDP). *Form Number:* CMS–R–262 (OCN: 0938–0763). For policy questions regarding this collection contact Kristy Holtje at (410) 786–2209. For all other issues call (410) 786–1326.

Extension of Comment Period

The Type of Information Collection Request, Use, Frequency, Affected Public, Number of Respondents, Total Annual Responses, and Total Annual Hours are described in the 30-day notice that published on January 4, 2012 (77 FR 292) and are not repeated here. While no changes have been made to the requirements or burden estimates, the supporting materials have been

revised. This information was inadvertently omitted from the 30-day notice. In the interest of ensuring that the public is aware of the revised supporting materials and has additional time to review and comment on those materials, we are publishing this notice and extending the public comment period for 10 days.

To be assured consideration, comments and recommendations for the proposed information collections must be received by the OMB desk officer at the address below, no later than 5 p.m. on February 13, 2012:

OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–6974, Email: *OIRA_submission@omb.eop.gov.*

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web Site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995,* or email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

Dated: January 23, 2012.

Martique Jones,

Director, Regulations Development Group, Division-B, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2012–1773 Filed 1–26–12; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Child Care Quarterly Case Record Report—ACF–801.

OMB No.: 0970–0167.

This notice replaces a prior **Federal Register** notice soliciting comments published Friday, December 16, 2011 (regarding the Child Care Quarterly Case Record Report—ACF–801, OMB No.: 0970–0167), which has been withdrawn.

Description: Section 658K of the Child Care and Development Block Grant Act of 1990 (Pub. L. 101–508, 42 U.S.C. 9858) requires that States and Territories submit monthly case-level data on the children and families receiving direct services under the Child Care and Development Fund. The implementing regulations for the statutorily required reporting are at 45 CFR 98.70. Case-level reports, submitted quarterly or monthly (at grantee option), include monthly sample or full population case-level data. The data elements to be included in these reports are represented in the ACF–801. ACF uses disaggregate data to determine program and participant characteristics as well as costs and levels of child care services provided. This provides ACF with the information necessary to make reports to Congress, address national child care needs, offer technical assistance to grantees, meet performance measures, and conduct research. Consistent with the statute and regulations, ACF requests extension of the ACF–801. With this extension, ACF is proposing to add several new data elements as well as some minor changes and clarifications to the existing reporting requirements and instructions. These proposed revisions to the ACF–801 would allow OCC to capture child-level data on provider quality for each child receiving a child care subsidy.

Respondents: States, the District of Columbia, and Territories including Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Marianna Islands.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Child Care Case Level Report	56	4	25	5,600

Estimated Total Annual Burden Hours: 5,600.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *infocollection@acahs.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, Email: *OIRA_SUBMISSION@OMB.EOP.GOV.* Attn: Desk Officer for the Administration for Children and Families.

Dated: January 20, 2012.

Steven Hanmer,

Reports Clearance Officer.

[FR Doc. 2012–1570 Filed 1–26–12; 8:45 am]

BILLING CODE 4184–01–My

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Parents and Children Together—Discussion Guide.

OMB No.: New Collection.

Description: The Administration for Children and Families (ACF), U.S. Department of Health and Human Services is proposing an information collection activity as part of an evaluation of healthy marriage and responsible fatherhood grant programs. The evaluation study title is Parents and Children Together (PACT). This phase of information collection will involve discussion of a range of topics with key informants in grantee and partner organizations such as their organizational structure, program services, populations served and specific approaches for the grant programs. The information will be used by ACF for the identification and selection of grantee programs to be included in the evaluation.

Respondents: Semi-structured discussions will be held with administrators and managers of healthy

marriage and responsible fatherhood grants and, where appropriate, administrators and managers of key partner agencies.

ANNUAL BURDEN ESTIMATES

Instrument	Annual number of respondents	Number of responses per respondent	Average burden hours per response	Total annual burden hours
Discussion Guide	150	1	1	150

Estimated Total Annual Burden Hours: 150.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research, and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: OPRE Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *OPREinfocollection@acf.hhs.gov*. In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above.

Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: OPRE Reports Clearance Officer. Email address: *OPREinfocollection@acf.hhs.gov*. All requests should be identified by the title of the information collection.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Fax: (202) 395–6974, Attn: Desk Officer for the Administration for Children and Families.

Dated: January 18, 2012.

Steven M. Hanmer,

Reports Clearance Officer, Office of Planning, Research and Evaluation.

[FR Doc. 2012–1569 Filed 1–26–12; 8:45 am]

BILLING CODE 4184–37–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0020]

Agency Information Collection Activities; Proposed Collection; Comment Request; Experimental Study of Consumer Response to Health Claims and Disclaimers About the Relationship Between Selenium and Risk of Various Cancers

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on a study entitled ''Experimental Study of Consumer Response to Health Claims and Disclaimers About the Relationship Between Selenium and Risk of Various Cancers.''

DATES: Submit either electronic or written comments on the collection of information by March 27, 2012.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Denver Presley II, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, (301) 796–3793.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Experimental Study of Consumer Response to Health Claims and Disclaimers About the Relationship Between Selenium and Risk of Various Cancers—(OMB Control Number 0910—NEW)

I. Background

The Food and Drug Administration (FDA) regulates the labeling of food products under the Federal Food, Drug, and Cosmetic Act, as amended by the Nutrition Labeling and Education Act of 1990 (NLEA). NLEA regulations

establish general requirements for voluntary health claims in food labeling; health claims are labeling statements that characterize the relationship between a food substance and a disease or health-related condition (21 CFR 101.14(a)(1)). Under the petition process for new health claims (21 CFR 101.70), the petitioner must submit the scientific evidence supporting a proposed health claim to FDA for review. If FDA determines that there is significant scientific agreement (SSA) among experts that the proposed health claim is supported by the totality of publicly available evidence, FDA issues a regulation authorizing the claim (21 CFR 101.14(c)–(d)). Health claims must be ''complete, truthful, and not misleading'' (21 CFR 101.14(d)(2)(iii)) and must ''enable the public to comprehend the information provided and to understand the relative significance of such information in the context of a total daily diet'' (21 CFR 101.14(d)(2)(v)).

In a court challenge to FDA's decision not to authorize four dietary supplement health claims that failed to meet the SSA standard, the U.S. Court of Appeals for the D.C. Circuit held that the First Amendment does not permit FDA to prohibit health claims that the Agency determines to be potentially misleading unless the Agency also reasonably determines that a disclaimer would not eliminate the potential deception (*Pearson* v. *Shalala,* 164 F.3d 650 (D.C. Cir. 1999)). Because the court also held that a health claim is not inherently misleading simply because the evidence supporting it does not reach the SSA level, the decision effectively requires FDA to permit health claims that are backed by credible scientific evidence unless the Agency can demonstrate that the claim would mislead consumers. In response to the court's decision, FDA issued guidance on an interim review process for health claims that do not meet the SSA standard for the issuance of a regulation authorizing the claim (Ref. 1). These claims, referred to as ''qualified health claims'' (QHCs), include a disclaimer or other qualifying language to distinguish them from claims that meet the SSA standard and to prevent consumers from being misled about the level of scientific evidence supporting the claim (Ref. 2). When FDA reviews a QHC petition and determines that the proposed claim is supported by credible evidence and that it can be qualified to prevent consumers from being misled, the Agency issues a letter stating its intent to exercise enforcement discretion for the use of the QHC in food labeling.

In 2003, FDA issued a letter of enforcement discretion for two QHCs for dietary supplements containing selenium (Ref. 3):

Claim 1: ''Selenium may reduce the risk of certain cancers. Some scientific evidence suggests that consumption of selenium may reduce the risk of certain forms of cancer. However, FDA has determined that this evidence is limited and not conclusive.''

Claim 2: ''Selenium may produce anticarcinogenic effects in the body. Some scientific evidence suggests that consumption of selenium may produce anticarcinogenic effects in the body. However, FDA has determined that this evidence is limited and not conclusive.''

In 2007, FDA published a notice in the **Federal Register** (72 FR 72738; Dec. 21, 2007) announcing the Agency's intent to reevaluate these two QHCs, among other health claims (the 2007 notice). One of the other health claims being reevaluated is the authorized health claim for dietary fat and cancer risk in 21 CFR 101.73. The model health claims in § 101.73(e) use language similar to the ''certain cancers'' language used in Claim 1 for selenium, as they state that low-fat diets may reduce the risk of ''some cancers'' or ''some types of cancers.'' The 2007 notice explained that, during FDA's reevaluation of the scientific evidence underlying these claims, the Agency also planned to consider whether the claims should be revised to replace generic references to ''certain cancers'' (or similar language) with the names of specific cancers (*e.g.,* prostate cancer, breast cancer) because each type of cancer is a separate disease with different causes and risk factors (72 FR 72740).

In 2008, FDA received a petition requesting enforcement discretion for two additional QHCs similar to the ones for which FDA had issued a letter of enforcement discretion in 2003. The basic claim in the first sentence of each proposed QHC was the same as the claim in the first sentence of the corresponding 2003 QHC (''selenium may reduce the risk of certain cancers'' and ''selenium may produce anticarcinogenic effects in the body,'' respectively), but the 2008 petition requested enforcement discretion for the use of the following disclaimer with each claim: ''Scientific evidence supporting this claim is convincing but not yet conclusive.'' The 2008 petition also requested enforcement discretion for a number of other QHCs about selenium and reduced risk of specific cancers. In 2009, FDA issued a response to the 2008 petition in which the Agency stated its intent to exercise enforcement discretion for QHCs about selenium and reduced risk of prostate, thyroid, and bladder cancers (Ref. 4). The Agency declined to exercise enforcement discretion for QHCs about selenium and several other site-specific cancers because there was no credible evidence that selenium reduces the risk of those cancers. The Agency also declined to exercise enforcement discretion for the two QHCs that were similar to the 2003 ''certain cancers'' and ''anticarcinogenic effects'' QHCs because it concluded that the proposed claims were misleading and could not be cured with a disclaimer.

Several of the petitioners filed suit in the U.S. District Court for the District of Columbia, challenging FDA's 2009 petition response under the First Amendment. On cross-motions for summary judgment, the court ruled for the plaintiffs on the ''certain cancers'' and ''anticarcinogenic effects'' claims, as well as three of the site-specific cancer claims (*Alliance for Natural Health* v. *Sebelius,* 714 F. Supp. 2d 48 (D.D.C. 2010)). With respect to the ''certain cancers'' and ''anticarcinogenic effects'' QHCs, the court found that FDA had failed to show with empirical evidence that the claims were misleading and could not be corrected with disclaimers. The court also concluded that the Agency's scientific decisions regarding three QHCs for site-specific cancers were not supported by the record and remanded the case to FDA for reconsideration of those claims, along with the ''certain cancers'' and ''anticarcinogenic effects'' QHCs. FDA and the plaintiffs then reached a settlement whereby FDA agreed to exercise enforcement discretion for QHCs for selenium and reduced risk of bladder, prostate, colon, rectal, and thyroid cancers (Ref. 5). In lieu of the ''certain cancers'' and ''anticarcinogenic effects'' QHCs, plaintiffs agreed to accept a QHC that listed all five site-specific cancers.

II. Purpose and Methodology of Proposed Study

The objective of FDA's proposed study is to collect quantitative data to examine consumer interpretations of two dietary supplement labeling claims, ''selenium may reduce the risk of certain cancers'' and ''selenium may produce anticarcinogenic effects in the body,'' with and without various disclaimers. Previous studies conducted by FDA and others have examined consumer understanding of hypothetical QHCs and QHCs that are the subject of a letter of enforcement discretion. The primary goal of the previous studies was to evaluate ways to communicate the strength of scientific evidence

supporting a claim (Ref. 6 through 9). None of these studies, however, has investigated whether labeling claims using phrases such as ''certain cancers'' and ''anticarcinogenic effects'' may mislead consumers into having unjustified perceptions about the effects of a dietary supplement or food and how such misperceptions may affect behavioral intentions. The Agency therefore proposes to use selenium QHCs in this case study to examine consumer reactions to health claims using those phrases, with and without various disclaimers.

Specifically, the study plans to examine: (1) Whether one or both of the selenium claims quoted in this document would lead consumers to have the impression that selenium reduces the risk of all forms of cancer (''cancer in general''); (2) whether one or both of these claims would lead consumers to have the impression that selenium reduces the risk of a cancer for which there is no credible evidence of risk reduction, and, if so, whether a disclaimer specifying the names of the cancers for which there is such evidence (bladder, prostate, colon, rectal, and thyroid cancers) can communicate to consumers that the claimed risk reduction effect is only for the named cancers; (3) whether the ''anticarcinogenic effects'' claim would lead consumers to believe that selenium not only reduces the risk of cancer, but also treats or completely prevents cancer; (4) whether various disclaimer options for the two claims would correct potential consumer misperceptions about the nature of the relationship between selenium and various cancers or the scope of the claims; and (5) whether either of the claims leads consumers to have other erroneous perceptions, such as that all cancers are alike.

The proposed study will use a Web-based survey to collect information from approximately 1,200 adults, including 800 men who are 55 years or older and 400 women who are 50 years or older, who belong to online consumer panels maintained by a contractor. Data provided by the nationally representative Health Information National Trends Survey (HINTS; Ref. 10) suggest that individuals in the age groups proposed for this study have a higher overall prevalence of cancer in general, and a higher prevalence of most of the specific cancers that are the subject of an existing QHC for selenium (see list in I. Background section), but do not systematically differ from individuals in other age groups with respect to their patterns of cancer-related perceptions. By targeting participants in this age range and with these characteristics, the study is expected to maximize efficient use of the limited resources allocated to the project by yielding a greater amount of information pertinent to people who are more likely to take a selenium supplement. To that end, the study will aim for increased representation of potential selenium users by targeting a sample that includes at least 400 participants who have taken a selenium supplement at least once. Because the rate of selenium use in the general population is estimated to be low overall, but somewhat higher among men than women (Refs. 11 and 12), the sample will consist of a greater proportion of men. In addition, the screening process for the online consumer panel will limit female participants to those who report being married, and women enrolled in the study will be asked to provide information about their spouses' use of selenium in addition to their own.

On a computer screen, participants will view a label image and answer questions about their perceptions and behavioral intentions in response to the label they view. Each participant will be randomly assigned to an experimental condition in which he or she will view one of the following: (a) A selenium product label containing no claim; (b) a selenium product label containing the claim that ''selenium may reduce the risk of certain cancers''; (c) a selenium product label containing the claim that ''selenium may produce anticarcinogenic effects in the body''; (d) a selenium product label containing one of the claims from (b) or (c) plus a selected disclaimer statement. To help understand the data, the study will also collect information on each participant's background, including, but not limited to, health status, race/ethnicity, education, and income.

The proposed study is part of FDA's continuing effort to enable consumers to make informed dietary choices and eat healthful diets. Results of this case study will be used to further the Agency's understanding of how consumers may interpret ''certain cancers'' and ''anticarcinogenic effects,'' phrases that appear in a number of health claims that are authorized by regulation, as well as in some QHCs for which the Agency has issued a letter of enforcement discretion. Results of the study will not be used to develop population estimates.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Cognitive interview screener	72	1	72	0.083 hr. (5 minutes)	6
Cognitive interview	9	1	9	1 hr. (60 minutes)	9
Pretest invitation	240	1	240	0.033 hr. (2 minutes)	8
Pretest	60	1	60	0.167 hr. (10 minutes)	10
Survey invitation	50,000	1	50,000	0.033 hr. (2 minutes)	1,650
Survey	1,200	1	1,200	0.167 hr. (10 minutes)	200
Total					1,883

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

III. References

The following references have been placed on display in the Division of Dockets Management (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday. (FDA has verified the Web site addresses, but we are not responsible for any subsequent changes to the Web sites after this document publishes in the **Federal Register**.)

1. U.S. Food and Drug Administration, *Guidance for Industry: Interim Procedures for Qualified Health Claims in the Labeling of Conventional Human Foods and Human Dietary Supplements,* 2003, available at *http://www.fda.gov/Food/GuidanceComplianceRegulatoryInformation/GuidanceDocuments/*

FoodLabelingNutrition/ucm053832.htm.
2. U.S. Food and Drug Administration, *Guidance for Industry: Evidence-Based Review System for the Scientific Evaluation of Health Claims,* 2009, available at *http://www.fda.gov/Food/GuidanceComplianceRegulatoryInformation/GuidanceDocuments/FoodLabelingNutrition/ucm073332.htm.*
3. U.S. Food and Drug Administration, ''Selenium and Certain Cancers (Qualified Health Claim: Final Decision Letter) (Docket No. 02P–0457),'' 2003, available at *http://www.fda.gov/Food/LabelingNutrition/LabelClaims/QualifiedHealthClaims/ucm072780.htm.*
4. U.S. Food and Drug Administration, ''Selenium and a Reduced Risk of Site-Specific Cancers (FDA–2008–Q–04323),'' 2009, available at *http://www.fda.gov/Food/LabelingNutrition/LabelClaims/QualifiedHealthClaims/ucm168527.htm.*
5. U.S. Food and Drug Administration, ''Settlement Reached for Qualified Health Claims Relating Selenium to Reduced Risk of Prostate, Colon, Rectal, Bladder, and Thyroid Cancers,'' 2011, available at *http://www.fda.gov/Food/LabelingNutrition/LabelClaims/QualifiedHealthClaims/ucm256940.htm.*
6. Derby, B.M. and A.S. Levy, *Effects of Strength of Science Disclaimers on the Communication Impacts of Health Claims,* 2005, available at *http://www.fda.gov/OHRMS/dockets/dockets/03N0496/03N–0496-rpt0001.pdf.*
7. Choinière, C. and L. Verrill, *Experimental Studies of Qualified Health Claims: Consumer Inferences about Monounsaturated Fatty Acids from Olive Oil, EPA and DHA Omega-3 Fatty Acids, and Green Tea,* 2009, available at *http://www.fda.gov/Food/LabelingNutrition/LabelClaims/QualifiedHealthClaims/ucm207549.htm.*
8. Hooker, N.H. and R. Teratanavat, ''Dissecting Qualified Health Claims: Evidence from Experimental Studies,'' *Critical Reviews in Food Science and Nutrition,* vol. 48, pp. 160–176, 2008.
9. Kapsak, W.R., D. Schmidt, N.M. Childs, *et al.,* ''Consumer Perceptions of Graded, Graphic and Text Label Presentations for Qualified Health Claims,'' *Critical Reviews in Food Science and Nutrition,* vol. 48, pp. 248–256, 2008.
10. National Cancer Institute, *Health Information National Trends Survey,* 2007, available at *http://hints.cancer.gov/.*
11. Bailey, R.L., J.J. Gahche, C.V. Lentino, *et al.,* ''Dietary Supplement Use in the United States, 2003–2006,'' *Journal of Nutrition,* vol. 141, pp. 261–266, 2011.
12. Radimer, K., B. Bindewald, J. Hughes, *et al.,* ''Dietary Supplement Use by US Adults: Data from the National Health and Nutrition Examination Survey, 1999–2000,'' *American Journal of Epidemiology,* vol. 160, pp. 339–349, 2004.

Dated: January 20, 2012.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2012–1692 Filed 1–26–12; 8:45 a.m.]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Recruitment of Sites for Assignment of National Health Service Corps Loan Repayors (FY 2012)

AGENCY: Health Resources and Services Administration, HHS.

ACTION: General notice.

SUMMARY: The Health Resources and Services Administration (HRSA) announces that the proposed list of the Health Professional Shortage Areas (HPSAs) and entities that would receive priority in applying for the assignment of National Health Service Corps (NHSC) Loan Repayors (Corps personnel, Corps members) during the period November 1, 2011, through September 30, 2012 is posted on the NHSC Web site at *http://datawarehouse.hrsa.gov/HGDWReports/OneClickRptFilter.aspx?rptName=NHSCAppSiteList&rptFormat=HTML3.2*. This database can be searched by State and will show the entities that have been approved by the NHSC for the assignment of NHSC Loan Repayment Program (LRP) participants serving as Corps members (*i.e.* Federal employees or Private Practice Assignees), as well as NHSC LRP participants wishing to exercise the Private Practice Option (PPO).

Eligible HPSAs and Entities

To be eligible to receive assignment of Corps personnel, entities must: (1) Have a current HPSA status of ''designated'' by the Office of Shortage Designation, Bureau of Health Professions, HRSA; (2) not deny requested health care services, or discriminate in the provision of services to an individual because the individual is unable to pay for the services or because payment for the services would be made under Medicare, Medicaid, or the Children's Health Insurance Program; (3) enter into an agreement with the State agency that administers Medicaid and the Children's Health Insurance Program, accept assignment under Medicare, and use and post a discounted fee plan (including fee waivers as appropriate); and (4) be determined by the Secretary to have (a) a need and demand for health manpower in the area; (b) appropriately and efficiently used Corps members assigned to the entity in the past; (c) general community support for the assignment of Corps members; (d) made unsuccessful efforts to recruit health care providers; (e) a reasonable prospect for sound fiscal management by the entity with respect to Corps members assigned there; and (f) demonstrated a willingness to support and facilitate mentorship, professional development and training opportunities for Corps members. Priority in approving applications for assignment of Corps members goes to sites that (1) provide primary medical care, mental health, or oral health services to a primary medical care, mental health, or dental HPSA of greatest shortage, respectively; (2) are part of a system of care that provides a continuum of services, including comprehensive primary health care and appropriate referrals or arrangements for secondary and tertiary care; (3) have a documented record of sound fiscal management; and (4) will experience a negative impact on its capacity to provide primary health services if a Corps member is not assigned to the entity. Sites that provide specialized care, or a limited set of services, will receive greater scrutiny and may not receive approval as NHSC service sites. This may include clinics that focus on one disease or disorder or offer limited services, such as a clinic that only provides immunizations or a substance abuse clinic. In order for a site to be eligible for placement of NHSC personnel, it must submit a Site Application and the Site Application must be approved by the NHSC. The NHSC site approval is good for a period of 3 years from the date of approval.

Entities that receive assignment of Corps personnel must ensure that (1) the position will permit the full scope of practice and that the clinician meets the credentialing requirements of the State and site; and (2) the Corps member assigned to the entity is engaged in the requisite amount of clinical service, as defined below, to meet his or her service obligation:

Full-Time Clinical Practice

''Full-time clinical practice'' is defined as a minimum of 40 hours per week for at least 45 weeks per service year. The 40 hours per week may be compressed into no less than 4 work days per week, with no more than 12 hours of work to be performed in any 24-hour period. Time spent on-call does not count toward the full-time service obligation, except to the extent the provider is directly serving patients during that period.

For all health professionals, except as noted below, at least 32 of the minimum 40 hours per week must be spent providing direct patient care or teaching in the outpatient ambulatory care setting(s) at the NHSC-approved service site(s) during normally scheduled office hours. The remaining 8 hours per week

must be spent providing clinical services for patients or teaching in the approved practice site(s), providing clinical services in alternative settings as directed by the approved practice site(s), or performing practice-related administrative activities. Teaching activities at the approved service site shall not exceed 8 hours of the minimum 40 hours per week, unless the teaching takes place in a HRSA-funded Teaching Health Center (see Sec. 340H of the U.S. Public Health Service Act, 42 United States Code Sec. 256h). Teaching activities in a HRSA-funded Teaching Health Center shall not exceed 20 hours of the minimum 40 hours per week.

For obstetrician/gynecologists, certified nurse midwives (CNMs), family medicine physicians who practice obstetrics on a regular basis, providers of geriatric services, pediatric dentists, and behavioral/mental health providers, at least 21 of the minimum 40 hours per week must be spent providing direct patient care or teaching in the outpatient ambulatory care setting(s) at the NHSC-approved service site(s), during normally scheduled office hours. The remaining 19 hours per week must be spent providing clinical services for patients or teaching in the approved practice site(s), providing clinical services in alternative settings as directed by the approved practice site(s), or performing practice-related administrative activities. No more than 8 hours per week can be spent performing practice-related administrative activities. Teaching activities at the approved service site shall not exceed 8 hours of the minimum 40 hours per week, unless the teaching takes place in a HRSA-funded Teaching Health Center. Teaching activities in a HRSA-funded Teaching Health Center shall not exceed 20 hours of the minimum 40 hours per week.

For health professionals serving in a Critical Access Hospital (CAH), defined as a nonprofit facility that is (a) located in a State that has established with the Centers for Medicare and Medicaid Services (CMS) a Medicare rural hospital flexibility program; (b) designated by the State as a CAH; (c) certified by the CMS as a CAH; and (d) in compliance with all applicable CAH conditions of participation, at least 16 of the minimum 40 hours per week must be spent providing direct patient care or teaching in the CAH-affiliated outpatient ambulatory care setting(s) specified in the Customer Service Portal, during normally scheduled office hours. The remaining 24 hours of the minimum 40 hours per week must be spent providing direct patient care for patients or teaching at the CAH(s) or the CAH-affiliated outpatient ambulatory care setting specified in the Practice Agreement, providing direct patient care in the CAH's skilled nursing facility or swing bed unit, or performing practice-related administrative activities. No more than 8 hours per week can be spent on practice-related administrative activities. Teaching activities at the approved service site(s) shall not exceed 8 hours of the minimum 40 hours per week, unless the teaching takes place in a HRSA-funded Teaching Health Center (THC) (see Definitions). Teaching activities in a HRSA-funded THC shall not exceed 20 hours of the minimum 40 hours per week.

Half-Time Clinical Practice

''Half-time clinical practice'' is defined as a minimum of 20 hours per week (not to exceed 39 hours per week), for at least 45 weeks per service year. The 20 hours per week may be compressed into no less than 2 work days per week, with no more than 12 hours of work to be performed in any 24-hour period. Time spent on-call does not count toward the half-time service obligation, except to the extent the provider is directly serving patients during that period.

For all health professionals, except as noted below, at least 16 of the minimum 20 hours per week must be spent providing direct patient care in the outpatient ambulatory care setting(s) at the NHSC-approved service site(s), during normally scheduled office hours. The remaining 4 hours per week must be spent providing clinical services for patients or teaching in the approved practice site(s), providing clinical services in alternative settings as directed by the approved practice site(s), or performing practice-related administrative activities. Teaching and practice-related administrative activities shall not exceed a total of 4 hours of the minimum 20 hours per week.

For obstetrician/gynecologists, certified nurse midwives (CNMs), family medicine physicians who practice obstetrics on a regular basis, providers of geriatric services, pediatric dentists, and behavioral/mental health providers, at least 11 of the minimum 20 hours per week must be spent providing direct patient care in the outpatient ambulatory care setting(s) at the NHSC-approved service site(s), during normally scheduled office hours. The remaining 9 hours per week must be spent providing clinical services for patients or teaching in the approved practice site(s), providing clinical services in alternative settings as directed by the approved practice site(s), or performing practice-related administrative activities. Teaching and practice-related administrative activities shall not exceed 4 hours of the minimum 20 hours per week.

For health professionals serving in a Critical Access Hospital (CAH), at least 8 of the minimum 20 hours per week must be spent providing direct patient care or teaching in the CAH-affiliated outpatient ambulatory care setting(s) specified in the Customer Service Portal, during normally scheduled office hours. The remaining 12 hours of the minimum 20 hours per week must be spent providing direct patient care for patients or teaching at the CAH(s) or the CAH-affiliated outpatient ambulatory care setting specified in the Practice Agreement, providing direct patient care in the CAH's skilled nursing facility or swing bed unit, or performing practice-related administrative activities. Teaching and practice-related administrative activities shall not exceed 4 hours of the minimum 20 hours per week.

In addition to utilizing NHSC assignees in accordance with their full-time or half-time service obligation (as defined above), sites receiving assignment of Corps personnel are expected to (1) report to the NHSC all absences, including those in excess of the authorized number of days (up to 35 full-time days per service year in the case of full-time service and up to 35 half-time days per service year in the case of half-time service), but only to the extent the absences result in the clinician falling below the NHSC minimum service level; (2) report to the NHSC any change in the status of an NHSC clinician at the site; (3) provide the leave records, work schedules, and any related personnel documents for the NHSC assignees (including documentation, if applicable, of the reason(s) for the termination of an NHSC clinician's employment at the site prior to his or her obligated service end date); and (4) submit an NHSC Site Survey, or a Uniform Data System (UDS) report in the case of entities receiving HRSA grant support under Sec. 330 of the Public Health Service Act. The Site Survey and UDS report require the site to assess the age, sex, race/ethnicity of, and provider encounter records for its user population and are site specific. Providers fulfilling NHSC commitments are assigned to a specific site or, in some cases, more than one site.

Evaluation and Selection Process

In approving applications for the assignment of Corps members, the Secretary shall give priority to any application that is made regarding the provision of primary health services to

a HPSA with the greatest shortage. For determination of priority assignments for NHSC LRP awards made using FY 2012 funding from November 1, 2011, to September 30, 2012, HPSAs of greatest shortage will be defined as follows: HPSAs (appropriate to each discipline) with scores of 14 and above are authorized for priority assignment of Corps members who are participating in the LRP. HPSAs with scores between 13 and 10 will be given second priority for the assignment of Corps personnel participating in the LRP. HPSAs with scores of 9 and below will be eligible to receive assignment of Corps personnel participating in the LRP only after assignments are made of Corps members matching to HPSAs scoring 10 or above. Placement made through the NHSC LRP in HPSAs with scores of 9 or below will be made by decreasing HPSA score, and only to the extent that funding remains available. All sites on the list are eligible sites for individuals wishing to serve in an underserved area but who are not contractually obligated under the NHSC Scholarship or Loan Repayment Programs. A listing of HPSAs and their scores is posted at *http://hpsafind.hrsa.gov/*.

In order to implement the statutory directive to place NHSC clinicians in the highest need areas and to assure appropriate distribution of NHSC resources, the number of new NHSC LRP placements (full-time or half-time) allowed at any one site during FY 2012 is limited to the following:

HPSA Score: 0–9.

Primary Medical Care

No more than 9 allopathic (MD) or osteopathic (DO) physicians; and no more than a combined total of 9 nurse practitioners (NPs), physician assistants (PAs), or certified nurse-midwives (CNMs).

Dental

No more than 9 dentists and 9 dental hygienists.

Mental Health

No more than 9 psychiatrists (MD or DO); and no more than a combined total of 9 health service psychologists (clinical or counseling psychologists), licensed clinical social workers, licensed professional counselors, marriage and family therapists, or psychiatric nurse specialists.

HPSA Score: 10–13.

Primary Medical Care

No more than 12 allopathic (MD) or osteopathic (DO) physicians; and no more than a combined total of 12 NPs, PAs, or CNMs.

Dental

No more than 12 dentists and 12 dental hygienists.

Mental Health

No more than 12 psychiatrists (MD or DO); and no more than a combined total of 12 health service psychologists (clinical or counseling psychologists), licensed clinical social workers, licensed professional counselors, marriage and family therapists, or psychiatric nurse specialists.

HPSA Score: 14–26.

Primary Medical Care

No more than 15 allopathic (MD) or osteopathic (DO) physicians; and no more than a combined total of 15 NPs, PAs, or CNMs.

Dental

No more than 15 dentists and 15 dental hygienists.

Mental Health

No more than 15 psychiatrists (MD or DO); and no more than a combined total of 15 health service psychologists (clinical or counseling psychologists), licensed clinical social workers, licensed professional counselors, marriage and family therapists, or psychiatric nurse specialists.

Application Requests, Dates, and Address

The list of HPSAs and entities that are eligible to receive priority for the placement of Corps personnel may be updated periodically. Entities that no longer meet eligibility criteria, including those sites whose NHSC 3-year approval has lapsed or whose HPSA designation is proposed for withdrawal or withdrawn, will be removed from the priority listing. New entities interested in being added to the high priority list must submit an online Site Application. The online application can be accessed at *http://nhsc.hrsa.gov/sites/becomenhscapprovedsite/index.html.* In order to qualify for placement of an NHSC loan repayor in the FY 2012 application cycle, Site Applications must be submitted and approved on or before March 30, 2012. Clinicians applying for LRP funding must be employed, or be starting employment within 60 days of the submission of their NHSC LRP application, at an entity with a currently approved Site Application. Therefore, we strongly encourage all sites to have current NHSC-approved Site Applications and vacancies on file. Site applications submitted after March 30, 2012, or under review as of March 30, 2012 will be considered for placement on the priority list in the following application cycle.

Entities interested in receiving application materials may do so by calling the HRSA call center at 1 (800) 221–9393. They may also get information and download application materials from: *http://nhsc.hrsa.gov/sites/becomenhscapprovedsite/index.html.*

Additional Information

Entities wishing to provide additional data and information in support of their inclusion on the proposed list of HPSAs and entities that would receive priority in assignment of Corps members, must do so in writing no later than [30 days after FRN publish date]. This information should be submitted to: Sonya Bayone, Chief, Site Branch, Division of National Health Service Corps, Bureau of Clinician Recruitment and Service, 5600 Fishers Lane, Room 8–37, Rockville, MD 20857. This information will be considered in preparing the final list of HPSAs and entities that are receiving priority for the assignment of Corps personnel.

Paperwork Reduction Act: The Site Application has been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB clearance number is 0915–0230 and expires January 31, 2014.

The program is not subject to the provisions of Executive order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100).

Dated: January 20, 2012.

Mary K. Wakefield,

Administrator.

[FR Doc. 2012–1844 Filed 1–26–12; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; Solar Cell: A Mobile UV Manager for Smart Phones (NCI)

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Cancer Institute (NCI), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection: Title: Solar Cell: A Mobile UV Manager for Smart Phones

(NCI). *Type of Information Collection Request:* New. *Need and Use of Information Collection:* The overall goal of the study is to design a smart phone application, *Solar Cell,* which uses smart phone technology to aid users in protecting their skin from damaging ultraviolet radiation (UV) in sunlight, a primary cause of skin cancer. The purpose of this part of the study is to produce, deploy, and evaluate the effectiveness of a state-of-the-art software application for smart phones (*i.e.,* mobile application), ''*Solar Cell.*'' This software application supports decision-making related to sun protection and exposure by Americans to reduce the risk of developing skin cancer attributable to chronic and severe UV exposure and developing other cancers attributable to vitamin D deficiency. The *Solar Cell* mobile smart phone application combines personal and behavior data with geo-spatial data (*i.e.,* UV Index forecast, time, and location) and delivers actionable sun protection advice to reduce risk of skin cancer. *Frequency of Response:* Once. *Affected Public:* Individuals. *Type of Respondents:* Adults (18 and over) from the U.S. population who own Android smart phones. The annual reporting burden is estimated at 308 hours (see Table below). There are no Capital Costs, Operating Costs, and/or Maintenance Costs to report.

A.12–1—ESTIMATES OF ANNUAL BURDEN HOURS

Type of respondents	Instrument	Number of respondents	Frequency of response	Average time per response (Minutes/Hour)	Annual burden hours
Adults	Screener (Appendix G)	1,875	1	2/60 (0.03)	63
	Pre-test (Appendix A)	245	1	20/60 (0.33)	82
	Post-test (Appendix B)	245	1	40/60 (0.66)	163
Totals		2,365			308

Request for Comments: Written comments and/or suggestions from the public and affected agencies should address one or more of the following points: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Patricia Weber, DrPH, Program Director, NCI/NIH, SBIR Development Center, 6116 Executive Blvd. Suite 402, Rockville, MD 20852 or call non-toll-free number (301) 594–8106 or email your request, including your address to: *weberpa@mail.nih.gov.*

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Dated: January 23, 2012.

Vivian Horovitch-Kelley,

NCI Project Clearance Liaison, National Institutes of Health.

[FR Doc. 2012–1838 Filed 1–26–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of 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 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 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 Initial Review Group; Kidney, Urologic and Hematologic Diseases D Subcommittee.

Date: March 6–8, 2012.

Open: March 6, 2012, 4 p.m. to 4:30 p.m.

Agenda: To review procedures and discuss policy.

Place: The Fairmont San Francisco, 950 Mason St., San Francisco, CA 94108.

Closed: March 6, 2012, 4:30 p.m. to 8 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont San Francisco, 950 Mason St., San Francisco, CA 94108.

Closed: March 7, 2012, 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont San Francisco, 950 Mason St., San Francisco, CA 94108.

Closed: March 8, 2012, 8:30 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont San Francisco, 950 Mason St., San Francisco, CA 94108.

Contact Person: Barbara A. Woynarowska, Ph.D., Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 754, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 402–7172, *woynarowskab@niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Initial Review Group; Digestive Diseases and Nutrition C Subcommittee.

Date: March 14–16, 2012.

Open: March 14, 2012, 6 p.m. to 6:30 p.m.

Agenda: To review procedures and discuss policy.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Closed: March 14, 2012, 6:30 p.m. to 9 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.
Closed: March 15, 2012, 8:30 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.
Closed: March 16, 2012, 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Robert Wellner, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 706, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, *rw175w@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: January 23, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–1833 Filed 1–26–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; HEV Ancillary Study.
Date: March 5, 2012.
Time: 11 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: D.G. Patel, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 756, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7682, *pateldg@niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; SBIR for New Technology.
Date: March 15, 2012.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.
Contact Person: D.G. Patel, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 756, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7682, *pateldg@niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: January 23, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–1837 Filed 1–26–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5609–N–02]

Notice of Proposed Information Collection for Public Comment on the Study of: Housing for Youth Aging Out of Foster Care

AGENCY: Office of Policy Development and Research, HUD.

ACTION: Notice of proposed information collection.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* March 27, 2012.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street SW., Room 8234, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Anne Fletcher at (202) 402–4347 (this is not a toll-free number). Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Fletcher.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology that will reduce burden, (*e.g.,* permitting electronic submission of responses).

This Notice also lists the following information:

Title of Proposal: Housing for Youth Aging Out of Foster Care.

OMB Control Number: XXXX-pending.

Description of the need for the information and proposed use: This information collection will support research on the role of Family Unification Program vouchers in providing housing for youth aging out of foster care. A survey will be administered to all public housing agencies (PHA) that have an allotment of Family Unification program vouchers (n=300) to determine whether or not their program is currently serving youth aging out of foster care, and why or why not; and for those PHAs that are serving youth, to explore and document key aspects of the program, including the role of the public child welfare agency (PCWA) in the provision of services, the challenges in implementing the program and any strategies employed to overcome challenges; and any outcome data that might be available related to

the housing tenancy and tenure of the youth served. A separate survey will be administered to the PHA partnering PCWAs and will include a similar set of questions, as well as additional questions designed to describe the context of the child welfare system within the specific community. The proposed data collection instrument is a web-based survey.

Members of affected public: Public housing agencies (PHA) that administer Family Unification Program (FUP) vouchers and their partnering Public Child Welfare Agencies (PCWA).

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

ESTIMATED RESPONDENT BURDEN HOURS AND COSTS

Form	Respondent sample	Number of respondents	Average time to complete (Minimum, Maximum) In minutes	Frequency	Total burden (hours)
Survey	PHA Administrators	300	30	1	150
Survey	PCWA Administrators	300	30	1	150
Total Burden Hours.					

Respondent's Obligation: Voluntary.

Status of the proposed information collection: Pending OMB approval.

Authority: Title 13 U.S.C. 9(a), and Title 12, U.S.C. 1701z–1 *et seq.*

Dated: January 20, 2012.

Raphael W. Bostic,

Assistant Secretary for Policy Development and Research.

[FR Doc. 2012–1704 Filed 1–26–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5601–N–04]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7262, Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at (800) 927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: January 19, 2012.

Mark R. Johnston,

Deputy Assistant Secretary for Special Needs.

[FR Doc. 2012–1428 Filed 1–26–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5594–N–01]

Notice of the FY 2011 Substantial Amendment Process and Other Related Information for Recipients of Emergency Solutions Grants Program Funds

AGENCY: Office of Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of funding allocations and requirements.

SUMMARY: This Notice advises the public of the amounts, and spending restrictions on the use, of the second allocation of Fiscal Year (FY) 2011 Emergency Shelter Grants/Emergency Solutions Grants funding (including requirements for establishing each recipient's expenditure limit for emergency shelter and street outreach activities), requirements for receiving the second allocation, and requirements that apply to FY 2012 and future consolidated planning submissions.

DATES: *Effective Date:* January 27, 2012.

Overview Information:

A. *Federal Agency Name:* Department of Housing and Urban Development, Office of Community Planning and Development.

B. *Funding Opportunity Title:* Funding Availability for the Emergency Solutions Grants (ESG) program.

C. *Publication:* This Notice is initially being published on HUD's Web site. All HUD materials will be posted on the HUD Homelessness Resource Exchange at: *www.hudhre.info.*

D. *Catalog of Federal Domestic Assistance (CFDA) Number:* 14.231: Emergency Solutions Grants program (ESG).

E. *Dates:* Substantial amendments submitted pursuant to this Notice must be submitted in compliance with 24 CFR part 91 and the recipient's citizen participation plan no later than May 15, 2012.

F. *Additional Overview Content Information:* On November 15, 2011, the Department of Housing and Urban Development (HUD) posted the interim rule for the Emergency Solutions Grants program and Consolidated Plan conforming amendments (Interim Rule) on HUD's Homelessness Resource Exchange Web site at *www.hudhre.info.* On December 5, 2011, the Interim Rule was published in the **Federal Register** (see 76 FR 75954). Also on November 15, HUD announced the amounts of the second allocation of FY 2011 Emergency Shelter Grants program/Emergency Solutions Grants program funds. To receive funds from the second allocation, each eligible recipient must prepare, and obtain HUD approval of, a substantial amendment to its Fiscal Year (FY) 2011 Consolidated Plan Annual Action Plan (Annual Action Plan). This Notice advises recipients of the 24 CFR part 91 requirements that will apply to this substantial amendment, highlights the relevant changes under the Interim Rule, and provides guidance on critical decisions to be made in the planning process.

G. *For Further Information:* For questions about ESG, please submit them to the HUD Homelessness Resource Exchange Virtual Help Desk at *http://www.hudhre.info/index.cfm?do=viewHelpdesk.* For more information about ESG, or to view a copy of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11371 *et seq.*) (McKinney-Vento Act), as amended by the Homeless Emergency and Rapid Transition to Housing Act of 2009 (Pub. L. 111–22) (HEARTH Act), or the amended ESG regulations, go to *www.hudhre.info/hearth.*

SUPPLEMENTARY INFORMATION:

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I. Purpose

On December 5, 2011 (76 FR 75954), the interim regulation for the Emergency Solutions Grants (ESG) program was published (Interim Rule). On January 4, 2012, it went into effect. ESG recipients will be eligible to receive additional FY 2011 ESG funds to carry out the new activities. This Notice provides further guidance on the requirements for receiving and using the additional funding (referred to in this Notice as ''the second allocation'') and other requirements for future consolidated planning submissions.

II. Overview

A. Background

The Full-Year Continuing Appropriations Act, 2011 (Pub. L. 112–10, Division B) appropriated at least $225 million for the Emergency Solutions Grants program for FY 2011. Accordingly, HUD used its discretion to allocate $250 million in FY 2011 funds for the ESG program. However, because the program regulations were still being revised when this funding became available, HUD chose to release the funding in a two-stage allocation process. The first allocation was made available immediately, to avoid a lapse in funding for existing Emergency Shelter Grants activities. This allocation, which equaled the FY 2010 ESG funding level of $160 million, was made in May 2011 and was subject to the Emergency Shelter Grants regulations in effect at that time.

The amounts for each recipient for the second allocation of $90 million, which reflects the national increase in ESG funding from FY 2010 to FY 2011, were posted on HUD's Web site on November 15, 2011, the same day that the Interim Rule was posted on HUD's Web site. HUD provided this early notification so that recipients could begin their local planning processes. Appendix A of this Notice lists the amount allocated to each recipient. Section III of this Notice describes some of the key spending requirements and decisions that recipients must make. It also explains how the program's new expenditure limits will apply to the funds from the second allocation for the FY 2011 ESG grant, and how to calculate and document the amount of funds committed to homeless assistance activities in FY 2010.

To receive the second allocation of funds for the FY 2011 ESG grant, each recipient will be required to submit, and obtain HUD approval of, a substantial amendment to the FY 2011 Consolidated Plan Annual Action Plan (Annual Action Plan), in accordance with the recipient's citizen participation plan and 24 CFR part 91, as amended by the Interim Rule. Each must submit its substantial amendment to HUD no later than May 15, 2012. Section IV of this Notice specifies which 24 CFR part 91 requirements will apply to this substantial amendment and provides guidance on critical decisions to be made in the planning process.

Section V of this Notice highlights the Interim Rule's other changes to 24 CFR part 91, which will affect FY 2012 Annual Action Plans and future Consolidated Plan submissions. HUD plans to provide further guidance on those requirements in the coming months.

B. Environmental Review

This Notice provides operating instructions and procedures in connection with activities under the Interim Rule. The Interim Rule was subject to a required environmental review. Accordingly, under 24 CFR 50.19(c)(4), this Notice is categorically excluded from environmental review under the National Environmental Policy Act (42 U.S.C. 4321).

III. Spending Requirements and Critical Recipient Funding Decisions

The funds provided to recipients in the second allocation will be subject to all of the ESG requirements under the Interim Rule. These funds must be expended within 24 months after the date HUD signed the amendment to the recipient's FY 2011 grant agreement.

When making funding decisions, recipients should take into account several requirements and considerations. The Interim Rule increases communities' capacity to engage in strategic planning and program oversight by raising the expenditure limit on administrative activities. Also, the Interim Rule shifts the focus from emergency shelter to assisting people to quickly regain stability in permanent housing—this is reflected in the expenditure limits on street outreach and emergency shelter activities. Compliance with these expenditure limits will be measured using the total amount of the FY 2011 grant, not just the second allocation. HUD is encouraging communities to focus as much of their funding as possible on rapidly re-housing persons who are literally homeless in order to reduce the number of persons who are living in shelters and on the streets, in order to end homelessness in this country.

Now that the Interim Rule has become effective, recipients have the option of re-designating funds from the first allocation of FY 2011 grant funds to be used for the new eligible activities. However, this ''reprogramming'' of funds is subject to three conditions. First, the reprogramming and use of the funds must comply with the Interim Rule. Second, the reprogramming must not violate existing contracts or subgrant agreements. Third, unlike the second allocation of funds, the reprogrammed funds must still be expended within 24 months after the date HUD signed the original FY 2011 grant agreement.

A. Expenditure Limit for Administrative Activities

The Interim Rule increases the expenditure limit for administrative activities from 5 percent to 7.5 percent. Because each recipient could only spend up to 5 percent of the first allocation on administrative costs, a recipient will be able to use more than 7.5 percent of its second allocation for administrative costs, so long as the total expenditures for administrative activities using both the first and second allocations do not exceed 7.5 percent of the recipient's total FY 2011 ESG grant.

To calculate the maximum amount that recipients may use for administrative costs under the second allocation, recipients must first multiply the total FY 2011 grant by 7.5 percent. Next, the recipient must subtract from this amount the amount of funds allocated to administrative costs from the first allocation. The resulting amount is the maximum amount of funds available to recipients for administrative activities under the second allocation. For example, if the recipient received an initial allocation of $100,000 and a second allocation of $75,000 (for a total FY 2011 grant of $175,000), then the maximum amount that the recipient could spend on administrative activities from the second allocation is $8,125. This example is detailed here:

Step 1: Determine Total Amount Available for Administrative Activities

Total FY 2011 ESG Grant =	$175,000
	× .075
	$13,125

Step 2: Determine Total Amount Allocated to Administrative Activities in Initial Allocation

First Allocation =	$100,000
	× .05
	$5,000

Step 3: Determine Total Amount Available for Administrative Activities From Second Allocation

	$13,125
	− $5,000
	$8,125

B. Expenditure Limit for Street Outreach and Emergency Shelter Activities

Under 24 CFR 576.100(b) of the Interim Rule, the total amount of each recipient's fiscal year grant that may be used for street outreach and emergency shelter activities cannot exceed the greater of:

(1) 60 percent of the recipient's fiscal year grant; or

(2) The amount of FY 2010 grant funds committed for homeless assistance activities.

To count toward the amount in paragraph (2), the FY 2010 funds must have been committed between the date that HUD signed the FY 2010 grant agreement and January 4, 2012, the effective date of the Interim Rule. In addition, each commitment must be sufficiently documented. HUD is defining ''committed'' as obligated; therefore, recipients must use the same type of evidence they will use to document an ''obligation'' under 24 CFR 576.203(a) of the Interim Rule. For states, this evidence consists of a subgrant agreement or a letter of award requiring payment from the grant to a subrecipient. For metropolitan cities, urban counties, and territories, this evidence may consist of a subgrant agreement, a letter of award requiring payment from the grant to a subrecipient, a procurement contract, or a written designation of a department within the government of the recipient to directly carry out an eligible activity. If the recipient is an urban county, the evidence may also consist of an agreement with, or letter of award requiring payment to, a member government that has designated a department to directly carry out an eligible activity.

To ensure that each recipient's use of its second allocation complies with the expenditure limit for street outreach and emergency shelter, each recipient must notify HUD of the amount of FY 2010 grant funds the recipient committed for homeless assistance activities. This notification must be made in writing to the HUD field office or on, or before, the date the recipient submits its substantial amendment. HUD strongly encourages recipients to use the format detailed in Table 1 to declare the total amount of FY 2010 grant funds obligated to homeless assistance activities. These activities include all activities that recipients would report as homeless assistance activities in the Integrated Disbursement Information System (IDIS) for the Emergency Shelter Grants program (emergency shelter renovation, major rehabilitation, conversion, essential services, maintenance, operation, etc.). Table 1 also includes spaces for recipients to declare the total amounts of FY 2010 grant funds committed for homelessness prevention and administrative activities. The amount for homelessness prevention plus the amount for homelessness assistance activities plus the amount for administrative activities must equal the recipient's total FY 2010 grant amount.

Recipients are not required to submit documentation at this time. However, recipients must retain documentation to support the amounts declared, and provide these documents when HUD requests them.

TABLE 1—SUGGESTED FORMAT FOR DECLARATION OF FY 2010 GRANT FUND COMMITMENTS

Activity type	Obligated amount
Homeless Assistance	$
Homelessness Prevention	$
Administrative Activities	$
Total FY 2010 Award	$

For most, if not all, recipients, the amount of FY 2010 grant funds committed for homeless assistance activities will be greater than 60 percent of the recipient's total FY 2011 ESG grant. For these recipients, the amount of FY 2010 grant funds committed for homeless assistance activities will be the FY 2011 expenditure limit for emergency shelter and street outreach activities. If a recipient reached this limit when obligating funds from the first allocation, that recipient cannot use any funds from its second allocation for emergency shelter or street outreach activities. In the rare case where a recipient did not reach the limit when obligating funds from the first allocation, that recipient may use some funds from its second allocation for emergency shelter and/or street outreach activities, provided that (1) those activities comply with the Interim Rule, and (2) the total FY 2011 grant funds used for those activities do not exceed the FY 2011 expenditure limit.

C. Critical Need for Rapid Re-Housing

HUD strongly encourages each jurisdiction to focus as much of its new ESG funding as possible on rapidly re-housing individuals and families living on the streets or in emergency shelters. While both rapid re-housing and homelessness prevention are eligible activities, only rapid re-housing assistance targets those individuals and families living on the streets or in emergency shelters. Effective rapid re-housing programs help people transition out of the homeless assistance system as quickly as possible, decreasing the number of persons who are homeless within the community. Rapid re-housing also ensures that emergency shelter resources are used to serve individuals and families with the most urgent housing crises. In contrast, the success of homelessness prevention activities are much more difficult to measure and the prevention assistance is harder to strategically target. These difficulties increase the risk that the use of ESG funds for homelessness prevention assistance will be inefficient at demonstrably preventing people from going to the streets or shelters. As public and nonprofit resources become increasingly strained, rapid re-housing should be given the highest priority under ESG to help ensure that existing resources—both within and outside the homeless assistance system—are used as efficiently as possible to help those most in need.

IV. Requirements for Receiving the Second Allocation

To receive funds under the second allocation, recipients must submit and obtain HUD approval of a substantial amendment to the FY 2011 Annual Action Plan. The substantial amendment must be prepared and submitted in accordance with the recipient's citizen participation plan and the requirements of 24 CFR part 91, as amended by the Interim Rule. Note that 24 CFR 576.200 requires territories to follow the requirements that apply to local governments under 24 CFR part 91.

Table 2, below, shows the regulatory requirements that will apply to the preparation and contents of the substantial amendment.

TABLE 2—RELEVANT REQUIREMENTS FOR THE SUBSTANTIAL AMENDMENT

	Local governments and territories	States
Consultation	24 CFR 91.100(d)	4 CFR 91.110(e).
Citizen Participation	24 CFR 91.105(c), (k)	24 CFR 91.115(c), (i).
Action Plan	24 CFR 91.220(a), (c), (d), (e), (l)(4)	24 CFR 91.320(a), (c), (d), (e), (k)(3).
Certifications	24 CFR 91.225(c)	24 CFR 91.325(c).

A. Requirements for Preparing the Substantial Amendment to the FY 2011 Consolidated Plan Annual Action Plan

1. Consultation—24 CFR 91.100(d), 91.110(e)

The Interim Rule promotes greater collaboration between ESG recipients and Continuums of Care in planning, funding, implementing and evaluating homeless assistance and homelessness prevention programs locally. In preparing the substantial amendment, each recipient must follow the consultation requirements at 24 CFR 91.100(d) for local governments and territories or 24 CFR 91.110(e) for states, as applicable. In particular, the Interim Rule requires ESG recipients to consult with the Continuum(s) of Care within their geographic area regarding: Determining how to allocate ESG funds for eligible activities; developing the performance standards for activities funded under ESG; and developing funding, policies, and procedures for the operation and administration of the Homeless Management Information System (HMIS). Examples of possible consultation processes include meetings with Continuum of Care leadership and members, and joint workgroups or committees.

2. Citizen Participation—24 CFR 91.105(c), (k), 91.115(c), (i)

Each recipient must follow its existing citizen participation plan when completing its substantial amendment.

B. Required Contents of Substantial Amendments—24 CFR 91.220(a), (c), (d), (e), (l)(4), 91.225(c), 91.320(a), (c), (d), (e), (k)(3), 91.325(c)

1. Standard Form 424 (SF–424)

The substantial amendment must include a Standard Form 424, as required by 24 CFR 91.220(a) for local governments and territories and 24 CFR 91.320(a) for states.

2. Summary of Consultation Process

Based on the requirements in 24 CFR 91.220(l)(4)(vi) for local governments and territories, and 24 CFR 91.320(k)(3)(v) for states, each recipient's substantial amendment must describe how the recipient consulted with the Continuum(s) of Care regarding: Determining how to allocate ESG funds for eligible activities; developing the performance standards for activities funded under ESG; and developing funding, policies, and procedures for the operation and administrative of the HMIS.

3. Summary of Citizen Participation Process

In accordance with 24 CFR 91.105(c)(3) for local governments and territories and 24 CFR 91.115(c)(3) for states, the substantial amendment must summarize the citizen participation process used in preparing the substantial amendment. It must also summarize the public comments or views received, along with a summary of the comments or views not accepted, including the reasons for not accepting those comments or views.

4. Match

All recipients, except territories, must match the second allocation with an equal amount of other federal, state and local resources (cash and non-cash) in accordance with the revised matching requirements at 24 CFR 576.201. States should note that the matching requirement applies to the entire FY 2011 ESG grant; therefore, the exception of the first $100,000 in 24 CFR 576.201(a)(2) was applied to the first allocation and states are required to match 100 percent of the second allocation. In accordance with 24 CFR 91.220(c) for local governments and territories and 24 CFR 91.320(c) for states, the substantial amendment must specify the types, amounts, and proposed uses of these resources. These resources must be contributed, used and reported in accordance with the Interim Rule's new requirements in order to count as match for the second allocation.

5. Proposed Activities and Overall Budget

a. Proposed Activities

The substantial amendment must provide certain details for each activity to be funded using the second allocation of funds and any reprogrammed funds from the first allocation. Possible activities include the following:

- Rapid Re-Housing—Rental Assistance;
- Rapid Re-Housing—Housing Relocation and Stabilization Services;
- Homelessness Prevention—Rental Assistance;
- Homelessness Prevention—Housing Relocation and Stabilization Services;
- HMIS;
- Emergency Shelter—Shelter Operations
- Emergency Shelter—Essential Services
- Emergency Shelter—Renovation
- Emergency Shelter—Assistance Required Under the Uniform Relocation and Real Property Acquisition Act of 1970 (URA)
- Street Outreach—Essential Services

The required details for each activity include:

(1) The corresponding priority need from the recipient's Annual Action Plan;

(2) A concise description of the activity, including the number and types of persons to be served;

(3) The corresponding standard objective category (decent housing, suitable living environment, or economic opportunity) and the corresponding outcome category (availability/accessibility, affordability, or sustainability), as described in the **Federal Register** Notice of Outcome Performance Measurement System for

Community Planning and Development Formula Grant Programs, dated March 7, 2006 (71 FR 11470); and

(4) The start date and completion date (to indicate the period over which the grant will be used for that activity).

(5) ESG and other funding amounts

In addition, the following activity details are required for local governments and territories, and recommended for States:

(6) One or more performance indicators, such as the number of persons or households prevented from becoming homeless, the number of persons or households assisted from emergency shelters/streets into permanent housing, or the number of persons or households covered by the HMIS;

(7) Projected accomplishments, in accordance with each performance indicator, to be made within one year; and

(8) Projected accomplishments, in accordance with each performance indicator, to be made over the period for which the grant will be used for that activity.

These details can be provided in any clear, concise format. Recipients may use the projects workbook spreadsheet in the Consolidated Plan Management Process (CPMP) tool, which can be found at: *http://www.hud.gov/offices/cpd/about/conplan/toolsandguidance/cpmp.* As an alternative, local governments may use Table 3C (''Consolidated Plan Listing of Projects'' for local governments and territories,), which can be found in Appendix C or at: *http://www.hud.gov/offices/cpd/about/conplan/toolsandguidance/guidance.* Local governments and territories that use Table 3C should substitute ''activity'' for ''project'' and do not need to enter information not mentioned above. States may use Table 3C, (''Annual Action Plan Planned Project Results'' for states) to provide some of the required information; however, because it does not capture all that is required, they will need to provide the remaining details in another format.

b. Discussion of Funding Priorities

The substantial amendment must explain why the recipient chose to fund the proposed activities at the amounts specified under section IV.B.5.a above. The more specific the explanations are, the more useful the consultation and citizen participation process will be. If locally-relevant data is available, HUD strongly encourages recipients to use that data to support its funding priorities. In addition, HUD encourages each recipient to describe how its funding priorities will support the national priorities established in ''*Opening Doors: Federal Strategic Plan to Prevent and End Homelessness,''* which can be found at: *http://www.usich.gov/opening_doors.* The amendment must also identify any obstacles to addressing underserved needs in the community.

c. Detailed Budget

The substantial amendment must include a detailed budget of the planned activities and funding levels. This budget must account for the entire second allocation, and any reprogrammed funds from the first allocation. Recipients may use Table 3 to complete this requirement (to access this table as an Excel document, with embedded formulas, please see *www.hudhre.info/esg*). Note that this table assumes that recipients will obligate the entire second allocation, and any reprogrammed funds, to the new eligible activities and administrative costs. If a recipient is eligible and proposes to obligate any of its second allocation for emergency shelter or street outreach activities, that recipient should contact its local HUD field office for additional guidance and resources.

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Table 3: FY 2011 Detailed Budget Table, with Example Data*

First Allocation	$100,000.00		**FY 2011**		
Second Allocation	$75,000.00		**Emergency Shelter Grants/Emergency Solutions Grants**		
Grant Amount	$175,000.00		**Program Allocations**		
Total Administration	$13,125.00				
		First Allocation		**Second Allocation**	**Total Fiscal Year 2011**
	Eligible Activities	**Activity Amount**	**Reprogrammed Amount**	**Activity Amount**	**Activity Amount**
Emergency Shelter Grants Program	Homeless Assistance	**$85,000.00**	**$28,200.00**		**$56,800.00**
	Rehab/Conversion	$35,000.00	$6,200.00		$28,800.00
	Operations	$15,000.00	$6,000.00		$9,000.00
	Essential Services	$35,000.00	$16,000.00		$19,000.00
	Homelessness Prevention	**$10,000.00**	**$0.00**		**$10,000.00**
	Administration	**$5,000.00**	**$0.00**		**$5,000.00**
	Emergency Shelter Grants Subtotal	**$100,000.00**	**$28,200.00**		**$71,800.00**
Emergency Solutions Grants Program	Emergency Shelter**			**$0.00**	**$0.00**
	*Renovation***			$0.00	$0.00
	*Operation***			$0.00	$0.00
	*Essential Service***			$0.00	$0.00
	*URA Assistance***			$0.00	$0.00
	Street Outreach - Essential Services**			**$0.00**	**$0.00**
	HMIS		**$2,200.00**	**$10,675.00**	**$12,875.00**
	Rapid Re-housing		**$21,000.00**	**$49,700.00**	**$70,700.00**
	Housing Relocation and Stabilization Services		$10,000.00	$18,000.00	$28,000.00
	Tenant-Based Rental Assistance		$11,000.00	$31,700.00	$42,700.00
	Project-Based Rental Assistance		$0.00	$0.00	$0.00
	Homelessness Prevention		**$5,000.00**	**$6,500.00**	**$11,500.00**
	Housing Relocation and Stabilization Services		$0.00	$1,500.00	$1,500
	Tenant-Based Rental Assistance		$5,000.00	$5,000.00	$10,000
	Project-Based Rental Assistance		$0.00	$0.00	$0.00
	Administration			**$8,125.00**	**$8,125.00**
	Emergency Solutions Grants Subtotal		**$28,200.00**	**$75,000.00**	**$103,200.00**
		Total Grant Amount: $71,800.00 + $103,200.00 =			**$175,000.00**

* This example assumes a recipient received a total FY 2011 allocation of $175,000 (an initial allocation of $100,000 and a second allocation of $75,000) and reprogrammed $28,200 from the initial allocation.

**Allowable only if the amount obligated for homeless assistance activities using funds from the first allocation is less than the expenditure limit for emergency shelter and street outreach activities (see Section III.B. of this Notice).

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Table 3 provides a format for recipients to describe their detailed budget. It also includes space to detail funding for tenant-based rental assistance and project-based rental assistance. Numbers in the table are included only as examples.

HUD encourages this level of detail in the substantial amendment for two reasons. First, the more specific the activities and funding amounts are in the substantial amendment, the more useful the consultation and citizen participation process will be. Second, distinguishing the tenant-based rental assistance amount from the project-based rental assistance amount will help HUD assess the level of environmental review required. Project-based rental assistance will require a more extensive environmental review because the assistance is tied to the dwelling unit, not the tenant.

6. Written Standards for Provision of ESG Assistance (24 CFR 91.220(l)(4)(i), 91.320(k)(3)(i), 576.400 (e)(1), (e)(2), and (e)(3))

If the recipient is a metropolitan city, urban county, or territory, the substantial amendment must include written standards for providing the proposed ESG assistance, as required under 24 CFR 91.220(l)(4)(i) and 576.400 (e)(1) and (e)(3). If the recipient is a state, it must include written standards for providing ESG assistance or describe the requirements for subrecipients to establish and implement written standards, as required under 24 CFR 91.320(k)(3)(i) and 576.400(e)(2) and (e)(3).

HUD recognizes that development of comprehensive, coordinated, and effective policies and procedures is a process that takes a substantial amount of time and thought. HUD encourages recipients, therefore, to establish initial standards for this grant and continue to refine these standards in their Annual Action Plans as the community adapts and further develops strategies for targeting resources, and as new best practices are established. Recipients may use the policies and procedures developed for their Homelessness Prevention and Rapid Re-Housing Program (HPRP) as a place to start in developing the standards, but should also evaluate the effectiveness of these standards and make changes as necessary to meet ESG requirements. Recipients should also keep in mind that the amount of funding available under the ESG program is far less than the amount of funding available under HPRP; therefore, effective targeting becomes even more vital.

a. Standard policies and procedures for evaluating individuals' and families' eligibility for assistance under Emergency Solutions Grant (ESG).

The written standards must include standard policies and procedures for evaluating each individual or family's eligibility for ESG assistance. These policies and procedures must be consistent with the definitions of homeless and at risk of homelessness in 24 CFR 576.2 and the recordkeeping requirements in 24 CFR 576.500(b), (c), (d), and (e).

b. Policies and procedures for coordination among emergency shelter providers, essential service providers, homelessness prevention and rapid re-housing assistance providers, other homeless assistance providers, and mainstream service and housing providers.

The written standards must include policies and procedures for coordinating and integrating the proposed program components with other homeless assistance programs and mainstream housing and service programs, in order to promote a strategic, community-wide system to prevent and end homelessness. Sections 576.400(b) and (c) of the Interim Rule provide a list of these programs. The required coordination and integration may be done over the area covered by the Continuum of Care or a larger area over which services are coordinated.

c. Policies and procedures for determining and prioritizing which eligible families and individuals will receive homelessness prevention assistance and which eligible families and individuals will receive rapid re-housing assistance.

The amount of funds that will be available to recipients will likely not be enough to serve all persons who are homeless and all persons at risk of homelessness; therefore, the written standards must include targeting policies and procedures for rapid re-housing and homelessness prevention. For example, if a local government proposes to fund homelessness prevention, it must include policies and procedures for determining which individuals and families who qualify as at risk of homelessness can receive homelessness prevention assistance and which of those individuals and families should be prioritized for that assistance.

HUD encourages each jurisdiction to consider how these policies and procedures can be designed to provide rapid re-housing assistance to as many homeless people as possible, including those individuals and families who face multiple obstacles to obtaining and sustaining housing. An individual or family's ability to sustain housing should not be a threshold requirement. Instead, each program should focus on helping individuals and families overcome their immediate housing obstacles and connecting them with the resources they need to stay housed when the program ends.

In addition, for homelessness prevention assistance, recipients must include the risk factors that will be used to help determine individuals and families who are most in need of ESG homelessness prevention assistance to avoid moving into an emergency shelter or another place described in paragraph (1) of the 'homeless' definition in 24 CFR 576.2.

Because predicting which families and individuals will become homeless ''but for'' ESG assistance is difficult, HUD encourages recipients to target assistance to families and individuals who are closest to going to a shelter, car, or the street, if not those who are about to spend their first night there (often referred to as ''diversion''). Typically, these families and individuals will have the same characteristics as families and individuals who are already in shelters and on the streets. However, these characteristics can vary from one community to the next, so an effective targeting policy will depend on good local data. HUD recommends that communities not just identify these characteristics, but identify the combinations of these characteristics that are typical of families and individuals living in shelters or on the streets. These combinations of characteristics should serve as a guide for targeting and prioritizing prevention assistance to those families and individuals who are most in need.

d. Standards for determining the share of rent and utilities costs that each program participant must pay, if any, while receiving homelessness prevention or rapid re-housing assistance.

The written standards must include guidelines for determining a program participant's contribution to rent and utilities, if any, while they are receiving homelessness prevention or rapid re-housing assistance. When developing these guidelines, recipients should consider the challenges associated with homelessness in their community, the other resources available or lacking in their community, and the existing housing and economic conditions in their community. Additionally, HUD reminds recipients that they are able to be flexible and consider a wide range of options, including providing a fixed amount of assistance per person or requiring the program participant to pay

a certain portion of his or her income over the course of the assistance. If the assistance will be based on a percentage of the program participant's income, the standards must specify what percentage will be used and how income will be calculated.

e. Standards for determining how long a particular program participant will be provided with rental assistance and whether and how the amount of that assistance will be adjusted over time.

The written standards must include guidelines for determining the length and amount of assistance a participant will receive, as well as, changes in assistance amounts over time. ESG recipients must ensure that the following regulatory provisions are met when developing standards related to rental assistance: (1) Program participants receiving project-based rental assistance must have a lease that is for a period of 1-year, regardless of the length of rental assistance; (2) program participants receiving rapid re-housing assistance must be re-evaluated at least once every year and program participants receiving homelessness prevention assistance are required to be re-evaluated at least once every 3 months; and (3) no program participant may receive more than 24 months of assistance in a 3-year period.

As mentioned above, HUD encourages recipients to consider the challenges associated with homelessness in their community, the other resources available or lacking in their community, and the existing housing and economic conditions in their community. If recipients choose to establish additional criteria for re-evaluating eligibility, these should be described in this section.

f. Standards for determining the type, amount, and duration of housing stabilization and/or relocation services to provide a program participant, including the limits, if any, on the homelessness prevention or rapid re-housing assistance that each program participant may receive, such as the maximum amount of assistance, maximum number of months the program participant receives assistance; or the maximum number of times the program participant may receive assistance.

The written standards must include standards for determining the housing stabilization and/or relocation services that will be provided to a participant, including the types of services, amount of services, and the length of time a participant can receive services. The written standards must also include any limits that will be imposed above and beyond the Interim Rule's limits on the types and amount of assistance that a participant can receive. As with the standards for rental assistance, recipients are able to be flexible and consider a wide range of options when setting standards for housing stabilization and relocation standards for the jurisdiction. For example, recipients could adjust the services over time based on a set of indicators or require the program participant to contribute a certain portion of his or her income while receiving assistance. Except as provided for housing stability case management in § 576.105(b)(2) of the Interim Rule, no program participant may receive more than 24 months of assistance in a 3-year period.

7. Making Sub-Awards

Each recipient must describe its process for making sub-awards. Each state recipient must describe how it intends to make its allocation available to units of general local government and private nonprofit organizations, including community and faith-based organizations. Each territory or metropolitan city must describe how it intends to make its allocation available to private nonprofit organizations. Each urban county must describe how it intends to make its allocation available to private nonprofit organizations and to participating units of local government.

8. Homeless Participation Requirement

Under § 576.405(a) of the Interim Rule, each recipient that is not a state must provide for the participation of not less than one homeless individual or formerly homeless individual on the board of directors or other equivalent policymaking entity of the recipient, to the extent that the entity considers and makes policies and decisions regarding any facilities, services, or other assistance that receive ESG funding. This requirement remains the same as it was in the prior ESG regulations.

However, because all ESG recipients are governments, the policymaking entities for most, if not all, ESG recipients can only consist of elected officials. Before the Interim Rule, these recipients could request a waiver of the participation requirement, if they agreed to consult with homeless or formerly homeless individuals in considering and making policies and decisions regarding ESG-funded facilities, services, or other assistance. Now, under § 576.405(b) of the Interim Rule, recipients unable to meet the participation requirement are not required to apply for a waiver. Instead, they must develop and implement a plan (as part of their Annual Action Plan) to consult with homeless or formerly homeless individuals in considering and making policies and decisions regarding any ESG-funded facilities, services, or other assistance. Therefore, for those recipients that cannot meet the participation requirement in § 576.405(a), the substantial amendment must include a plan that meets the requirements under § 576.405(b).

9. Performance Standards

The recipient must describe the performance standards for evaluating ESG activities. These performance standards must be developed in consultation with the Continuum of Care. Unlike the performance indicators, the performance standards should go beyond projecting the number of persons or households who will exit or avoid homelessness under the grant. The purpose of these performance standards is to provide a measure for the ESG recipient and the Continuum of Care to evaluate each ESG service provider's effectiveness, such as how well the service provider succeeded at: (1) Targeting those who need the assistance most; (2) reducing the number of people living on the streets or emergency shelters; (3) shortening the time people spend homeless; and (4) reducing each program participant's housing barriers or housing stability risks.

HUD encourages recipients to develop performance standards for ESG activities that will complement or contribute to the Continuum of Care program performance measures detailed in Section 427 of the McKinney-Vento Act, as amended by the HEARTH Act. In future years, each Continuum of Care will be responsible for measuring the performance of ESG recipients within its geographic boundaries against these performance standards.

HUD also encourages recipients to carefully consider how the standards might help or hinder service providers' ability to target and design their programs so that homelessness is effectively shortened and reduced in the recipient's jurisdiction.

HUD recognizes that these standards will evolve over the next few years as ESG recipients and subrecipients have increasing access to HMIS data and as they become more integrated with the Continuums of Care within their geographic area.

10. Certifications—24 CFR 91.225(c), 91.325(c)

Each recipient must submit new ESG certifications in accordance with the requirements in 24 CFR 91.225(c) for local governments and territories and 24

CFR 91.325(c) for states. Recipients can find updated certifications on HUD's Web site at *www.hudhre.info.*

C. Written Standards Required for Recipients Who Are Eligible and Decide To Use Part of the Second Allocation of FY 2011 Funds for Emergency Shelter and Street Outreach Activities

Recipients that plan to obligate funds to emergency shelter or street outreach activities, and that are eligible to do so (see Section III of this Notice for more information) must meet additional written standards requirements under 24 CFR 576.400 (e)(1), (2) and (3). HUD will not approve any emergency shelter or street outreach activities proposed in the substantial amendment until these requirements are met.

1. Local Governments and Territories

a. If a local government or territory decides to use the second allocation to fund essential services related to street outreach, the jurisdiction must include its standards for targeting and providing those services.

b. If a local government or territory decides to use the second allocation to fund any emergency shelter activities (such as rehabilitation/conversion, operations, or essential services) the jurisdiction must include its policies and procedures for admission, diversion, referral, and discharge by emergency shelters assisted under ESG. These policies and procedures must include standards regarding length of stay, if any, and safeguards to meet the safety and shelter needs of special populations—*e.g.,* victims of domestic violence, dating violence, sexual assault, and stalking—and individuals and families who have the highest barriers to housing and are likely to be homeless the longest.

c. If a local government or territory decides to use the second allocation to fund essential services related to emergency shelter, the jurisdiction must include its policies and procedures for assessing, prioritizing, and reassessing individuals' and families' needs for essential services related to emergency shelter.

2. States

If a state decides to use the second allocation to fund street outreach and/or emergency shelter activities, then the state must either (1) include its own written standards as local governments and territories must do for those activities (see a, b, and c under paragraph 1 above) or (2) describe its requirements for its subrecipients to establish and implement the relevant written standards, as provided under 24 CFR 576.400(e)(2) and (3).

D. Requirements for Recipients Who Plan To Use the Risk Factor Under Paragraph (1)(iii)(G) of the ''At Risk of Homelessness'' Definition

If the recipient plans to serve individuals or families that are ''at risk of homelessness,'' as defined under 24 CFR 576.2, based on the risk factor, ''otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness,'' the recipient must describe the specific characteristics associated with instability and increased risk of homelessness as specified in paragraph (1)(iii)(G) of the ''at risk of homelessness'' definition. The characteristics may be evidenced by characteristics and needs of individuals and families currently entering the homeless assistance system or the streets. If a recipient does not describe these characteristics in the substantial amendment, the recipient cannot serve individuals and families using this risk factor in the ''at risk of homelessness'' definition. Note that an individual or family may not qualify simply by exhibiting this risk factor. In order to qualify as at risk of homelessness under paragraph (1) of the definition, that individual or family must also meet the criteria under paragraphs (1)(i) and (1)(ii) with respect to income and resources or support networks.

E. Requirements for Optional Changes to the FY 2011 Annual Action Plan

This part of the Notice describes changes to the FY 2011 Annual Action Plan that HUD encourages, but does not require recipients to make, including adding a description of the centralized or coordinated assessment system being used by recipients or subrecipients, if applicable, and providing updated monitoring standards and procedures.

1. Centralized or Coordinated Assessment System

Recipients are not required to participate in a centralized or coordinated assessment system until HUD provides additional standards to Continuums of Care through the publication of the Continuum of Care program rule. However, HUD recognizes that some communities have already established such systems and that ESG recipients and subrecipients either are participating in them or would like to participate in them. If the recipient's jurisdiction, or a portion of the recipient's jurisdiction, currently has a centralized or coordinated assessment system and the recipient or subrecipients participate in this system, HUD encourages the recipient to describe the assessment system in the substantial amendment.

2. Monitoring

The consolidated plan requires recipients to describe the standards and procedures that the jurisdiction will use to monitor activities carried out in furtherance of the plan and will use to ensure long-term compliance with requirements of the programs involved. The Interim Rule introduces a number of substantial changes to the activities and procedures required of ESG recipients and subrecipients that were not considered when these standards and procedures were originally developed. As recipients prepare their substantial amendments, HUD encourages recipients to review their monitoring standards and procedures accordingly. To help prevent future monitoring findings by HUD for noncompliance, recipients should ensure that established standards and procedures will allow them to monitor compliance with these new requirements. If existing procedures fall short in this regard, or if modifications are needed, then HUD encourages recipients to update their monitoring standards and procedures in this substantial amendment. As a key component of these modifications, recipients should address associated requirements for appropriate levels of staffing, as HUD has found that recipients that dedicate staff to monitoring compliance and carrying out other administrative tasks are better able to implement the changes in, and assure compliance with, the rule.

V. Requirements That Apply to FY 2012 and Future Consolidated Planning Submissions

This Notice focuses on requirements for receiving the second allocation of FY 2011 ESG funds. To receive any formula grant funds for FY 2012 and future fiscal years, all Consolidated Plan jurisdictions—regardless of whether they receive ESG funds—are required to comply with all of the revised requirements for preparing and submitting the Annual Action Plan, including all applicable consultation and citizen participation requirements. These requirements are specified under 24 CFR 91.100, 91.105, 91.220, and 91.225 for local governments (and territories for ESG) and under 24 CFR 91.110, 91.115, 91.320, and 91.325 for states.

In addition, after January 4, 2012 (the effective date of the Interim Rule), all submissions of Consolidated Plan

jurisdictions' housing and homeless needs assessments, housing market analyses, and strategic plans must comply with all of the revised requirements in 24 CFR part 91 that apply to submitting the complete 5-year Consolidated Plan. However, jurisdictions will not be required to submit a complete Consolidated Plan in accordance with the revised requirements until the next submission date scheduled under the jurisdiction's existing Consolidated Planning cycle.

With regard to the Consolidated Annual Performance and Evaluation Report (CAPER): ESG recipients will be required to report on ESG activities included in the substantial amendment to the 2011 Annual Action Plan and future Annual Action Plans using the new ESG-specific reporting requirements under § 91.520(g). All jurisdictions which submit a CAPER (both those receiving ESG funds and those not receiving ESG funds) will be required to report annually using the new homelessness reporting requirements under § 91.520(c), for FY 2012 and future program years. HUD plans to issue further guidance for all jurisdictions about complying with these other part 91 requirements.

Dated: January 20, 2012.

Mercedes M. Márquez,

Assistant Secretary for Community Planning and Development.

Appendix A: FY 2011 ESG Allocations by State and Recipient Name

The following list provides the first and second allocations to Emergency Solutions Grants recipients for FY 2011.

BILLING CODE 4210–67–P

State	Recipient Name	Amount of First FY 2011 Allocation	Amount of Second FY2011 Allocation	Total FY2011 Allocation
Alaska	ALASKA STATE PROGRAM	$126,757	$71,301	$198,058
	ANCHORAGE	$82,511	$46,412	$128,923
Alabama	ALABAMA STATE PROGRAM	$1,470,781	$827,314	$2,298,095
	MOBILE	$129,536	$72,864	$202,400
	MOBILE COUNTY	$85,651	$48,179	$133,830
	JEFFERSON COUNTY	$89,937	$50,590	$140,527
	MONTGOMERY	$91,641	$51,548	$143,189
	BIRMINGHAM	$292,639	$164,609	$457,248
Arkansas	ARKANSAS STATE PROGRAM	$1,208,604	$679,840	$1,888,444
American Samoa	AMERICAN SAMOA	$51,807	$29,142	$80,948
Arizona	ARIZONA STATE PROGRAM	$900,623	$506,600	$1,407,223
	MARICOPA COUNTY	$99,133	$55,762	$154,895
	TUCSON	$271,983	$152,990	$424,973
	PHOENIX	$749,958	$421,851	$1,171,809
	MESA	$150,839	$84,847	$235,686
	GLENDALE	$97,694	$54,953	$152,647
	PIMA COUNTY	$116,929	$65,773	$182,702
California	CALIFORNIA STATE PROGRAM	$6,900,617	$3,881,597	$10,782,214
	SAN JOSE	$441,448	$248,315	$689,763
	RIVERSIDE	$147,390	$82,907	$230,297
	SACRAMENTO	$253,875	$142,805	$396,680
	SALINAS	$107,948	$60,721	$168,669
	SAN BERNARDINO	$157,661	$88,684	$246,345
	SAN FRANCISCO	$902,146	$507,457	$1,409,603
	SANTA ANA	$301,897	$169,817	$471,714
	SAN DIEGO	$661,372	$372,022	$1,033,394
	PASADENA	$99,448	$55,940	$155,388
	OXNARD	$119,991	$67,495	$187,486
	ONTARIO	$106,149	$59,709	$165,858
	SACRAMENTO COUNTY	$255,219	$143,561	$398,780
	ALAMEDA COUNTY	$85,704	$48,209	$133,913
	CONTRA COSTA COUNTY	$151,401	$85,163	$236,564
	FRESNO COUNTY	$174,330	$98,061	$272,391
	KERN COUNTY	$232,067	$130,538	$362,605
	LOS ANGELES COUNTY	$1,296,251	$729,141	$2,025,392
	RIVERSIDE COUNTY	$389,978	$219,363	$609,341
	OAKLAND	$369,059	$207,596	$576,655
	SAN BERNARDINO COUNTY	$313,160	$176,153	$489,313

	SAN DIEGO COUNTY	$205,959	$115,852	$321,811
	SAN JOAQUIN COUNTY	$122,743	$69,043	$191,786
	SAN LUIS OBISPO COUNTY	$91,684	$51,572	$143,256
	SAN MATEO COUNTY	$124,396	$69,973	$194,369
	SANTA BARBARA COUNTY	$88,475	$49,767	$138,242
	SONOMA COUNTY	$86,723	$48,782	$135,505
	STANISLAUS COUNTY	$109,046	$61,338	$170,384
	VENTURA COUNTY	$87,727	$49,346	$137,073
	ORANGE COUNTY	$164,935	$92,776	$257,711
	SOUTH GATE	$92,108	$51,811	$143,919
	STOCKTON	$183,533	$103,237	$286,770
	COMPTON	$90,306	$50,797	$141,103
	EL MONTE	$118,298	$66,543	$184,841
	FONTANA	$91,546	$51,495	$143,041
	POMONA	$124,021	$69,762	$193,783
	ANAHEIM	$218,190	$122,732	$340,922
	BAKERSFIELD	$147,264	$82,836	$230,100
	CHULA VISTA	$87,827	$49,403	$137,230
	BERKELEY	$143,201	$80,551	$223,752
	MODESTO	$102,575	$57,698	$160,273
	FRESNO	$334,508	$188,161	$522,669
	LOS ANGELES	$3,137,734	$1,764,975	$4,902,709
	GARDEN GROVE	$113,845	$64,038	$177,883
	GLENDALE	$143,339	$80,628	$223,967
	LONG BEACH	$379,364	$213,392	$592,756
	INGLEWOOD	$97,703	$54,958	$152,661
Colorado	COLORADO STATE PROGRAM	$1,040,658	$585,370	$1,626,028
	DENVER	$389,480	$219,083	$608,563
	COLORADO SPRINGS	$113,130	$63,636	$176,766
	AURORA	$108,805	$61,203	$170,008
Connecticut	CONNECTICUT STATE PROGRAM	$1,171,305	$658,859	$1,830,164
	BRIDGEPORT	$146,122	$82,194	$228,316
	NEW BRITAIN	$83,116	$46,753	$129,869
	HARTFORD	$168,700	$94,894	$263,594
	NEW HAVEN	$162,577	$91,450	$254,027
	WATERBURY	$100,542	$56,555	$157,097
District of Columbia	WASHINGTON	$795,554	$447,499	$1,243,053
Delaware	DELAWARE STATE PROGRAM	$102,002	$57,376	$159,378
	WILMINGTON	$108,049	$60,778	$168,827
	NEW CASTLE COUNTY	$104,107	$58,560	$162,667
Florida	FLORIDA STATE PROGRAM	$2,993,048	$1,683,590	$4,676,638

	TAMPA	$164,507	$92,535	$257,042
	TALLAHASSEE	$84,713	$47,651	$132,364
	BROWARD COUNTY	$160,709	$90,399	$251,108
	ORLANDO	$99,051	$55,716	$154,767
	ST PETERSBURG	$97,039	$54,584	$151,623
	PASCO COUNTY	$115,213	$64,807	$180,020
	PINELLAS COUNTY	$130,522	$73,419	$203,941
	POLK COUNTY	$130,127	$73,196	$203,323
	SEMINOLE COUNTY	$85,877	$48,306	$134,183
	VOLUSIA COUNTY	$85,093	$47,865	$132,958
	PALM BEACH COUNTY	$297,830	$167,529	$465,359
	MIAMI-DADE COUNTY	$793,263	$446,210	$1,239,473
	LEE COUNTY	$94,625	$53,227	$147,852
	HILLSBOROUGH COUNTY	$262,640	$147,735	$410,375
	ESCAMBIA COUNTY	$91,599	$51,524	$143,123
	JACKSONVILLE-DUVAL	$296,622	$166,850	$463,472
	COLLIER COUNTY	$94,611	$53,219	$147,830
	ORANGE COUNTY	$269,768	$151,745	$421,513
	FT LAUDERDALE	$90,528	$50,922	$141,450
	HIALEAH	$184,259	$103,646	$287,905
	MIAMI	$362,639	$203,984	$566,623
Georgia	GEORGIA STATE PROGRAM	$2,277,822	$1,281,275	$3,559,097
	SAVANNAH	$117,788	$66,256	$184,044
	CLAYTON COUNTY	$91,236	$51,320	$142,556
	COBB COUNTY	$143,117	$80,503	$223,620
	FULTON COUNTY	$88,477	$49,768	$138,245
	GWINNETT COUNTY	$184,820	$103,961	$288,781
	DE KALB COUNTY	$252,043	$141,774	$393,817
	ATLANTA	$340,053	$191,280	$531,333
	AUGUSTA	$99,192	$55,796	$154,988
Guam	GUAM	$140,854	$79,230	$220,084
Hawaii	HAWAII STATE PROGRAM	$234,663	$131,998	$366,661
	HONOLULU	$427,023	$240,200	$667,223
Iowa	IOWA STATE PROGRAM	$1,526,412	$858,607	$2,385,019
	DES MOINES	$187,916	$105,703	$293,619
	SIOUX CITY	$84,173	$47,347	$131,520
Idaho	IDAHO STATE PROGRAM	$539,132	$303,262	$842,394
Illinois	ILLINOIS STATE PROGRAM	$2,868,949	$1,613,784	$4,482,733
	PEORIA	$84,980	$47,801	$132,781
	ROCKFORD	$92,558	$52,064	$144,622
	COOK COUNTY	$432,115	$243,065	$675,180
	DU PAGE COUNTY	$152,750	$85,922	$238,672
	LAKE COUNTY	$112,040	$63,023	$175,063

	OAK PARK	$83,537	$46,990	$130,527
	CHICAGO	$3,669,891	$2,064,314	$5,734,205
	EVANSTON	$84,885	$47,748	$132,633
Indiana	INDIANA STATE PROGRAM	$2,017,029	$1,134,579	$3,151,608
	SOUTH BEND	$123,805	$69,640	$193,445
	INDIANAPOLIS	$422,539	$237,678	$660,217
	HAMMOND	$102,337	$57,565	$159,902
	EVANSVILLE	$130,201	$73,238	$203,439
	FORT WAYNE	$93,435	$52,557	$145,992
	GARY	$160,651	$90,366	$251,017
Kansas	KANSAS STATE PROGRAM	$904,345	$508,694	$1,413,039
	WICHITA	$124,982	$70,302	$195,284
	TOPEKA	$87,508	$49,223	$136,731
	KANSAS CITY	$109,329	$61,498	$170,827
Kentucky	KENTUCKY STATE PROGRAM	$1,386,238	$779,759	$2,165,997
	LOUISVILLE	$523,261	$294,334	$817,595
	LEXINGTON-FAYETTE	$92,314	$51,927	$144,241
Louisiana	LOUISIANA STATE PROGRAM	$1,587,045	$892,713	$2,479,758
	SHREVEPORT	$114,126	$64,196	$178,322
	NEW ORLEANS	$734,728	$413,285	$1,148,013
	BATON ROUGE	$184,460	$103,759	$288,219
	JEFFERSON PARISH	$157,524	$88,607	$246,131
Massachusetts	MASSACHUSETTS STATE PROGRAM	$2,588,744	$1,456,169	$4,044,913
	NEW BEDFORD	$132,519	$74,542	$207,061
	NEWTON	$99,599	$56,024	$155,623
	QUINCY	$90,686	$51,011	$141,697
	LYNN	$111,670	$62,814	$174,484
	SPRINGFIELD	$179,926	$101,208	$281,134
	WORCESTER	$200,425	$112,739	$313,164
	SOMERVILLE	$125,761	$70,741	$196,502
	LOWELL	$105,442	$59,311	$164,753
	BOSTON	$861,837	$484,783	$1,346,620
	CAMBRIDGE	$137,256	$77,207	$214,463
	FALL RIVER	$132,662	$74,622	$207,284
Maryland	MARYLAND STATE PROGRAM	$608,512	$342,288	$950,800
	ANNE ARUNDEL COUNTY	$91,909	$51,699	$143,608
	MONTGOMERY COUNTY	$225,377	$126,775	$352,152
	BALTIMORE COUNTY	$182,292	$102,539	$284,831
	PRINCE GEORGES COUNTY	$264,395	$148,722	$413,117
	BALTIMORE	$1,020,126	$573,821	$1,593,947
Maine	MAINE STATE PROGRAM	$771,302	$433,857	$1,205,159

	PORTLAND	$94,235	$53,007	$147,242
Michigan	MICHIGAN STATE PROGRAM	$2,806,797	$1,578,823	$4,385,620
	LANSING	$97,326	$54,746	$152,072
	KALAMAZOO	$81,427	$45,803	$127,230
	DETROIT	$1,626,338	$914,815	$2,541,153
	DEARBORN	$97,370	$54,771	$152,141
	FLINT	$190,589	$107,206	$297,795
	GRAND RAPIDS	$178,131	$100,199	$278,330
	WAYNE COUNTY	$267,989	$150,744	$418,733
	WASHTENAW COUNTY	$97,063	$54,598	$151,661
	SAGINAW	$110,134	$61,950	$172,084
	OAKLAND COUNTY	$170,696	$96,017	$266,713
Minnesota	MINNESOTA STATE PROGRAM	$1,241,665	$698,437	$1,940,102
	HENNEPIN COUNTY	$105,906	$59,572	$165,478
	ST LOUIS COUNTY	$107,028	$60,203	$167,231
	MINNEAPOLIS	$585,009	$329,068	$914,077
	DULUTH	$124,465	$70,012	$194,477
	ST PAUL	$350,266	$197,025	$547,291
Missouri	MISSOURI STATE PROGRAM	$1,428,349	$803,446	$2,231,795
	ST LOUIS COUNTY	$242,976	$136,674	$379,650
	ST LOUIS	$865,483	$486,834	$1,352,317
	KANSAS CITY	$370,888	$208,625	$579,513
Mississippi	MISSISSIPPI STATE PROGRAM	$1,441,015	$810,571	$2,251,586
	JACKSON	$109,573	$61,635	$171,208
Montana	MONTANA STATE PROGRAM	$402,448	$226,377	$628,825
Nebraska	NEBRASKA STATE PROGRAM	$627,772	$353,122	$980,894
	OMAHA	$210,214	$118,245	$328,459
New Hampshire	NEW HAMPSHIRE STATE PROGRAM	$495,740	$278,854	$774,594
	MANCHESTER	$83,780	$47,126	$130,906
New Jersey	NEW JERSEY STATE PROGRAM	$1,610,805	$906,078	$2,516,883
	TRENTON	$134,509	$75,661	$210,170
	UNION COUNTY	$236,883	$133,247	$370,130
	PATERSON	$129,776	$72,999	$202,775
	BERGEN COUNTY	$476,514	$268,039	$744,553
	CAMDEN COUNTY	$115,545	$64,994	$180,539
	ESSEX COUNTY	$275,917	$155,203	$431,120
	HUDSON COUNTY	$165,443	$93,062	$258,505
	MIDDLESEX COUNTY	$85,057	$47,845	$132,902
	MONMOUTH COUNTY	$132,397	$74,473	$206,870
	MORRIS COUNTY	$99,417	$55,922	$155,339

	CAMDEN	$122,734	$69,038	$191,772
	BAYONNE	$84,316	$47,428	$131,744
	ELIZABETH	$92,006	$51,753	$143,759
	NEWARK	$379,213	$213,307	$592,520
	JERSEY CITY	$287,879	$161,932	$449,811
New Mexico	NEW MEXICO STATE PROGRAM	$731,214	$411,308	$1,142,522
	ALBUQUERQUE	$193,783	$109,003	$302,786
Nevada	NEVADA STATE PROGRAM	$293,797	$165,261	$459,058
	CLARK COUNTY	$280,725	$157,908	$438,633
	RENO	$89,615	$50,408	$140,023
	LAS VEGAS	$224,475	$126,267	$350,742
New York	NEW YORK STATE PROGRAM	$3,292,159	$1,851,839	$5,143,998
	ERIE COUNTY	$133,032	$74,831	$207,863
	SCHENECTADY	$112,466	$63,262	$175,728
	SYRACUSE	$271,181	$152,539	$423,720
	TONAWANDA TOWN	$83,487	$46,961	$130,448
	TROY	$90,658	$50,995	$141,653
	UTICA	$127,759	$71,864	$199,623
	MONROE COUNTY	$84,273	$47,404	$131,677
	NASSAU COUNTY	$685,364	$385,517	$1,070,881
	ONONDAGA COUNTY	$99,677	$56,068	$155,745
	ROCKLAND COUNTY	$91,724	$51,595	$143,319
	SUFFOLK COUNTY	$162,348	$91,321	$253,669
	WESTCHESTER COUNTY	$259,801	$146,138	$405,939
	ROCHESTER	$422,966	$237,918	$660,884
	YONKERS	$163,342	$91,880	$255,222
	BINGHAMTON	$102,220	$57,499	$159,719
	BUFFALO	$705,316	$396,740	$1,102,056
	NIAGARA FALLS	$110,985	$62,429	$173,414
	ALBANY	$163,203	$91,802	$255,005
	ISLIP TOWN	$89,999	$50,624	$140,623
	NEW YORK CITY	$7,908,520	$4,448,535	$12,357,063
North Carolina	NORTH CAROLINA STATE PROGRAM	$2,579,547	$1,450,995	$4,030,542
	RALEIGH	$108,680	$61,133	$169,813
	WINSTON SALEM	$82,665	$46,499	$129,164
	CHARLOTTE	$210,491	$118,401	$328,892
	GREENSBORO	$84,332	$47,437	$131,769
	DURHAM	$85,279	$47,969	$133,248
North Dakota	NORTH DAKOTA STATE PROGRAM	$277,594	$156,147	$433,741

Northern Mariana Islands	N. MARIANA ISLANDS	$40,642	$22,861	$63,503
Ohio	OHIO STATE PROGRAM	$3,257,290	$1,832,226	$5,089,516
	SPRINGFIELD	$87,700	$49,331	$137,031
	TOLEDO	$354,977	$199,675	$554,652
	YOUNGSTOWN	$176,492	$99,277	$275,769
	CUYAHOGA COUNTY	$179,933	$101,212	$281,145
	FRANKLIN COUNTY	$80,176	$45,099	$125,275
	HAMILTON COUNTY	$140,939	$79,278	$220,217
	MONTGOMERY COUNTY	$80,152	$45,086	$125,238
	DAYTON	$278,326	$156,558	$434,884
	AKRON	$299,823	$168,650	$468,473
	CANTON	$126,844	$71,350	$198,194
	CINCINNATI	$569,527	$320,359	$889,886
	CLEVELAND	$1,049,680	$590,445	$1,640,125
	LAKEWOOD	$97,506	$54,847	$152,353
	COLUMBUS	$283,037	$159,208	$442,245
Oklahoma	OKLAHOMA STATE PROGRAM	$929,475	$522,830	$1,452,305
	TULSA	$161,259	$90,708	$251,967
	OKLAHOMA CITY	$231,264	$130,086	$361,350
Oregon	OREGON STATE PROGRAM	$974,612	$548,219	$1,522,831
	CLACKAMAS COUNTY	$93,584	$52,641	$146,225
	WASHINGTON COUNTY	$88,190	$49,607	$137,797
	PORTLAND	$440,264	$247,649	$687,913
Pennsylvania	PA STATE PROGRAM	$3,253,036	$1,829,833	$5,082,869
	CHESTER COUNTY	$120,742	$67,917	$188,659
	BUCKS COUNTY	$104,196	$58,610	$162,806
	BERKS COUNTY	$118,474	$66,642	$185,116
	BEAVER COUNTY	$170,925	$96,145	$267,070
	LUZERNE COUNTY	$221,407	$124,541	$345,948
	ALLEGHENY COUNTY	$723,463	$406,948	$1,130,411
	DELAWARE COUNTY	$186,007	$104,629	$290,636
	WILKES-BARRE	$85,001	$47,813	$132,814
	LANCASTER COUNTY	$147,583	$83,015	$230,598
	MONTGOMERY COUNTY	$161,714	$90,964	$252,678
	WASHINGTON COUNTY	$189,283	$106,472	$295,755
	WESTMORELAND COUNTY	$200,938	$113,028	$313,966
	YORK COUNTY	$114,747	$64,545	$179,292
	UPPER DARBY	$86,237	$48,508	$134,745
	ALLENTOWN	$121,549	$68,371	$189,920
	ALTOONA	$88,063	$49,535	$137,598
	ERIE	$154,930	$87,148	$242,078

	HARRISBURG	$91,223	$51,313	$142,536
	SCRANTON	$150,066	$84,412	$234,478
	READING	$136,152	$76,586	$212,738
	PITTSBURGH	$730,816	$411,084	$1,141,900
	PHILADELPHIA	$2,241,487	$1,260,836	$3,502,323
Puerto Rico	PUERTO RICO STATE PROGRAM	$3,128,215	$1,759,621	$4,887,836
	TOA BAJA MUNICIPIO	$92,887	$52,249	$145,136
	SAN JUAN MUNICIPIO	$453,264	$254,961	$708,225
	AGUADILLA MUNICIPIO	$81,612	$45,907	$127,519
	ARECIBO MUNICIPIO	$120,021	$67,512	$187,533
	BAYAMON MUNICIPIO	$199,703	$112,333	$312,036
	CAGUAS MUNICIPIO	$148,327	$83,434	$231,761
	GUAYNABO MUNICIPIO	$83,881	$47,183	$131,064
	MAYAGUEZ MUNICIPIO	$124,497	$70,030	$194,527
	PONCE MUNICIPIO	$225,820	$127,024	$352,844
	CAROLINA MUNICIPIO	$170,164	$95,717	$265,881
Rhode Island	RHODE ISLAND STATE PROGRAM	$356,534	$200,550	$557,084
	PROVIDENCE	$249,269	$140,214	$389,483
	PAWTUCKET	$91,612	$51,532	$143,144
	WOONSOCKET	$59,039	$33,209	$92,248
South Carolina	SOUTH CAROLINA STATE PROGRAM	$1,505,509	$846,849	$2,352,358
	GREENVILLE COUNTY	$106,372	$59,834	$166,206
	CHARLESTON COUNTY	$89,774	$50,498	$140,272
South Dakota	SOUTH DAKOTA STATE PROGRAM	$351,331	$197,624	$548,955
Tennessee	TENNESSEE STATE PROGRAM	$1,534,841	$863,348	$2,398,189
	NASHVILLE-DAVIDSON	$218,507	$122,910	$341,417
	KNOXVILLE	$82,348	$46,321	$128,669
	MEMPHIS	$355,257	$199,832	$555,089
Texas	TEXAS STATE PROGRAM	$5,171,449	$2,908,940	$8,080,389
	SAN ANTONIO	$641,107	$360,623	$1,001,730
	BRAZORIA COUNTY	$82,575	$46,448	$129,023
	PASADENA	$84,322	$47,431	$131,753
	HARRIS COUNTY	$473,344	$266,256	$739,600
	CORPUS CHRISTI	$148,436	$83,495	$231,931
	TARRANT COUNTY	$118,562	$66,691	$185,253
	HIDALGO COUNTY	$370,298	$208,293	$578,591
	FORT BEND COUNTY	$86,509	$48,661	$135,170
	DALLAS COUNTY	$93,156	$52,400	$145,556
	MONTGOMERY COUNTY	$81,090	$45,613	$126,703
	FORT WORTH	$297,018	$167,073	$464,091

	EL PASO	$372,417	$209,485	$581,902
	DALLAS	$770,133	$433,200	$1,203,333
	BROWNSVILLE	$143,968	$80,982	$224,950
	AUSTIN	$330,481	$185,896	$516,377
	ARLINGTON	$139,433	$78,431	$217,864
	LUBBOCK	$101,621	$57,162	$158,783
	LAREDO	$159,482	$89,709	$249,191
	IRVING	$99,590	$56,019	$155,609
	HOUSTON	$1,327,628	$746,791	$2,074,419
	GARLAND	$91,448	$51,440	$142,888
Utah	UTAH STATE PROGRAM	$624,151	$351,085	$975,236
	SALT LAKE COUNTY	$109,237	$61,446	$170,683
	SALT LAKE CITY	$179,139	$100,766	$279,905
Virginia	VIRGINIA STATE PROGRAM	$1,682,166	$946,218	$2,628,384
	ROANOKE	$81,671	$45,940	$127,611
	PRINCE WILLIAM COUNTY	$84,176	$47,349	$131,525
	FAIRFAX COUNTY	$261,849	$147,290	$409,139
	VIRGINIA BEACH	$107,010	$60,193	$167,203
	RICHMOND	$213,989	$120,369	$334,358
	NORFOLK	$227,807	$128,141	$355,948
Virgin Islands	U.S. VIRGIN ISLANDS	$86,697	$48,767	$135,464
Vermont	VERMONT STATE PROGRAM	$365,227	$205,440	$570,667
Washington	WASHINGTON STATE PROGRAM	$1,385,785	$779,504	$2,165,289
	KING COUNTY	$197,730	$111,223	$308,953
	PIERCE COUNTY	$131,166	$73,781	$204,947
	SNOHOMISH COUNTY	$135,197	$76,048	$211,245
	TACOMA	$128,549	$72,309	$200,858
	SEATTLE	$529,053	$297,592	$826,645
	SPOKANE	$166,544	$93,681	$260,225
Wisconsin	WISCONSIN STATE PROGRAM	$1,982,685	$1,115,260	$3,097,945
	RACINE	$86,263	$48,523	$134,786
	MILWAUKEE	$740,157	$416,338	$1,156,495
	MADISON	$87,244	$49,075	$136,319
West Virginia	WEST VIRGINIA STATE PROGRAM	$922,698	$519,018	$1,441,716
	HUNTINGTON	$90,964	$51,167	$142,131
	CHARLESTON	$81,363	$45,767	$127,130
Wyoming	WYOMING STATE PROGRAM	$184,804	$103,952	$288,756

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Appendix B: Checklist of Requirements for the Substantial Amendment to the FY 2011 Consolidated Plan Annual Action Plan

The substantial amendment must be prepared and submitted in accordance with the recipient's citizen participation plan and the requirements of 24 CFR part 91, as amended by the Interim Rule. The following outline is provided as a checklist to ensure an accurate and complete submission in accordance with the details of this Notice.

A. Requirements for Preparation

1. Consultation

- Consult with the Continuum(s) of Care within the geographic area on:
  - Determining how to allocate ESG funds for eligible activities;
  - Developing the performance standards for activities funded under ESG; and
  - Developing funding, policies, and procedures for the operation and administration of the HMIS.

2. Citizen Participation

- Follow existing citizen participation plan for completing a substantial amendment.

B. Required Contents of Substantial Amendments

1. SF–424

2. Summary of Consultation Process

- Describe how the recipient consulted with the Continuum(s) of Care on:
  - Determining how to allocate ESG funds for eligible activities;
  - Developing the performance standards for activities funded under ESG; and
  - Developing funding, policies, and procedures for the operation and administration of the HMIS.

3. Summary of Citizen Participation Process

- Summarize citizen participation process used;
- Summarize the public comments or views received; and
- Summarize the comments or views not accepted and include the reasons for not accepting those comments or views.

4. Match

- Describe:
  - Types of cash and/or non-cash resources used as match;
  - Specific amounts of resources used as match;
  - Proposed uses of match resources.

5. Proposed Activities and Overall Budget

a. Proposed Activities

- All recipients must include the following details for each proposed activity:
  (1) corresponding priority needs from recipient's Annual Action Plan
  (2) concise description of the activity, including the number and types of persons to be served
  (3) corresponding standard objective and outcome categories
  (4) start date and completion date
  (5) ESG and other funding amounts
- Local governments and territories are required, and States are encouraged, to include the following details for each proposed activity:
  (6) one or more performance indicators
  (7) projected accomplishments, in accordance with each indicator, to be made within one year
  (8) projected accomplishments, in accordance with each performance indicator, to be made over the period for which the grant will be used for that activity

Note: Table 3C (''Consolidated Plan Listings of Projects'' for local governments and territories, or ''Annual Action Plan Planned Project Results'' for states) or the projects workbook spreadsheet in the Consolidated Plan Management Process tool may be used to format and provide some or all of these details, as applicable.

b. Discussion of Funding Priorities

- Explain why the recipient chose to fund the proposed activities at the amounts specified (recommended: if available, use locally relevant data to support the funding priorities, and explain how the funding priorities will support the national priorities established in *Opening Doors: Federal Strategic Plan to Prevent and End Homelessness*).
- Identify any obstacles to addressing underserved needs in the community.

c. Detailed Budget

- Include detailed budget of planned activities and funding levels accounting for entire second allocation and any reprogrammed funds from the first allocation (may use Table 3 in this Notice).

6. Written Standards for Provision of ESG Assistance

- If the recipient is a metropolitan city, urban county, or territory: include written standards for providing the proposed assistance.
- If the recipient is a state: include written standards for providing the proposed assistance *or* describe the requirements for subrecipients to establish and implement written standards.

The written standards must include:

a. Standard policies and procedures for evaluating individuals' and families' eligibility for assistance under ESG.

b. Policies and procedures for coordination among emergency shelter providers, essential service providers, homelessness prevention and rapid re-housing assistance providers, other homeless assistance providers, and mainstream service and housing providers.

c. Policies and procedures for determining and prioritizing which eligible families and individuals will receive homelessness prevention assistance and which eligible families and individuals will receive rapid re-housing assistance.

d. Standards for determining the share of rent and utilities costs that each program participant must pay, if any, while receiving homelessness prevention or rapid re-housing assistance.

e. Standards for determining how long a particular program participant will be provided with rental assistance and whether and how the amount of that assistance will be adjusted over time.

f. Standards for determining the type, amount, and duration of housing stabilization and/or relocation services to provide a program participant, including the limits, if any, on the homelessness prevention or rapid re-housing assistance that each program participant may receive, such as the maximum amount of assistance, maximum number of months the program participants receives assistance; or the maximum number of times the program participants may receive assistance.

7. Describe Process for Making Sub-Awards

8. Homeless Participation Requirement

- For those recipients who cannot meet the participation requirement in § 576.405(a), the substantial amendment must include a plan that meets the requirements under § 576.405(b).

9. Performance Standards

- The recipient must describe the performance standards for evaluating ESG activities, which must be developed in consultation with the Continuum(s) of Care.

10. Certifications

C. Written Standards Required for Recipients Who Are Eligible and Decide To Use Part of the Second Allocation of Fy 2011 Funds for Emergency Shelter and Street Outreach Activities

1. If the recipient is a metropolitan city, urban county, or territory: include written standards for providing the proposed assistance, as follows.

2. If the recipient is a state, either: (1) include written standards for providing the proposed assistance *or* (2) describe the requirements for subrecipients to establish and implement written standards.

The written standards must include:

a. If funding essential services related to street outreach with second allocation: standards for targeting and providing these services.

b. If funding any emergency shelter activities with second allocation: policies and procedures for admission, diversion, referral and discharge by emergency shelters assisted under ESG, including standards regarding length of stay, if any, and safeguards to meet the safety and shelter needs of special populations and persons with the highest barriers to housing.

c. If funding essential services related to emergency shelter with second allocation: policies and procedures for assessing, prioritizing, and reassessing individuals' and families' needs for essential services related to emergency shelter.

D. Requirements for Recipients Who Plan To Use the Risk Factor Under Paragraph (1)(iii)(G) of the ''at Risk of Homelessness'' Definition

- If recipient plans to serve persons ''at risk of homelessness,'' based on the risk factor ''otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness:'' describe specific characteristics associated with instability and increased risk of homelessness.

E. Requirements for Optional Changes to the FY 2011 Annual Action Plan

1. Centralized or Coordinated Assessment System

- If the recipient's jurisdiction, or a portion of the recipient's jurisdiction, currently has a centralized or coordinated assessment system and the recipient or subrecipients utilize the centralized or coordinated assessment system, the recipient should describe the assessment system in the substantial amendment.

2. Monitoring

- If existing monitoring procedures are not sufficient to allow recipients to monitor compliance with the new requirements, HUD encourages recipients to update their monitoring standards and procedures in the process of submitting this substantial amendment. This should address appropriate levels of staffing.

Appendix C–1: Table 3C for Local Governments and Territories: Consolidated Plan Listing of Projects

An electronic copy of this table can be found at: *http://www.hud.gov/offices/cpd/about/conplan/toolsandguidance/guidance.* Recipients should substitute ''activity'' for ''project'' and do not need to enter information not mentioned in Section IV.B.5.a of this Notice.

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U.S. Department of Housing and Urban Development

OMB Approval No. 2506-0117 Exp. 8/31/2014)

Table 3C
Consolidated Plan Listing of Projects

Jurisdiction's Name

Priority Need

Project Title

Description

Objective category: ☐ Suitable Living Environment ☐ Decent Housing ☐ Economic Opportunity
Outcome category: ☐ Availability/Accessibility ☐ Affordability ☐ Sustainability

Location/Target Area

Street Address:
City, State, Zipcode:

Objective Number	Project ID
HUD Matrix Code	CDBG Citation
Type of Recipient	CDBG National Objective
Start Date (mm/dd/yyyy)	Completion Date (mm/dd/yyyy)
Performance Indicator	Annual Units
Local ID	Units Upon Completion

Funding Sources:	
CDBG	
ESG	
HOME	
HOPWA	
Total Formula	
Prior Year Funds	
Assisted Housing	
PHA	
Other Funding	
Total	

The primary purpose of the project is to help: ☐ the Homeless ☐ Persons with HIV/AIDS ☐ Persons with Disabilities ☐ Public Housing Needs

Appendix C–2: Table 3C for States: Annual Action Plan Planned Project Results

An electronic copy of this table can be found at: *http://www.hud.gov/offices/cpd/about/conplan/toolsandguidance/guidance*.

Table 3C (Optional)			
Annual Action Plan Planned Project Results			
Outcomes and Objectives	Performance Indicators	Expected Number	Activity Description

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5614–N–01]

Mortgage and Loan Insurance Programs Under the National Housing Act—Debenture Interest Rates

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: This notice announces changes in the interest rates to be paid on debentures issued with respect to a loan or mortgage insured by the Federal Housing Administration (FHA) under the provisions of the National Housing Act (the Act). The interest rate for debentures issued under section 221(g)(4) of the Act during the 6-month period beginning January 1, 2012, is 1⅞ percent. The interest rate for debentures issued under any other provision of the Act is the rate in effect on the date that the commitment to insure the loan or mortgage was issued, or the date that the loan or mortgage was endorsed (or initially endorsed if there are two or more endorsements) for insurance, whichever rate is higher. The interest rate for debentures issued under these other provisions with respect to a loan or mortgage committed or endorsed during the 6-month period beginning January 1, 2012, is 2⅞ percent. However, as a result of an amendment to section 224 of the Act, if an insurance claim relating to a mortgage insured under sections 203 or 234 of the Act and endorsed for insurance after January 23, 2004, is paid in cash, the debenture interest rate for purposes of calculating a claim shall be the monthly average yield, for the month in which the default on the mortgage occurred, on United States Treasury Securities adjusted to a constant maturity of 10 years.

FOR FURTHER INFORMATION CONTACT: Yong Sun, Department of Housing and Urban Development, 451 Seventh Street SW., Room 5148, Washington, DC 20410–8000; telephone (202) 402–4778 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: Section 224 of the National Housing Act (12 U.S.C. 1715o) provides that debentures issued under the Act with respect to an insured loan or mortgage (except for debentures issued pursuant to section 221(g)(4) of the Act) will bear interest at the rate in effect on the date the commitment to insure the loan or mortgage was issued, or the date the loan or mortgage was endorsed (or initially endorsed if there are two or more endorsements) for insurance, whichever rate is higher. This provision is implemented in HUD's regulations at 24 CFR 203.405, 203.479, 207.259(e)(6), and 220.830. These regulatory provisions state that the applicable rates of interest will be published twice each year as a notice in the **Federal Register**.

Section 224 further provides that the interest rate on these debentures will be set from time to time by the Secretary of HUD, with the approval of the Secretary of the Treasury, in an amount not in excess of the annual interest rate determined by the Secretary of the Treasury pursuant to a statutory formula based on the average yield of all outstanding marketable Treasury obligations of maturities of 15 or more years.

The Secretary of the Treasury has determined, in accordance with the provisions of section 224, that (1) the statutory maximum interest rate for the period beginning January 1, 2012, is 2⅞ percent; and (2) has approved the establishment of the debenture interest rate by the Secretary of HUD at 2⅞ percent for the 6-month period beginning January 1, 2012. This interest rate will be the rate borne by debentures issued with respect to any insured loan or mortgage (except for debentures issued pursuant to section 221(g)(4)) with insurance commitment or endorsement date (as applicable) within the first 6 months of 2012.

For convenience of reference, HUD is publishing the following chart of debenture interest rates applicable to mortgages committed or endorsed since January 1, 1980:

Effective interest rate	on or after	prior to
9½	Jan. 1, 1980	July 1, 1980.
9⅞	July 1, 1980	Jan. 1, 1981.
11¾	Jan. 1, 1981	July 1, 1981.
12⅞	July 1, 1981	Jan. 1, 1982.
12¾	Jan. 1, 1982	Jan. 1, 1983.
10¼	Jan. 1, 1983	July 1, 1983.
10⅜	July 1, 1983	Jan. 1, 1984.
11½	Jan. 1, 1984	July 1, 1984.
13⅜	July 1, 1984	Jan. 1, 1985.
11⅝	Jan. 1, 1985	July 1, 1985.
11⅛	July 1, 1985	Jan. 1, 1986.
10¼	Jan. 1, 1986	July 1, 1986.
8¼	July 1, 1986	Jan. 1. 1987.
8	Jan. 1, 1987	July 1, 1987.
9	July 1, 1987	Jan. 1, 1988.
9⅛	Jan. 1, 1988	July 1, 1988.
9⅜	July 1, 1988	Jan. 1, 1989.
9¼	Jan. 1, 1989	July 1, 1989.
9	July 1, 1989	Jan. 1, 1990.
8⅛	Jan. 1, 1990	July 1, 1990.
9	July 1, 1990	Jan. 1, 1991.
8¾	Jan. 1, 1991	July 1, 1991.
8½	July 1, 1991	Jan. 1, 1992.
8	Jan. 1, 1992	July 1, 1992.
8	July 1, 1992	Jan. 1, 1993.
7¾	Jan. 1, 1993	July 1, 1993.
7	July 1, 1993	Jan. 1, 1994.
6⅝	Jan. 1, 1994	July 1, 1994.
7¾	July 1, 1994	Jan. 1, 1995.
8⅜	Jan. 1, 1995	July 1, 1995.
7¼	July 1, 1995	Jan. 1, 1996.
6½	Jan. 1, 1996	July 1, 1996.
7¼	July 1, 1996	Jan. 1, 1997.
6¾	Jan. 1, 1997	July 1, 1997.
7⅛	July 1, 1997	Jan. 1, 1998.
6⅜	Jan. 1, 1998	July 1, 1998.
6⅛	July 1, 1998	Jan. 1, 1999.
5½	Jan. 1, 1999	July 1, 1999.
6⅛	July 1, 1999	Jan. 1, 2000.
6½	Jan. 1, 2000	July 1, 2000.
6½	July 1, 2000	Jan. 1, 2001.
6	Jan. 1, 2001	July 1, 2001.
5⅞	July 1, 2001	Jan. 1, 2002.
5¼	Jan. 1, 2002	July 1, 2002.
5¾	July 1, 2002	Jan. 1, 2003.
5	Jan. 1, 2003	July 1, 2003.
4½	July 1, 2003	Jan. 1, 2004.
5⅛	Jan. 1, 2004	July 1, 2004
5½	July 1, 2004	Jan. 1, 2005.
4⅞	Jan. 1, 2005	July 1, 2005.
4½	July 1, 2005	Jan. 1, 2006.
4⅞	Jan. 1, 2006	July 1, 2006.
5⅜	July 1, 2006	Jan. 1, 2007.
4¾	Jan. 1, 2007	July 1, 2007.
5	July 1, 2007	Jan. 1, 2008.
4½	Jan. 1, 2008	July 1, 2008.
4⅝	July 1, 2008	Jan. 1, 2009.
4⅛	Jan. 1, 2009	July 1, 2009.
4⅛	July 1, 2009	Jan. 1, 2010.
4¼	Jan. 1, 2010	July 1, 2010.
4⅛	July 1, 2010	Jan. 1, 2011.
3⅞	Jan. 1, 2011	July 1, 2011.
4⅛	July 1, 2011	Jan. 1, 2012.
2⅞	Jan. 1, 2012	July 1, 2012.

Section 215 of Division G, Title II of Public Law 108–199, enacted January 23, 2004 (HUD's 2004 Appropriations Act) amended section 224 of the Act, to change the debenture interest rate for purposes of calculating certain insurance claim payments made in cash. Therefore, for all claims paid in cash on mortgages insured under section 203 or 234 of the National Housing Act and endorsed for insurance after January 23, 2004, the debenture interest rate will be the monthly average yield, for the month in which the default on the mortgage occurred, on United States Treasury Securities adjusted to a constant maturity of 10 years, as found in Federal Reserve Statistical Release H–15. The Federal Housing Administration has codified this provision in HUD regulations at 24 CFR 203.405(b) and 24 CFR 203.479(b).

Section 221(g)(4) of the Act provides that debentures issued pursuant to that paragraph (with respect to the assignment of an insured mortgage to

the Secretary) will bear interest at the ''going Federal rate'' in effect at the time the debentures are issued. The term ''going Federal rate'' is defined to mean the interest rate that the Secretary of the Treasury determines, pursuant to a statutory formula based on the average yield on all outstanding marketable Treasury obligations of 8- to 12-year maturities, for the 6-month periods of January through June and July through December of each year. Section 221(g)(4) is implemented in the HUD regulations at 24 CFR 221.255 and 24 CFR 221.790.

The Secretary of the Treasury has determined that the interest rate to be borne by debentures issued pursuant to section 221(g)(4) during the 6-month period beginning January 1, 2012, is 1 7/8 percent.

The subject matter of this notice falls within the categorical exemption from HUD's environmental clearance procedures set forth in 24 CFR 50.19(c)(6). For that reason, no environmental finding has been prepared for this notice.

Authority: Sections 211, 221, 224, National Housing Act, 12 U.S.C. 1715b, 1715l, 1715o; Section 7(d), Department of HUD Act, 42 U.S.C. 3535(d).

Dated: January 20, 2012.

Carol J. Galante,

Acting Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 2012–1818 Filed 1–26–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

Notice of Availability of the Proposed Notice of Sale for Outer Continental Shelf (OCS) Oil and Gas Lease Sale 216/222 in the Central Planning Area (CPA) in the Gulf of Mexico

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Notice of Availability of the Proposed Notice of Sale for Proposed Sale 216/222.

SUMMARY: BOEM announces the availability of the proposed Notice of Sale (NOS) for proposed Sale 216/222 in the CPA. This Notice is published pursuant to 30 CFR 556.29(c) as a matter of information to the public. With regard to oil and gas leasing on the OCS, the Secretary of the Interior, pursuant to section 19 of the OCS Lands Act, provides the affected states the opportunity to review the proposed NOS. The proposed NOS sets forth the proposed terms and conditions of the sale, including minimum bids, royalty rates, and rentals.

DATES: Affected states may comment on the size, timing, and location of proposed Sale 216/222 within 60 days following their receipt of the proposed NOS. The final NOS will be published in the **Federal Register** at least 30 days prior to the date of bid opening. Bid opening is currently scheduled for June 20, 2012.

SUPPLEMENTARY INFORMATION: The proposed NOS for Sale 216/222 and a ''Proposed Notice of Sale Package'' containing information essential to potential bidders may be obtained from the Public Information Unit, Gulf of Mexico Region, Bureau of Ocean Energy Management, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394. Telephone: (504) 736–2519.

Agency Contact: Steven Textoris, Acting Leasing Division Chief, *Steven.Textoris@boem.gov*.

Dated: January 19, 2012.

Tommy P. Beaudreau,

Director, Bureau of Ocean Energy Management.

[FR Doc. 2012–1819 Filed 1–26–12; 8:45 am]

BILLING CODE 4310–VH–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVW0300.L51100000. GN0000.LVEMF1000880 241A; 12–08807; MO# 4500030363; TAS: 14X5017]

Notice of Availability of the Draft Environmental Impact Statement for the Hycroft Mine Expansion, Humboldt and Pershing Counties, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, as amended, (NEPA) and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) Winnemucca District, Black Rock Field Office, Winnemucca, Nevada has prepared a Draft Environmental Impact Statement (EIS) for the Hycroft Mine Expansion and by this notice is announcing the opening of the comment period.

DATES: To ensure comments will be considered, the BLM must receive written comments on the Hycroft Mine Expansion Draft EIS within 45 days following the date the Environmental Protection Agency publishes its Notice of Availability in the **Federal Register**. The BLM will announce future meetings or hearings and any other public involvement activities at least 15 days in advance through public notices, media releases, and/or mailings.

ADDRESSES: You may submit comments related to the Hycroft Mine Expansion Draft EIS by any of the following methods:

- *Web site: www.blm.gov/nv/st/en/fo/wfo/blm_information/nepa0.html*.
- *Email: wfoweb_comments@blm.gov*.
- *Fax:* (775) 623–1503.
- *Mail:* Bureau of Land Management, Winnemucca District Office, 5100 E. Winnemucca Boulevard, Winnemucca, Nevada 89445, Attn. Kathleen Rehberg.

Copies of the Hycroft Mine Expansion Draft EIS are available in the Winnemucca District Office at the above address.

FOR FURTHER INFORMATION CONTACT: Kathleen Rehberg, Project Lead, telephone (775) 623–1500; address 5100 E. Winnemucca Boulevard, Winnemucca, Nevada 89445; email: *wfoweb@blm.gov*. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–(800) 877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Hycroft Resources Development Inc., (HRDI) proposes to expand mining activities at the existing Hycroft Mine on BLM-managed public land and on private land in Humboldt and Pershing counties, approximately 55 miles west of Winnemucca, Nevada, on the west flank of the Kamma Mountains. HRDI submitted an amended Plan of Operations to the BLM for approval, which proposes to expand the existing project boundary of 8,858 acres an additional 5,895 acres for a total project area of approximately 14,753 acres of public and private land. The Hycroft Mine currently employs approximately 205 workers. The proposed expansion would increase the mine life by approximately 12 years and increase employment to approximately 537 mine personnel.

The Draft EIS analyzes the potential environmental impacts associated with the proposed expansion, which includes 2,173 acres of new surface disturbance. An updated inventory of wilderness characteristics was used for the analysis of potential impacts associated with this project. The existing open pit operation and associated disturbance would be

increased from 1,371 acres of public land to 3,428 acres of public land. Disturbance on private land controlled by HRDI would be increased from 1,692 acres to 1,807 acres. The additional acreage in the project boundary would be used for exploration.

The Draft EIS analyzes two alternatives; the Proposed Action and the No Action Alternative.

The Proposed Action, if selected by the BLM, would include: Expansion of the plan boundary and use of the entire project area for exploration; incorporation of five rights-of-way; expand four existing open pits; the backfilling of all or portions of three open pits; build a dispatch center and expand maintenance facilities; expansion of haul and secondary roads, waste rock facilities, and heap leach facilities; expansion of existing and construction of two ready line and heavy equipment fueling areas; expansion of existing waste rock facilities; the operation a portable crusher with conveyors at the south heap leach facility; construct, operate, and then close the south heap leach facility, Merrill-Crowe process plant, and solution ponds; relocation of a segment of the Seven Troughs Road to bypass the south heap leach facility; expansion of the existing refinery and the Brimstone Merrill-Crowe plant; construct storm water diversions, install culverts, and other storm water controls; close the existing Class III landfill and construct a new Class III landfill; the drilling of one potable-water well and one process-water well; the relocation of the existing Brimstone substation, upgrade the existing Crofoot substation, and extension of power lines to new process areas; construction of growth media stockpiles; and reclaimation of the project consistent with the proposed reclamation plan.

Under the No-Action Alternative the BLM would not approve the proposed plan of operations and there would be no expansion. HRDI would continue mining activities under the previously approved plans of operation.

Three other alternatives were considered, then eliminated: Daylight Hours Operation, Modified Exploration Activities, and Different Waste Rock Dump and Heap Leach Pad Configurations.

A Notice of Intent to Prepare an EIS for the Proposed Hycroft Mine Expansion was published in the **Federal Register** on April 1, 2011 (76 FR 18243). Ten comments were received during a 90-day scoping period. The comments stated concerns about lighting impacts to night skies and the economic benefits including jobs. The proponent prepared a lighting plan designed to lessen the impacts of light outside the project area by using directional lighting, and lowering or moving light sources. Other issues raised during initial internal and external scoping were possible impacts from acid mine drainage and the proximity of the mine to the Black Rock Desert-High Rock Canyon-Emigrant Trails National Conservation Area (NCA). A Waste Rock Characterization Report has been completed for the various types of rock to be mined, and the specific measures that would be taken to prevent acid rock drainage will be outlined in the Draft EIS. While outside of the NCA, the project is within visual range of the NCA. Mitigating the visual issue is the fact that the mine has been in existence since 1987 and the NCA was designated in 1990.

Please note that public comments and information submitted including names, street addresses, and email addresses of persons who submit comments will be available for public review and disclosure at the above address during regular business hours (7:30 a.m. to 4:30 p.m.), Monday through Friday, except holidays.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR 1506.6 and 1506.10.

Gene Seidlitz,

District Manager.

[FR Doc. 2012–1458 Filed 1–26–12; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLMT926000–L14200000–BJ0000]

Notice of Filing of Plats of Survey; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plats of survey.

SUMMARY: The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM Montana State Office, Billings, Montana, on February 27, 2012.

DATES: Protests of the survey must be filed before February 27, 2012 to be considered.

ADDRESSES: Protests of the survey should be sent to the Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669.

FOR FURTHER INFORMATION CONTACT: Marvin Montoya, Cadastral Surveyor, Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669, telephone (406) 896–5124 or (406) 896–5009, *Marvin_Montoya@blm.gov*. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–(800) 877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: This survey was executed at the request of the Regional Land Surveyor, Region 6, U.S. Fish and Wildlife Service, and was necessary to determine the Lee Metcalf National Wildlife Refuge lands.

The lands we surveyed are:

Principal Meridian, Montana

T. 9 N., R. 20 W.

The plat, in six sheets, representing the dependent resurvey of a portion of the north boundary and a portion of the subdivisional lines, the subdivision of sections 2, 3, 10, 11, 14, and 15, and the survey of portions of the easterly and westerly rights-of-way of the Montana Rail Link Railroad, through sections 2, 11, and 14 and certain parcels in Township 9 North, Range 20 West, Principal Meridian, Montana, was accepted December 21, 2011.

We will place a copy of the plat, in six sheets, and related field notes we described in the open files. They will be available to the public as a matter of information. If the BLM receives a protest against this survey, as shown on this plat, in six sheets, prior to the date of the official filing, we will stay the filing pending our consideration of the protest. We will not officially file this plat, in six sheets, until the day after we have accepted or dismissed all protests and they have become final, including decisions or appeals.

Authority: 43 U.S.C. Chap. 3.

James D. Claflin,

Chief Cadastral Surveyor, Division of Resources.

[FR Doc. 2012–1813 Filed 1–26–12; 8:45 am]

BILLING CODE 4310–DN–P

INTERNATIONAL TRADE COMMISSION

[DN 2872]

Certain Toner Cartridges and Components Thereof; Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *In Re Certain Toner Cartridges and Components Thereof,* DN 2872; the Commission is soliciting comments on any public interest issues raised by the complaint.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint filed on behalf of Canon Inc., Canon U.S.A., Inc. and Canon Virginia, Inc., on January 23, 2012. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain toner cartridges and components thereof. The complaint names Clover Holdings, Inc. of IL; Clover Technologies Group, LLC (d/b/a Depot International (f/k/a Depot America (f/k/a Image1 Products))) of IL; Clover Vietnam Co., Ltd. of Vietnam; Dataproducts USA, LLC of CA; Dataproducts Imaging Solutions S.A. de C.V. of Mexico; CAU, Inc. (d/b/a Cartridges Are Us) of MI; Shanghai Orink Infotech International Co., Ltd. of China; Orink Infotech International Co., Ltd. of Hong Kong; Zhuhai Rich Imaging Technology Co., Ltd. of China; Standard Image Co., Ltd. (a/k/a Shanghai Orink Co. Ltd.) of China; Zhuhai National Resources & Jingjie Imaging Products Co., Ltd. (d/b/a Huebon Co., Limited (d/b/a Ink-Tank)) of China; Standard Image USA, Inc. (d/b/a Imaging Standard Inc.) of CA; Printronic Corporation (d/b/a Printronic.com (d/b/a InkSmile.com)) of CA; Nukote, Inc. of TX; Nukote Internacional de Mexico, S.A. de C.V. of Mexico; Acecom, Inc.-San Antonio (d/b/a InkSell.com) of TX; Atman, Inc. (d/b/a pcRush.com) of CA; Dexxxon Digital Storage, Inc. of OH; Discount Office Items, Inc. of WI; Deal Express LLC (d/b/a Discount Office Items) of WI; Do It Wiser LLC (d/b/a Image Toner) of GA; E–Max Group, Inc. (d/b/a Databazaar.com) of FL; Green Project, Inc. of CA; GreenLine Paper Company, Inc. of PA; IJSS Inc. (d/b/a TonerZone.com (d/b/a InkJetSuperstore.com)) of CA; Imaging Resources, LLC of CA; Ink Technologies Printer Supplies, LLC of OH; Myriad Greeyn LLC of VA; Office World, Inc. of OR; OfficeWorld.com, Inc. of OR; OnlineTechStores.com, Inc. (d/b/a SuppliesOutlet.com) of NV; SupplyBuy.com, Inc. of TN; Virtual Imaging Products, Inc. of Canada; and Zinyaw LLC (d/b/a TonerPirate.com) of TX, as respondents.

The complainant, proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five pages in length, on any public interest issues raised by the complaint. Comments should address whether issuance of an exclusion order and/or a cease and desist order in this investigation would negatively affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the orders are used in the United States;

(ii) Identify any public health, safety, or welfare concerns in the United States relating to the potential orders;

(iii) Indicate the extent to which like or directly competitive articles are produced in the United States or are otherwise available in the United States, with respect to the articles potentially subject to the orders; and

(iv) Indicate whether Complainant, Complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to an exclusion order and a cease and desist order within a commercially reasonable time.

Written submissions must be filed no later than by close of business, eight business days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. Submissions should refer to the docket number (''Docket No. 2872'') in a prominent place on the cover page and/or the first page. The Commission's rules authorize filing submissions with the Secretary by facsimile or electronic means only to the extent permitted by section 201.8 of the rules (see Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/documents/handbook_on_electronic_filing.pdf.* Persons with questions regarding electronic filing should contact the Secretary (202) 205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.50(a)(4) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.50(a)(4)).

Issued: January 24, 2012.

By order of the Commission.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2012–1789 Filed 1–26–12; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[DN 2873]

Certain Dimmable Compact Fluorescent Lamps and Products Containing Same; Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *In Re Certain Dimmable Compact Fluorescent Lamps and Products Containing Same,* DN 2873; the Commission is soliciting comments on any public interest issues raised by the complaint.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint filed on behalf of Andrzej Bobel and Neptun Light, Inc. on January 23, 2012. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain dimmable compact fluorescent lamps and products containing same. The complaint names SK America, Inc. (d/b/a Maxlite) of NJ; U Lighting America Inc. of CA; Golden U Lighting Manufacturing (Shenzhen) Co., Ltd. of China; Feit Electric Company, Inc. of CA; General Electric Company of CT; Xiamen Topstar Lighting Co. Ltd. of China; Technical Consumer Products, Inc. of OH; TCP China of China; TCP (Shanghai) Tiancanbao Lighting of China; Shanghai Jensing Electron Electrical Equipment Co., Ltd. of China; Shanghai Qiangling Electronics Co. Ltd. of China; and Zhejiang Qiang Ling Electronic Co. Ltd. of China, as respondents.

The complainant, proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five pages in length, on any public interest issues raised by the complaint. Comments should address whether issuance of an exclusion order and/or a cease and desist order in this investigation would negatively affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the orders are used in the United States;

(ii) Identify any public health, safety, or welfare concerns in the United States relating to the potential orders;

(iii) Indicate the extent to which like or directly competitive articles are produced in the United States or are otherwise available in the United States, with respect to the articles potentially subject to the orders; and

(iv) Indicate whether Complainant, Complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to an exclusion order and a cease and desist order within a commercially reasonable time.

Written submissions must be filed no later than by close of business, eight business days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. Submissions should refer to the docket number (''Docket No. 2873'') in a prominent place on the cover page and/or the first page. The Commission's rules authorize filing submissions with the Secretary by facsimile or electronic means only to the extent permitted by section 201.8 of the rules (see Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/documents/handbook_on_electronic_filing.pdf.* Persons with questions regarding electronic filing should contact the Secretary (202) 205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.50(a)(4) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.50(a)(4)).

Issued: January 24, 2012.

By order of the Commission.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2012–1790 Filed 1–26–12; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

National Institute of Corrections

Solicitation for a Cooperative Agreement—Curriculum Development: Thinking for a Change 3.1: Training for Facilitators

AGENCY: National Institute of Corrections, U.S. Department of Justice.

ACTION: Solicitation for a Cooperative Agreement.

SUMMARY: The National Institute of Corrections (NIC) Academy Division is seeking applications for the development of a competency-based, blended modality training curriculum that will provide corrections professionals with the knowledge, skills, and abilities needed to facilitate offender groups using the Thinking for a Change (T4C) 3.1 curriculum.

DATES: Applications must be received by 4 p.m. on Friday, February 10, 2012.

ADDRESSES: Mailed applications must be sent to: Director, National Institute of Corrections, 320 First Street NW., Room 5002, Washington, DC 20534. Applicants are encouraged to use

Federal Express, UPS, or similar service to ensure delivery by the due date.

Hand delivered applications should be brought to 500 First Street NW., Washington, DC 20534. At the front desk, dial 7–3106, extension 0 for pickup.

Faxed applications will not be accepted. Electronic applications can be submitted via *http://www.grants.gov.*

FOR FURTHER INFORMATION CONTACT: All technical or programmatic questions concerning this announcement should be directed to Michael Guevara, Correctional Program Specialist, National Institute of Corrections. He can be reached by calling (303) 338–6617, or by email at *mguevara@bop.gov.*

SUPPLEMENTARY INFORMATION: *Overview:* NIC is looking to develop a blended curriculum that follows NIC's Instructional Theory into Practice (ITIP) model and is based on the Thinking for a Change 3.1 curriculum as well as an earlier version of the Training for Facilitators curriculum. The curriculum will use blended learning formats, including distance learning. After an initial pilot of the curriculum, it should be evaluated and edited, followed by a second pilot and final product delivery. This project should be completed by September 30, 2012.

Background: Thinking for a Change is an evidence-based cognitive behavioral program proven to reduce recidivism risk in offenders. It has undergone a number of minor edits since its first publication in 1998, but recently it has undergone a significant revision, resulting in version 3.1. With the significant changes to T4C in version 3.1, the initial Training for Facilitators curriculum has become virtually obsolete. In addition to not matching T4C 3.1, the old Training for Facilitators consists of a strictly face-to-face delivery method. A more relevant and more modern curriculum is necessary.

Purpose: To create and pilot a complete training curriculum for T4C 3.1 Training for Facilitators.

Scope of Work: At the end of this cooperative agreement, a curriculum will be developed using the Instructional Theory into Practice (ITIP) model. The curriculum will include a facilitator's manual and all relevant supplemental material (such as presentation slides, visual and/or audio aids, handouts, and exercises). The use of blended learning tools such as a live Web-based training environment or supplemental online training courses is required. Clear learning objectives must be contained in each lesson, and delivery modality should be based on how to most efficiently and effectively achieve these objectives.

The curriculum will be piloted and changes incorporated as necessary. An additional pilot should then take place followed by the delivery of a final product. The ultimate outcome objective of the curriculum must be skill-based, involving preparing staff to effectively deliver T4C 3.1 to offender groups. Tests for knowledge/skill acquisition should be incorporated into each component of the program. Consideration should be given to requiring participants to complete some work, such as reading assignments or online courses through NIC's Learning Center, in advance of classroom instruction. An evaluation, to be distributed at the conclusion of the training, will be developed. This evaluation must examine the content, processes, and delivery of the program; the evaluation should be designed with the purpose of helping to revise and improve the training and curriculum.

Specific Requirements: The Training for Facilitators curriculum will be based on the recently revised T4C 3.1 curriculum and may incorporate elements from an earlier version of the Training for Facilitators curriculum. The curriculum must follow the ITIP model.

Among other factors, the cooperative agreement will be awarded while taking into consideration a proposal that demonstrates a person or team with knowledge, experience, and expertise in the following: Curriculum design and development; the ITIP model; distance learning development; blended learning curricula design and delivery; general training for trainers and/or training for facilitators; cognitive behavioral interventions and theories; the cognitive self-change model; social skills training; problem solving training; Thinking for a Change (original version); Thinking for a Change, version 3.1; Thinking for a Change Training for Facilitators (earlier version); project management; and product delivery on time and within budget.

Document Preparation: For all awards in which a document will be a deliverable, the awardee must follow the Guidelines for Preparing and Submitting Manuscripts for Publication as found in the ''General Guidelines for Cooperative Agreements,'' which can be found on our Web site at *www.nicic.gov/cooperativeagreements.*

Application Requirements: Applications should be concisely written, typed double spaced and reference the project by the ''NIC Opportunity Number'' and Title in this announcement. The package must include: A cover letter that identifies the audit agency responsible for the applicant's financial accounts as well as the audit period or fiscal year that the applicant operates under (e.g., July 1 through June 30); a program narrative in response to the statement of work and a budget narrative explaining projected costs. The following forms must also be included: OMB Standard Form 424, Application for Federal Assistance; OMB Standard Form 424A, Budget information—Non-Construction Programs; OMB Standard Form 424B, Assurances—Non-Construction Programs (these forms are available at *http://www.grants.gov*) and DOJ/NIC Certification Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and the Drug-Free Workplace Requirements (available at *http://nicic.gov/Downloads/General/certif-frm.pdf.*

Applications may be submitted in hard copy, or electronically via *http://www.grants.gov.* If submitted in hard copy, there needs to be an original and three copies of the full proposal (program and budget narratives, application forms, and assurances). The original should have the applicant's signature in blue ink.

Authority: Pub. L. 93–415.

Funds Available: NIC is seeking the applicant's best ideas regarding accomplishment of the scope of work and the related costs for achieving the goals of this solicitation.

The final products should include a complete curriculum (with all supplemental materials) and the delivery of two pilot trainings. Funds may only be used for the activities that are linked to the desired outcome of the project.

The NIC Academy Division is interested in collaborating with the awardee throughout the development of the curriculum, and specifically for the creation of an e-learning component.

Eligibility of Applicants: An eligible applicant is any public or private agency, educational institution, organization, individual or team with expertise in the described areas.

Review Considerations: Applications received under this announcement will be subjected to a 3- to 5-person NIC Peer Review Process. The following considerations will be taken into account for reviewing applications:

Programmatic (50%)

Is there demonstrated knowledge of curriculum design and development? Is a specific model of curriculum development (*e.g.,* ITIP) proposed? Is there demonstrated knowledge of adult learning theory? Is there demonstrated

knowledge of techniques and/or interventions that successfully address acquisition and retention of new knowledge, skills, and abilities? Does the proposal include blended and distance learning approaches? Are project goals/tasks adequately discussed? Is there a clear statement of how project goals will be accomplished, including major tasks that will lead to achieving the goal, the strategies to be employed, required staffing, and other required resources? Are there any innovative approaches, techniques, or design aspects proposed that will enhance the project? Is there demonstrated knowledge of cognitive behavioral theory and interventions? Are there demonstrated knowledge, skills, and experience with delivering training?

Organizational (20%)

Do the skills, knowledge, and expertise of the organization and the proposed project staff demonstrate a high level of competency to fulfill the tasks? Does the applicant/organization have the necessary experience and organizational capacity to meet all goals of the project? Are the proposed project management and staffing plans realistic and sufficient to complete the project within the specified time frame?

Project Management/Administration (20%)

Does the applicant identify reasonable objectives, milestones, and measures to track progress? If consultants and/or partnerships are proposed, is there a reasonable justification for their inclusion in the project and a clear structure to ensure effective coordination? Is the proposed budget realistic, does it provide sufficient cost detail/narrative, and does it represent good value relative to the anticipated results?

Financial/Administrative (10%)

Is there adequate cost narrative to support the proposed budget? Does the cost seem reasonable? Does the proposal seem to provide good value?

Note: NIC will not award a cooperative agreement to an applicant who does not have a Dun and Bradstreet Database Universal Number (DUNS) and is not registered in the Central Contractor Registry (CCR).

A DUNS number can be received at no cost by calling the dedicated toll-free DUNS number request line at 1–(800) 333–0505 (if you are a sole proprietor, you would dial 1–866–705–5711 and select option 1).

Registration in the CRR can be done online at the CCR web site: *http://www.ccr.gov.* A CCR Handbook and worksheet can also be reviewed at the web site.

Number of Awards: One.

NIC Application Number: 12AC12. This number should appear as a reference line in the cover letter, where indicated on Standard Form 424, and outside of the envelope in which the application is sent.

Catalog of Federal Domestic Assistance Number: 16.601.

Executive Order 12372: This project is not subject to the provisions of Executive Order 12372.

Harry Fenstermaker,

CFO, National Institute of Corrections.

[FR Doc. 2012–1720 Filed 1–26–12; 8:45 am]

BILLING CODE 4410–36–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Vehicle-Mounted Elevating and Rotating Work Platforms Standard

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Occupational Safety and Health Administration sponsored information collection request (ICR) titled, ''Vehicle-Mounted Elevating and Rotating Work Platforms Standard,'' to the Office of Management and Budget (OMB) for review and approval for continued use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*).

DATES: Submit comments on or before February 27, 2012.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the *RegInfo.gov* Web site, *http://www.reginfo.gov/public/do/PRAMain,* on the day following publication of this notice or by contacting Michel Smyth by telephone at (202) 693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor, Occupational Safety and Health Administration, Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: (202) 395–6929/ Fax: (202) 395–6881 (these are not toll-free numbers), email: *OIRA_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at (202) 693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The Vehicle-Mounted Elevating and Rotating Work Platforms Standard, commonly referred to as the Aerial Lifts Standard, of regulations 29 CFR 1910.67 requires a covered employer to obtain a written certification of any field modification made to aerial lifts. Such certifications must be prepared in writing either by the manufacturer of the aerial lift or by a nationally recognized laboratory. This certification is to attest to the safety of the lift after modifications.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under OMB Control Number 1218–0230. The current OMB approval is scheduled to expire on January 31, 2012; however, it should be noted that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notice published in the **Federal Register** on October 5, 2010 (76 FR 61750).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should reference OMB Control Number 1218–0230. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the

proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Occupational Safety and Health Administration.

Title of Collection: Vehicle-Mounted Elevating and Rotating Work Platforms Standard.

OMB Control Number: 1218–0230.

Affected Public: Private Sector—Businesses or other for-profits.

Total Estimated Number of Respondents: 1,000.

Total Estimated Number of Responses: 1,014.

Total Estimated Annual Burden Hours: 21.

Total Estimated Annual Other Costs Burden: $0.

Dated: January 12, 2012.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2012–1737 Filed 1–26–12; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Current Population Survey Disability Supplement

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Bureau of Labor Statistics (BLS) sponsored information collection request (ICR) proposal titled, ''Current Population Survey Disability Supplement,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*).

DATES: Submit comments on or before February 27, 2012.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site, *http://www.reginfo.gov/public/do/PRAMain,* on the day following publication of this notice or by contacting Michel Smyth by telephone at (202) 693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov*.

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor, Bureau of Labor Statistics (BLS), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: (202) 395–6929/Fax: (202) 395–6881 (these are not toll-free numbers), email: *OIRA_submission@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at (202) 693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov*.

SUPPLEMENTARY INFORMATION: The Current Population Survey (CPS) Disability Supplement will provide information on labor force participation rates for people with disabilities; the use of and satisfaction with programs that prepare people with disabilities for employment; the work history, barriers to employment, and workplace accommodations reported by persons with a disability; and the effect of financial assistance programs on the likelihood of working. Because the Disability Supplement is part of the CPS, the same detailed demographic information collected in the CPS will be available about respondents to the supplement.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6. For additional information, see the related notice published in the **Federal Register** on October 19, 2011 (76 FR 64975).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB ICR Reference Number 201110–1220–003. The OMB is particularly interested in comments that:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Bureau of Labor Statistics (BLS).

Title of Collection: Current Population Survey Disability Supplement.

OMB Control Number: 201110–1220–003.

Affected Public: Individuals or Households.

Total Estimated Number of Respondents: 63,000.

Total Estimated Number of Responses: 106,000.

Total Estimated Annual Burden Hours: 8,833.

Total Estimated Annual Other Costs Burden: $0.

Dated: January 23, 2012.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2012–1752 Filed 1–26–12; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Office of the Secretary

North American Agreement on Labor Cooperation Notice of Determination Regarding Review of Submission #2011–02

AGENCY: Bureau of International Labor Affairs, U.S. Department of Labor.

ACTION: Notice.

SUMMARY: The Office of Trade and Labor Affairs (OTLA) gives notice that on January 13, 2012, Submission #2011–02 was accepted for review pursuant to Article 16.3 of the North American Agreement on Labor Cooperation (NAALC).

The *Sindicato Mexicano de Electricistas* (SME), a Mexican union, filed the submission with OTLA on November 14, 2011. The SME also filed the submission on behalf of 93 other organizations. The submitters allege that the Government of Mexico (GOM) failed to fulfill its obligations under Articles 2 through 6 of the NAALC. The submission alleges that these violations of the NAALC stem from a number of actions or failures to take action on the part of the GOM starting with the issuance of a Presidential decree on October 10, 2009 dissolving the state-owned electrical power company, Central Light and Power (*Luz y Fuerza del Centro*), thereby in effect terminating the employment of over 44,000 SME members. According to the submission, the GOM's subsequent actions or lack thereof denied these workers their rights under Mexican law related to freedom of association, the right to organize, the right to bargain collectively, and the prevention of occupational injuries and illnesses. If substantiated, such statements in the submission could constitute a failure on the part of Mexico to comply with its obligations under the NAALC.

The objective of the review of the submission will be to gather information so that OTLA can better understand the allegations therein and publicly report on the U.S. Government's views regarding whether the GOM's actions were consistent with its obligations under the NAALC.

DATES: *Effective Date:* January 13, 2012.

FOR FURTHER INFORMATION CONTACT: Gregory Schoepfle, Director, OTLA, U.S. Department of Labor, 200 Constitution Avenue NW., Room S–5303, Washington, DC 20210. Telephone: (202) 693–4900. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Article 16.3 of the NAALC requires each Party's National Administrative Office (NAO) to provide for the submission, receipt and review of public communications of labor law matters arising in the territory of another Party. In the United States, the NAO was re-designated as OTLA in a **Federal Register** notice issued on December 21, 2006 (71 FR 76691 (2006)). The same **Federal Register** notice informed the public of the Procedural Guidelines that OTLA would follow for the receipt and review of public submissions. These Procedural Guidelines are available at *http://www.dol.gov/ilab/programs/otla/proceduralguidelines.htm*. According to the definitions contained in the Procedural Guidelines (Section B) a ''submission'' is ''a communication from the public containing specific allegations, accompanied by relevant supporting information, that another Party has failed to meet its commitments or obligations arising under a labor chapter or Part Two of the NAALC.''

The Procedural Guidelines specify that OTLA shall consider six factors, to the extent that they are relevant, in determining whether to accept a submission for review:

1. Whether the submission raises issues relevant to any matter arising under a labor chapter or the NAALC;
2. Whether a review would further the objectives of a labor chapter or the NAALC;
3. Whether the submission clearly identifies the person filing the submission, is signed and dated, and is sufficiently specific to determine the nature of the request and permit an appropriate review;
4. Whether the statements contained in the submission, if substantiated, would constitute a failure of the other Party to comply with its obligations or commitments under a labor chapter or the NAALC;
5. Whether the statements contained in the submission or available information demonstrate that appropriate relief has been sought under the domestic laws of the other Party, or that the matter or a related matter is pending before an international body; and
6. Whether the submission is substantially similar to a recent submission and significant, new information has been furnished that would substantially differentiate the submission from the one previously filed.

U.S. Submission #2011–2 alleges that the GOM, through a Presidential Decree dated October 10, 2009, terminated 44,000 workers of *Luz y Fuerza del Centro* without the legally required notice; failed to transfer the employer's obligations to the new employer as a substitute employer; failed to give fired union workers preference in the hiring process; failed to guarantee the right to freedom of association; failed to negotiate economic bargaining issues with the union; failed to effectively enforce its labor inspection laws regarding occupational safety and health (OSH) regulations; and failed to provide an effective judicial process for the terminated workers. In particular, the SME alleges that the Mexican government violated Articles 41, 47, 53, 154, 357, 358, 386, 387, 433, 434, 435, 438, 541, 542, and 900 through 919 of the Mexican Federal Labor Law, and Articles 9, 14, and 17 of the Mexican Constitution. U.S. Submission #2011–02 alleges that Mexico has failed to effectively enforce its labor law under NAALC Articles 2 through 6, and relates to labor law enforcement matters in Mexico.

In determining whether to accept the submission, OTLA considered the relevant factors in light of the statements in the submission and additional supplementary information provided by the submitters. The submission clearly identifies the submitters, is signed and dated, and is sufficiently specific to determine the nature of the request and permit an appropriate review. It also raises issues relevant to labor law matters arising under the NAALC and a review would appear to further the objectives of the NAALC. In addition, it appears that statements contained in the submission could, if substantiated, constitute a failure of the GOM to comply with its NAALC obligations. The submission described the extensive efforts of the SME to seek appropriate relief under domestic laws and procedures. Accordingly, the OTLA has accepted the submission for review.

OTLA's decision to accept the submission for review is not intended to indicate any determination as to the validity or accuracy of the allegations contained in the submission. The objective of the review of the submission will be to gather information so that OTLA can better understand the allegations therein and publicly report on the issues raised by the submission. OTLA will complete the review and issue a public report within 180 days, unless circumstances, as determined by OTLA, require an extension of time, as set out in the Procedural Guidelines. The public report will include a summary of the review process, as well as any findings and recommendations.

Signed at Washington, DC, on January 13, 2012.

Sandra Polaski,

Deputy Undersecretary for International Affairs.

[FR Doc. 2012–1765 Filed 1–26–12; 8:45 am]

BILLING CODE 4510–28–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–71,705]

ArcelorMittal, Including Workers Whose Unemployment Insurance (UI) Wages Are Reported Through Mittal Steel USA, Inc., Including On-Site Leased Workers From Adecco, ESW, Inc., Guardsmark, Hudson Global Resources, Multi Serv, and Quaker Chemical, Hennepin, IL; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on March 26, 2010, applicable to workers of ArcelorMittal, including on-site leased workers from Adecco, ESW, Inc., Guardsmark, Hudson Global Resources, Hennepin, Illinois. The notice was published in the **Federal Register** on April 23, 2010 (75 FR 21355). The notice was amended on April 27, 2010 and May 17, 2010 to include on-site leased workers from Multi Serv and Quaker Chemical. The notices were published in the **Federal Register** on May 12, 2010 (75 FR 26793) and May 28, 2010 (75 FR 30065–30066), respectively.

At the request of the State, the Department reviewed the certification for workers of the subject firm. The workers are engaged in activities in production of hot and cold rolled steel.

New information shows that some workers separated from employment at the Hennepin, Illinois location of ArcelorMittal had their wages reported through a separated unemployment insurance (UI) tax account under the name Mittal Steel USA, Inc.

Based on these findings, the Department is amending this certification to include workers whose unemployment insurance (UI) wages are reported through Mittal Steel USA, Inc.

The amended notice applicable to TA–W–71,705 is hereby issued as follows:

All workers of ArcelorMittal, including workers whose unemployment insurance (UI) wages are reported through Mittal Steel USA, Inc., including on-site leased workers from Adecco, ESW, Inc., Guardsmark, Hudson Global Resources, Multi Serv, and Quaker Chemical, Hennepin, Illinois, who became totally or partially separated from employment on or after July 6, 2008, through March 26, 2012, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed at Washington, DC this 19th day of January 2012.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–1781 Filed 1–26–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–75,201]

Abbott Laboratories, Diagnostics Division, Including On-Site Leased Workers From Manpower (Experis US, Inc. and Manpower of Texas Limited Partnership), Comsys, Apex, Fountain Group, Kelly Mitchell, Collaborative Technologies, Partners Consulting, Glotel (Adecco), Innovative Alternatives, Collins Consulting, and On Assignment, Irving, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on February 24, 2011, applicable to workers of Abbott Laboratories, Diagnostics Division, including on-site leased workers from Manpower, Comsys, Apex, Fountain Group, Kelly Mitchell, Collaborative Technologies, Partners Consulting, Glotel (Adecco), Innovative Alternatives, Collins Consulting and On Assignment, Irving, Texas. The workers are engaged in activities related to the production of immunoassay diagnostic analyzers, associated accessories, and spare parts. The notice was published in the **Federal Register** on March 10, 2011 (76 FR 13232).

At the request of the Texas Workforce Commission, the Department reviewed the certification for workers of the subject firm. New information shows that workers leased from Manpower are split into two separate groups; Experis US, Inc. (professional) and Manpower of Texas Limited Partnership (clerical) were employed on-site at the Irving, Texas location of Abbott Laboratories, Diagnostics Division. The Department has determined that these workers were sufficiently under the control of Abbott Laboratories, Diagnostics Division to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from Manpower (Experis US, Inc. and Manpower of Texas Limited Partnership) working on-site at the Irving, Texas location of Abbott Laboratories, Diagnostics Division.

The amended notice applicable to TA–W–75,201 is hereby issued as follows:

All workers of Abbott Laboratories, Diagnostics Division, including on-site leased workers from Manpower (Experis US, Inc., and Manpower of Texas Limited Partnership), Comsys, Apex, Fountain Group, Kelly Mitchell, Collaborative Technologies, Partners Consulting, Glotel (Adecco), Innovative Alternatives, Collins Consulting, and On Assignment, Irving, Texas, who became totally or partially separated from employment on or after February 9, 2010, through February 24, 2013, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed at Washington, DC this 12th day of January 2012.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–1783 Filed 1–26–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–80,532B]

Advanced Energy Industries, Inc., Including On-Site Leased Workers From Mid Oregon Personnel, Including Workers Whose Unemployment Insurance (UI) Wages Are Reported Through PV Powered, Currently Known as AE Solar Energy, Inc. Bend, OR; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on November 30, 2011, applicable to workers of Advanced Energy Industries, Inc., including on-site leased workers of Mid Oregon

Personnel, Bend, Oregon. The workers are engaged in activities related to the production of solar invert subcomponents, including thin films processing power conversion and thermal instrumentation products and solar energy inverters. The notice was published in the **Federal Register** on December 13, 2011(76 FR 77556).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information shows that Advanced Energy Industries purchased PV Powered, currently known as AE Solar Energy, Inc. in May 2010.

Some workers separated from employment at the Bend, Oregon location only had their wages reported through a separate unemployment insurance (UI) tax account under the name PV Powered, currently known as AE Solar Energy, Inc.

Accordingly, the Department is amending this certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by a shift in the production of solar invert subcomponents, including thin films processing power conversion and thermal instrumentation products and solar energy inverters to China.

The amended notice applicable to TA–W–80,532 is hereby issued as follows:

All workers of Advanced Energy Industries, Inc., including on-site leased workers of Mid Oregon Personnel, including workers whose unemployment insurance (UI) wages are reported through PV Powered, currently known as AE Solar Energy, Inc., Bend Oregon, who became totally or partially separated from employment on or after October 18, 2010, through November 30, 2013, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC this 19th day of January 2012.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–1780 Filed 1–26–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221 (a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 6, 2012.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 6, 2012.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC this 19th day of January 2012.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

[18 TAA petitions instituted between 1/9/12 and 1/13/12]

TA–W	Subject Firm (Petitioners)	Location	Date of institution	Date of petition
81223	Genband (State/One-Stop)	Plano, TX	01/09/12	01/06/12
81224	Catawissa Wood and Components (Company)	Elysburg, PA	01/09/12	12/21/11
81225	Adecco Engineering and Technical (Company)	Boise, ID	01/09/12	01/06/12
81226	Duro Textiles LLC (Company)	Fall River, MA	01/09/12	01/05/12
81227	Dell Computer Corporation (State/One-Stop)	Austin, TX	01/09/12	01/06/12
81228	Schlaadt Plastics Limited (Workers)	New Bern, NC	01/10/12	01/06/12
81229	American Express (Workers)	Greensboro, NC	01/10/12	01/09/12
81230	ExpressPoint (State/One-Stop)	Golden Valley, MN	01/10/12	01/09/12
81231	Autodie LLC (Company)	Grand Rapids, MI	01/10/12	01/09/12
81232	TE Connectivity (Company)	East Providence, RI	01/10/12	01/09/12
81233	Clarcor Air Filtration Products (Company)	Campbellsville, KY	01/11/12	01/10/12
81234	Onyx Enterprises International (State/One-Stop)	Cranbury, NJ	01/11/12	01/11/12
81235	Danfoss Scroll Technologies, LLC (State)	Arkadelphia, AR	01/11/12	01/10/12
81236	Medco Health (State/One-Stop)	Franklin Lakes, NJ	01/11/12	01/11/12
81237	TRG Customer Solutions (Workers)	Charleston, WV	01/12/12	01/06/12
81238	Westark Diversified (State)	Van Buren, AR	01/12/12	01/12/12
81239	The Fechheimer Brothers Company (Union)	Grantsville, MD	01/13/12	01/12/12
81240	Snokist Growers (Union)	Yakima, WA	01/13/12	01/09/12

[FR Doc. 2012–1782 Filed 1–26–12; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (12–005)]

NASA Advisory Council; Science Committee; Astrophysics Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Astrophysics Subcommittee of the NASA Advisory Council (NAC). This Subcommittee reports to the Science Committee of the NAC. The meeting will be held for the purpose of soliciting, from the scientific community and other persons, scientific and technical information relevant to program planning.

DATES: Thursday, February 23, 2012, 9 a.m. to 5 p.m., and Friday, February 24, 2012, 9 a.m. to 4 p.m., local time.

ADDRESSES: NASA Headquarters, 300 E Street SW., Rooms 8R40 and 7H45, respectively, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Marian Norris, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–4452, fax (202) 358–4118, or *mnorris@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. This meeting will also be available telephonically and by WebEx. Any interested person may call the USA toll free conference call number (888) 323–9874, pass code APS, to participate in this meeting by telephone. The WebEx link is *https://nasa.webex.com,* meeting number on February 23 is 998 332 204, and password APS-February23; the meeting number on February 24 is 996 596 165, and password APS-February24. The agenda for the meeting includes the following topics:

—Astrophysics Division Update
—Update on Balloons Return to Flight Changes
—James Webb Space Telescope Update
—Program Analysis Groups' Activity Update

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID, before receiving an access badge. Foreign nationals attending this meeting will be required to provide a copy of their passport, visa, or green card in addition to providing the following information no less than 10 working days prior to the meeting: Full name; gender; date/place of birth; citizenship; visa information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee. To expedite admittance, attendees with U.S. citizenship or a green card may provide identifying information 3 working days in advance by contacting Marian Norris via email at *mnorris@nasa.gov* or by telephone at (202) 358–4452.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2012–1759 Filed 1–26–12; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (12–006)]

NASA Advisory Council; Commercial Space Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the Commercial Space Committee (CSC) of the NASA Advisory Council (NAC).

DATES: Thursday, February 23, 2012, 8 a.m.–2:30 p.m., Local Time.

ADDRESSES: Marshall Space Flight Center (MSFC), Building 4200, Room P–110, Marshall Space Flight Center, AL 35812.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas W. Rathjen, Human Exploration and Operations Mission Directorate, National Aeronautics and Space Administration Headquarters, 300 E Street SW., Washington, DC 20546, (202) 358–0552; *thomas.w.rathjen-1@nasa.gov*.

SUPPLEMENTARY INFORMATION: The agenda topics for the meeting will include:

- Overview of MSFC's Commercial Space Activities and Plans.
- Overview of KSC's Commercial Space Activities and Plans.
- Overview of SSC's Commercial Space Activities and Plans.
- Status of Commercial Orbital Transportation Services.

The meeting will be open to the public up to the seating capacity of the room. This meeting is also available telephonically and by WebEx. You must use a touch tone phone to participate in this meeting. Any interested person may dial access number, 1–(866) 731–5570 or 1–(203) 955–8963 and then enter the numeric participant passcode: 2007497 followed by the # sign. To join via WebEx the link is *https://nasa.webex.com/*, meeting number 998 649 018, and password naccsc@223.

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. All U.S. citizens desiring to attend the NAC CSC meeting at MSFC must provide his or her full name, company affiliation (if applicable), citizenship, place of birth, and date of birth to the MSFC Protective Services Office no later than the close of business on February 13, 2012. All non-U.S. citizens must submit his or her name, current address, citizenship, company affiliation (if applicable) to include address, telephone number, and title, place of birth, date of birth, U.S. visa information to include type, number, and expiration date, U.S. Social Security Number (if applicable), Permanent Resident Alien card number and expiration date (if applicable), place and date of entry into the U.S., and Passport information to include Country of issue, number, and expiration date to the MSFC Protective Services Office no later than the close of business on February 9, 2012. If the above information is not received by the noted dates, attendees should expect a minimum delay of two (2) hours. All visitors to this meeting will be required to process in through the Redstone/MSFC Joint Visitor Control Center located on Rideout Road, north of Gate 9 prior to entering MSFC. Please provide the appropriate data, via fax (256) 544–2101, noting at the top of the page ''Public Admission to the NASA Advisory Council (NAC) Commercial Space Committee (CSC).'' For security questions, please call Becky Hopson at (256) 544–4541.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2012–1760 Filed 1–26–12; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before February 27, 2012. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting Records Management Services (ACNR) using one of the following means:

Mail: NARA (ACNR), 8601 Adelphi Road, College Park, MD 20740–6001.

Email: request.schedule@nara.gov.

Fax: (301) 837–3698

Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Margaret Hawkins, Director, National Records Management Program (ACNR), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. *Telephone:* (301) 837–1799. Email: *request.schedule@nara.gov.*

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

The schedules listed in this notice are media neutral unless specified otherwise. An item in a schedule is media neutral when the disposition instructions may be applied to records regardless of the medium in which the records are created and maintained. Items included in schedules submitted to NARA on or after December 17, 2007, are media neutral unless the item is limited to a specific medium. (See 36 CFR 1225.12(e).)

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending:

1. Department of Agriculture, Forest Service (N1–95–10–3, 54 items, 51 temporary items). Routine administrative records related to various programs throughout the agency, including general correspondence, reports, studies, plans and interagency agreements. Proposed for permanent retention are agency plans pertaining to sustainable operations, ecological restoration, environmental policies, and directives regarding the invasive species program.

2. Department of Agriculture, Grain Inspection, Packers, and Stockyards Administration (N1–545–08–2, 13 items, 11 temporary items). Records relating to a quality assurance and control program, including cooperative agreements, complaints, evaluation materials, and plans. Proposed for permanent retention are policies, guidelines, and substantive reports such as annual summaries and comprehensive nonrecurring reports.

3. Department of the Army, Agency-wide (N1–AU–10–77, 1 item, 1 temporary item). Master files of an electronic information system used to report Army Reserve personnel strength accounting data.

4. Department of the Army, Agency-wide (N1–AU–10–93, 1 item, 1 temporary item). Master files of an electronic information system used to track information on persons sustaining losses in real estate because of closure or reduction of military bases.

5. Department of the Army, Agency-wide (N1–AU–10–95, 1 item, 1 temporary item). Master files of an electronic information system that contains data used to standardize procedures for conducting physical security inspections and assessments.

6. Department of Defense, Defense Contract Management Agency (N1–558–10–7, 4 items, 4 temporary items). Records relating to agency property, housing, facility, and vehicle management, as well as travel and transportation.

7. Department of Defense, Defense Logistics Agency (N1–361–10–3, 15 items, 15 temporary items). Correspondence files, applications for participation, and other records relating to a program for the transfer of surplus

military property to state law enforcement agencies.

8. Department of Defense, Office of the Secretary of Defense (N1–330–11–1, 2 items, 2 temporary items). Master files of electronic information systems that contain the health records of all categories of patients receiving treatment at military treatment facilities including physical notes, histories, and assessments; discharge summaries; progress notes; physician orders; nursing notes; and medications.

9. Department of Justice, Civil Rights Division (DAA–0060–2011–0026, 1 item, 1 temporary item). Outputs created from an interface portal to an electronic voting procedures and processing system.

10. Department of Justice, Federal Bureau of Investigation (N1–65–11–35, 1 item, 1 temporary item). Master files of an electronic information system used for data analysis and reporting by the National Cyber Investigative Joint Task Force.

11. Department of Labor, Wage and Hour Division (N1–155–11–2, 5 items, 3 temporary items). Records relating to administrative and management support functions. Proposed for permanent retention are substantive plans and reports, organizational charts, studies, and agency histories.

12. Department of the Navy, United States Marine Corps (N1–127–09–1, 1 item, 1 temporary item). Master files of an electronic information system used to maintain career and pay information for active, reserve, and retired personnel.

13. Department of State, Bureau of International Information Programs (N1–59–09–20, 2 items, 2 temporary items). Records of the Office of Current Issues, including copies of subject and project files and content from an electronic system used to distribute copies of press releases, speeches, and policy statements to foreign audiences.

14. Office of Management and Budget, Office of E-Government and Information Technology (DAA–0051–2012–0001, 4 items, 4 temporary items). Web site records for the Federal Chief Information Office Council, including web content of a routine nature and associated web management and administrative records.

15. Peace Corps, Office of the Chief Financial Officer (N1–490–11–1, 3 items, 2 temporary items). Records of the Office of Volunteer and Personal Service Contractors Financial Services, including hard copy and microfiche copies of Volunteer Description of Service statements. Proposed for permanent retention are scanned copies of the Volunteer Description of Service statements.

16. Small Business Administration, Office of the National Ombudsman (N1–309–11–1, 9 items, 6 temporary items). Records include comments received by the office that do not fall within its jurisdiction; sound recordings and background files from the National Ombudsman's hearings and roundtables; records related to the selection and actions of Annual Regulatory Fairness Board members and their annual meetings; and records of Federal inter-agency Small Business Regulatory Enforcement Fairness Act meetings. Proposed for permanent retention are comments received by the office that fall within its jurisdiction; transcripts of hearings of the National Ombudsman; and annual reports to Congress.

17. U.S. Commission on International Religious Freedom, Agency-wide (N1–220–12–1, 4 items, 2 temporary items). Records include web site maintenance records and routine program records. Proposed for permanent retention are substantive records such as annual reports and recommendations, testimony, and research reports, and *www.uscirf.gov* substantive collections.

Dated: January 20, 2012.

Paul M. Wester, Jr.,

Chief Records Officer for the U.S. Government.

[FR Doc. 2012–1779 Filed 1–26–12; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL COUNCIL ON DISABILITY

Sunshine Act Meetings

TIME AND DATES: The Members of the National Council on Disability (NCD) will meet by phone on Wednesday, February 1, 2012, 3:00–4 p.m., ET.

PLACE: The meeting will occur by phone. NCD staff will participate in the call from the NCD office at 1331 F Street NW., Suite 850, Washington, DC 20004. Interested parties may join the meeting in person at the NCD office or may join the phone line in a listening-only capacity using the following call-in number: 1–(888) 466–4440; Meeting Name: NCD Meeting. If asked, the conference call leader's name is Aaron Bishop.

MATTERS TO BE CONSIDERED: The Council will meet by phone for deliberations regarding disability forums.

CONTACT PERSON FOR MORE INFORMATION: Anne Sommers, NCD, 1331 F Street NW., Suite 850, Washington, DC 20004; (202) 272–2004 (V), (202) 272–2074 (TTY).

ACCOMMODATIONS: Those who plan to attend and require accommodations should notify NCD as soon as possible to allow time to make arrangements.

Dated: January 25, 2012.

Aaron Bishop,

Executive Director.

[FR Doc. 2012–1935 Filed 1–25–12; 4:15 pm]

BILLING CODE 6820–MA–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

[OMB–3420–00015; OPIC–52]

Submission for OMB Review; Comments Request

AGENCY: Overseas Private Investment Corporation (OPIC).

ACTION: Notice and request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to publish a Notice in the **Federal Register** notifying the public that the agency has prepared an information collection for OMB review and approval and has requested public review and comment on the submission. OPIC received no comments in response to the sixty (60) day notice published in **Federal Register** volume 76, number 229, page 73740 on November 29, 2011. The purpose of this notice is to allow an additional thirty (30) days for public comments to be submitted. Comments are being solicited on the need for the information; the accuracy of the Agency's burden estimate; the quality, practical utility, and clarity of the information to be collected; and ways to minimize reporting the burden, including automated collected techniques and uses of other forms of technology.

DATES: Comments must be received within thirty (30) calendar-days of publication of this Notice. OPIC plans to implement this form in Fall 2012.

ADDRESSES: Copies of the subject form may be obtained from the Agency Submitting Officer.

FOR FURTHER INFORMATION CONTACT: OPIC Agency Submitting Officer: Essie Bryant, Record Manager, Overseas Private Investment Corporation, 1100 New York Avenue NW., Washington, DC 20527; (202) 336–8563.

Summary Form Under Review

Type of Request: Revised form.

Title: Application for Political Risk Insurance.

Form Number: OPIC–52.

Frequency of Use: Once per investor per project.

Type of Respondents: Business or other institution (except farms); individuals.

Standard Industrial Classification Codes: All.

Description of Affected Public: U.S. companies or citizens investing overseas.

Reporting Hours: 150 hours (2 hours per response).

Number of Responses: 75 per year.

Federal Cost: $11,342.

Authority for Information Collection: Sections 231, 234(a), 239(d), and 240A of the Foreign Assistance Act of 1961, as amended.

Abstract (Needs and Uses): The application is the principal document used by OPIC to determine the investor's and the project's eligibility for political risk insurance and collect information for underwriting analysis.

Dated: January 20, 2012.

Nichole Cadiente,

Administrative Counsel, Administrative Affairs, Department of Legal Affairs.

[FR Doc. 2012–1705 Filed 1–26–12; 8:45 am]

BILLING CODE M

OVERSEAS PRIVATE INVESTMENT CORPORATION

Submission for OMB Review; Comments Request

AGENCY: Overseas Private Investment Corporation (OPIC).

ACTION: Notice and request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to publish a Notice in the **Federal Register** notifying the public that the agency has prepared an information collection for OMB review and approval and has requested public review and comment on the submission. OPIC received no comments in response to the sixty (60) day notice published in **Federal Register** volume 76, number 229, page 73741 on November 29, 2011. The purpose of this notice is to allow an additional thirty (30) days for public comments to be submitted. Comments are being solicited on the need for the information; the accuracy of the Agency's burden estimate; the quality, practical utility, and clarity of the information to be collected; and ways to minimize reporting the burden, including automated collected techniques and uses of other forms of technology.

DATES: Comments must be received within thirty (30) calendar-days of publication of this Notice. OPIC plans to implement this form in Fall 2012.

ADDRESSES: Copies of the subject form may be obtained from the Agency Submitting Officer.

FOR FURTHER INFORMATION CONTACT: OPIC Agency Submitting Officer: Essie Bryant, Record Manager, Overseas Private Investment Corporation, 1100 New York Avenue NW., Washington, DC 20527; (202) 336–8563.

Summary Form Under Review

Type of Request: Revised form.

Title: Application for Project Finance.

Form Number: OPIC–115.

Frequency of Use: Once per investor per project.

Type of Respondents: Business or other institution (except farms); individuals.

Standard Industrial Classification Codes: All.

Description of Affected Public: U.S. companies or citizens investing overseas.

Reporting Hours: 187.5 hours (0.75 hours per response).

Number of Responses: 250 per year.

Federal Cost: $12,602.50.

Authority for Information Collection: Sections 231, 234(a), 239(d), and 240A of the Foreign Assistance Act of 1961, as amended.

Abstract (Needs and Uses): The application is the principal document used by OPIC to determine the investor's and the project's eligibility for project financing and collect information for financial underwriting analysis.

Dated: January 20, 2012.

Nichole Cadiente,

Administrative Counsel, Counsel, Administrative Affairs, Department of Legal Affairs.

[FR Doc. 2012–1706 Filed 1–26–12; 8:45 am]

BILLING CODE M

OVERSEAS PRIVATE INVESTMENT CORPORATION

Submission for OMB Review; Comments Request

AGENCY: Overseas Private Investment Corporation (OPIC).

ACTION: Notice and request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to publish a Notice in the **Federal Register** notifying the public that the agency has prepared an information collection for OMB review and approval and has requested public review and comment on the submission. OPIC received no comments in response to the sixty (60) day notice published in **Federal Register** volume 76, number 229, page 73740 on November 29, 2011. The purpose of this notice is to allow an additional thirty (30) days for public comments to be submitted. Comments are being solicited on the need for the information; the accuracy of the Agency's burden estimate; the quality, practical utility, and clarity of the information to be collected; and ways to minimize reporting the burden, including automated collected techniques and uses of other forms of technology.

DATES: Comments must be received within thirty (30) calendar-days of publication of this Notice. OPIC plans to implement this form in Fall 2012.

ADDRESSES: Copies of the subject form may be obtained from the Agency Submitting Officer.

FOR FURTHER INFORMATION CONTACT: OPIC Agency Submitting Officer: Essie Bryant, Record Manager, Overseas Private Investment Corporation, 1100 New York Avenue NW., Washington, DC 20527; (202) 336–8563.

Summary Form Under Review

Type of Request: Revised form.

Title: Sponsor Disclosure Report.

Form Number: OPIC–129.

Frequency of Use: Once per investor per project.

Type of Respondents: Business or other institution (except farms); not-for-profit institutions.

Standard Industrial Classification Codes: All.

Description of Affected Public: U.S. companies or citizens investing overseas.

Reporting Hours: 2100 hours (3 hours per response).

Number of Responses: 700 per year.

Federal Cost: $70,574.

Authority for Information Collection: Sections 231, 234(a), 239(d), and 240A of the Foreign Assistance Act of 1961, as amended.

Abstract (Needs and Uses): The information provided in the OPIC–129 is used by OPIC as a part of the Character Risk Due Diligence/background check procedure (similar to a commercial bank's Know Your Customer procedure) that it performs on each party that has a significant relationship (5% or more beneficial ownership, provision of significant credit support, significant managerial relationship) to the projects that OPIC finances.

Dated: January 20, 2012.

Nichole Cadiente,

Administrative Counsel, Administrative Affairs, Department of Legal Affairs.

[FR Doc. 2012–1711 Filed 1–26–12; 8:45 am]

BILLING CODE M

OVERSEAS PRIVATE INVESTMENT CORPORATION

Submission for OMB Review; Comments Request

AGENCY: Overseas Private Investment Corporation (OPIC).

ACTION: Notice and request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to publish a Notice in the **Federal Register** notifying the public that the agency has prepared an information collection for OMB review and approval and has requested public review and comment on the submission. OPIC received no comments in response to the sixty (60) day notice published in **Federal Register** volume 76, number 229, page 73740 on November 29, 2011. The purpose of this notice is to allow an additional thirty (30) days for public comments to be submitted. Comments are being solicited on the need for the information; the accuracy of the Agency's burden estimate; the quality, practical utility, and clarity of the information to be collected; and ways to minimize the reporting burden, including automated collected techniques and uses of other forms of technology.

DATES: Comments must be received within thirty (30) calendar-days of publication of this Notice. OPIC plans to implement this form in Fall 2012.

ADDRESSES: Copies of the subject form may be obtained from the Agency Submitting Officer.

FOR FURTHER INFORMATION CONTACT: OPIC Agency Submitting Officer: Essie Bryant, Record Manager, Overseas Private Investment Corporation, 1100 New York Avenue NW., Washington, DC 20527; (202) 336–8563.

Summary Form Under Review

Type of Request: Revised form.

Title: Request for Registration for Political Risk Insurance.

Form Number: OPIC–50.

Frequency of Use: Once per investor per project.

Type of Respondents: Business or other institution (except farms); individuals.

Standard Industrial Classification Codes: All.

Description of Affected Public: U.S. companies or citizens investing overseas.

Reporting Hours: 125 hours (30 minutes per response).

Number of Responses: 250 per year.

Federal Cost: $6,301.25

Authority for Information Collection: Sections 231, 234(a), 239(d), and 240A of the Foreign Assistance Act of 1961, as amended.

Abstract (Needs and Uses): The application is the principal document used by OPIC to determine the investor's and the project's eligibility for political risk insurance and collect information for underwriting analysis.

Dated: January 20, 2012.

Nichole Cadiente,

Administrative Counsel, Administrative Affairs, Department of Legal Affairs.

[FR Doc. 2012–1707 Filed 1–26–12; 8:45 am]

BILLING CODE M

OVERSEAS PRIVATE INVESTMENT CORPORATION

Submission for OMB Review; Comments Request

AGENCY: Overseas Private Investment Corporation (OPIC).

ACTION: Notice and request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to publish a Notice in the **Federal Register** notifying the public that the agency has prepared an information collection for OMB review and approval and has requested public review and comment on the submission. OPIC received no comments in response to the sixty (60) day notice published in **Federal Register** volume 76, number 229, page 73741 on November 29, 2011. The purpose of this notice is to allow an additional thirty (30) days for public comments to be submitted. Comments are being solicited on the need for the information; the accuracy of the Agency's burden estimate; the quality, practical utility, and clarity of the information to be collected; and ways to minimize reporting the burden, including automated collected techniques and uses of other forms of technology.

DATES: Comments must be received within thirty (30) calendar-days of publication of this Notice.

ADDRESSES: Copies of the subject form may be obtained from the Agency Submitting Officer.

FOR FURTHER INFORMATION CONTACT: OPIC Agency Submitting Officer: Essie Bryant, Record Manager, Overseas Private Investment Corporation, 1100 New York Avenue NW., Washington, DC 20527; (202) 336–8563.

SUMMARY FORM UNDER REVIEW:

Type of Request: Revised form.

Title: Self-Monitoring Questionnaire.

Form Number: OPIC 162 OMB–3420–0019.

Frequency of Use: One per investor per project per year.

Type of Respondents: Business or other institution (except farms); individuals.

Standard Industrial Classification Codes: All.

Description of Affected Public: U.S. companies or citizens investing overseas.

Reporting Hours: 1,800 (4 hours per form).

Number of Responses: 450 per year.

Federal Cost: $45,369.

Authority for Information Collection: Sections 231, 234(a), 239(d), and 240A of the Foreign Assistance Act of 1961, as amended.

Abstract (Needs and Uses): The Self Monitoring Questionnaire is the principal document used by OPIC to monitor the developmental effects of OPIC's investment projects, monitor the economic effects on the U.S. economy, and collect information on compliance with environmental and labor policies.

Dated: January 20, 2012.

Nichole Cadiente,

Administrative Counsel, Department of Legal Affairs.

[FR Doc. 2012–1709 Filed 1–26–12; 8:45 am]

BILLING CODE M

OVERSEAS PRIVATE INVESTMENT CORPORATION

Submission for OMB Review; Comments Request

AGENCY: Overseas Private Investment Corporation (OPIC).

ACTION: Notice and request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to publish a Notice in the **Federal Register** notifying the public that the agency has prepared an information collection for OMB review and approval and has requested public review and comment on the submission. OPIC received no comments in response to the sixty (60) day notice published in **Federal Register** volume 76, number 231, page 74834 on December 1, 2011. The

purpose of this notice is to allow an additional thirty (30) days for public comments to be submitted. Comments are being solicited on the need for the information; the accuracy of the Agency's burden estimate; the quality, practical utility, and clarity of the information to be collected; and ways to minimize reporting the burden, including automated collected techniques and uses of other forms of technology.

DATES: Comments must be received within thirty (30) calendar-days of publication of this Notice. OPIC plans to implement this form in Fall 2012.

ADDRESSES: Copies of the subject form may be obtained from the Agency Submitting Officer.

FOR FURTHER INFORMATION CONTACT: OPIC Agency Submitting Officer: Essie Bryant, Record Manager, Overseas Private Investment Corporation, 1100 New York Avenue NW., Washington, DC 20527; (202) 336–8563.

SUMMARY FORM UNDER REVIEW

Type of Request: New form.

Title: Office of Investment Policy Questionnaire.

Form Number: OPIC248.

Frequency of Use: Once per investor per project.

Type of Respondents: Business or other institution (except farms); individuals.

Standard Industrial Classification Codes: All.

Description of Affected Public: U.S. companies or citizens investing overseas.

Reporting Hours: 552 (2.4 hours per project).

Number of Responses: 230 per year.

Federal Cost: $23,187.

Authority for Information Collection: Sections 231, 234(a), 239(d), and 240A of the Foreign Assistance Act of 1961, as amended.

Abstract (Needs and Uses): The Office of Investment Policy Questionnaire is the principal document used by OPIC to prepare a developmental impact profile and determine the projected impact on the United States, as well as to determine the project's compliance with environmental and labor policies, as consistent with OPIC's authorizing legislation.

Dated: January 20, 2012.

Nichole Cadiente,

Administrative Counsel, Administrative Affairs, Department of Legal Affairs.

[FR Doc. 2012–1712 Filed 1–26–12; 8:45 am]

BILLING CODE M

PEACE CORPS

Submission for OMB Review; Request for Comments

AGENCY: Peace Corps.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Peace Corps will be submitting the following information collection requests to the Office of Management and Budget (OMB) for revision of a currently approved information collection. In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Peace Corps invites the general public to comment on the revision of a currently approved information collection OMB Control No. 0420–0510: Health History Form (PC–1789) and the Report of Medical Examination also referred to as the *Report of Physical Examination* (PC–1790S). The Peace Corps seeks to remove the Report of Physical Examination (PC–1790S) from OMB 0420–0510 and request a new OMB Control Number for the Report of Physical Examination (PC–1790S).

DATES: Comments regarding this collection must be received on or before February 27, 2012.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name or OMB approval number and should be sent via email to: *oira_submission@omb.eop.gov* or fax to: (202) 395–3086. Attention: Desk Officer for Peace Corps.

FOR FURTHER INFORMATION CONTACT: Denora Miller, FOIA Officer, Peace Corps, 1111 20th Street NW., Washington, DC 20526, (202) 692–1236, or email at *pcfr@peacecorps.gov*. Copies of available documents submitted to OMB may be obtained from Denora Miller at address listed above.

SUPPLEMENTARY INFORMATION: The Peace Corps Act states that ''[t]he President may enroll in the Peace Corps for service abroad qualified citizens and nationals of the United States (referred to in this Act as ''volunteers''). The terms and conditions of the enrollment * * * of volunteers shall be exclusively those set forth in this Act and those consistent therewith which the President may prescribe * * *'' 22 U.S.C. 2504(a). Eligibility requirements for the Peace Corps have been prescribed in 22 CFR part 305. Among those eligibility requirements is one relating to medical status. An Applicant ''must, with reasonable accommodation, have the physical and mental capacity required of a Volunteer to perform the essential functions of the Peace Corps Volunteer assignment for which he or she is otherwise eligible and be able to complete an agreed upon tour of service, ordinarily two years, without undue disruption due to health problems.'' 22 CFR 305.2(c). All applicants for service must undergo a physical examination and a dental evaluation prior to Volunteer service to determine if they meet this medical status eligibility requirement. In addition, under 22 U.S.C. 2504(e), the Peace Corps provides medical care to Volunteers during their service and the information collected will also be used in connection with medical care and treatment during Peace Corps service for applicants who become Volunteers. Finally, the information collected may serve as a point of reference for any potential future Volunteer worker's compensation claims.

Volunteers serve in 67 developing countries where western-style healthcare is often not available. Volunteers are placed in remote locations where they may suffer hardship because they have no access to running water and/or electricity. They also may be placed in locations with extreme environmental conditions related to cold, heat or high altitude and they may be exposed to diseases not generally found in the U.S. Volunteers may be placed many hours from the Peace Corps medical office and not have easy access to any health care provider. Therefore, a thorough examination of an Applicant's medical condition is an essential step to determine their suitability for service in Peace Corps.

Old Title: Peace Corps Volunter Medical Application Health Status Review which now consists of two forms: The Health Status Review form (PC 1789) and the Report of Medical Examination also referred to as the *Report of Physical Examination* (PC 1790 S).

New Title: Health History Form (PC 1789).

OMB Control Number: 0420–0510.

Type of Information Collection: Revision of a currently approved information collection.

Respondents' obligation to reply: Voluntary.

Burden to the public:

(a) Estimated number of applicants: 10,000/4,000.

(b) Estimated frequency of response: One time.

(c) Estimated average burden per response: 45 minutes.

(d) Estimated total reporting burden: 7,500 hours.

(e) Estimated annual cost to respondents: Indeterminate.

General description of collection: The Health History Form is used to document the medical history of each individual Applicant. It is a self-report of pre-existing medical conditions and is used to help determine whether the Applicant will, with reasonable accommodation, be able to perform the essential functions of a Peace Corps Volunteer and complete a tour of service without undue disruption due to health problems.

The current process requires all Applicants to complete in its entirety a Health Status Review form (OMB form 0420–0510: Peace Corps Form PC–1789). Under the new system, the Applicant will begin the medical part of the application process by completing the Health History Form. The Health History Form will replace OMB form 0420–0510 and is expected to significantly reduce the need for medical office visits and tests. The Health History Form will be completed online in an interactive process in which only questions relevant to each Applicant's medical history (based on responses to previous questions) are presented. After completion of the Health History Form and after passing preliminary non-health-related assessments, the Applicant will be ''nominated'' to a program. This nomination does not guarantee an invitation to serve, but it does hold a place so the Applicant may proceed with the process. After a review by the Peace Corps pre-service medical staff of the self-reported information on the Health History Form, along with any supplemental forms that the Applicant may be required to submit following nomination, the Applicant may be medically pre-cleared. An Applicant who is medically pre-cleared and who accepts an invitation to serve as a Peace Corps Volunteer undergoes a final medical clearance. Final medical clearance is on the basis of a complete physical examination, as documented in a Report of Physical Examination.

Old Title: Peace Corps Volunter Medical Application Health Status Review which consist of two forms: The Health Status Review form (PC 1789) and the Report of Medical Examination also referred to as the *Report of Physical Examination* (PC 1790 S).

New Title: Report of Physical Examination (PC 1790 S).

OMB Control Number: 0420–pending.

Type of Information Collection: Revision of a currently approved information collection.

Burden to the public:

(a) Estimated number of applicants/physicians: 4,000/4,000.

(b) Frequency of response: One time.

(c) Estimated average burden per response: 90 minutes/45 minutes.

(d) Estimated total reporting burden: 6,000 hours/3,000 hours.

(e) Estimated annual cost to respondents:Indeterminate.

General description of collection: The current process requires almost all Applicants to undergo a costly and time consuming full medical evaluation. Under the current process, it sometimes happens that after an Applicant has spent large amounts of time and money, the Peace Corps finds that the Applicant is not medically qualified to serve. In 2012, the Peace Corps will change the current process in order to reduce the time and expense of Applicants and to ensure that only those who accept an invitation to serve undergo a complete medical evaluation. However, Applicants who have certain particularly difficult to accommodate conditions will be evaluated early in the process. This will reduce the time and expense for those Applicants who would, even with reasonable accommodation, not be likely to be able to perform the essential functions of a Peace Corps Volunteer and complete a tour of service without undue disruption due to health problems.

Under the new system, the Applicant will begin the medical part of the application process by completing a comprehensive health history form. After completion of the Health History Form and after passing preliminary non-health-related assessments, the Applicant will be ''nominated'' to a program. This nomination does not guarantee an invitation to serve, but it does hold a place so the Applicant may proceed with the process. After a review by the Peace Corps pre-service medical staff of the Health History Form and any supplemental forms that the Applicant may be required to submit following nomination, the Applicant may be medically pre-cleared. An Applicant who is medically pre-cleared and who accepts an invitation to serve as a Peace Corps Volunteer undergoes a final medical clearance. Final medical clearance is on the basis of a complete physical examination, as documented in a Report of Physical Examination which is covered by this Supporting Statement.

The information contained in the Report of Physical Examination will be used to make an individualized determination as to whether an Applicant for Volunteer service will, with reasonable accommodation, be able to perform the essential functions of a Peace Corps Volunteer and complete a tour of service without undue disruption due to health problems.

Request For Comment: Peace Corps invites comments on whether the proposed collections of information are necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

This notice is issued in Washington, DC, on January 20, 2012.

Garry W. Stanberry,

Acting Associate Director, Management.

[FR Doc. 2012–1758 Filed 1–26–12; 8:45 am]

BILLING CODE 6051–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2012–7 and CP2012–15; Order No. 1163]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request to add Priority Mail Contract 38 to the competitive product list. This notice addresses procedural steps associated with the filing.

DATES: *Comments are due:* January 31, 2012.

ADDRESSES: Submit comments electronically by accessing the ''Filing Online'' link in the banner at the top of the Commission's Web site (*http://www.prc.gov*) or by directly accessing the Commission's Filing Online system at *https://www.prc.gov/prc-pages/filing-online/login.aspx.* Commenters who cannot submit their views electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section as the source for case-related information for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at (202) 789–6820 (case-related information) or *DocketAdmins@prc.gov* (electronic filing assistance).

SUPPLEMENTARY INFORMATION:

I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.,* the Postal Service filed a formal request and

associated supporting information to add Priority Mail Contract 38 to the competitive product list.[1] Priority mail contracts enable the Postal Service to provide Priority Mail service to an individual customer at customized rates.[2] The Postal Service asserts that Priority Mail Contract 38 is a competitive product ''not of general applicability'' within the meaning of 39 U.S.C. 3632(b)(3). Request at 1. The Request has been assigned Docket No. MC2012–7.

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. *Id.* Attachment B. The instant contract has been assigned Docket No. CP2012–15.

Request. To support its Request, the Postal Service filed six attachments as follows:

- Attachment A—a redacted copy of Governors' Decision No. 09–6, authorizing certain Priority Mail contracts, and a certification of the Governors' vote;
- Attachment B—a redacted copy of the contract;
- Attachment C—proposed changes to the Mail Classification Schedule competitive product list that would add Priority Mail Contract 38 under Domestic Negotiated Service Agreements;
- Attachment D—a Statement of Supporting Justification as required by 39 CFR 3020.32;
- Attachment E—a certification of compliance with 39 U.S.C. 3633(a); and
- Attachment F—an application for non-public treatment of materials to maintain redacted portions of the contract, customer-identifying information, and related financial information under seal.

In the Statement of Supporting Justification, Dennis R. Nicoski, Manager, Field Sales Strategy and Contracts, asserts that the contract will cover its attributable costs, make a positive contribution to covering institutional costs, and increase contribution toward the requisite 5.5 percent of the Postal Service's total institutional costs. *Id.* Attachment D at 1. Mr. Nicoski contends that there will be no issue of market dominant products subsidizing competitive products as a result of this contract. *Id.*

Related contract. The Postal Service included a redacted version of the related contract with the Request. *Id.* Attachment B. The contract is scheduled to become effective on the day the Commission issues all necessary regulatory approval. *Id.* at 2. The contract will expire 3 years from the effective date unless, among other things, either party terminates the agreement upon 30 days' written notice to the other party. *Id.* at 2. The Postal Service represents that the contract is consistent with 39 U.S.C. 3633(a). *Id.* Attachment D at 2.

The Postal Service filed much of the supporting materials, including the related contract, under seal. *Id.* Attachment F. It maintains that the redacted portions of the contract, customer-identifying information, and related financial information, should remain confidential. *Id.* at 2–3. This information includes the price structure, underlying costs and assumptions, pricing formulas, information relevant to the customer's mailing profile, and cost coverage projections. *Id.* The Postal Service asks the Commission to protect customer-identifying information from public disclosure indefinitely. *Id.* at 7.

II. Notice of Filings

The Commission establishes Docket Nos. MC2012–7 and CP2012–15 to consider the Request pertaining to the proposed Priority Mail Contract 38 product and the related contract, respectively.

Interested persons may submit comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR 3015.5, and 39 CFR part 3020, subpart B. Comments are due no later than, January 31, 2012. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Natalie Rea Ward to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2012–7 and CP2012–15 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Natalie Rea Ward is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.

3. Comments by interested persons in these proceedings are due no later than January 31, 2012.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2012–1688 Filed 1–26–12; 8:45 am]

BILLING CODE 7710–FW–P

[1] Request of the United States Postal Service to Add Priority Mail Contact 38 to Competitive Product List and Notice of Filing (Under Seal) of Contract and Supporting Data, January 19, 2012 (Request).

[2] Decision of the Governors of the United States Postal Service on Establishment of Rates and Classes Not of General Applicability for Priority Mail Contract Group, Docket No. MC2009–25, issued April 27, 2009, at 1 (Governors' Decision No. 09–6).

POSTAL REGULATORY COMMISSION

[Docket No. A2012–111; Order No. 1154]

Post Office Closing

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: This document informs the public that an appeal of the closing of the Randolph, Iowa post office has been filed. It identifies preliminary steps and provides a procedural schedule. Publication of this document will allow the Postal Service, petitioners, and others to take appropriate action.

DATES: Deadline for Petitioner's Form 61: February 3, 2012, 4:30 p.m., eastern time; deadline for answering brief in support of the Postal Service: February 23, 2012, 4:30 p.m., eastern time. *See* the Procedural Schedule in the **SUPPLEMENTARY INFORMATION** section for other dates of interest.

ADDRESSES: Submit comments electronically by accessing the ''Filing Online'' link in the banner at the top of the Commission's Web site (*http://www.prc.gov*) or by directly accessing the Commission's Filing Online system at *https://www.prc.gov/prc-pages/filing-online/login.aspx*. Commenters who cannot submit their views electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section as the source for case-related information for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at (202) 789–6820 (case-related information) or *DocketAdmins@prc.gov* (electronic filing assistance).

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to 39 U.S.C. 404(d), the Commission received a petition for review of the Postal Service's determination to close the Randolph post office in Randolph, Iowa. The petition for review received December 30, 2011, was filed by Vance A. Trively, Mayor of the City of Randolph and is postmarked December 22, 2011.

The Commission hereby institutes a proceeding under 39 U.S.C. 404(d)(5) and establishes Docket No. A2012–111 to consider Petitioner's appeal. If Petitioner would like to further explain his position with supplemental information or facts, Petitioner may either file a Participant Statement on PRC Form 61 or file a brief with the Commission no later than February 3, 2012.

Issues apparently raised. Petitioner contends that: (1) The Postal Service failed to consider the effect of the closing on the community (*see* 39 U.S.C. 404(d)(2)(A)(i)); (2) failed to adequately consider the economic savings resulting from the closure (*see* 39 U.S.C. 404(d)(2)(A)(iv)); and (3) Petitioner contends that there are factual errors contained in the Final Determination.

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above, or that the Postal Service's determination disposes of one or more of those issues. The due date for any responsive pleading by the Postal Service to this Notice is January 30, 2012.

Notwithstanding the Postal Service's determination to close this post office, on December 15, 2011, the Postal Service advised the Commission that it ''will delay the closing or consolidation of any Post Office until May 15, 2012'' [1]. The Postal Service further indicated that it ''will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.'' *Id.* It stated that the only ''Post Offices'' subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. It affirmed that it ''will not close or consolidate any other Post Office prior to May 16, 2012.'' *Id.* Lastly, the Postal Service requested the Commission ''to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.'' *Id.*

The Postal Service's Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service's request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. 404(d)(5).

Availability; Web site posting. The Commission has posted the appeal and supporting material on its Web site at *http://www.prc.gov.* Additional filings in this case and participants' submissions also will be posted on the Commission's Web site, if provided in electronic format or amenable to conversion, and not subject to a valid protective order. Information on how to use the Commission's Web site is available online or by contacting the Commission's webmaster via telephone at (202) 789–6873 or via electronic mail at *prc-webmaster@prc.gov.*

The appeal and all related documents are also available for public inspection in the Commission's docket section. Docket section hours are 8 a.m. to 4:30 p.m., eastern time, Monday through Friday, except on Federal government holidays. Docket section personnel may be contacted via electronic mail at *prc-dockets@prc.gov* or via telephone at (202) 789–6846.

Filing of documents. All filings of documents in this case shall be made using the Internet (Filing Online) pursuant to Commission rules 9(a) and 10(a) at the Commission's Web site, *http://www.prc.gov,* unless a waiver is obtained. *See* 39 CFR 3001.9(a) and 3001.10(a). Instructions for obtaining an account to file documents online may be found on the Commission's Web site or by contacting the Commission's docket section at *prc-dockets@prc.gov* or via telephone at (202) 789–6846.

The Commission reserves the right to redact personal information which may infringe on an individual's privacy rights from documents filed in this proceeding.

Intervention. Persons, other than Petitioner and respondent, wishing to be heard in this matter are directed to file a notice of intervention. *See* 39 CFR 3001.111(b). Notices of intervention in this case are to be filed on or before February 14, 2012. A notice of intervention shall be filed using the Internet (Filing Online) at the Commission's Web site unless a waiver is obtained for hardcopy filing. *See* 39 CFR 3001.9(a) and 3001.10(a).

Further procedures. By statute, the Commission is required to issue its decision within 120 days from the date it receives the appeal. *See* 39 U.S.C. 404(d)(5). A procedural schedule has been developed to accommodate this statutory deadline. In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service or other participants to submit information or memoranda of law on any appropriate issue. As required by the Commission rules, if any motions are filed, responses are due 7 days after any such motion is filed. *See* 39 CFR 3001.21.

It is ordered:

1. Any responsive pleading by the Postal Service to this notice is due no later than January 30, 2012.

2. The procedural schedule listed below is hereby adopted.

3. Pursuant to 39 U.S.C. 505, Malin Moench is designated officer of the Commission (Public Representative) to represent the interests of the general public.

4. The Secretary shall arrange for publication of this notice and order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

PROCEDURAL SCHEDULE

December 30, 2011	Filing of Appeal.
January 16, 2012	Deadline for the Postal Service to file the applicable administrative record in this appeal.
January 30, 2012	Deadline for the Postal Service to file any responsive pleading.
February 14, 2012	Deadline for notices to intervene (*see* 39 CFR 3001.111(b)).
February 3, 2012	Deadline for Petitioners' Form 61 or initial brief in support of petition (*see* 39 CFR 3001.115(a) and (b)).
February 23, 2012	Deadline for answering brief in support of the Postal Service (*see* 39 CFR 3001.115(c)).
March 9, 2012	Deadline for reply briefs in response to answering briefs (*see* 39 CFR 3001.115(d)).
March 16, 2012	Deadline for motions by any party requesting oral argument; the Commission will schedule oral argument only when it is a necessary addition to the written filings (*see* 39 CFR 3001.116).
April 20, 2012	Expiration of the Commission's 120-day decisional schedule (*see* 39 U.S.C. 404(d)(5)).

[1] United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, (Notice).

[FR Doc. 2012–1673 Filed 1–26–12; 8:45 a.m.]
BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. A2012–115; Order No. 1158]

Post Office Closing

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: This document informs the public that an appeal of the closing of the Highfalls, North Carolina post office has been filed. It identifies preliminary steps and provides a procedural schedule. Publication of this document will allow the Postal Service, petitioners, and others to take appropriate action.

DATES: *Deadline for Petitioner's Form 61:* February 15, 2012, 4:30 p.m., eastern time; deadline for answering brief in support of the Postal Service March 6, 2012, 4:30 p.m., eastern time. *See* the Procedural Schedule in the **SUPPLEMENTARY INFORMATION** section for other dates of interest.

ADDRESSES: Submit comments electronically by accessing the ''Filing Online'' link in the banner at the top of the Commission's Web site (*http://www.prc.gov*) or by directly accessing the Commission's Filing Online system at *https://www.prc.gov/prc-pages/filing-online/login.aspx.* Commenters who cannot submit their views electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section as the source for case-related information for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at (202) 789–6820 (case-related information) or *DocketAdmins@prc.gov* (electronic filing assistance).

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to 39 U.S.C. 404(d), the Commission received a petition for review of the Postal Service's determination to close the Highfalls post office in Highfalls, North Carolina. The petition for review received January 11, 2012, was filed by Dr. Larry V. Upchurch and is postmarked January 4, 2012.

The Commission hereby institutes a proceeding under 39 U.S.C. 404(d)(5) and establishes Docket No. A2012–115 to consider Petitioner's appeal. If Petitioner would like to further explain his position with supplemental information or facts, Petitioner may either file a Participant Statement on PRC Form 61 or file a brief with the Commission no later than February 15, 2012.

Issue apparently raised. Petitioner contends that there are factual errors contained in the Final Determination.

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than the one set forth above, or that the Postal Service's determination disposes of one or more of those issues. The deadline for the Postal Service to file the applicable administrative record with the Commission is January 26, 2012. The due date for any responsive pleading by the Postal Service to this Notice is January 30, 2012.

Notwithstanding the Postal Service's determination to close this post office, on December 15, 2011, the Postal Service advised the Commission that it ''will delay the closing or consolidation of any Post Office until May 15, 2012''.[1] The Postal Service further indicated that it ''will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.'' *Id.* It stated that the only ''Post Offices'' subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. It affirmed that it ''will not close or consolidate any other Post Office prior to May 16, 2012.'' *Id.* Lastly, the Postal Service requested the Commission ''to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.'' *Id.*

The Postal Service's Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service's request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. 404(d)(5).

Availability; Web site posting. The Commission has posted the appeal and supporting material on its Web site at *http://www.prc.gov.* Additional filings in this case and participants' submissions also will be posted on the Commission's Web site, if provided in electronic format or amenable to conversion, and not subject to a valid protective order. Information on how to use the Commission's Web site is available online or by contacting the Commission's webmaster via telephone at (202) 789–6873 or via electronic mail at *prc-webmaster@prc.gov.*

The appeal and all related documents are also available for public inspection in the Commission's docket section. Docket section hours are 8 a.m. to 4:30 p.m., eastern time, Monday through Friday, except on Federal government holidays. Docket section personnel may be contacted via electronic mail at *prc-dockets@prc.gov* or via telephone at (202) 789–6846.

Filing of documents. All filings of documents in this case shall be made using the Internet (Filing Online) pursuant to Commission rules 9(a) and 10(a) at the Commission's Web site, *http://www.prc.gov,* unless a waiver is obtained. *See* 39 CFR 3001.9(a) and 3001.10(a). Instructions for obtaining an account to file documents online may be found on the Commission's Web site or by contacting the Commission's docket section at *prc-dockets@prc.gov* or via telephone at (202) 789–6846.

The Commission reserves the right to redact personal information which may infringe on an individual's privacy rights from documents filed in this proceeding.

Intervention. Persons, other than Petitioner and respondent, wishing to be heard in this matter are directed to file a notice of intervention. *See* 39 CFR 3001.111(b). Notices of intervention in this case are to be filed on or before February 14, 2012. A notice of intervention shall be filed using the Internet (Filing Online) at the Commission's Web site unless a waiver is obtained for hardcopy filing. *See* 39 CFR 3001.9(a) and 3001.10(a).

Further procedures. By statute, the Commission is required to issue its decision within 120 days from the date it receives the appeal. *See* 39 U.S.C. 404(d)(5). A procedural schedule has been developed to accommodate this statutory deadline. In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service or other participants to submit information or memoranda of law on any appropriate issue. As required by the Commission rules, if any motions are filed, responses are due 7 days after any such motion is filed. *See* 39 CFR 3001.21.

It is ordered:

1. The Postal Service shall file the applicable administrative record regarding this appeal no later than January 26, 2012.

2. Any responsive pleading by the Postal Service to this notice is due no later than January 30, 2012.

3. The procedural schedule listed below is hereby adopted.

4. Pursuant to 39 U.S.C. 505, Brent Peckham is designated officer of the Commission (Public Representative) to

[1] United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, (Notice).

represent the interests of the general public.

5. The Secretary shall arrange for publication of this notice and order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

PROCEDURAL SCHEDULE

January 11, 2012	Filing of Appeal.
January 26, 2012	Deadline for the Postal Service to file the applicable administrative record in this appeal.
January 30, 2012	Deadline for the Postal Service to file any responsive pleading.
February 14, 2012	Deadline for notices to intervene (*see* 39 CFR 3001.111(b)).
February 15, 2012	Deadline for Petitioners' Form 61 or initial brief in support of petition (*see* 39 CFR 3001.115(a) and (b)).
March 6, 2012	Deadline for answering brief in support of the Postal Service (*see* 39 CFR 3001.115(c)).
March 21, 2012	Deadline for reply briefs in response to answering briefs (*see* 39 CFR 3001.115(d)).
March 28, 2012	Deadline for motions by any party requesting oral argument; the Commission will schedule oral argument only when it is a necessary addition to the written filings (*see* 39 CFR 3001.116).
May 3, 2012	Expiration of the Commission's 120-day decisional schedule (*see* 39 U.S.C. 404(d)(5)).

[FR Doc. 2012–1727 Filed 1–26–12; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. A2012–114; Order No. 1157]

Post Office Closing

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: This document informs the public that an appeal of the closing of the Ponce de Leon, Missouri post office has been filed. It identifies preliminary steps and provides a procedural schedule. Publication of this document will allow the Postal Service, petitioners, and others to take appropriate action.

DATES: *Deadline for Petitioner's Form 61:* February 10, 2012, 4:30 p.m., Eastern time; *deadline for answering brief in support of the Postal Service:* March 1, 2012, 4:30 p.m., Eastern time. *See* the Procedural Schedule in the **SUPPLEMENTARY INFORMATION** section for other dates of interest.

ADDRESSES: Submit comments electronically by accessing the ''Filing Online'' link in the banner at the top of the Commission's Web site (*http://www.prc.gov*) or by directly accessing the Commission's Filing Online system at *https://www.prc.gov/prc-pages/filing-online/login.aspx.* Commenters who cannot submit their views electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section as the source for case-related information for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at (202) 789–6820 (case-related information) or *DocketAdmins@prc.gov* (electronic filing assistance).

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to 39 U.S.C. 404(d), the Commission received a petition for review of the Postal Service's determination to close the Ponce de Leon Post Office in Ponce de Leon, Missouri. The petition for review received January 6, 2012, was filed by Marzee W. Grobe for Customers of Ponce de Leon, Missouri Post Office and is postmarked December 30, 2011.

The Commission hereby institutes a proceeding under 39 U.S.C. 404(d)(5) and establishes Docket No. A2012–114 to consider Petitioner's appeal. If Petitioner would like to further explain her position with supplemental information or facts, Petitioner may either file a Participant Statement on PRC Form 61 or file a brief with the Commission no later than February 10, 2012.

Issue apparently raised. Petitioner contends that: (1) The Postal Service failed to consider the effect of the closing on the community (*see* 39 U.S.C. 404(d)(2)(A)(i)); (2) the Postal Service failed to consider whether or not it will continue to provide a maximum degree of effective and regular postal services to the community (*see* 39 U.S.C. 404(d)(2)(A)(iii)); and (3) Petitioner contends that there are factual errors contained in the Final Determination.

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above, or that the Postal Service's determination disposes of one or more of those issues. The deadline for the Postal Service to file the applicable administrative record with the Commission is January 23, 2012. The due date for any responsive pleading by the Postal Service to this Notice is January 30, 2012.

Notwithstanding the Postal Service's determination to close this Post Office, on December 15, 2011, the Postal Service advised the Commission that it ''will delay the closing or consolidation of any Post Office until May 15, 2012.'' [1]. The Postal Service further indicated that it ''will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.'' *Id.* It stated that the only ''Post Offices'' subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. It affirmed that it ''will not close or consolidate any other Post Office prior to May 16, 2012.'' *Id.* Lastly, the Postal Service requested the Commission ''to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.'' *Id.*

The Postal Service's Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service's request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. 404(d)(5).

Availability; Web site posting. The Commission has posted the appeal and supporting material on its Web site at *http://www.prc.gov.* Additional filings in this case and participants' submissions also will be posted on the Commission's Web site, if provided in electronic format or amenable to conversion, and not subject to a valid protective order. Information on how to use the Commission's Web site is available online or by contacting the Commission's Web Master via telephone at (202) 789–6873 or via electronic mail at *prc-webmaster@prc.gov.*

The appeal and all related documents are also available for public inspection in the Commission's docket section. Docket section hours are 8 a.m. to 4:30 p.m., Eastern time, Monday through Friday, except on Federal government

[1] United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, (Notice).

holidays. Docket section personnel may be contacted via electronic mail at *prc-dockets@prc.gov* or via telephone at (202) 789–6846.

Filing of documents. All filings of documents in this case shall be made using the Internet (Filing Online) pursuant to Commission rules 9(a) and 10(a) at the Commission's Web site, *http://www.prc.gov,* unless a waiver is obtained. *See* 39 CFR 3001.9(a) and 3001.10(a). Instructions for obtaining an account to file documents online may be found on the Commission's Web site or by contacting the Commission's docket section at *prc-dockets@prc.gov* or via telephone at (202) 789–6846.

The Commission reserves the right to redact personal information which may infringe on an individual's privacy rights from documents filed in this proceeding.

Intervention. Persons, other than Petitioner and respondent, wishing to be heard in this matter are directed to file a notice of intervention. *See* 39 CFR 3001.111(b). Notices of intervention in this case are to be filed on or before February 14, 2012. A notice of intervention shall be filed using the Internet (Filing Online) at the Commission's Web site unless a waiver is obtained for hardcopy filing. *See* 39 CFR 3001.9(a) and 3001.10(a).

Further procedures. By statute, the Commission is required to issue its decision within 120 days from the date it receives the appeal. *See* 39 U.S.C. 404(d)(5). A procedural schedule has been developed to accommodate this statutory deadline. In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service or other participants to submit information or memoranda of law on any appropriate issue. As required by the Commission rules, if any motions are filed, responses are due 7 days after any such motion is filed. *See* 39 CFR 3001.21.

It is ordered:

1. The Postal Service shall file the applicable administrative record regarding this appeal no later than January 23, 2012.

2. Any responsive pleading by the Postal Service to this notice is due no later than January 30, 2012.

3. The procedural schedule listed below is hereby adopted.

4. Pursuant to 39 U.S.C. 505, Getachew Mekonnen is designated officer of the Commission (Public Representative) to represent the interests of the general public.

5. The Secretary shall arrange for publication of this notice and order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

PROCEDURAL SCHEDULE

January 6, 2012	Filing of Appeal.
January 23, 2012	Deadline for the Postal Service to file the applicable administrative record in this appeal.
January 30, 2012	Deadline for the Postal Service to file any responsive pleading.
February 14, 2012	Deadline for notices to intervene (*see* 39 CFR 3001.111(b)).
February 10, 2012	Deadline for Petitioners' Form 61 or initial brief in support of petition (*see* 39 CFR 3001.115(a) and (b)).
March 1, 2012	Deadline for answering brief in support of the Postal Service (*see* 39 CFR 3001.115(c)).
March 16, 2012	Deadline for reply briefs in response to answering briefs (*see* 39 CFR 3001.115(d)).
March 23, 2012	Deadline for motions by any party requesting oral argument; the Commission will schedule oral argument only when it is a necessary addition to the written filings (*see* 39 CFR 3001.116).
April 27, 2012	Expiration of the Commission's 120-day decisional schedule (*see* 39 U.S.C. 404(d)(5)).

[FR Doc. 2012–1722 Filed 1–26–12; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. A2012–113; Order No. 1156]

Post Office Closing

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: This document informs the public that an appeal of the closing of the Peterson, Minnesota post office has been filed. It identifies preliminary steps and provides a procedural schedule. Publication of this document will allow the Postal Service, petitioners, and others to take appropriate action.

DATES: Deadline for Petitioner's Form 61: February 10, 2012, 4:30 p.m., eastern time; deadline for answering brief in support of the Postal Service: March 1, 2012, 4:30 p.m., eastern time. *See* the Procedural Schedule in the **SUPPLEMENTARY INFORMATION** section for other dates of interest.

ADDRESSES: Submit comments electronically by accessing the ''Filing Online'' link in the banner at the top of the Commission's Web site (*http://www.prc.gov*) or by directly accessing the Commission's Filing Online system at *https://www.prc.gov/prc-pages/filing-online/login.aspx.* Commenters who cannot submit their views electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section as the source for case-related information for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at (202) 789–6820 (case-related information) or *DocketAdmins@prc.gov* (electronic filing assistance).

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to 39 U.S.C. 404(d), the Commission received a petition for review of the Postal Service's determination to close the Peterson post office in Peterson, Minnesota. The petition for review received January 6, 2012, was filed by Jennifer M. Wood, Mayor of the City of Peterson and is postmarked December 31, 2011.

The Commission hereby institutes a proceeding under 39 U.S.C. 404(d)(5) and establishes Docket No. A2012–113 to consider Petitioner's appeal. If Petitioner would like to further explain her position with supplemental information or facts, Petitioner may either file a Participant Statement on PRC Form 61 or file a brief with the Commission no later than February 10, 2012.

Issue apparently raised. Petitioner contends that the Postal Service failed to consider the effect of the closing on the community. *See* 39 U.S.C. 404(d)(2)(A)(i).

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than the one set forth above, or that the Postal Service's determination disposes of one or more of those issues. The deadline for the Postal Service to file the applicable administrative record with the Commission is January 23, 2012. The due date for any responsive

pleading by the Postal Service to this Notice is January 30, 2012.

Notwithstanding the Postal Service's determination to close this post office, on December 15, 2011, the Postal Service advised the Commission that it ''will delay the closing or consolidation of any Post Office until May 15, 2012''.[1] The Postal Service further indicated that it ''will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.'' *Id.* It stated that the only ''Post Offices'' subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. It affirmed that it ''will not close or consolidate any other Post Office prior to May 16, 2012.'' *Id.* Lastly, the Postal Service requested the Commission ''to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.'' *Id.*

The Postal Service's Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service's request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. 404(d)(5).

Availability; Web site posting. The Commission has posted the appeal and supporting material on its Web site at *http://www.prc.gov.* Additional filings in this case and participants' submissions also will be posted on the Commission's Web site, if provided in electronic format or amenable to conversion, and not subject to a valid protective order. Information on how to use the Commission's Web site is available online or by contacting the Commission's webmaster via telephone at (202) 789–6873 or via electronic mail at *prc-webmaster@prc.gov.*

The appeal and all related documents are also available for public inspection in the Commission's docket section. Docket section hours are 8 a.m. to 4:30 p.m., eastern time, Monday through Friday, except on Federal government holidays. Docket section personnel may be contacted via electronic mail at *prc-dockets@prc.gov* or via telephone at (202) 789–6846.

Filing of documents. All filings of documents in this case shall be made using the Internet (Filing Online) pursuant to Commission rules 9(a) and 10(a) at the Commission's Web site, *http://www.prc.gov,* unless a waiver is obtained. *See* 39 CFR 3001.9(a) and 3001.10(a). Instructions for obtaining an account to file documents online may be found on the Commission's Web site or by contacting the Commission's docket section at *prc-dockets@prc.gov* or via telephone at (202) 789–6846.

The Commission reserves the right to redact personal information which may infringe on an individual's privacy rights from documents filed in this proceeding.

Intervention. Persons, other than Petitioner and respondent, wishing to be heard in this matter are directed to file a notice of intervention. *See* 39 CFR 3001.111(b). Notices of intervention in this case are to be filed on or before February 14, 2012. A notice of intervention shall be filed using the Internet (Filing Online) at the Commission's Web site unless a waiver is obtained for hardcopy filing. *See* 39 CFR 3001.9(a) and 3001.10(a).

Further procedures. By statute, the Commission is required to issue its decision within 120 days from the date it receives the appeal. *See* 39 U.S.C. 404(d)(5). A procedural schedule has been developed to accommodate this statutory deadline. In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service or other participants to submit information or memoranda of law on any appropriate issue. As required by the Commission rules, if any motions are filed, responses are due 7 days after any such motion is filed. *See* 39 CFR 3001.21.

It is ordered:

1. The Postal Service shall file the applicable administrative record regarding this appeal no later than January 23, 2012.

2. Any responsive pleading by the Postal Service to this notice is due no later than January 30, 2012.

3. The procedural schedule listed below is hereby adopted.

4. Pursuant to 39 U.S.C. 505, Derrick D. Dennis is designated officer of the Commission (Public Representative) to represent the interests of the general public.

5. The Secretary shall arrange for publication of this notice and order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

PROCEDURAL SCHEDULE

January 6, 2012	Filing of Appeal.
January 23, 2012	Deadline for the Postal Service to file the applicable administrative record in this appeal.
January 30, 2012	Deadline for the Postal Service to file any responsive pleading.
February 14, 2012	Deadline for notices to intervene (*see* 39 CFR 3001.111(b)).
February 10, 2012	Deadline for Petitioners' Form 61 or initial brief in support of petition (*see* 39 CFR 3001.115(a) and (b)).
March 1, 2012	Deadline for answering brief in support of the Postal Service (*see* 39 CFR 3001.115(c)).
March 16, 2012	Deadline for reply briefs in response to answering briefs (*see* 39 CFR 3001.115(d)).
March 23, 2012	Deadline for motions by any party requesting oral argument; the Commission will schedule oral argument only when it is a necessary addition to the written filings (*see* 39 CFR 3001.116).
April 27, 2012	Expiration of the Commission's 120-day decisional schedule (*see* 39 U.S.C. 404(d)(5)).

[FR Doc. 2012–1715 Filed 1–26–12; 8:45 am]

BILLING CODE 7710–FW–P

[1] United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, (Notice).

POSTAL REGULATORY COMMISSION

[Docket No. A2012–112; Order No. 1155]

Post Office Closing

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: This document informs the public that an appeal of the closing of the Elwell, Michigan post office has been filed. It identifies preliminary steps and provides a procedural schedule. Publication of this document will allow the Postal Service, petitioners, and others to take appropriate action.

DATES: *Deadline for Petitioner's Form 61:* February 7, 2012, 4:30 p.m., eastern time.

Deadline for answering brief in support of the Postal Service: February 27, 2012, 4:30 p.m., eastern time: *See* the Procedural Schedule in the **SUPPLEMENTARY INFORMATION** section for other dates of interest.

ADDRESSES: Submit comments electronically by accessing the ''Filing Online'' link in the banner at the top of the Commission's Web site (*http://www.prc.gov*) or by directly accessing the Commission's Filing Online system at *https://www.prc.gov/prc-pages/filing-online/login.aspx.* Commenters who cannot submit their views electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section as the source for case-related information for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at (202) 789–6820 (case-related information) or *DocketAdmins@prc.gov* (electronic filing assistance).

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to 39 U.S.C. 404(d), the Commission received three petitions for review of the Postal Service's determination to close the Elwell post office in Elwell, Michigan. The first petition for review received January 3, 2012, was filed by Marjorie Brecht. The second petition for review received January 6, 2012, was filed by John Hutchins. The third petition for review received January 11, 2012, was filed by Patricia Walsh Mallory. The earliest postmark date is December 24, 2011.

The Commission hereby institutes a proceeding under 39 U.S.C. 404(d)(5) and establishes Docket No. A2012–112 to consider Petitioners' appeal. If Petitioners would like to further explain their position with supplemental information or facts, Petitioners may either file a Participant Statement on PRC Form 61 or file a brief with the Commission no later than February 7, 2012.

Issues apparently raised. Petitioners contend that: (1) The Postal Service failed to consider the effect of the closing on the community (*see* 39 U.S.C. 404(d)(2)(A)(i)); and (2) the Postal Service failed to consider whether or not it will continue to provide a maximum degree of effective and regular postal services to the community (*see* 39 U.S.C. 404(d)(2)(A)(iii)).

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above, or that the Postal Service's determination disposes of one or more of those issues. The due date for any responsive pleading by the Postal Service to this Notice is January 30, 2012.

Notwithstanding the Postal Service's determination to close this post office, on December 15, 2011, the Postal Service advised the Commission that it ''will delay the closing or consolidation of any Post Office until May 15, 2012''.[1] The Postal Service further indicated that it ''will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.'' *Id.* It stated that the only ''Post Offices'' subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. It affirmed that it ''will not close or consolidate any other Post Office prior to May 16, 2012.'' *Id.* Lastly, the Postal Service requested the Commission ''to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.'' *Id.*

The Postal Service's Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service's request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. 404(d)(5).

Availability; Web site posting. The Commission has posted the appeal and supporting material on its Web site at *http://www.prc.gov.* Additional filings in this case and participants' submissions also will be posted on the Commission's Web site, if provided in electronic format or amenable to conversion, and not subject to a valid protective order. Information on how to use the Commission's Web site is available online or by contacting the Commission's webmaster via telephone at (202) 789–6873 or via electronic mail at *prc-webmaster@prc.gov.*

The appeal and all related documents are also available for public inspection in the Commission's docket section. Docket section hours are 8 a.m. to 4:30 p.m., eastern time, Monday through Friday, except on Federal government holidays. Docket section personnel may be contacted via electronic mail at *prc-dockets@prc.gov* or via telephone at (202) 789–6846.

Filing of documents. All filings of documents in this case shall be made using the Internet (Filing Online) pursuant to Commission rules 9(a) and 10(a) at the Commission's Web site, *http://www.prc.gov,* unless a waiver is obtained. *See* 39 CFR 3001.9(a) and 3001.10(a). Instructions for obtaining an account to file documents online may be found on the Commission's Web site or by contacting the Commission's docket section at *prc-dockets@prc.gov* or via telephone at (202) 789–6846.

The Commission reserves the right to redact personal information which may infringe on an individual's privacy rights from documents filed in this proceeding.

Intervention. Persons, other than Petitioners and respondent, wishing to be heard in this matter are directed to file a notice of intervention. *See* 39 CFR 3001.111(b). Notices of intervention in this case are to be filed on or before February 14, 2012. A notice of intervention shall be filed using the Internet (Filing Online) at the Commission's Web site unless a waiver is obtained for hardcopy filing. *See* 39 CFR 3001.9(a) and 3001.10(a).

Further procedures. By statute, the Commission is required to issue its decision within 120 days from the date it receives the appeal. *See* 39 U.S.C. 404(d)(5). A procedural schedule has been developed to accommodate this statutory deadline. In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service or other participants to submit information or memoranda of law on any appropriate issue. As required by the Commission rules, if any motions are filed, responses are due 7 days after any such motion is filed. *See* 39 CFR 3001.21.

It is ordered:

1. Any responsive pleading by the Postal Service to this notice is due no later than January 30, 2012.

2. The procedural schedule listed below is hereby adopted.

3. Pursuant to 39 U.S.C. 505, James F. Callow is designated officer of the Commission (Public Representative) to

[1] United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, (Notice).

represent the interests of the general public.

4. The Secretary shall arrange for publication of this notice and order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

PROCEDURAL SCHEDULE

January 3, 2012	Filing of Appeal.
January 18, 2012	Deadline for the Postal Service to file the applicable administrative record in this appeal.
January 30, 2012	Deadline for the Postal Service to file any responsive pleading.
February 14, 2012	Deadline for notices to intervene (*see* 39 CFR 3001.111(b)).
February 7, 2012	Deadline for Petitioners' Form 61 or initial brief in support of petition (*see* 39 CFR 3001.115(a) and (b)).
February 27, 2012	Deadline for answering brief in support of the Postal Service (*see* 39 CFR 3001.115(c)).
March 13, 2012	Deadline for reply briefs in response to answering briefs (*see* 39 CFR 3001.115(d)).
March 20, 2012	Deadline for motions by any party requesting oral argument; the Commission will schedule oral argument only when it is a necessary addition to the written filings (*see* 39 CFR 3001.116).
April 20, 2012	Expiration of the Commission's 120-day decisional schedule (*see* 39 U.S.C. 404(d)(5)).

[FR Doc. 2012–1695 Filed 1–26–12; 8:45 am]

BILLING CODE 7710–FW–P

RAILROAD RETIREMENT BOARD

Public Availability of Railroad Retirement Board FY 2011 Service Contract Inventory

AGENCY: Railroad Retirement Board (RRB).

ACTION: Notice of Public Availability of FY 2011 Service Contract Inventories.

SUMMARY: In accordance with Section 743 of Division C of the Consolidated Appropriations Act of 2010 (Pub. L. 111–117), Railroad Retirement Board is publishing this notice to advise the public of the availability of the FY 2011 Service Contract inventory. This inventory provides information on service contract actions, over $25,000, which the RRB awarded during FY 2011. The information is organized by function to show how contracted resources were used by the agency to support its mission. The inventory has been developed in accordance with guidance issued on November 5, 2010, as updated December 19, 2011 by the Office of Management and Budget's Office of Federal Procurement Policy (OFPP). OFPP's guidance is available at: *http://www.whitehouse.gov/sites/default/files/omb/procurement/memo/service-contract-inventory-guidance.pdf*. The Railroad Retirement Board has posted its inventory and a summary of the inventory on the Railroad Retirement Board homepage at the following link: *http://www.rrb.gov/mep/agency_mgt.asp*.

FOR FURTHER INFORMATION CONTACT: Questions regarding the service contract inventory should be directed to Paul Ahern in the Acquisition Management Division, Office of Administration at (312) 751–7130 or *paul.ahern@rrb.gov*.

Dated: January 23, 2012.

By Authority of the Board.

Martha P. Rico,

Secretary to the Board.

[FR Doc. 2012–1778 Filed 1–26–12; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Regulation G; OMB Control No. 3235–0576; SEC File No. 270–518.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Regulation G (17 CFR 244.100–244.102) under the Securities Exchange Act of 1934 (the ''Exchange Act'') (15 U.S.C. 78a *et seq.*) requires Exchange Act registrants that disclose or release financial information in a manner that is calculated or presented other than in accordance with generally accepted accounting principles (''GAAP'') to provide a reconciliation of the non-GAAP financial information to the most directly comparable GAAP financial measure. Regulation G implemented the requirements of Section 401 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7261). We estimate that approximately 14,000 public companies must comply with Regulation G approximately six times a year for a total of 84,000 responses annually. We estimated that it takes approximately 0.5 hours per response (84,000 × 0.5 hours) for a total reporting burden of 42,000 hours annually.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov*. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or send an email to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: January 23, 2012.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–1741 Filed 1–26–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Regulation S–K; OMB Control No. 3235–0071; SEC File No. 270–2.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Regulation S–K (17 CFR 229.101 *et seq.*) specifies the non-financial disclosure requirements applicable to registration statements under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*); and registration statements, periodic reports, going-private transaction and tender offer statements, proxy and information statements, and any other documents required to be filed under Sections 12, 13, 14, and 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78*l,* 78m, 78n, 78o(d)). Regulation S–K is assigned one burden hour for administrative convenience.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov*. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or send an email to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: January 23, 2012.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–1742 Filed 1–26–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66216; File No. SR–Phlx–2012–07]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Pilot Period of the Trading Pause for NMS Stocks Other Than Rights and Warrants

January 23, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 11, 2012, NASDAQ OMX PHLX LLC (''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the pilot period of the trading pause for individual NMS stocks other than rights and warrants, so that the pilot will now expire on July 31, 2012.

The text of the proposed rule change is below. Proposed new language is italicized; proposed deletions are in brackets.

* * * * *

Rule 3100. Trading Halts on PSX

(a) Authority to Initiate Trading Halts or Pauses

In circumstances in which the Exchange deems it necessary to protect investors and the public interest, and pursuant to the procedures set forth in paragraph (c):

(1)–(3) No change.

(4) If a primary listing market issues an individual stock trading pause in any of the Circuit Breaker Securities, as defined herein, the Exchange will pause trading in that security until trading has resumed on the primary listing market. If, however, trading has not resumed on the primary listing market and ten minutes have passed since the individual stock trading pause message has been received from the responsible single plan processor, the Exchange may resume trading in such stock. The provisions of this paragraph (a)(4) shall be in effect during a pilot set to end on *July 31, 2012* [January 31, 2012]. During the pilot, the term ''Circuit Breaker Securities'' shall mean any NMS stock except rights and warrants.

(b)–(c) No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

On June 10, 2010, the Commission granted accelerated approval, for a pilot period to end December 10, 2010, of proposed rule changes submitted by the of the BATS Exchange, Inc., NASDAQ OMX BX, Inc., Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., International Securities Exchange LLC, The NASDAQ Stock Market LLC (''NASDAQ''), New York Stock Exchange LLC (''NYSE''), NYSE Amex LLC (''NYSE Amex''), NYSE Arca, Inc. (''NYSE Arca''), and National Stock Exchange, Inc. (collectively, the ''Exchanges''), to pause trading during periods of extraordinary market volatility in S&P 500 stocks.[3] The rules require the Listing Markets[4] to issue five-minute trading pauses for individual securities for which they are the primary Listing Market if the transaction price of the security moves ten percent or more from a price in the preceding five-minute period. The Listing Markets are required to notify the other Exchanges and market participants of the imposition of a trading pause by immediately disseminating a special indicator over the consolidated tape. Under the rules, once the Listing Market issues a trading pause, the other Exchanges are required to pause trading in the security on their

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 62252 (June 10, 2010), 75 FR 34186 (June 16, 2010).

[4] The term ''Listing Markets'' refers collectively to NYSE, NYSE Amex, NYSE Arca, and NASDAQ.

markets. On September 10, 2010, the Commission approved the respective rule filings of the Exchanges to expand application of the pilot to securities comprising the Russell 1000® Index and specified Exchange Traded Products.[5]

In connection with its resumption of trading of NMS Stocks through the NASDAQ OMX PSX system, the Exchange adopted Rule 3100(a)(4) so that it could participate in the pilot program.[6] On September 29, 2010, the Exchange amended Rule 3100(a)(4) to include stocks comprising the Russell 1000® Index and specified Exchange Traded Products.[7] On December 7, 2010, the Exchange filed an immediately effective filing to extend the existing pilot program for four months, so that the pilot would expire on April 11, 2011.[8] On March 31, 2011, the Exchange filed an immediately effective filing to extend the pilot period an additional four months, so that the pilot would expire on August 11, 2011 or the date on which a limit up/limit down mechanism to address extraordinary market volatility, if adopted, applies.[9] On June 23, 2011, the Commission approved the expansion of the pilot to all NMS stocks, but with different pause-triggering thresholds.[10] On August 8, 2011, the Exchange filed an immediately effective filing that removed language from the rule that tied the expiration of the pilot to the adoption of a limit up/limit down mechanism to address extraordinary market volatility, and further extended the pilot period, so that the pilot would expire on January 31, 2012.[11] On November 18, 2011, the Exchange filed an immediately effective filing that excluded rights and warrants from the pilot.[12]

The Exchange believes that the pilot program has been successful in reducing the negative impacts of sudden, unanticipated price movements in the securities covered by the pilot. The Exchange also believes that an additional extension of the pilot is warranted so that it may continue to assess whether circuit breakers are the best means to reduce the negative impacts of sudden, unanticipated price movements or whether alternative mechanisms would be more effective in achieving this goal.

2. Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(5) of the Securities Exchange Act of 1934 (the ''Act''),[13] which requires the rules of an exchange to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule change also is designed to support the principles of Section 11A(a)(1)[14] of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The Exchange believes that the proposed rule meets these requirements in that it promotes transparency and uniformity across markets concerning decisions to pause trading in a security when there are significant price movements.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[15] and Rule 19b–4(f)(6) thereunder.[16] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[17] and Rule 19b–4(f)(6)(iii) thereunder.[18]

A proposed rule change filed under Rule 19b–4(f)(6)[19] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii)[20] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the pilot program to continue uninterrupted, thereby avoiding the investor confusion that could result from a temporary interruption in the pilot program. For this reason, the Commission designates the proposed rule change to be operative upon filing.[21]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

[5] Securities Exchange Act Release No. 62884 (September 10, 2010), 75 FR 56618 (September 16, 2010).

[6] Securities Exchange Act Release No. 62877 (September 9, 2010), 75 FR 56633 (September 16, 2010) (SR–Phlx–2010–79).

[7] Securities Exchange Act Release No. 63004 (September 29, 2010), 75 FR 61547 (October 5, 2010) (SR–Phlx–2010–126).

[8] Securities Exchange Act Release No. 63504 (December 9, 2010), 75 FR 78304 (December 15, 2010) (SR–Phlx–2010–174).

[9] Securities Exchange Act Release No. 64175 (April 4, 2011), 76 FR 19823 (April 8, 2011) (SR–Phlx–2011–044).

[10] Securities Exchange Act Release No. 64735 (June 23, 2011), 76 FR 38243 (June 29, 2011) (SR–Phlx–2011–064, *et al.*).

[11] Securities Exchange Act Release No. 65083 (August 10, 2011), 76 FR 50801 (August 16, 2011) (SR–Phlx–2011–113).

[12] Securities Exchange Act Release No. 65813 (November 23, 2011), 76 FR 74113 (November 30, 2011) (SR–Phlx–2011–158).

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78k–1(a)(1).

[15] 15 U.S.C. 78s(b)(3)(A)(iii).

[16] 17 CFR 240.19b–4(f)(6).

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[19] 17 CFR 240.19b–4(f)(6).

[20] 17 CFR 240.19b–4(f)(6)(iii).

[21] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–Phlx–2012–07 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–Phlx–2012–07. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–Phlx–2012–07 and should be submitted on or before February 17, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–1740 Filed 1–26–12; 8:45 am]

BILLING CODE 8011–01–P

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66215; File No. SR–BX–2012–003]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Pilot Period of the Trading Pause for NMS Stocks Other Than Rights and Warrants

January 23, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 11, 2012, NASDAQ OMX BX, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the pilot period of the trading pause for individual NMS stocks other than rights and warrants, so that the pilot will now expire on July 31, 2012.

The text of the proposed rule change is below. Proposed new language is italicized; proposed deletions are in brackets.

* * * * *

IM–4120–3. Circuit Breaker Securities Pilot

The provisions of paragraph (a)(11) of this Rule shall be in effect during a pilot set to end on *July 31, 2012*[January 31, 2012]. During the pilot, the term ''Circuit Breaker Securities'' shall mean all NMS stocks except rights and warrants.

* * * * *

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 parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

On June 10, 2010, the Commission granted accelerated approval, for a pilot period to end December 10, 2010, for a proposed rule change submitted by the Exchange, together with related rule changes of the BATS Exchange, Inc., Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., International Securities Exchange LLC, The NASDAQ Stock Market LLC (''NASDAQ''), New York Stock Exchange LLC (''NYSE''), NYSE Amex LLC (''NYSE Amex''), NYSE Arca, Inc. (''NYSE Arca''), and National Stock Exchange, Inc. (collectively, the ''Exchanges''), to pause trading during periods of extraordinary market volatility in S&P 500 stocks.[3] The rules require the Listing Markets[4] to issue five-minute trading pauses for individual securities for which they are the primary Listing Market if the transaction price of the security moves ten percent or more from a price in the preceding five-minute period. The Listing Markets are required to notify the other Exchanges and market participants of the imposition of a trading pause by immediately disseminating a special indicator over the consolidated tape. Under the rules, once the Listing Market issues a trading pause, the other Exchanges are required to pause trading in the security on their markets. On September 10, 2010, the Commission approved the respective rule filings of the Exchanges to expand application of the pilot to the Russell 1000® Index and specified Exchange Traded Products.[5] On December 7, 2010, the Exchange filed an immediately effective filing to extend the existing pilot program for four months, so that the pilot would expire on April 11, 2011.[6] On March 31, 2011, the Exchange filed an immediately effective filing to extend the pilot period

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 62252 (June 10, 2010), 75 FR 34186 (June 16, 2010) (SR–BX–2010–037).

[4] The term ''Listing Markets'' refers collectively to NYSE, NYSE Amex, NYSE Arca, and NASDAQ.

[5] Securities Exchange Act Release No. 62884 (September 10, 2010), 75 FR 56618 (September 16, 2010) (SR–BX–2010–044).

[6] Securities Exchange Act Release No. 63527 (December 10, 2010), 75 FR 78781 (December 16, 2010) (SR–BX–2010–088).

an additional four months, so that the pilot would expire on August 11, 2011 or the date on which a limit up/limit down mechanism to address extraordinary market volatility, if adopted, applies.[7] On June 23, 2011, the Commission approved the expansion of the pilot to all NMS stocks, but with different pause-triggering thresholds.[8] On August 8, 2011, the Exchange filed an immediately effective filing that removed language from the rule that tied the expiration of the pilot to the adoption of a limit up/limit down mechanism to address extraordinary market volatility, and further extended the pilot period, so that the pilot would expire on January 31, 2012.[9] On November 18, 2011, the Exchange filed an immediately effective filing that excluded rights and warrants from the pilot.[10]

The Exchange believes that the pilot program has been successful in reducing the negative impacts of sudden, unanticipated price movements in the securities covered by the pilot. The Exchange also believes that an additional extension of the pilot is warranted so that it may continue to assess whether circuit breakers are the best means to reduce the negative impacts of sudden, unanticipated price movements or whether alternative mechanisms would be more effective in achieving this goal.

2. Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(5) of the Securities Exchange Act of 1934 (the ''Act''),[11] which requires the rules of an exchange to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule change also is designed to support the principles of Section 11A(a)(1)[12] of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The Exchange believes that the proposed rule meets these requirements in that it promotes transparency and uniformity across markets concerning decisions to pause trading in a security when there are significant price movements.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[13] and Rule 19b–4(f)(6) thereunder.[14] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[15] and Rule 19b–4(f)(6)(iii) thereunder.[16]

A proposed rule change filed under Rule 19b–4(f)(6)[17] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii)[18] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the pilot program to continue uninterrupted, thereby avoiding the investor confusion that could result from a temporary interruption in the pilot program. For this reason, the Commission designates the proposed rule change to be operative upon filing.[19]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–BX–2012–003 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–BX–2012–003. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be

[7] Securities Exchange Act Release No. 64176 (April 4, 2011), 76 FR 19821 (April 8, 2011) (SR–BX–2011–018).

[8] Securities Exchange Act Release No. 64735 (June 23, 2011), 76 FR 38243 (June 29, 2011) (SR–BX–2011–025, *et al.*).

[9] Securities Exchange Act Release No. 65093 (August 10, 2011), 76 FR 50781 (August 16, 2011) (SR–BX–2011–055).

[10] Securities Exchange Act Release No. 65815 (November 23, 2011), 76 FR 74109 (November 30, 2011) (SR–BX–2011–079).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78k–1(a)(1).

[13] 15 U.S.C. 78s(b)(3)(A)(iii).

[14] 17 CFR 240.19b–4(f)(6).

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[17] 17 CFR 240.19b–4(f)(6).

[18] 17 CFR 240.19b–4(f)(6)(iii).

[19] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–BX–2012–003 and should be submitted on or before February 17, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–1739 Filed 1–26–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of Tornado Gold International Corp., Twin Faces East Entertainment Corp., Universal Ice Blast, Inc., US Farms, Inc., US Microbics, Inc., and Visitel Network (a/k/a PRG Group, Inc.); Order of Suspension of Trading

January 25, 2012.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Tornado Gold International Corp. because it has not filed any periodic reports since the period ended June 30, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Twin Faces East Entertainment Corp. because it has not filed any periodic reports since the period ended June 30, 2006.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Universal Ice Blast, Inc. because it has not filed any periodic reports since the period ended June 30, 2004.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of US Farms, Inc. because it has not filed any periodic reports since the period ended September 30, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of US Microbics, Inc. because it has not filed any periodic reports since the period ended June 30, 2007.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Visitel Network, Inc. (a/k/a PRG Group, Inc.) because it has not filed any periodic reports since the period ended September 30, 1995.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EST on January 25, 2012, through 11:59 p.m. EST on February 7, 2012.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2012–1903 Filed 1–25–12; 11:15 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice 7776]

Persons on Whom Sanctions Have Been Imposed Under the Iran Sanctions Act of 1996

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: The Secretary of State has determined that the following persons have engaged in sanctionable activity described in section 5(a) of the Iran Sanctions Act of 1996 (Pub. L. 104–172) (50 U.S.C. 1701 note) (''ISA''), as amended by the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Pub. L. 111–195) (22 U.S.C. 8501–51) (''CISADA''), and that certain sanctions should be imposed as a result: FAL Oil Company Limited; Kuo Oil (S) Pte. Ltd.; and Zhuhai Zhenrong Company.

DATES: *Effective Date:* The sanctions on FAL Oil Company Limited; Kuo Oil (S) Pte. Ltd.; and Zhuhai Zhenrong Company are effective January 12, 2012.

FOR FURTHER INFORMATION CONTACT: On general issues: Norman Galimba, Office of Terrorism Finance and Economic Sanctions Policy, Department of State, Telephone: (202) 647–9183. For U.S. Government procurement ban issues: Daniel Walt, Office of the Procurement Executive, Department of State, Telephone: (703) 516–1696.

SUPPLEMENTARY INFORMATION: Pursuant to the authority delegated to the Secretary of State in the Presidential Memorandum of September 23, 2010, 75 FR 67025 (the ''Delegation Memorandum''), the Secretary has determined that the following persons have engaged in sanctionable activity described in section 5(a) of the ISA, as amended by the CISADA: FAL Oil Company Limited; Kuo Oil (S) Pte. Ltd.; and Zhuhai Zhenrong Company.

Pursuant to section 5(a) of the ISA and the Delegation Memorandum, the Secretary determined to impose on FAL Oil Company Limited the following sanctions described in section 6 of the ISA:

1. Export-Import Bank assistance for exports to sanctioned persons. The Export-Import Bank of the United States shall not give approval to the issuance of any guarantee, insurance, extension of credit, or participation in the extension of credit in connection with the export of any goods or services to FAL Oil Company Limited.

2. Export sanction. The United States Government shall not issue any specific license and shall not grant any other specific permission or authority to export any goods or technology to FAL Oil Company Limited under—

a. The Export Administration Act of 1979 (50 U.S.C. Appx. §§ 2401 *et seq.*);

b. The Arms Export Control Act (22 U.S.C. 2751 *et seq.*);

c. The Atomic Energy Act of 1954 (42 U.S.C. 2011 *et seq.*); or

d. Any other statute that requires the prior review and approval of the United States Government as a condition for the export or re-export of goods or services.

3. Loans from United States financial institutions. United States financial institutions shall be prohibited from making loans or providing credits to FAL Oil Company Limited totaling more than $10,000,000 in any 12-month period unless FAL Oil Company Limited is engaged in activities to relieve human suffering and the loans or credits are provided for such activities.

These sanctions apply with respect to FAL Oil Company Limited and not to any subsidiary, affiliate, or shareholder thereof unless separately identified.

Pursuant to section 5(a) of the ISA and the Delegation Memorandum, the Secretary determined to impose on Kuo Oil (S) Pte. Ltd. the following sanctions described in section 6 of the ISA:

[20] 17 CFR 200.30–3(a)(12).

1. Export-Import Bank assistance for exports to sanctioned persons. The Export-Import Bank of the United States shall not give approval to the issuance of any guarantee, insurance, extension of credit, or participation in the extension of credit in connection with the export of any goods or services to Kuo Oil (S) Pte. Ltd.

2. Export sanction. The United States Government shall not issue any specific license and shall not grant any other specific permission or authority to export any goods or technology to Kuo Oil (S) Pte. Ltd. under—

a. The Export Administration Act of 1979 (50 U.S.C. Appx. §§ 2401 *et seq.*);

b. The Arms Export Control Act (22 U.S.C. 2751 *et seq.*);

c. The Atomic Energy Act of 1954 (42 U.S.C. 2011 *et seq.*); or

d. Any other statute that requires the prior review and approval of the United States Government as a condition for the export or re-export of goods or services.

3. Loans from United States financial institutions. United States financial institutions shall be prohibited from making loans or providing credits to Kuo Oil (S) Pte. Ltd. totaling more than $10,000,000 in any 12-month period unless Kuo Oil (S) Pte. Ltd. is engaged in activities to relieve human suffering and the loans or credits are provided for such activities.

These sanctions apply with respect to Kuo Oil (S) Pte. Ltd. and not to any subsidiary, affiliate, or shareholder thereof unless separately identified.

Pursuant to section 5(a) of the ISA and the Delegation Memorandum, the Secretary determined to impose on Zhuhai Zhenrong Company the following sanctions described in section 6 of the ISA:

1. Export-Import Bank assistance for exports to sanctioned persons. The Export-Import Bank of the United States shall not give approval to the issuance of any guarantee, insurance, extension of credit, or participation in the extension of credit in connection with the export of any goods or services to Zhuhai Zhenrong Company.

2. Export sanction. The United States Government shall not issue any specific license and shall not grant any other specific permission or authority to export any goods or technology to Zhuhai Zhenrong Company under—

e. The Export Administration Act of 1979 (50 U.S.C. Appx. §§ 2401 *et seq.*);

f. The Arms Export Control Act (22 U.S.C. 2751 *et seq.*);

g. The Atomic Energy Act of 1954 (42 U.S.C. 2011 *et seq.*); or

h. Any other statute that requires the prior review and approval of the United States Government as a condition for the export or re-export of goods or services.

3. Loans from United States financial institutions. United States financial institutions shall be prohibited from making loans or providing credits to Zhuhai Zhenrong Company totaling more than $10,000,000 in any 12-month period unless Zhuhai Zhenrong Company is engaged in activities to relieve human suffering and the loans or credits are provided for such activities.

These sanctions apply with respect to Zhuhai Zhenrong Company and not to any subsidiary, affiliate, or shareholder thereof unless separately identified.

The sanctions described above with respect to each of the persons listed shall remain in effect until otherwise directed pursuant to the provisions of the ISA or other applicable authority. Pursuant to the authority delegated to the Secretary of State in the Delegation Memorandum, relevant agencies and instrumentalities of the United States Government shall take all appropriate measures within their authority to carry out the provisions of this notice. The Secretary of the Treasury is taking appropriate action to implement the sanctions for which authority has been delegated to the Secretary of the Treasury pursuant to the Delegation Memorandum and Executive Order 13574 of May 23, 2011.

The following constitutes a current, as of this date, list of persons on whom sanctions are imposed under the ISA. The particular sanctions imposed on an individual company are identified in the relevant **Federal Register** Notice.

—Allvale Maritime Inc. (see Public Notice 7585, 76 FR 56866, September 14, 2011)
—Associated Shipbroking (a.k.a. SAM) (see Public Notice 7585, 76 FR 56866, September 14, 2011)
—Belarusneft (see Public Notice 7408, 76 FR 18821, April 5, 2011)
—FAL Oil Company Limited
—Kuo Oil (S) Pte. Ltd.
—Naftiran Intertrade Company (see Public Notice 7197, 75 FR 62916, Oct. 13, 2010).
—Petrochemical Commercial Company International (a.k.a. PCCI) (see Public Notice 7585, 76 FR 56866, September 14, 2011)
—Petróleos de Venezuela S.A. (see Public Notice 7585, 76 FR 56866, September 14, 2011)
—Royal Oyster Group (see Public Notice 7585, 76 FR 56866, September 14, 2011)
—Société Anonyme Monégasque D'Administration Maritime Et Aérienne (a.k.a. S.A.M.A.M.A., a.k.a. SAMAMA) (see Public Notice 7585, 76 FR 56866, September 14, 2011)
—Speedy Ship (a.k.a. SPD) (see Public Notice 7585, 76 FR 56866, September 14, 2011)
—Tanker Pacific Management (Singapore) Pte. Ltd. (see Public Notice 7585, 76 FR 56866, September 14, 2011)
—Zhuhai Zhenrong Company

Dated: January 20, 2012.

Deborah A. McCarthy,

Acting Assistant Secretary of State for Economic and Business Affairs.

[FR Doc. 2012–1840 Filed 1–26–12; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: ACSEP Evaluation Customer Feedback Report

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on November 22, 2011, vol. 76, no. 225, pages 72236–72237. The information is collected from holders of FAA production approvals and selected suppliers to obtain their input on how well the agency is performing the administration and conduct of the Aircraft Certification Systems Evaluation Program (ACSEP).

DATES: Written comments should be submitted by February 27, 2012.

FOR FURTHER INFORMATION CONTACT: Kathy DePaepe at (405) 954–9362, or by email at: *Kathy.A.DePaepe@faa.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0605.

Title: ACSEP Evaluation Customer Feedback Report.

Form Numbers: FAA Form 8100–7.

Type of Review: Renewal of an information collection.

Background: The information collected is used by the Aircraft Certification Service's Manufacturing Inspection Offices, Aircraft Certification Offices, and the Production & Airworthiness Certification Division to

improve the administration and conduct of the Aircraft Certification Systems Evaluation Program at the local and national levels. Improvements to FAA Order 8100.7, Aircraft Certification Systems Evaluation Program, have been and will continue to be incorporated as a result of the on-going collection of data. It is also used for reporting as a Customer Service Standard in fulfillment of Executive Order 12862, Setting Customer Service Standards.

Respondents: Approximately 200 holders of FAA production approvals and selected suppliers.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 30 minutes.

Estimated Total Annual Burden: 100 hours.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov*, or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Issued in Washington, DC, on January 19, 2012.

Albert R. Spence,

FAA Assistant Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 2012–1842 Filed 1–26–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Operating Requirements: Domestic, Flag and Supplemental Operations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on November 22, 2011, vol. 76, no. 225, page 72237–72238. 14 CFR Part 121 prescribes the requirements governing air carrier operations. The information collected is used to determine air operators' compliance with the minimum safety standards and the applicants' eligibility for air operations certification.

DATES: Written comments should be submitted by February 27, 2012.

FOR FURTHER INFORMATION CONTACT: Kathy DePaepe at (405) 954–9362, or by email at: *Kathy.A.DePaepe@faa.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0008.

Title: Operating Requirements: Domestic, Flag and Supplemental Operations.

Form Numbers: FAA Form 8070–1.

Type of Review: Renewal of an information collection.

Background: Under the authority of Title 49 CFR, Section 44701, Federal Aviation Regulations Part 121 prescribe the terms, conditions, and limitations as are necessary to ensure safety in air transportation. Each operator which seeks to obtain, or is in possession of, an air carrier operating certificate must comply with the requirements of FAR Part 121 in order to maintain data which is used to determine if the air carrier is operating in accordance with minimum safety standards.

Respondents: Approximately 75 air operators/applicants.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 27.52 hours.

Estimated Total Annual Burden: 1,465,094 hours.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov*, or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Issued in Washington, DC on January 19, 2012.

Albert R. Spence,

FAA Assistant Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 2012–1848 Filed 1–26–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Procedures for Non-Federal Navigation Facilities

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on November 22, 2011, vol. 76, no. 225, page 72238. Non-Federal navigation facilities are electrical/electronic aids to

air navigation which are purchased, installed, operated, and maintained by an entity other than the FAA and are available for use by the flying public.

DATES: Written comments should be submitted by February 27, 2012.

FOR FURTHER INFORMATION CONTACT: Kathy DePaepe at (405) 954–9362, or by email at: *Kathy.A.DePaepe@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0014 .

Title: Procedures for Non-Federal Navigation Facilities.

Form Numbers: FAA Forms 6030–1, 6030–17, 6790–4, 6790–5.

Type of Review: Renewal of an information collection.

Background: FAR Part 171 establishes procedures and requirements for sponsors, both private and public other than FAA, to purchase, install, operate, and maintain electronic navaids for use by the flying public in the National Airspace System (NAS). FAR Part 171 describes procedures for receiving permission to install a facility and requirements to be fulfilled to keep it in service. These requirements include inspection and periodic maintenance. These tasks and any other repair work done to these facilities is recorded in on-site logs, copies of which are sent to the Service Center office.

Respondents: Approximately 2,413 sponsors of non-federal navigation facilities.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 13.72 hours.

Estimated Total Annual Burden: 33,116 hours.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Issued in Washington, DC on January 19, 2012.

Albert R. Spence,

FAA Assistant Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 2012–1845 Filed 1–26–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Report of Inspections Required by Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on November 22, 2011, vol. 76, no. 225, page 72237. Airworthiness Directives are regulations issued to require correct corrective action to correct unsafe conditions in aircraft, engines, propellers, and appliances. Reports of inspections are often needed when emergency corrective action is taken to determine if the action was adequate to correct the unsafe condition. The respondents are aircraft owners and operators.

DATES: Written comments should be submitted by February 27, 2012.

FOR FURTHER INFORMATION CONTACT: Kathy DePaepe at (405) 954–9362, or by email at: *Kathy.A.DePaepe@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0056.

Title: Report of Inspections Required by Airworthiness Directives.

Form Numbers: There are no FAA forms associated with this collection.

Type of Review: Renewal of an information collection.

Background: Title 14 CFR part 39, Airworthiness Directives (AD), authorized by §§ 40113(a), 44701, and 44702 of Title 49 United States Code, prescribes how the FAA issues ADs. The FAA issues ADs when an unsafe condition is discovered on a specific aircraft type. If the condition is serious enough and more information is needed to develop corrective action, specific information may be required from aircraft owners/operators. If it is necessary for the aircraft manufacturer or airworthiness authority to evaluate the information, owners/operators will be instructed to send the information to them.

Respondents: Approximately 1,120 aircraft owners/operators.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 5 minutes.

Estimated Total Annual Burden: 3,080 hours.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov*, or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Issued in Washington, DC on January 19, 2012.

Albert R. Spence,

FAA Assistant Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 2012–1843 Filed 1–26–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Commercial Air Tour Limitations in the Grand Canyon National Park Special Flight Rules Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on November 22, 2011, vol. 76, no. 225, page 72239–72240. The FAA uses the information gathered from Grand Canyon National Park air tour operators to monitor their compliance with the Federal regulations.

DATES: Written comments should be submitted by February 27, 2012.

FOR FURTHER INFORMATION CONTACT: Kathy DePaepe at (405) 954–9362, or by email at: *Kathy.A.DePaepe@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0653.

Title: Commercial Air Tour Limitations in the Grand Canyon National Park Special Flight Rules Area.

Form Numbers: There are no FAA forms associated with this collection.

Type of Review: Renewal of an information collection.

Background: Each operator seeking to obtain or in possession of an air carrier operating certificate must comply with the requirements of 14 CFR part 135 or part 121, as appropriate. Each of these operators conducting air tours in the Grand Canyon National Park must additionally comply with the collection requirements for that airspace. The FAA will use the information it collects and reviews to monitor compliance with the regulations and, if necessary, take enforcement action against violators of the regulations.

Respondents: Approximately 13 air operators.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 44 minutes.

Estimated Total Annual Burden: 38 hours.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov*, or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Issued in Washington, DC, on January 19, 2012.

Albert R. Spence,

FAA Assistant Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 2012–1841 Filed 1–26–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Certification of Repair Stations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on November 22, 2011, vol. 76, no. 225, page 72240. Information is collected from applicants who wish to obtain repair station certification. Applicants must submit FAA form 8310–3 to the appropriate FAA flight standards district office for review.

DATES: Written comments should be submitted by February 27, 2012.

FOR FURTHER INFORMATION CONTACT: Kathy DePaepe at (405) 954–9362, or by email at: *Kathy.A.DePaepe@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0682.

Title: Certification of Repair Stations.

Form Numbers: FAA Form 8310–3.

Type of Review: Renewal of an information collection.

Background: Part 145 of Title 14, Code of Federal Regulations (14 CFR) prescribes the requirements for the issuance of repair station certificates and associated ratings to maintenance and alteration organizations. The information requested is required from applicants who wish repair station certification. Applicants must submit the required data to the appropriate FAA district office for review and acceptance/approval. If the information is satisfactory, an onsite inspection is conducted. When all the FAR Part 145 requirements have been met an air agency certificate and repair station operations specifications with appropriate ratings and limitations are issued.

Respondents: Approximately 4,625 maintenance and alteration organizations.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 8 hours.

Estimated Total Annual Burden: 37,000 hours.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d)

ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Issued in Washington, DC, on January 19, 2012.

Albert R. Spence,

FAA Assistant Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 2012–1839 Filed 1–26–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2012–03]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number involved and must be received on or before February 16, 2012.

ADDRESSES: You may send comments identified by Docket Number FAA–2011–1361 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: David Staples, (202) 267–4058, Keira Jones, (202) 267–4025, or Tyneka Thomas, (202) 267–7626, 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 January 19, 2012.

Pamela Hamilton-Powell,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2011–1361.

Petitioner: Southwest Airlines Co.

Section of 14 CFR Affected: 14 CFR 121.163(a)

Description of Relief Sought: Southwest Airlines requests to extend the date by which proving runs for the Boeing 717 aircraft must be accomplished. Specifically, Southwest requests to extend the date for the B717 proving runs from the date the FAA approved the Single Operating Certificate for the merged airline, until such time as the first B717 airplane has been reconfigured/repainted and is eligible to be moved from the AirTran partition.

[FR Doc. 2012–1829 Filed 1–26–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Release of Airport Property: Orlando Executive Airport, Orlando, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for public comment.

SUMMARY: The FAA hereby provides notice of intent to release certain airport properties 12.4 acres at the Orlando Executive Airport, Orlando, FL from the conditions, release certain properties from all terms, conditions, reservations and restrictions of a Quitclaim Deed agreement, dated August 9, 1961, between the subject airport and the Federal Aviation Administration. The release of property will allow the Greater Orlando Aviation Authority to dispose of the property for municipal purposes. The property is located south-southwest portion of airport property, adjacent to State Road 408, in Orange County, Florida. The parcels are currently designated as non-aeronautical use. The property will be released of its federal obligations for Fair Market Value. The fair market value of the parcels is estimated to be $2,243,160.

Documents reflecting the Sponsor's request are available, by appointment only, for inspection at the Greater Orlando Aviation Authority Offices at the Orlando International Airport and the FAA Airports District Office.

SUPPLEMENTARY INFORMATION: Section 125 of The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR–21) requires the FAA to provide an opportunity for public notice and comment prior to the ''waiver'' or ''modification'' of a sponsor's Federal obligation to use certain airport land for non-aeronautical purposes.

DATES: Comments are due on or before *February 27, 2012.*

ADDRESSES: Documents are available for review at the Greater Orlando Aviation Authority Offices at the Orlando International Airport, and the FAA Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822. Written comments on the Sponsor's request must be delivered or mailed to: Rebecca R. Henry, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822–5024.

FOR FURTHER INFORMATION CONTACT: Rebecca R. Henry, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822–5024.

W. Dean Stringer,

Manager, Orlando Airports District Office, Southern Region.

[FR Doc. 2012–1850 Filed 1–26–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2012–0001]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 of the Code of Federal Regulations (CFR), this document provides the public notice that by a document dated January 4, 2012, the Long Island Rail Road (LIRR) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR Part 236. FRA assigned the petition Docket Number FRA–2012–0001.

LIRR seeks a temporary waiver, on a limited portion of one of its branches, from the portion of 49 CFR 236.0(c)(2) requiring that: ''On and after January 17, 2012, where a passenger train is permitted to operate at a speed of 60 or more miles per hour * * *, a block signal system complying with the provisions of this part shall be installed, unless an FRA approved PTC system meeting the requirements of this part for the subject speed and other operating conditions is installed.''

Specifically, LIRR seeks permission to maintain its maximum speed at 65 mph based upon a manual block system being permanently in effect, rather than reducing its maximum speed to 59 mph, on the portion of its Montauk Branch, between the Speonk and Montauk stations, while it installs a new automated speed control signal system that will support its Positive Train Control system between those two locations.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received by March 12, 2012 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

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 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 online at *http://www.dot.gov/privacy.html.*

Issued in Washington, DC, on January 24, 2012.

Ron Hynes,

Acting Deputy Associate Administrator for Regulatory and Legislative Operations.

[FR Doc. 2012–1855 Filed 1–26–12; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2011–0101]

Petition for Waiver of Compliance

In accordance with part 211 of Title 49 of the Code of Federal Regulations (CFR), this document provides the public notice that by a document dated December 2, 2011, Northeast Illinois Regional Commuter Railroad Corporation (Metra) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 236. FRA assigned the petition Docket Number FRA–2011–0101.

Metra seeks relief from the 2-year periodic testing requirements of the Rules, Standards and Instructions, 49 CFR 236.377, Approach Locking; 236.378, Time Locking; 236.379, Route Locking; 236.380, Indication Locking; and 236.381, Traffic Locking; on vital microprocessor-based systems. Metra proposes to verify and test signal locking systems controlled by micro-processor-based equipment, by use of alternative procedures, every 4 years after initial baseline testing or program change as follows:

- Verifying the cyclic redundancy check/checksum/universal control number of the existing location's specific application logic to the previously tested version.
- Testing the appropriate interconnection to the associated signaling hardware equipment outside the processor (switch indication, track indication, searchlight signal indication, approach locking—if external) to verify the correct and intended inputs to and outputs from the processor are maintained.
- Analyze and compare the results of the 4 year alternative testing with the results of the baseline testing performed at the location then submit the results to FRA.

Metra submitted a list with its petition of each signal location at which Metra intends to implement these alternative procedures.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.

• *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by March 12, 2012 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

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 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 online at *http://www.dot.gov/privacy.html.*

Issued in Washington, DC, on January 24, 2012.

Ron Hynes,

Acting Deputy Associate Administrator for Regulatory and Legislative Operations.

[FR Doc. 2012–1863 Filed 1–26–12; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2011–0088]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 of the Code of Federal Regulations (CFR), this document provides the public notice that by a document dated January 4, 2012, the Valley Railroad Company (VALE) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR Part 215. FRA assigned the petition Docket Number FRA–2011–0088.

Specifically, VALE seeks a waiver of compliance from the Railroad Freight Car Safety Standards, 49 CFR 215.303, which requires stenciling on restricted freight cars, for 13 freight cars. The list of these 13 cars is contained in the Exhibit A of the petition letter, which is available in the same docket as this notice.

As information, VALE also requested Special Approval to continue in service of the same cars in accordance with 49 CFR 215.203(c). These cars are more than 50 years from their original construction date and, therefore, are restricted per 49 CFR 215.203(a), unless VALE receives a Special Approval from FRA.

The petition states that VALE is a non-insular, nongeneral system railroad located at 1 Railroad Avenue, Essex, Connecticut 06426. VALE exercises complete control of the operation and maintenance of the freight cars that are the subject of this petition. All 13 cars are over the age of 50 years. Since VALE has owned each of these cars, their use has been restricted. The cars have not been interchanged in regular freight operations with other railroads while under the petitioner's ownership.

These 13 cars will be used for historical display, operated for motion pictures, and special events. The cars will not be used for revenue freight service and will not be interchanged in regular freight operations with other railroads. The maximum load that each car would be permitted to carry, if any, is stated in Exhibit A (mentioned above).

The petitioner states that it will perform and conduct required service and shop inspections, and maintain the cars in compliance with all applicable regulations with the exception of the conditions that are the subject of this petition.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

• *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.

• *Fax:* (202) 493–2251.

• *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.

• *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by March 12, 2012 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

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 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 online at *http://www.dot.gov/privacy.html.*

Issued in Washington, DC, on January 24, 2012.

Ron Hynes,

Acting Deputy Associate Administrator for Regulatory and Legislative Operations.

[FR Doc. 2012–1858 Filed 1–26–12; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Federal Motor Vehicle Motor Theft Prevention Standard; Toyota

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full the petition of Toyota Motor North America, Inc's., (Toyota) petition for an exemption of the Prius vehicle line in accordance with 49 CFR part 543, *Exemption from the Theft Prevention Standard.* This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541).

DATES: The exemption granted by this notice is effective beginning with model year (MY) 2013.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Mazyck, Office of International Policy, Fuel Economy and Consumer Standards, NHTSA, W43–443, 1200

New Jersey Avenue SE., Washington, DC 20590. Ms. Mazyck's phone number is (202) 366–4139. Her fax number is (202) 493–2990.

SUPPLEMENTARY INFORMATION: In a petition dated September 30, 2011, Toyota requested an exemption from the parts-marking requirements of the theft prevention standard (49 CFR part 541) for the Prius vehicle line beginning with MY 2013. Toyota will offer both a hatchback and wagon model (Prius v) to the Prius passenger car vehicle line. The petition has been filed pursuant to 49 CFR Part 543, *Exemption from Vehicle Theft Prevention Standard,* based on the installation of an antitheft device as standard equipment for the entire vehicle line.

Under § 543.5(a), a manufacturer may petition NHTSA to grant an exemption for one vehicle line per model year. In its petition, Toyota provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the Prius vehicle line. Toyota stated that the Prius vehicle line will be equipped with a passive engine immobilizer device as standard equipment beginning with the 2013 model year. According to Toyota, the Prius vehicle line will offer a ''smart key system'' (keyless entry and push button start) and a ''conventional key'' entry system. Key components of the smart key system will include an engine immobilizer, certification electronic control unit (ECU), power source HV ECU, door control receiver, electrical key, power switch, transmission control ECU, electronic control module (ECM) and security indicator. The Prius v wagon will additionally include an ID code box component; however, the basic antitheft functionality and immobilization features will be the same. Toyota will also offer an audible and visual alarm as optional equipment on the Prius vehicle line. Toyota's submission is considered a complete petition as required by 49 CFR 543.7 in that it meets the general requirements contained in 543.5 and the specific content requirements of 543.6.

The vehicle is equipped with a smart key system that allows the driver to press the ''ON'' button located on the instrument panel to start the vehicle. The correct key has to be recognized by the ECM in order for the vehicle to start. According to Toyota, once the driver has pushed the ''ON'' button, the certification ECU verifies the key. When the key is verified, the certification ECU and transmission control ECU receive confirmation of the valid key and allows the ECM to start the engine. On the Prius v model, the certification ECU, transmission control ECU and ID code box receive confirmation of the valid key and then the ID code box allows the ECM to start the engine.

Toyota also stated that with the smart key system, the immobilizer is activated when the power button is pushed from the ''ON'' status to any other ignition status and the correct key is verified by the ECU. The device's security indicator will provide the immobilizer status for the Prius vehicle line. When the immobilizer is activated, the indicator flashes continuously. When the immobilizer is not activated, the indicator is turned off. The device is deactivated when the doors are unlocked and the device recognizes the key code from the smart key system.

Toyota also stated that there will be position switches installed in the vehicle to protect the hood and doors. Specifically, the position switches in the hood will trigger the antitheft device when they sense inappropriate opening of the hood. The position switches in the doors will trigger the antitheft device when they sense opening of the doors are being attempted without the use of a key, wireless switch or smart entry system.

In addressing the specific content requirements of 543.6, Toyota provided information on the reliability and durability of its proposed device. To ensure reliability and durability of the device, Toyota conducted tests based on its own specified standards. Toyota provided a detailed list of the tests conducted (*i.e.,* high and low temperature, strength, impact, vibration, electro-magnetic interference, *etc.*). Toyota stated that it believes that its device is reliable and durable because it complied with its own specific design standards and the device is installed in other vehicle lines for which the agency has granted a parts-marking exemption. As an additional measure of reliability and durability, Toyota stated that its vehicle key cylinders are covered with casting cases to prevent the key cylinder from easily being broken. There are so many key cylinder combinations and key plates for its gutter keys that it would be very difficult to unlock the doors without using a valid key.

To provide comparison, Toyota referenced NHTSA published theft rate data for the Prius vehicle line. Toyota stated that the average theft rate for the Prius for MY 2009 is 0.33 thefts per thousand vehicles produced. Toyota further stated that the Prius vehicle line has been equipped with an immobilizer since MY 2001. Toyota compared its proposed device with other devices NHTSA has determined to be as effective in reducing and deterring motor vehicle theft as would compliance with the parts-marking requirements (*i.e.,* Toyota Camry and Corolla, Lexus LS and GS vehicle lines). The Toyota Camry and Corolla and Lexus LS and GS vehicle lines have all been granted parts-marking exemptions by the agency. The theft rates for the Toyota Camry, Toyota Corolla, Lexus LS and Lexus GS vehicle lines using an average of three model years' data, are 1.5734, 2.013, 0.9718 and 0.6780 respectively. Therefore, Toyota has concluded that the antitheft device proposed for its Prius vehicle line is no less effective than those devices in the lines for which NHTSA has already granted full exemption from the parts-marking requirements. Toyota believes that installing the immobilizer as standard equipment reduces the theft rate and expects the Prius to experience comparable effectiveness ultimately being more effective than parts-marking labels.

Based on the evidence submitted by Toyota, the agency believes that the antitheft device for the Prius vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR 541).

Pursuant to 49 U.S.C. 33106 and 49 CFR 543.7(b), the agency grants a petition for exemption from the parts-marking requirements of part 541, either in whole or in part, if it determines, based upon substantial evidence, that the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of part 541. The agency finds that Toyota has provided adequate reasons for its belief that the antitheft device for the Toyota Prius vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541). This conclusion is based on the information Toyota provided about its device.

The agency concludes that the device will provide four or five of the types of performance listed in § 543.6(a)(3): Promoting activation; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

For the foregoing reasons, the agency hereby grants in full Toyota's petition for exemption for the Toyota Prius vehicle line from the parts-marking requirements of 49 CFR part 541. The agency notes that 49 CFR part 541,

Appendix A–1, identifies those lines that are exempted from the Theft Prevention Standard for a given model year. 49 CFR 543.7(f) contains publication requirements incident to the disposition of all part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted, and a general description of the antitheft device are necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts marking requirements of the Theft Prevention Standard.

If Toyota decides not to use the exemption for this line, it should formally notify the agency. If such a decision is made, the line must be fully marked according to the requirements under 49 CFR 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Toyota wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Section 543.7(d) states that a part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption is based. Further, § 543.9(c)(2) provides for the submission of petitions ''to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption.''

The agency wishes to minimize the administrative burden that § 543.9(c)(2) could place on exempted vehicle manufacturers and itself. In drafting part 543, the agency did not intend to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis.* Therefore, NHTSA suggests that if the manufacturer contemplates making any changes the effects of which might be characterized as *de minimis,* it should consult the agency before preparing and submitting a petition to modify.

Authority: 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: January 23, 2012.

Christopher J. Bonanti,

Associate Administrator for Rulemaking.

[FR Doc. 2012–1836 Filed 1–26–12; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2012–0015; Notice No. 12–1]

Safety Advisory Notice: Return of Radioactively Contaminated Tissue Holders Purchased From Bed Bath and Beyond

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Safety Advisory Notice.

SUMMARY: PHMSA has been notified that Bed Bath and Beyond sold a number of tissue holders in the United States, identified as the Dual Ridge Metal tissue holder, model number DR9M, that emit low levels of radiation. PHMSA and the Nuclear Regulatory Commission believe that there is no immediate danger to the public; however, PHMSA is advising persons in possession of the contaminated tissue holders that they should arrange with Bed Bath and Beyond for their safe return. Any person in possession of this item should call Bed Bath and Beyond at 1–(800) 462–3966 to obtain information about the proper return procedures.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Boyle, Acting Chief, Sciences Branch, Office of Hazardous Materials Safety, (202) 366–2993, 1200 New Jersey Avenue SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: On January 11, 2012, PHMSA was advised that Bed Bath and Beyond sold Dual Ridge Metal tissue holders model number DR9M, that were contaminated with the radioisotope Cobalt-60 during their manufacture in India. At this time, it has been verified that at least 220 tissue holders, sold in some of the more than 200 affected Bed Bath and Beyond stores in the United States, are radioactively contaminated. The highest identified radioactivity level on the surface of the tissue holders was approximately 20 mrem/hr, however most of the tissue holders showed much lower levels. A person who spends eight hours in close contact with one of these tissue holders (such as having the tissue on a bedside table next to the bed) could possibly get a maximum yearly dose of about 500–700 mrem. While no unnecessary radiation exposure is desirable, the dose from the tissue holders is not expected to cause any appreciable health effects. To put this into perspective, a person living in the United States receives a radioactive exposure of about 360 mrem/year from naturally-occurring background radiation.

Bed Bath and Beyond has posted notices on its web site: *http://www.bedbathandbeyond.com/tissueholdernotice.asp,* its facebook pages, and in its stores, and has been actively working with state Radiation Control Programs, the Nuclear Regulatory Commission, the Environmental Protection Agency, the Consumer Product Safety Commission, and Pipeline and Hazardous Materials Safety Administration to identify and remove all of the contaminated tissue holders. Information on radiation exposure can be found on the Nuclear Regulatory Commission's Web site at: *http://www.nrc.gov/about-nrc/radiation/around-us/doses-daily-lives.html.*

Recommended Action

A person in possession of this item should call Bed Bath and Beyond at 1-(800) 462–3966 to obtain information about the proper return procedures. If a person possessing the identified tissue holders experiences difficulties when attempting to obtain return directions or assistance from Bed Bath and Beyond, they should contact PHMSA at the contact number provided in this notice.

Issued in Washington, DC, on January 23, 2012.

R. Ryan Posten,

Deputy Associate Administrator for Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration.

[FR Doc. 2012–1714 Filed 1–26–12; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Release of Waybill Data

The Surface Transportation Board has received a request from Sidley Austin LLP on behalf of Norfolk Southern Railway Company (WB484–2—1/18/12), for permission to use certain data from the Board's 2000–2010 Carload Waybill Samples. A copy of the request may be obtained from the Office of Economics.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to these requests, they should file their objections with the Director of the Board's Office of Economics within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.9.

Contact: Marcin Skomial, (202) 245–0344.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2012–1738 Filed 1–26–12; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

January 24, 2012.

The Department of the Treasury 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, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before February 27, 2012 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.GOV* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 11020, Washington, DC 20220, or on-line at *www.PRAComment.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission(s) may be obtained by calling (202) 927–5331, email at *PRA@treasury.gov,* or the entire information collection request may be found at *www.reginfo.gov.*

Internal Revenue Service (IRS)

OMB Number: 1545–0126.

Type of Review: Revision of a currently approved collection.

Title: U.S. Income Tax Return of a Foreign Corporation.

Form: 1120–F.

Abstract: Form 1120–F is used by foreign corporations that have investments, or a business, or a branch in the U.S. The IRS uses Form 1120–F to determine if the foreign corporation has correctly reported its income, deductions, and tax, and to determine if it has paid the correct amount of tax.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 8,702,948.

OMB Number: 1545–0143.

Type of Review: Revision of a currently approved collection.

Title: Heavy Highway Vehicle Use Tax Return.

Forms: 2290, 2290–SP, 2290–FR, 2290–V.

Abstract: Forms 2290 are used to compute and report the tax imposed by section 4481 on the highway use of certain motor vehicles. The information is used to determine whether the taxpayer has paid the correct amount of tax.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 27,548,640.

OMB Number: 1545–1237.

Type of Review: Extension without change of a currently approved collection.

Title: TD 8823—Consolidated Returns—Limitation on the Use of Certain Losses and Deductions.

Abstract: Section 1502 provides for the promulgation of regulations with respect to corporations that file consolidated income tax returns. These regulations amend the current regulations regarding the use of certain losses and deductions by such corporations.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 2,000.

OMB Number: 1545–1517.

Type of Review: Extension without change of a currently approved collection.

Title: Distributions From an Archer MSA or Medicare+Choice MSA.

Form: 1099–SA.

Abstract: This form is used to report distributions from a medical savings account as set forth in section 220(h).

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 3,618.

OMB Number: 1545–1913.

Type of Review: Extension without change of a currently approved collection.

Title: Payment of Gift/GST Tax and/or Application for Extension of Time To File Form 709.

Form: 8892.

Abstract: Form 8892 was created to serve a dual purpose. First, the form enables taxpayers to request an extension of time to File 709, when they are not filing an individual income tax extension. Second, it serves as a payment voucher for taxpayers, who are filing an individual income tax extension (by Form 4868) and will have a gift tax balance due on Form 709.

Affected Public: Individuals and Households.

Estimated Total Burden Hours: 7,200.

OMB Number: 1545–2213.

Type of Review: Extension without change of a currently approved collection.

Title: NOT–127895–11 (Notice 2011–60), North Dakota Low-Income Housing Credit Relief.

Abstract: The Internal Revenue Service is suspending certain requirements under § 42 of the Internal Revenue Code for low-income housing credit projects in the United States to provide emergency housing relief needed as a result of the devastation caused by flooding in North Dakota on February 14, 2011.

Affected Public: Individuals and Households.

Estimated Total Burden Hours: 125.

OMB Number: 1545–2215.

Type of Review: Extension without change of a currently approved collection.

Title: Application for Voluntary Classification Settlement Program.

Form: 8952.

Abstract: Form 8952 was created by the IRS in conjunction with a new program developed to permit taxpayers to voluntarily reclassify workers as employees for federal employment tax purposes and obtain similar relief to that obtained in the current Classification Settlement Program. To participate in the program, taxpayers must meet certain eligibility requirements, apply to participate in VCSP, and enter into closing agreements with the IRS.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 7,660.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2012–1749 Filed 1–26–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Actions Taken Pursuant to Executive Order 13382

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing on OFAC's list of Specially Designated Nationals and Blocked Persons the names of two newly-designated entities, whose property and interests in property are blocked pursuant to Executive Order 13382 of June 28, 2005, ''Blocking

Property of Weapons of Mass Destruction Proliferators and Their Supporters.''

DATES: The designation by the Director of OFAC, pursuant to Executive Order 13382, of the two entities identified in this notice was effective on January 23, 2011.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Sanctions Compliance & Evaluation, tel.: (202) 622–2490, Office of Foreign Assets Control; Assistant Director for Policy, tel.: (202) 622–4855, Office of Foreign Assets Control; or Chief Counsel (Foreign Assets Control), tel.: (202) 622–2410, Office of the General Counsel, Department of the Treasury, Washington, DC 20220.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*http://www.treas.gov/offices/enforcement/ofac*) or via facsimile through a 24-hour fax-on-demand service, tel.: (202) 622–0077.

Background: On June 28, 2005, the President, invoking the authority, inter alia, of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) (''IEEPA''), issued Executive Order 13382 (70 FR 38567, July 1, 2005) (the ''Order''), effective at 12:01 a.m. Eastern daylight time on June 29, 2005. In the Order, the President took additional steps with respect to the national emergency described and declared in Executive Order 12938 of November 14, 1994, regarding the proliferation of weapons of mass destruction and the means of delivering them.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in the United States, or that hereafter come within the United States or that are or hereafter come within the possession or control of United States persons, of: (1) The persons listed in the Annex to the Order; (2) any foreign person determined by the Secretary of State, in consultation with the Secretary of the Treasury, the Attorney General, and other relevant agencies, to have engaged, or attempted to engage, in activities or transactions that have materially contributed to, or pose a risk of materially contributing to, the proliferation of weapons of mass destruction or their means of delivery (including missiles capable of delivering such weapons), including any efforts to manufacture, acquire, possess, develop, transport, transfer or use such items, by any person or foreign country of proliferation concern; (3) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and other relevant agencies, to have provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, any activity or transaction described in clause (2) above or any person whose property and interests in property are blocked pursuant to the Order; and (4) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and other relevant agencies, to be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to the Order.

On January 23, 2011, the Director of OFAC, in consultation with the Departments of State, Justice, and other relevant agencies, designated two entities whose property and interests in property are blocked pursuant to Executive Order 13382.

The list of additional designees is as follows:

BANK TEJARAT, P.O. Box 11365–5416, 152 Taleghani Avenue, Tehran 15994, Iran; 130, Zandi Alley, Taleghani Avenue, No 152, Ostad Nejat Ollahi Cross, Tehran 14567, Iran; 124–126 Rue de Provence, Angle 76 bd Haussman, Paris 75008, France; P.O. Box 734001, Rudaki Ave 88, Dushanbe 734001, Tajikistan; Office C208, Beijing Lufthansa Center No 50, Liangmaqiao Rd, Chaoyang District, Beijing 100016, China; c/o Europaisch-Iranische Handelsbank AG, Depenau 2, D–20095, Hamburg, Germany; P.O. Box 119871, 4th Floor, c/o Persia International Bank PLC, The Gate Bldg, Dubai City, United Arab Emirates; c/o Persia International Bank, 6 Lothbury, London EC2R 7HH, United Kingdom; SWIFT/BIC BTEJ IR TH; all offices worldwide [IRAN] [NPWMD] [IFSR]

BANK TORGOVOY KAPITAL ZAO (a.k.a. TC BANK; a.k.a. TK BANK; a.k.a. TK BANK ZAO; a.k.a. TORGOVY KAPITAL (TK BANK); a.k.a. TRADE CAPITAL BANK; a.k.a. TRADE CAPITAL BANK (TC BANK); a.k.a. ZAO BANK TORGOVY KAPITAL), 3 Kozlova Street, Minsk 220005, Belarus; Registration ID 30 (Belarus); SWIFT/BIC BBTK BY 2X; all offices worldwide [IRAN] [NPWMD] [IFSR]

Dated: January 23, 2012.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2012–1768 Filed 1–26–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designations, Foreign Narcotics Kingpin Designation Act

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (''OFAC'') is publishing the names of four individuals and four entities whose property and interests in property have been blocked pursuant to the Foreign Narcotics Kingpin Designation Act (''Kingpin Act'') (21 U.S.C. 1901–1908, 8 U.S.C. 1182).

DATES: The designation by the Acting Director of OFAC of the four individuals and four entities identified in this notice pursuant to section 805(b) of the Kingpin Act is effective on January 19, 2012.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Sanctions Compliance & Evaluation, Office of Foreign Assets Control, U.S. Department of the Treasury, Washington, DC 20220, Tel: (202) 622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available on OFAC's Web site at *http://www.treasury.gov/ofac* or via facsimile through a 24-hour fax-on-demand service at (202) 622–0077.

Background

The Kingpin Act became law on December 3, 1999. The Kingpin Act establishes a program targeting the activities of significant foreign narcotics traffickers and their organizations on a worldwide basis. It provides a statutory framework for the imposition of sanctions against significant foreign narcotics traffickers and their organizations on a worldwide basis, with the objective of denying their businesses and agents access to the U.S. financial system and the benefits of trade and transactions involving U.S. companies and individuals.

The Kingpin Act blocks all property and interests in property, subject to U.S. jurisdiction, owned or controlled by significant foreign narcotics traffickers

as identified by the President. In addition, the Secretary of the Treasury, in consultation with the Attorney General, the Director of the Central Intelligence Agency, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, the Secretary of State, and the Secretary of Homeland Security may designate and block the property and interests in property, subject to U.S. jurisdiction, of persons who are found to be: (1) Materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of a person designated pursuant to the Kingpin Act; (2) owned, controlled, or directed by, or acting for or on behalf of, a person designated pursuant to the Kingpin Act; or (3) playing a significant role in international narcotics trafficking.

On January 19, 2012, the Acting Director of OFAC designated the following four individuals and four entities whose property and interests in property are blocked pursuant to section 805(b) of the Kingpin Act.

Individuals

1. CHACON ROSSELL, Marllory Dadiana, DOB 04 OCT 1972; POB Guatemala City, Guatemala; nationality Guatemala; (INDIVIDUAL) [SDNTK]
2. BORRAYO LASMIBAT, Hayron Eduardo (A.K.A. ''Eduardo BORRAYO LISMIBAT''), DOB 03 May 1972; Passport Number 22222838; citizen Guatemala; (INDIVIDUAL) [SDNTK]
3. FERNANDEZ CARBAJAL, Jorge Andres, DOB 26 Feb 1958; Passport 14098; POB Honduras; nationality Honduran; (INDIVIDUAL) [SDNTK]
4. HERNANDEZ DE BORRAYO, Mirza Silvana, DOB 30 Mar 1974; POB Guatemala; Passport 008818499; Nationality Guatemalan; (INDIVIDUAL) [SDNTK]

Entities

1. ANDREA YARI S.A. (a.k.a. ANDREAYARI, S.A.), C/O Jorge Andres FERNANDEZ CARBAJAL, 2 Calle 6AVE, Barrio El Centro San Pedro Sula, Cortes, Honduras, Registration RUC 45476–12–300189; Republic of Panama; (ENTITY) [SDNTK]
2. FER'SEG S.A., C/O Jorge Andres FERNANDEZ CARBAJAL, 2 Calle 6AVE, Barrio El Centro San Pedro Sula, Cortes, Honduras, Registration 160766, Republic of Panama; (ENTITY) [SDNTK]
3. BINGOTON MILLONARIO, c/o Mirza Silvana HERNANDEZ DE BORRAYO, Sarafi 3 Avenida 13–46 Zona 1, Guatemala, Guatemala; (ENTITY) [SDNTK]
4. REVOLUCIONES POR MINUTO ACELERACION S.A. (a.k.a. ''RPM ACELERACION'') c/o Mirza Silvana HERNANDEZ DE BORRAYO 20 Calle 26–30, Zona 10, Guatemala, Guatemala; Registration NIT 3197607–7; (ENTITY) [SDNTK]

Dated: January 19, 2012.

John E. Smith,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2012–1766 Filed 1–26–12; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8932

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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)). Currently, the IRS is soliciting comments concerning Form 8932, Credit for Employer Differential Wage Payments.

DATES: Written comments should be received on or before March 27, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala, (202) 622–3634, at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Credit for Employer Differential Wage Payments.

OMB Number: 1545–2126.

Form Number: Form 8932.

Abstract: Taxpayers use Form 8932 to claim the credit for eligible differential wage payments you made to qualified employees during the tax year. The credit is available only to eligible small business employers. The credit is 20% of the first $20,000 of differential wage payments paid to each qualified employee.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 21,100.

Estimated Time per Respondent: 2 hours 58 minutes.

Estimated Total Annual Burden Hours: 62,456.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 17, 2012.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2012–1723 Filed 1–26–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Agency Information Collection Activity; Proposed Collection

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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: Written comments should be received on or before March 27, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala, (202) 622–3634, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Automatic Consent for Eligible Educational Institution to Change Reporting Methods.

OMB Number: 1545–1952.

Form Number: Rev. Proc 2005–50.

Abstract: This revenue procedure prescribes how an eligible educational institution may obtain automatic consent from the Service to change its method of reporting under section 6050S of the Code and the Income Tax Regulations.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and Households, Businesses and other for-profit organizations.

Estimated Number of Respondents: 30.

Estimated Time per Respondent: 10 hours.

Estimated Total Annual Burden Hours: 300.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 17, 2012.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2012–1721 Filed 1–26–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1120X

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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)). Currently, the IRS is soliciting comments concerning Form 1120X, Amended U.S. Corporation Income Tax Return.

DATES: Written comments should be received on or before March 27, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala at (202) 622–3634, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Amended U.S. Corporation Income Tax Return.

OMB Number: 1545–0132.

Form Number: 1120X.

Abstract: Domestic corporations use Form 1120X to correct a previously filed Form 1120 or Form 1120–A. The data is used to determine if the correct tax liability has been reported.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and farms.

Estimated Number of Respondents: 16,699.

Estimated Time per Respondent: 18 hrs.

Estimated Total Annual Burden Hours: 300,582.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

(b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 17, 2012.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2012–1716 Filed 1–26–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8725

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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)). Currently, the IRS is soliciting comments concerning Form 8725, Excise Tax on Greenmail.

DATES: Written comments should be received on or before March 27, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3634, or through the internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Excise Tax on Greenmail.

OMB Number: 1545–1086.

Form Number: 8725.

Abstract: Form 8725 is used by persons who receive ''greenmail'' to compute and pay the excise tax on greenmail imposed under Internal Revenue Code section 5881. IRS uses the information to verify that the correct amount of tax has been reported.

Current Actions: There are no changes being made to the Form 8725 at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 12.

Estimated Time per Response: 7 hours, 37 minutes.

Estimated Total Annual Burden Hours: 92.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 17, 2012.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2012–1717 Filed 1–26–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8832

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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)). Currently, the IRS is soliciting comments concerning Form 8832, Entity Classification Election.

DATES: Written comments should be received on or before March 27, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala, (202) 622–3634, at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Entity Classification Election.

OMB Number: 1545–1516.

Form Number: Form 8832.

Abstract: An eligible entity that chooses not to be classified under the default rules or that wishes to change its current classification must file Form 8832 to elect a classification.

Current Actions: Changes have been made to the form to comply with filing requirements and regulations. Revenue procedure 2009–41, provides guidance under § 7701 of the Internal Revenue Code for an eligible entity that requests relief for a late classification election filed with the applicable IRS service center within 3 years and 75 days of the requested effective date of the eligible entity's classification election. The revenue procedure also provides guidance for those eligible entities that do not qualify for relief under this revenue procedure and that are required to request a letter ruling in order to request relief for a late entity classification election.

The information will help the IRS to determine if an eligible entity meets the requirements of Section 4.01 of this revenue procedure. The collection of information is required to obtain permission to file a late entity classification election. The information will be reported on Form 8832 or submitted as part of a letter ruling request.

Revenue procedure 2010–32, provides that, if the requirements of the revenue procedure are satisfied, the IRS will treat an election under § 301.7701–3(c) to classify a foreign eligible entity that is a qualified entity (as defined in section 3.02 of the revenue procedure) as a partnership or disregarded entity as an election to be treated as a partnership or disregarded entity (as appropriate) rather than as an association taxable as a corporation.

Form 8832 will be used by qualified entities to seek relief under the revenue procedure. As a result of these changes, we estimate an annual increase in burden by 12,700 hours. This form is being submitted for renewal purposes only.

Type of Review: Revision of a currently approved collection.

Affected Public: Businesses and other for-profit organizations, Farms.

Estimated Number of Respondents: 5,000.

Estimated Time per Respondent: 7 hours 10 minutes.

Estimated Total Annual Burden Hours: 35,900.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. *Comments are invited on:* (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 17, 2012.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2012–1719 Filed 1–26–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Agency Information Collection Activity; Proposed Collection

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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: Written comments should be received on or before March 27, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to R. Joseph Durbala at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3634, or through the Internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Special Valuation Rules.

OMB Number: 1545–1241.

Regulation Project Number: PS–92–90 [TD 8395 (final)].

Abstract: Section 2701 of the Internal Revenue Code allows various elections by family members who make gifts of common stock or partnership interests and retain senior interests in the same entity. This regulation provides guidance on how taxpayers make these elections, what information is required, and how the transfer is to be disclosed on the gift tax return (Form 709).

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 1,200.

Estimated Time per Respondent: 25 minutes.

Estimated Total Annual Burden Hours: 496.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 17, 2012.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2012–1718 Filed 1–26–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee: National Academic Affiliations Council; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the inaugural meeting of the National Academic Affiliations Council will be held on February 8–9, 2012, in the Executive Room at the Omni Shoreham Hotel, 2500 Calvert Street NW., Washington, DC. The sessions will begin at 8 a.m. each day and adjourn at 5 p.m. on February 8 and at 12:30 on February 9.

The purpose of the Council is to advise the Secretary on matters affecting partnerships between VA and its academic affiliates.

On February 8, the Council will receive briefings from the Veterans Health Administration (VHA) Office of Academic Affiliations on the status of the 2009 recommendations of the Blue Ribbon Panel on VA Medical School Affiliations and VHA's present educational portfolio and recent educational innovations; and from the VA Office of General Counsel on government ethics from the VA Office of General Counsel. On February 9, the Council will hear from the VA Chief of Staff and receive certificates of appointments; receive briefings on VHA facility governance and implementation of educational programs; and hold discussions on the future of VHA's educational programs. The Council will receive public comments from 12 p.m. to 12:30 p.m.

Interested persons may attend and present oral statements to the Council. A sign-in sheet for those who want to give comments will be available at the meeting. Individuals who speak are invited to submit a 1–2 page summary of their comments at the time of the meeting for inclusion in the official meeting record. Oral presentations will be limited to five minutes or less, depending on the number of participants. Interested parties may also provide written comments for review by the Council prior to the meeting or at any time, by email to *Gloria.Holland@va.gov* or by mail to Gloria J. Holland, Ph.D., Special Assistant for Policy and Planning, Office of Academic Affiliations (10A2D), 810 Vermont Avenue NW., Washington, DC 20420. Any member of the public wishing to attend or seeking additional information should contact Dr. Holland via email or by phone at (202) 461–9490.

Dated: January 24, 2012.

By Direction of the Secretary.

Vivian Drake,

Committee Management Officer.

[FR Doc. 2012–1797 Filed 1–26–12; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

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Part II

Department of Agriculture

Food Safety and Inspection Service

9 CFR Parts 381 and 500

Modernization of Poultry Slaughter Inspection; Proposed Rule

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 381 and 500

[Docket No. FSIS–2011–0012]

RIN 0583–AD32

Modernization of Poultry Slaughter Inspection

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing a new inspection system for young chicken and turkey slaughter establishments that would replace the current Streamlined Inspection System (SIS), the New Line Speed Inspection System (NELS), and the New Turkey Inspection System (NTIS). The Agency is also proposing several changes that would affect all establishments that slaughter poultry other than ratites, regardless of the inspection system under which they operate. This proposed rule is a result of the Agency's 2011 regulatory review efforts conducted under Executive Order 13563 on Improving Regulation and Regulatory Review.

DATES: Comments must be received by April 26, 2012.

ADDRESSES: FSIS invites interested persons to submit relevant comments on the implementation of this proposed rule. The Agency specifically requests comment on whether it should phase-in the implementation of this proposed rule to provide additional time for small and very small establishments to adjust their operations to comply with the new requirements. If commenters believe that a phased implementation would mitigate the impact of this rule on small and very small establishments, FSIS requests comments on how the Agency can make the phased implementation most effective.

Comments may be submitted by either of the following methods:

- *Federal eRulemaking Portal:* This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. Go to *http://www.regulations.gov*. Follow the online instructions at that site for submitting comments.
- *Mail, including floppy disks or CD–ROMs, and hand- or courier-delivered items:* Send to Docket Clerk, U.S. Department of Agriculture (USDA), FSIS, Docket Clerk, Patriots Plaza 3, 355 E. Street SW., 8–163A, Mailstop 3782, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2011–0012. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov*.

Docket: For access to background documents or comments received, go to the FSIS Docket Room at the address listed above between 8 a.m. and 4:30 p.m., Monday through Friday.

All background documents referenced in this proposed rule are available for viewing by the public on the FSIS Web site at: *http://www.fsis.usda.gov/regulations_&_policies/Proposed_Rules/index.asp* or in the FSIS docket room.

FOR FURTHER INFORMATION CONTACT: Dr. Daniel Engeljohn, Assistant Administrator, Office of Policy and Program Development, FSIS, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, DC 20250–3700, (202) 720–2709.

SUPPLEMENTARY INFORMATION:

Executive Summary

In January 2011, President Obama issued Executive Order (E.O.) 13563 on Improving Regulation and Regulatory Review. As part of this E.O., agencies were asked to review existing rules that may be outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them accordingly. FSIS is proposing to modernize poultry slaughter inspection as a result of its 2011 regulatory review efforts conducted under E.O. 13563. The Agency is taking this action to improve food safety and the effectiveness of poultry slaughter inspection systems, remove unnecessary regulatory obstacles to innovation, and make better use of the Agency's resources.

FSIS is proposing a new inspection system for young chicken and turkey slaughter establishments. The new inspection system would replace the current Streamlined Inspection System (SIS), the New Line Speed Inspection System (NELS), and the New Turkey Inspection System (NTIS). Under this proposed rule, establishments that slaughter young chickens or turkeys would have to choose whether to operate under the traditional inspection system or under the proposed new inspection system. FSIS is proposing to limit the number of online inspectors in the traditional inspection system to two.

Key elements of the new inspection system include: (1) Requiring establishment personnel to conduct carcass sorting activities before FSIS conducts online carcass inspection so that only carcasses that the establishment deems likely to pass inspection are presented to the carcass inspector; (2) reducing the number of online FSIS carcass inspectors to one per line; (3) permitting faster line speeds than are permitted under the current inspection systems it replaces; and (4) removing the existing Finished Product Standards (FPS) and replacing them with a requirement that establishments that operate under the new system maintain records to document that the products resulting from their slaughter operations meet the regulatory definition of ready-to-cook poultry.

The proposed new inspection system may facilitate the reduction of pathogen levels in poultry products by permitting FSIS to conduct more food safety related offline inspection activities, will allow for better use of FSIS inspection resources, and will lead to industry innovations in operations and processing.

In addition to the New Poultry Slaughter Inspection System, FSIS is proposing changes to its regulations that will apply to all establishments that slaughter poultry other than ratites, regardless of the inspection system under which they operate. Because contamination by enteric pathogens and fecal material are hazards reasonably likely to occur in poultry slaughter operations unless they are addressed in a sanitation standard operating procedure (SOP) or other prerequisite program, the Agency is proposing that all poultry slaughter establishments develop, implement, and maintain, as part of their HACCP plans, or sanitation SOPs, or other prerequisite programs written procedures to ensure that carcasses contaminated with visible fecal material do not enter the chiller. FSIS is also proposing to require that all poultry slaughter establishments develop, implement, and maintain, as part of their HACCP plans, or sanitation SOPs, or other prerequisite programs written procedures to prevent contamination of carcasses and parts by enteric pathogens (e.g., *Salmonella* and *Campylobacter*) and fecal material throughout the entire slaughter and dressing operation. FSIS is proposing that, at a minimum, these procedures must include sampling and analysis for microbial organisms at the pre-chill and post-chill points in the process to monitor process control for enteric pathogens. FSIS is proposing to remove the current requirement that poultry

establishments test for generic *E. coli* and to remove the codified *Salmonella* pathogen reduction performance standards for poultry.

Finally, FSIS is proposing to amend its regulations to provide for the use of certain poultry slaughter technologies that have been demonstrated to be successful through waivers of the existing regulations, thus ending most current waivers. FSIS is proposing to remove the chilling requirements for ready-to-cook poultry, which now provide specific time and temperature parameters, and to require that establishments incorporate procedures for chilling poultry into their HACCP plans, or sanitation SOPs, or other prerequisite programs. This will give establishments greater flexibility to determine what chilling process is best suited to prevent outgrowth of pathogens on carcasses immediately after slaughter operations. The Agency is also proposing to permit poultry slaughter establishments to use (1) approved online reprocessing antimicrobial systems or (2) offline reprocessing antimicrobial agents including chlorinated water containing 20 ppm to 50 ppm available chlorine or other antimicrobial substances that have been approved as safe and suitable for reprocessing poultry. Establishments would be required to address the use of online or offline reprocessing of poultry in their HACCP plans, or sanitation SOPs, or other prerequisite programs.

Statutory Authorities

FSIS inspects and regulates the production of poultry prepared for distribution in interstate commerce under the authority of the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*). 21 U.S.C. 455(b) provides that the Secretary shall cause to be made by inspectors post-mortem inspection of the carcass of each bird processed, and at any time reinspection as he deems necessary of poultry and poultry products capable of use as human food. 21 U.S.C. 455(c) requires that all poultry carcasses and other poultry products found to be adulterated be condemned. Carcasses and parts that may be reprocessed to be made not adulterated are not required to be condemned if they are reprocessed under the supervision of an inspector and thereafter found to be not adulterated (21 U.S.C. 455(c)). Under the PPIA, a poultry product is adulterated, among other circumstances, if it bears or contains any poisonous or deleterious substance that may render it injurious to health; it is unhealthful, unwholesome, or otherwise unfit for human consumption; it was prepared, packaged, or held under insanitary conditions whereby it may have been rendered injurious to health; or if damage or inferiority has been concealed in any manner (21 U.S.C. 453(g)(1), (3), (4), and (8)). Finally, 21 U.S.C. 463(b) provides that the Secretary shall promulgate such other rules and regulations as are necessary to carry out the provisions of the PPIA. FSIS regulations and inspection programs are designed to verify that poultry products are unadulterated, wholesome, and properly marked, labeled, and packaged.

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I. Background

A. Poultry Slaughter Inspection Systems Under Existing Regulations

1. Description of Inspection Systems Under Existing Regulations

Under current regulations, FSIS employs four inspection systems for poultry other than ratites: [1] The Streamline Inspection System (SIS), the New Line Speed Inspection System (NELS), the New Turkey Inspection System (NTIS), and traditional inspection.[2] SIS, NELS, and NTIS are employed in official poultry slaughter establishments that utilize automated evisceration systems. Traditional inspection is typically employed at smaller, lower product volume establishments that eviscerate carcasses by hand. Automated evisceration allows establishments to run at faster line speeds than is possible when the carcasses are eviscerated by hand. Under all of the current inspection systems, the inspection process consists of online post-mortem inspection and offline reinspection.

In all four of the existing inspection systems, one or more FSIS online inspectors inspect every carcass, with its viscera, at a fixed point along the slaughter and evisceration line immediately following the separation of the viscera from the interior of the carcass (9 CFR 381.76(b)). They examine each eviscerated carcass for visual defects and direct establishment employees to take appropriate corrective actions if the defects can be corrected through trimming or reprocessing. The online inspectors also identify and condemn carcasses with septicemic and toxemic animal diseases, which cannot be corrected through trimming or reprocessing. Establishment personnel then dispose of the condemned carcasses under FSIS supervision.

Under each of the existing inspection systems, establishments conduct no carcass sorting to determine which eviscerated carcasses appear eligible to bear the mark of inspection, which carcasses contain removable defects correctable through trimming or reprocessing, and which carcasses must be condemned because of septicemic and toxemic animal diseases. Rather, the existing regulations require establishments to assign a helper to take such actions as directed by the online post-mortem inspector after the inspector has conducted the initial sorting activities (9 CFR 381.76(b)). Thus, under the existing inspection systems, establishments rely on FSIS online inspection personnel to effectively control and direct their processing. Moreover, because FSIS online inspectors are responsible for identifying unacceptable carcasses and parts, it takes online inspectors more time to conduct a carcass-by-carcass appraisal than would be necessary if establishments sorted and trimmed carcasses before they were inspected.

In addition to post-mortem inspection conducted by the online inspector, the existing inspection systems consist of reinspection activities conducted by offline inspectors (9 CFR 381.76(b)). During reinspection, FSIS inspectors apply various trim and processing standards, referred to as Finished Product Standards (FPS), designed to verify that the slaughter and evisceration process is under control (9 CFR 381.76(b)(3)(iv)(*c*). This is done by examining ten bird sample sets to determine compliance with the FPS. Under traditional inspection, all trim defects (e.g., breast blisters, bruises, fractures, and scabs) identified by the online carcass inspector must be removed at the online inspection station. Processing defects (e.g. ingesta, cloaca, and feathers) may be corrected further down the line, subject to reinspection. Under SIS, NELS, and NTIS, all reinspection is conducted at separate reinspection stations located either before and after the chiller (SIS; 9 CFR 381.76(b)(3)(iv)(*a*)), or before the chiller only (NELS and NTIS; 9 CFR 381.76(b)(4)(i)(*b*) and 381.76(b)(5)(i)(*b*)).

In addition to applying the trim and dressing standards under FPS, offline inspection also consists of such food safety related activities as verifying Hazard Analysis Critical Control Point (HACCP) critical limits, verifying the effectiveness of sanitation SOPs, and collecting samples for pathogen testing.

2. Limitations of Current Inspection Systems Under Existing Regulations and Need for Improvement

Traditional inspection is generally sufficient for low product volume establishments that operate at relatively slower line speeds; however, SIS, NELS, and NTIS are lacking in two important respects. First, they obscure the proper roles of industry and inspection personnel by assigning to FSIS online inspectors responsibility for sorting acceptable product from unacceptable product, finding defects, identifying corrective actions, and solving production control problems. Second, they require FSIS to allocate significant inspection personnel resources towards inspection activities to detect defects and conditions that present minimal food safety risks, thus limiting the resources available for more important food safety-related inspection activities.

One limitation of the existing inspection systems is that they require online inspectors to conduct sorting activities. This necessitates a time-intensive online process that requires FSIS to allocate significant personnel resources to conduct activities that are more appropriately the responsibility of the establishment. The current systems thus limit line speeds, even if establishments can demonstrate that they are able to produce safe, unadulterated, wholesome products at more efficient rates. It also limits establishments' incentive to improve their processing methods and to develop more efficient slaughter and dressing technologies.

For example, under SIS, an establishment operating under optimal processing conditions is limited to line speeds of 35 carcasses per minute with one online inspector per line and 70 carcasses per minute with two online inspectors per line. Although NELS allows for a slightly faster maximum line speed—91 birds per minute under optimal processing conditions—it requires three online inspectors per line. And under NTIS, an establishment operating under optimal processing conditions is limited to processing 32 light birds per minute with one online inspector per line and 51 light birds per minute with two online inspectors per line. For heavy birds, those speeds decrease to 25 birds per minute and 45 birds per minute, respectively.

FSIS is proposing a new inspection system to improve food safety and the effectiveness of inspection systems, reduce the risk of foodborne illness in the United States, remove unnecessary regulatory obstacles to innovation, and make better use of the Agency's resources. If establishment personnel sorted the carcasses and took necessary corrective actions before the carcasses were presented for inspection, the online inspectors could be stationed later in the process and would be presented with carcasses that have fewer defects. Such a system would allow the online inspector to conduct a more efficient inspection, a carcass-by-carcass critical appraisal, to determine whether each carcass is not adulterated and therefore eligible to bear the mark of inspection. As a result, FSIS could assign fewer inspectors to online inspection, freeing up Agency resources

[1] Ratites, including ostriches, can grow to exceed 600 lbs and typically weigh as much as 350 lbs when slaughtered. They are slaughtered and inspected under a system that is more similar to red meat than other poultry species. This rule would not affect ratite inspection.

[2] SIS, NELS, and NTIS are codified at 9 CFR 381.76; traditional inspection is codified at 9 CFR 381.67 and 381.76(a).

to conduct offline inspection activities that are more important for food safety, such as verifying compliance with sanitation and HAACP requirements, or conducting Food Safety Assessments.

Moreover, the existing poultry slaughter inspection systems were designed before FSIS issued its HACCP regulations and began targeting its resources to address public health risks associated with foodborne pathogens. The existing systems were developed when visually detectable animal diseases were more prevalent and considered to be more of a concern than they are today. The line speed limits prescribed in SIS, NELS, and NTIS reflect the Agency's previous focus on the detection of visible defects and animal diseases and do not give establishments the flexibility to develop new technologies that would allow for a more efficient approach to address these conditions. For example, while FSIS inspectors are required to inspect and condemn carcasses for visual defects at one point in the slaughter process, poultry slaughter establishments could be given more flexibility to develop procedures to identify and condemn unacceptable carcasses and parts earlier and at various points in the slaughter and production process. An inspection system that provides flexibility for establishments to detect and remove visible defects and animal at point in the process before the carcasses are presented to the FSIS inspector would permit establishments to operate at faster line speeds if they are able to maintain process control.

Another limitation with SIS, NELS, and NTIS is that they focus substantial FSIS inspection resources on detecting visible trim and dressing defects that are less important to food safety, particularly in light of what is now known about the role microbial contamination plays in causing foodborne human illness. These inspection models need to be updated in light of the significant advances that have been made in the control or eradication of many animal diseases that were more prevalent and were considered to present a greater concern when the existing inspection systems were designed, particularly in generally healthy classes of animals such as young chickens.

Moreover, the analysis in the risk assessment conducted by FSIS suggests a significant correlation between increased unscheduled offline inspection services and lower levels of *Salmonella* and *Campylobacter* in young chicken and turkey slaughter establishments. This analysis indicates that reallocating inspection resources currently dedicated to online inspection under the existing inspection systems to offline, food safety related inspection activities, such as increased HACCP verification, sanitation SOP verification, pathogen sampling, and Food Safety Assessments, could potentially reduce pathogen levels. Additionally, FSIS could devote more resources to inspection activities that focus on the areas of greatest risk in the poultry production system if establishments were required to assume greater responsibility for monitoring compliance with trim and dressing performance standards.

B. Regulations for Microbiological Testing Under the Existing Inspection Systems

1. Generic E. coli Criteria for Measuring Process Control

The current regulations require that official poultry slaughter establishments conduct regular testing for generic *Escherichia coli* (*E. coli*) at the end of the chilling process or at the end of the slaughter line as a means to verify process control (9 CFR 381.94(a)). These regulations prescribe requirements for collecting the samples, obtaining analytical results, and maintaining records of such results (9 CFR 381.94(a)(2), (3), and (4)). They also include criteria for evaluating an establishment's generic *E. coli* testing results (9 CFR 381.94(a)(5)). The regulations provide that generic *E. coli* testing results that do not meet the criteria described in the regulations indicate that the establishment may not be maintaining process controls sufficient to prevent fecal contamination (9 CFR 381.94(a)(6)). If an establishment is not meeting the *E. coli* test results criteria, the regulations state that FSIS will take further action as appropriate to ensure that all applicable provisions of the law are being met (9 CFR 381.94(6)).

In the preamble to the HACCP final rule (61 FR 38806, July 25, 1996), FSIS stated that microbial testing is an essential element for verifying process control of raw meat and poultry. *Escherichia coli* Biotype 1 (generic *E. coli*) was selected as the target organism for verifying process control for a variety of reasons, including: A strong association of *E. coli* with the presence of enteric pathogens and, in the case of slaughtering, the presence of fecal contamination; *E. coli* occurs at a higher frequency than *Salmonella,* and quantitative *E. coli* testing permits more rapid and more frequent adjustment of process control; and there is wide acceptance in the international scientific community of its use as an indicator of the potential presence of enteric pathogens. However, since the implementation of the HACCP final rule, and with respect to young chicken carcasses, the reliability of *E. coli* as an indicator of process control has been called into question. In its final report adopted February 13, 2004, ''Response to the Questions Posed by FSIS Regarding Performance Standards with Particular Reference to Broilers (Young Chickens),'' the National Advisory Committee on Microbiological Criteria for Foods (NACMCF) stated that *E. coli* may no longer be as useful in broiler operations as originally thought. NACMCF recognized that FSIS viewed *E. coli* as a direct measure of control of fecal contamination and, by implication, *Salmonella* or other enteric pathogens. However, NACMCF stated that recent published information indicates that this assumption may not be valid for *E. coli* in young chickens. For example, in young chickens, its presence may also be a result of infectious process and air sacculitis, in addition to fecal contamination.[3]

Thus, FSIS has tentatively decided to remove the requirement that poultry slaughter establishments test for generic *E. coli* at post-chill and to allow establishments to use other, more relevant indicators of process control. FSIS is proposing that all poultry slaughter establishments collect and analyze carcass samples for microbiological analysis at the pre-chill and post-chill points in the process. The basis for this decision and a discussion of the proposed testing requirements are set out later in this document.

2. Salmonella Pathogen Reduction/ HACCP Performance Standards

In addition to generic *E. coli* criteria, the existing regulations contain *Salmonella* pathogen reduction performance standards for certain poultry slaughter establishments and establishments that produce certain raw ground poultry products (9 CFR 381.94(b)). The codified performance standards are based on the prevalence of *Salmonella* found by the Agency's nationwide microbiological baseline studies, which were conducted before the PR/HACCP rule was adopted. The

[3] Gomis, S.M., Riddell, C., Potter, A.A., and Allan, B.J., Phenotypic and genotypic characterization of virulence factors *Escherichia coli* isolated from broiler chickens with simultaneous occurrence of cellulites and other colibacillosis lesions. Can J Vet Res. 2001 Jan; 65(1):1–6.

Russell, S. M., *The effect of airsacculitis on bird weights, uniformity, fecal contamination, processing errors, and populations of Campylobacter spp. and Escherichia coli.* Poult. Sci. 2003; 82:1326–1331.

regulations provide for FSIS to collect and analyze unannounced *Salmonella* samples sets in poultry slaughter establishments to detect whether these establishments are meeting the pathogen reduction performance standards (9 CFR 381.94(b)(2)). The performance standards set a maximum number of *Salmonella*-positive samples allowable per sample set and are defined on a product class basis so that an establishment operating at the baseline level would have an 80 percent chance of meeting the standard. Establishments are required to take corrective actions when FSIS determines that they are not meeting the performance standards (9 CFR 381.94(b)(3)(i) and (ii)).

Under the regulations, an establishment's failure to take the corrective actions necessary to comply with the *Salmonella* performance standards, or an establishment's failure to meet the standards on the third consecutive series of FSIS-conducted tests for that product, constitutes a failure to maintain sanitary conditions and to maintain an adequate HACCP plan (9 CFR 381.94(b)(3)(iii)). The regulations provide that such failure will cause FSIS to suspend inspection services (9 CFR 381.94(b)(3)(iii)). However, the Agency's ability to directly enforce the pathogen reduction performance standards has been limited since 2001, after a ruling by the U.S. Court of Appeals for the Fifth Circuit in *Supreme Beef Processors, Inc.* v. *USDA.* In that case, the court enjoined FSIS from suspending inspection services against a meat grinding operation for failure to meet the *Salmonella* performance standards. Since that time, FSIS has used *Salmonella* failures as a basis to conduct an in-depth evaluation of the establishment's food safety systems, including its HACCP plan and sanitation SOPs.

In 2006, after an intensive review of the results of several years of *Salmonella* testing that showed a trend of increasing prevalence of *Salmonella* in young chicken establishments, FSIS established three establishment performance categories for *Salmonella* based on the codified performance standards (''*Salmonella* Verification Sample Result Reporting: Agency Policy and Use in Public Health Protection,'' 71 FR 9772–9777, February 27, 2006). The new performance Category 1 represented the best performing establishments and was defined as no more than half of the regulatory standard. Category 2 was set at more than half but not exceeding the regulatory standard. Category 3 establishments were exceeding the regulatory standard and represent the worst performing establishments.

When FSIS announced the new performance categories, the Agency explained that it intended to track the performance of the different product classes it samples for *Salmonella* and publish on the FSIS Web site the names of establishments in Categories 2 and 3 for any product class that did not have 90 percent of its establishments in Category 1. FSIS began publishing the names of young chicken establishments in Category 2 and 3 in March 2008. FSIS has continued to publish the names of these establishments on or about the 15th of each month since then.

Since it established the new *Salmonella* performance categories, FSIS has updated the year-long Nationwide Microbiological Baseline Data Collection Programs to better measure improvements in pathogen reduction in all classes of raw product. Young chicken and young turkey microbiological baselines were completed in 2008 and 2009, respectively. On May 14, 2010, in response to a charge from the President's Food Safety Working Group, the Agency announced that it had developed new performance standards for *Salmonella* and *Campylobacter* for chilled carcasses in young chicken and turkey slaughter establishments based on the new baseline results (''New Performance Standards for *Salmonella* and *Campylobacter* in Young Chicken and Turkey Slaughter Establishments,'' 75 FR 27288).

On March 21, 2011, FSIS published a **Federal Register** notice to announce the forthcoming implementation of the new performance standards for *Salmonella* and *Campylobacter* (''New Performance Standards for *Salmonella* and *Campylobacter* in Young Chicken and Turkey Slaughter Establishments: Response to Comments and Announcement of Implementation Schedule,'' 76 FR 15282). In the **Federal Register** notice, FSIS announced, among other actions, that Web-posting of young chicken and turkey establishments that fail the new *Salmonella* standards (''Category 3'') for their last set will begin as sample sets scheduled for July 2011 are completed. In that notice, the Agency also explained that ''[t]hese new *Salmonella* standards are to be applied to sample sets from establishments included in the Agency's *Salmonella* Verification Program in the place of the performance standards for young chickens (as broilers) codified at 9 CFR 381.94 and the standards for young turkeys announced in a **Federal Register** Notice of 1995.'' FSIS also stated that ''[t]he Agency intends to issue a proposed rule that would formally rescind the codified standards that are no longer in effect'' (76 FR 15282).

Therefore, FSIS is proposing to eliminate the pathogen performance standard regulations in 9 CFR 381.94(b). FSIS can effectively address *Salmonella* through the actions discussed above and through the *Salmonella* Initiative Program described below.

C. Waivers of Regulatory Requirements

1. Regulations Providing for the Administrator To Waive Provisions of Inspection Regulations

The regulations in 9 CFR 303.2(h) and 381.3(b) provide for the Administrator to waive for limited periods any provisions of the regulations to permit experimentation so that new procedures, equipment, or processing techniques may be tested to facilitate definite improvements. Under these regulations, FSIS may only grant waivers from the provisions in the regulations that are not in conflict with the purposes or provisions of the FMIA or PPIA (9 CFR 303.1(h) and 381.3(b)).

FSIS decides whether to grant requests for waivers based on proposals and documentation submitted by establishments to demonstrate that the use of a new technology is scientifically sound; that it will facilitate definite improvements; and that issuing the waiver will not conflict with the provisions of the FMIA or PPIA.[4] If FSIS determines that the information submitted by an establishment supports the requested waiver, the Agency will waive the appropriate provisions in the regulation for a limited period of time to allow the establishment to conduct an in-plant trial. The purpose of the in-plant trial is to gather data on the effects of the use of the new technology. FSIS reviews the data that is developed in the trial to determine whether they establish that the purpose of the waiver is being met.

Several poultry slaughter establishments are operating under waivers that allow them to use technologies that are not provided for in the regulations. As of April 2011, for example, FSIS had granted waivers to 144 poultry slaughter establishments to allow these establishments to conduct online re-processing of poultry carcasses and parts accidentally contaminated with digestive tract contents. As discussed in detail later in this document, the current regulations only provide for reprocessing of accidentally contaminated poultry at a designated

[4] For Agency New Technology waiver procedures, see *http://www.fsis.usda.gov/Regulations_&_Policies/New_Technologies/index.asp.*

offline reprocessing station (9 CFR 381.91). Under the *Salmonella* Initiative Program (SIP) (76 FR 41186, July 13, 2011), the Agency has also granted six poultry slaughter establishments waivers from the specific time and temperature chilling requirements prescribed in 9 CFR 381.66. Any establishment that has been granted a waiver for on-line reprocessing, or any other slaughter process, and is continuing to operate under that waiver, must now participate in SIP and conduct testing as discussed in greater detail below.

The data generated from the in-plant trials conducted under the online reprocessing waivers and the waivers from the time and temperature chilling requirements have demonstrated that the technologies used in these studies have been successful and yielded definite improvements.(See ''FSIS Analysis of On-line and Off-line Reprocessing Systems,'' available for viewing by the public in the FSIS docket room and on the FSIS Web site at: *http://www.fsis.usda.gov/regulations_&_policies/Proposed_Rules/index.asp.*) Therefore, FSIS is proposing to amend the regulations to provide for the use of these technologies, which would end the need for these waivers. The proposed amendments are described under the headings ''Proposed Changes to Time and Temperature Requirements for Chilling'' and ''Proposed Changes to Online and Offline Reprocessing Regulations,'' below.

All establishments operating under waivers from any regulatory requirements, not just waivers for OLR and time and temperature regulations, will be participating in the *Salmonella* Initiative Program (SIP), described below. Thus, the SIP would continue after any final rule resulting from this proposal becomes effective.

2. The FSIS Salmonella Initiative Program (SIP)

Under SIP, meat and poultry slaughter establishments receive waivers of regulatory requirements on condition that they will conduct regular microbial testing and share the resulting data with FSIS. The Agency described preliminary details of SIP in a January 28, 2008, **Federal Register** notice (73 FR 4767–4774) and announced its final terms and conditions in the July 13, 2011, **Federal Register** notice (76 FR 41186). SIP benefits public health in that it encourages slaughter establishments to conduct testing for microbial pathogens, which is a key feature of effective process control, and to respond to testing results by taking steps when necessary to regain process control. In addition, SIP enables FSIS to use establishment data to inform Agency policy aimed at enhancing public health protection.

SIP establishments test for *Salmonella, Campylobacter* (if applicable), and generic *E. coli* or other indicator organisms and share all sample results with FSIS. Establishments currently operating under regulatory waivers must participate in SIP or forfeit their waivers. All establishments operating under waivers will continue to operate under a SIP waiver and will continue to conduct testing under SIP if their waivers are not addressed in the final rule resulting from this proposal.

II. Consideration of Need for a New Poultry Slaughter Inspection System

A. Early Development of the Inspection Models Program

In 1996, FSIS published its PR/HACCP final rule as the first step of a comprehensive initiative to target the Agency's resources to address the public health risks associated with foodborne pathogens, which cannot be detected by organoleptic inspection (61 FR 38868). Under FSIS's PR/HACCP regulations, establishments are required to develop and implement a system of preventive controls to ensure that their products are safe. This approach gives establishments more flexibility to determine how they can best meet the Agency's regulatory requirements. FSIS verifies the adequacy and effectiveness of establishments' HACCP systems.

The existing poultry slaughter inspection systems were developed before HACCP was implemented and require that FSIS inspectors sort carcasses and direct establishments' corrective actions, rather than requiring establishments to sort, trim, and reprocess carcasses before they are inspected by FSIS. In 1997, in order to improve food safety and the effectiveness of inspection systems, reduce the risk of foodborne illness in the United States, remove unnecessary regulatory obstacles to innovation, and make better use of the Agency's resources, FSIS announced, in a **Federal Register** notice, that the Agency would be developing a new HACCP-based inspection models project (62 FR 31553). During the HACCP-based inspection models project, FSIS would design and test various new inspection models in a series of trials in volunteer meat and poultry slaughter establishments.

Under the initial inspection models approach, establishment personnel were responsible for identifying and removing normal from abnormal carcasses and parts, and FSIS inspection personnel performed inspection activities that focused on the areas of greatest risk in the poultry products inspection system in each establishment.

In 1998, the American Federation of Government Employees, several FSIS inspectors, and a public interest organization filed a suit to enjoin FSIS from implementing the HACCP-based inspection model project (''HIMP''). The plaintiffs alleged that HIMP violated the requirement in the PPIA that government inspectors conduct a post-mortem inspection of each poultry carcass. Specifically, the PPIA provides that the Secretary, whenever processing operations are being conducted, shall cause to be made by inspectors post-mortem inspection of the carcass of each bird processed (21 U.S.C. 455(b)). The district court upheld HIMP, finding that the word ''inspection'', as used in the statute, does not necessarily mandate a direct, physical examination of each carcass and that the model program was a rational policy judgment within the discretion afforded to the Secretary.

The plaintiffs appealed and the Court of Appeals for the District of Columbia Circuit reversed the district court's decision. The Court found that the PPIA requires Federal inspectors—rather than plant employees—to make the decision about whether each carcass is adulterated within the meaning of the statute. The case was remanded to the district court for further proceedings.

In response to the Court of Appeals' opinion, FSIS modified HIMP to position one inspector at a fixed location near the end of the slaughter line in each poultry slaughter establishment. This inspector was responsible for examining each poultry carcass for adulteration after the carcasses had been eviscerated, sorted, washed, and trimmed by establishment employees, but before the carcasses entered the chiller. The modified models project also included FSIS off-line inspectors who were responsible for conducting HACCP and sanitation system verification activities and for closely examining a sample of carcasses for food safety defects to ensure that the establishment's process was under control and that adulterated birds were not getting past the establishment sorters. On remand, the district court found that HIMP, as modified, complied with both the applicable statutory provisions and the opinion issued by the Court of Appeals.

The plaintiffs again appealed to the Court of Appeals for the DC Circuit.

Plaintiffs argued that the modified inspection procedures were not in compliance with the Court of Appeals' opinion because FSIS had delegated some inspection duties to plant employees who were responsible for sorting defective carcasses and making preliminary decisions regarding adulteration. The court rejected this argument, finding that the PPIA does not prohibit plant employees from paring down the overall number of carcasses by sorting and removing carcasses before they reach the Federal inspector. The Court held that because the modified inspection model program required Federal inspectors to personally examine each poultry carcass leaving the slaughter line, FSIS was in compliance with the PPIA's requirement that ''the carcass of each bird processed'' be inspected for adulteration.

Plaintiffs also argued that the line speeds allowed in the HIMP plants were too fast to allow Federal inspectors to make a critical appraisal of each carcass. The Court found that FSIS's decision to allow higher line speeds was reasonable in light of the fact that establishment employees are required to sort defective carcasses prior to Federal inspection, resulting in fewer adulterated poultry carcasses being presented for Federal inspection. The Court also noted that although the PPIA delineates what must be inspected and by whom, it does not tell the reader exactly what an inspection is. The court concluded that HIMP, as modified, reflected a reasonable design of an inspection system by the agency charged with responsibility for administering the PPIA and that it would rely on the agency's experience and informed judgment in evaluating the validity of the system under the law. Under these circumstances, the Court of Appeals upheld HIMP, as modified.

B. Existing HACCP-Based Inspection Models Program [5]

The revised HACCP-Based Inspection Models Project (HIMP) was initiated in 20 young chicken slaughter establishments and 5 turkey slaughter establishments on a waiver basis.

Under HIMP, post-mortem inspection, referred to simply as ''carcass inspection,'' is conducted by a single online carcass inspector who visually inspects every carcass at a fixed location on the evisceration line immediately prior to the chiller. Carcass inspection takes place after establishment personnel have already sorted the eviscerated carcasses, disposed of carcasses that they have identified as having condemnable conditions, and conducted any trim and reprocessing they believe necessary to correct removable defects. Carcass inspection is conducted much more efficiently and effectively under HIMP than under the existing inspection systems because establishment personnel have already sorted, trimmed, and reprocessed the carcasses, thereby removing most visible defects, before the online carcass inspector appraises them.

Under HIMP, offline inspection is referred to as ''verification inspection.'' Verification inspection consists of system verification activities through which FSIS continuously monitors and evaluates establishment process control. FSIS conducts more offline, food safety related verification inspection activities under HIMP than under the existing inspection systems. Some examples of verification inspection activities include: HACCP, sanitation SOP, and other prerequisite program verification procedures, including verification checks specifically for septicemia and toxemia and for fecal contamination; verifying sanitary dressing requirements at multiple points in the inspection system; and sample collection for pathogen testing.

FSIS has concluded that the HIMP model has a number of benefits, such as focusing FSIS inspection personnel on the areas of greatest risk in the poultry production system and providing an incentive to establishments to improve and innovate, while ensuring effective online inspection at line speeds of 175 birds per minute.

C. Analysis of HIMP

1. FSIS Evaluation of HIMP

FSIS has conducted a comprehensive analysis of data collected from the operation of HIMP in young chicken slaughter establishments and has prepared a written report (the ''HIMP Report'') that presents a thorough evaluation of the models tested. Based on this evaluation, FSIS has concluded that compared to inspection at non-HIMP establishments, HIMP has improved the safety of poultry products and increased overall consumer protection while still ensuring carcass-by-carcass inspection of each eviscerated carcass.

A detailed summary of the HIMP Report is provided below. The full HIMP Report is available for viewing by the public in the FSIS docket room and on the FSIS Web site at: *http://www.fsis.usda.gov/regulations_&_policies/Proposed_Rules/index.asp.*

Prior to beginning HIMP, an independent consulting firm, Research Triangle Institute (RTI) conducted baseline organoleptic and microbiological data collection in 16 young chicken slaughter establishments that volunteered to participate in the HIMP program. These baseline collection results reflect the performance of pre-HIMP poultry slaughter inspection systems and provided the basis to establish HIMP performance standards for septicemia and toxemia, for fecal contamination, and for five other consumer protection (OCP) concerns (see Appendix A for information about these performance standards). Prior to finalizing the standards, RTI conducted the same data collection after HIMP was implemented in 16 establishments and found improvement in various aspects of establishment performance after implementation of the HIMP system. The HIMP performance standards were finalized in November 2000. To participate in the program, establishments operating under HIMP are required to maintain process control plans to meet the performance standards for food safety and non-food safety OCP defects. The HIMP performance standards are a measure for comparing the performance of establishments operating under the new HIMP inspection system with performance when operating under the current non-HIMP inspection systems.

Following entry of a total of 20 young chicken slaughter establishments into the HIMP program, in 2002, FSIS collected FSIS verification data that show that HIMP establishments exceeded the performance standards for food safety and all but one of the OCP standards. The HIMP Report contains the most recent data showing that the HIMP establishments continue to meet the HIMP performance standards. The HIMP Report also evaluates other measures to compare HIMP establishment performance with non-HIMP establishment performance. Therefore, based on these results, HIMP establishments have consistently performed better under HIMP than they did under non-HIMP inspection systems.

a. Overview of HIMP Report

The HIMP Report describes FSIS's microbiological and inspection findings in young chicken slaughter establishments participating in HIMP and compares them with the HIMP performance standards or with comparison sets of non-HIMP

[5] For a description of the performance standards used during the HIMP pilot, see Appendix A.

establishments. The first comparison set of establishments was a subset of 64 non-HIMP establishments selected to be comparable to HIMP establishments with respect to total slaughter volume, line speeds, and geographic distribution. The second comparison set was all 176 non-HIMP establishments that slaughtered young chickens in all 5 years considered in the study. The evaluation is based on data for the calendar years CY2006 through CY2010, with exceptions where only more recent data are available.

Across HIMP and non-HIMP establishments, analyses compared the number of offline inspection procedures, the rates of health-related regulatory noncompliances, fecal contamination noncompliances, and *Salmonella* positive rates. FSIS evaluated offline inspection procedures to determine whether comparable levels of inspection are being performed in HIMP establishments compared to non-HIMP establishments. FSIS looked at the other data to evaluate whether the HIMP system resulted in public health benefits and continued to ensure that FSIS inspected each carcass presented for inspection.

b. Inspection of Each Carcass by FSIS Inspectors To Determine Whether the Carcass Is Not Adulterated and Therefore Eligible To Bear the Mark of Inspection

The HIMP Report evaluates the ability of the FSIS online carcass inspector (CI) to detect carcasses affected with septicemia/toxemia and visible fecal contamination after the establishment has sorted the carcasses but before the carcasses enter the chiller. The purpose of this analysis is to demonstrate that even though CI's in HIMP plants are presented with an extremely low number of carcasses affected with septecimia/toxemia and visible fecal contamination, they are still able to detect carcasses with these visible food safety defects.

Data collected from April 1, 2009, to March 31, 2011, show that the CI in HIMP establishments found 125 carcasses affected with septicmia/toxemia and 26,815 carcasses with visible fecal contamination. The HIMP Report calculates the CI detection rates for both of these food safety defects by dividing the number of carcasses affected with them by the total number of carcasses presented to the CI inspector. For septicemia/toxemia, the CI detected affected carcasses at a rate of 0.000004 percent or 4 per 100 million carcasses slaughtered. For visible fecal contamination, the CI detected affected carcasses at a rate of 0.0009 percent or 9 per million carcasses slaughtered. The levels of these diseases and fecal contamination that are presented to the CI can be measured by the results of the FSIS off-line verification of the HIMP performance standards. Verification checks are conducted by the FSIS verification inspector (VI) before the CI and after the establishments has sorted the carcasses. The findings of those verification checks show that fewer than 8 per 1 million carcasses (0.0008 percent) processed in HIMP establishments were found to have septicemia/toxemia and that fewer than 0.8 per thousand carcasses (0.08 percent) processed in HIMP establishments were found to have visible fecal contamination. These rates were lower than the HIMP performance standards of 0.1% carcasses for septicemia/toxemia and 0.8% carcasses for visible fecal contamination.

Therefore, levels of these diseases and fecal contamination presented to the CI are very low in HIMP establishments. Nevertheless, the CI in HIMP establishments further reduces the number of carcasses with septicemia, toxemia, or visible fecal contamination, thereby reducing food safety defects to levels lower than found in non-HIMP establishments. In conclusion, the most recent data demonstrates that the CI in HIMP establishments is able to identify carcasses affected with septicemia, toxemia, and visible fecal contamination.

c. Verification by Offline Inspectors of the Establishment Executing Its HIMP Process Control Plan Under Which Establishment Employees Sort Acceptable and Unacceptable Carcasses and Parts

Because fewer inspectors are required to conduct online carcass inspection in HIMP establishments, FSIS inspection personnel are able to perform more offline food safety inspection activities. The HIMP study focuses on 11 offline inspection procedures identified by codes that apply to all poultry slaughter establishments. FSIS chose to focus on these procedures because they are all related to food safety or production of wholesome product (with minimal defects). These inspection procedures determine the type of inspection activities that FSIS personnel perform to verify compliance with specific regulatory requirements. The 11 inspection procedure codes considered in the HIMP study are associated with procedures that FSIS inspection personnel perform to:

- Verify an establishment's compliance with the sanitation SOP regulations in 9 CFR 416.11–416.16 (procedure codes 01A01, 01B01, 01B02, 01C01, 01C02);
- Verify compliance the HACCP regulations in 9 CFR part 417 (procedure codes 03A01, 03J01, 03J02);
- Verify compliance with relevant regulations for finished product standards (FPS) and good commercial practices (procedure code 04C04);
- Verify compliance with generic *E. coli* testing requirements under 9 CFR 381.91 (procedure code 05A01); and
- Verify compliance with the Sanitation Performance Standards regulations in 9 CFR 416.1–416.6 (procedure code 06D01).

The HIMP Report compares the ratio of each inspection procedure performed per young chicken slaughter establishment for HIMP and non-HIMP establishments. The comparison shows that in CY2010, FSIS offline inspection personnel performed 1.6 times more offline inspection procedures in HIMP establishments than in non-HIMP establishments. These procedures include verifying compliance with both OCP- and food safety-related regulations. This increased level of offline inspection activities ensures that HIMP establishments are maintaining OCP and food safety defects at levels that are less than in non-HIMP establishments and thereby producing a safer product.

Table 1 below presents the findings for each inspection procedure code.

TABLE 1—CY2010 RATIOS OF INSPECTION PROCEDURES PER ESTABLISHMENT IN HIMP TO NON-HIMP

Procedure code	20 HIMP establishments (procedures/ establishment) [6]	64 Non-HIMP comparison establishments (procedures/ establishment)	HIMP/Non-HIMP ratio
Total	14135.9	8723.7	1.6
Sanitation SOP verification procedures			
01A01	3.4	3.7	0.9
01B01	140.3	148.7	0.9
01B02	98.0	110.9	0.9
01C01	259.2	272.5	1.0
01C02	294.8	299.0	1.0
HACCP verification procedures			
03A01	2.5	1.9	1.3
03J01	10296.1	3027.5	3.4
03J02	287.0	259.4	1.1
FPS and good commercial practices verification procedures			
04C04	2612.3	4447.4	0.6
Generic *E. Coli* testing verification procedures			
05A01	0.2	1.3	0.2
Sanitation Performance Standards verification procedures			
06D01	142.2	151.5	0.9

The number of 04C04 inspections in HIMP establishments appears to be less than in non-HIMP establishments. However, the number of 04C04 inspection procedures in HIMP and non-HIMP establishments is not directly comparable since they are counted differently. In HIMP establishments, during this procedure, a minimum of 2 OCP 10 bird sample sets are conducted in a single shift and are counted as a single 04C04 inspection procedure. In non-HIMP plants, each 10 bird sample set is counted as a separate 04C04 inspection procedure.

d. Verification of the Establishment Executing Its Sanitation SOPs and Its HACCP System Under 9 CFR Parts 416 and 417

(1) Offline Inspection Procedures Performed

The Sanitation SOP regulations in 9 CFR 416 and the HACCP regulation in 9 CFR 417 are among the regulations most strongly related to public health. There are eight inspection procedures associated with activities that FSIS inspectors perform to verify compliance with the Sanitation SOP and HACCP regulations. These are the inspection procedures with codes in the 01 series and 03 series presented in Table 1 above. The HIMP Report found that in CY2010, FSIS inspectors performed approximately 2.8 more offline procedures to verify compliance with Sanitation SOP and HACCP regulatory requirements than inspectors did in non-HIMP establishments.

The HIMP Report also compares the rate at which inspectors in HIMP establishments performed the HACCP 3J01 procedure in HIMP establishments to the rate performed in non-HIMP establishments. The inspection activities under the 03J01 procedure include random verification of all HACCP requirements, and over 90 percent of these activities involve verifying an establishment's compliance with FSIS's zero tolerance for visible fecal contamination. The HIMP Report found that in CY2010, inspectors in HIMP establishments performed 3.4 more 03J01 procedures overall than inspectors in non-HIMP establishments (see Table 3 above). These data show that under HIMP, compared to non-HIMP inspection systems, inspectors are able to spend more time in prevention-oriented inspections, which better protects the public from foodborne disease. This increased level of inspection ensures that HIMP establishments continuously satisfy food safety performance standards and HACCP regulations and are maintaining OCP- and food safety defects at levels that are less than in non-HIMP establishments and thereby producing a safer product.

(2) Public Health Related Non-Compliances

For purposes of data analysis and for targeting FSIS resources, FSIS categorizes each of its regulatory requirements based on how strongly non-compliance with that regulation could adversely affect public health. The categories are ranked from zero to three, and the FSIS regulations that are most strongly related to public health are classified as category 3 regulations. Category 3 regulations are those that if in non-compliance are most likely to endanger public health. A non-compliance record or ''NR'' associated with a category 3 regulation is classified as a ''W3 Non-compliance Record'' or ''W3NR.'' These are also referred to as ''health-related'' NRs.

The HIMP Report summarizes and compares the health-related NR rates by inspection procedure for HIMP and the control set of non-HIMP establishments for the 5 years of combined CY2006 to CY2010 data. The health-related NR rate for an inspection procedure is calculated by dividing the total number of health-related NRs associated with that inspection procedure by the total number of inspection procedures performed under that inspection

procedure. The comparison shows that health-related NR rates at HIMP establishments are not statistically different or are statistically lower for all inspection procedures considered. This information is presented in Table 2 below. These data demonstrate that HIMP establishments are satisfying all food safety, HACCP, and sanitation regulations designed to insure that establishments are producing safe product and wholesome products.

TABLE 2—FIVE YEAR AVERAGE HEALTH-RELATED NR RATES FOR HIMP AND NON-HIMP BROILER ESTABLISHMENTS

Proc Code	HIMP broiler establishments (percent)	Non-HIMP comparison broiler establishments (percent)
01A01	0.00	0.09
01B01	0.21	0.28
01B02	1.33	1.33
01C01	0.38	0.39
01C02	1.27	1.27
03A01	0.00	0.39
03J01	0.90*	1.41
03J02	0.67	0.75
05A01	0.00	0.00
06D01	0.02	0.03

* indicates a statistically significant difference at the 0.05 level.

(3) Fecal Contamination: NRs Associated With Fecal Contamination

The HIMP Report analyzes NR rates for visible fecal contamination in HIMP and non-HIMP comparison establishments for CY2006 to CY2010. Because visible fecal contamination is a hazard reasonably likely to occur, poultry slaughter establishments address visible fecal contamination in their HACCP plans. The visible fecal NR rate was computed as the total number of fecal contamination NRs divided by the sum of the number of the HACCP verification 03J01 and 03J02 procedures performed. This comparison found that fecal NR rates in HIMP establishments are statistically lower than those in both the control set of non-HIMP establishments and the all non-HIMP comparison set for all the years considered (see Table 3 below). This means that the rate of visible fecal material contamination in HIMP establishments is about half that of non-HIMP establishments. Thus, establishments operating under the HIMP inspection system had lower rates of visible fecal contamination than establishments operating under non-HIMP inspection systems. In slaughter establishments, fecal contamination of carcasses is the primary avenue for contamination by pathogens. Based on these data, HIMP establishments likely have lower levels of pathogens than non-HIMP establishments. The fecal NR rates are presented in Table 3 below.

TABLE 3—FECAL NR RATES AT HIMP AND NON-HIMP COMPARISON ESTABLISHMENTS

	HIMP (percent)	Non-HIMP comparison establishments (percent)	All Non-HIMP establishments (percent)
2006	0.70	1.10	1.07
2007	0.59	1.21	1.17
2008	0.67	1.25	1.26
2009	0.65	1.25	1.20
2010	0.73	1.49	1.40

Additional analysis conducted on the fecal NR rates in HIMP and non-HIMP establishments shows that that fecal NR rates in HIMP establishments are independent of production volume.

The HIMP Report also evaluates the effect of line speeds on fecal NR rates and found no statistical difference in either total fecal NR counts or fecal NR rates between establishments with different line speeds.

e. Verification of the Outcomes of the Establishment Process Control Plan, Both Organoleptic and Microbiologic

(1) Food Safety Performance Standards

As discussed above, for the HIMP study, FSIS developed food safety performance standards for septicemic/toxemic animal conditions and visible fecal contamination. These performance standards allow the Agency to compare performance between HIMP and non-HIMP establishments in meeting the zero tolerance standard for these conditions. The HIMP Report compares the findings of the offline FSIS verification inspectors (VIs) for the 2-year period April 1, 2009, to March 31, 2011, with the HIMP performance standards. The HIMP Report calculates the FSIS offline VI detection rates for carcasses affected with septicemia/toxemia or contaminated with visible fecal material by dividing the number affected carcasses identified by the VIs by the total number of carcasses examined by the VI. The total number of carcasses examined by VIs in HIMP establishments is 4 times greater than the number examined by offline inspectors in non-HIMP establishments.

The findings of the VIs verification checks show that fewer than 8 per 1 million carcasses (0.0008 percent) processed in HIMP establishments were found to have septicemia/toxemia. This rate is 125 times lower than the HIMP performance standard of 0.1% of the carcasses processed. The data also show that fewer than 0.8 per thousand carcasses (0.08 percent) processed in HIMP establishments were found to have visible fecal contamination, which

is about 19 times lower than the HIMP performance standard. These findings are presented in Table 4 below.

TABLE 4—HIMP ACHIEVEMENT OF FOOD SAFETY PERFORMANCE STANDARDS AT YOUNG CHICKEN ESTABLISHMENTS

Defect categories	HIMP performance standards (% of carcasses)	HIMP establishment performance based on FSIS offline inspector verification checks (% of carcasses)
Septicemia/Toxemia	* 0.1%	0.0008% (±0.002%) Range 0.0–0.008%
Visible fecal contamination	* 1.5%	0.08% (±0.05%) Range 0.008–0.17%

* FSIS has a zero tolerance policy for Septicemia/Toxemia and Visible Fecal Contamination.
Period of data collection: April 1, 2009 through March 31, 2011.

(2) OCP Performance Standards

As discussed in the appendix to this proposal, FSIS developed OCP performance standards based on a tightening of the existing FPS for removable animal diseases and trim and dressing defects. The OCP performance standards allow the Agency to compare the performance of HIMP and non-HIMP establishments in addressing these non-food safety defects. The Agency collected data on the number and type of OCP defects identified by the FSIS offline VIs from January 1, 2009, through December 31, 2010, and compared them with the corresponding OCP HIMP performance standard. A comparison of young chicken HIMP establishment performance with OCP HIMP performance standards is presented in Table 5 below.

TABLE 5—HIMP ACHIEVEMENT OF OCP PERFORMANCE STANDARDS AT YOUNG CHICKEN ESTABLISHMENTS

	Performance standards based on non-HIMP inspection (% of carcasses)	HIMP establishment performance based on FSIS inspector verification checks (% of carcasses)
OCP 1	1.7%	0.38% (±0.36%)
Condition—Animal Diseases (e.g., airsacculitis)		Range 0.0–1.25%
OCP 2	52.5%	34.1% ± 9.3%
Condition—Miscellaneous (e.g., bruises, sores, and other processing defects)		Range 18.2–49.9%
OCP 3	18.6%	6.3% ± 4.3%
Contamination—Digestive Content (non-fecal) (e.g., ingesta)		Range 0.25–15.2%
OCP 4	80.0%	66.4% ± 10.4%
Dressing Defects—Other (e.g., feathers)		Range 41.2–80.2%
OCP 5	20.8%	9.8% ± 4.0%
Dressing Defects—Digestive Tract Tissue (e.g., bursa, cloaca)		Range 3.2—15.8%

Period of data collection: CY2009 through CY2010.

The data show that OCP defects identified on carcasses processed in HIMP establishments average about half the corresponding OCP HIMP performance standard. The analysis found no statistically significant difference in OCP2–OCP5 rates between HIMP establishments with different line speeds. This shows that these establishments are effectively addressing OCP standards.

(3) Salmonella Positive Rates

The HIMP Report compares the *Salmonella* percent positive rates for HIMP young chicken slaughter establishments and the control set of 64 non-HIMP establishments for the years CY2006 to CY2010. This comparison is presented in Table 6.

TABLE 6—*Salmonella* PERCENT POSITIVE RATES FOR HIMP AND NON-HIMP BROILER ESTABLISHMENTS

	2006	2007	2008	2009	2010
20 HIMP Broiler Establishments	9.0%	5.8%	4.2%	4.9%	4.7%
64 Non-HIMP Comparison Broiler Establishments	10.8%	8.5%	7.3%	4.3%	4.0%
176 All Non-HIMP Broiler Establishments	11.1%	8.1%	7.6%	6.8%	4.7%

Analysis of these rates found that in CY2006–CY2008 the *Salmonella* positive rate in HIMP establishments was statistically significantly lower than in the non-HIMP comparison set and that the difference in CY2009 and CY2010 was not statistically significant. The *Salmonella* positive rate in HIMP establishments was statistically

significantly lower than in the all non-HIMP comparison set for CY2006 to CY2009. There was no statistically significant difference in CY2010, which most likely reflects the effects of the *Salmonella* initiatives that FSIS implemented in 2006 to reverse the multi-year trend of persistently higher percent positive rates for *Salmonella* detected through FSIS's HACCP verification testing each year. As a result of these initiatives, the entire industry was forced to reduce the incidence of positive *Salmonella* results, particularly those establishments with the highest *Salmonella* positive rates.

The analysis in the HIMP Report also found that, after adjusting for production volume, the difference in the *Salmonella* positive rate between establishments with different line speeds is not statistically significant. This analysis is based on the 10 HIMP establishments with *Salmonella* testing during CY2010. The line speeds for these 10 establishments ranged from annual average of 98 to 162 birds per minute.

f. Conclusion

Based on its evaluation of the HIMP study, FSIS has concluded that establishments operating under the HIMP inspection system performed better than establishments operating under non-HIMP inspection systems with respect to rates of food safety and OCP defects. Also, fecal contamination rates and *Salmonella* positive rates are lower in HIMP than in non-HIMP establishments. HIMP establishments have higher compliance with sanitation SOP and HACCP prevention regulations. Based on the data discussed in the HIMP Report, FSIS has concluded that more offline food safety inspections results in greater compliance with sanitation and HACCP regulations and birds with lower levels of fecal and *Salmonella* contamination. In aggregate, the findings support that the HIMP inspection system results in public health benefits, allows FSIS to conduct inspection more efficiently, and ensures that HIMP inspectors perform in a manner that properly enables them to inspect each carcass.

2. 2001 Government Accountability Office Report on HIMP

On December 17, 2001, the Government Accountability Office (''GAO'') issued a report on HIMP entitled ''Food Safety: Weaknesses in Meat and Poultry Inspection Pilot Should Be Addressed Before Implementation.'' [7] The following describes FSIS's current thinking regarding the GAO's 2001 recommendations for executive action that that specifically pertain to elements of this proposed rule. FSIS requests comment on these aspects of the proposed rule.

1. GAO recommended that only establishments with a good history of regulatory compliance be eligible to participate in the inspection program.

Response: The GAO recommendation was made in the context of HIMP as a pilot program. The pilot program is now completed and FSIS has conducted a comprehensive evaluation of the HIMP inspection system, which is described in the HIMP Report. Thus, FSIS believes that this gradation among establishments recommended by GAO is no longer relevant to the implementation of the New Poultry Inspection System.

2. GAO recommended that establishments operating under the new inspection system be required to implement statistical process controls to manage and control production and that FSIS monitor and verify the efficacy of these systems.

Response: FSIS believes that statistical process control (''SPC'') systems, which help to determine whether an establishment's production processes are performing within established performance standards with regard to non-food-safety related defects, are effective tools for establishments to use to manage and control their production. However, instead of specifically mandating the use of SPC in this proposal, FSIS is proposing to allow establishments operating under the new inspection system to implement the process controls that they have determined will best allow them to produce ready-to-cook poultry that is wholesome and not adulterated. FSIS is proposing that the establishments document that they are meeting the standard for ready-to-cook poultry. Establishments could, but would not be required to, use SPC systems to meet this requirement. FSIS expects that most establishments will choose to use SPC systems as part of their effort to meet this requirement, but the Agency believes that it is more appropriate and more in keeping with HACCP requirements to provide each establishment the flexibility to determine how best to meet the requirement within the context of its unique production environment.

3. GAO recommended that FSIS, in conjunction with industry, develop a training and certification program for establishment sorting activities, and that only trained and certified establishment personnel be permitted to perform these duties.

Response: FSIS agrees that proper training is important to establishment sorters' ability to make accurate decisions on how to address animal disease conditions and trim and dressing defects. If sorters do not make these decisions correctly, inspection personnel will be required to take actions such as stopping the production line to remove contaminated carcasses, issuing non-compliance records, and directing the establishment to reduce the line speed to ensure that the establishment is able to maintain process control, and that inspectors are able to conduct a proper inspection. Training of sorters is vitally important to ensure that sorting procedures are properly performed. Lack of effective sorter training would cause FSIS to initiate action to ensure that plant employees are properly trained.

FSIS is not proposing to require specific, formalized sorter training. However, FSIS will develop guidance documents to assist establishments in the training of their sorters. The Agency intends to post draft guidance materials on the FSIS Web site and announce the availability of such materials in the **Federal Register** and through the FSIS *Constituent Update.* The Agency will seek public comment on these draft materials to inform the development of the final guidance documents to ensure they are as useful as possible. The Agency will make the final guidance documents available to the public on the FSIS Web site before the final rule resulting from this proposal becomes effective. The guidance that the Agency is planning to develop would be based on the training that FSIS provides to on-line inspection personnel that are responsible for sorting carcasses under the existing inspection system. Under this proposed rule, establishments would have the flexibility to select the training program that best assist them to meet the requirements of this proposed rule.

D. Public Health Benefits Projected From Allocating More Inspection Resources to Food Safety-Related Inspection Activities

1. Risk Assessment

In June 2011, FSIS completed a quantitative risk assessment to

[7] GAO, 2001. Food Safety: Weaknesses in Meat and Poultry Inspection Pilot Should Be Addressed Before Implementation, *http://www.gao.gov/new.items/d0259.pdf.*

determine how performing a greater number of sanitation, sampling, and other offline inspection procedures in young chicken and turkey slaughter establishments might affect the number of human illnesses from *Salmonella* and *Campylobacter.* These offline inspection procedures primarily involve activities that FSIS inspection personnel perform to verify the effectiveness of establishment sanitary operations and other health and safety-related activities. The HIMP Report, discussed above, found that FSIS inspectors performed more offline inspections to verify compliance with Sanitation SOP and HACCP regulations in HIMP establishments than they do in in non-HIMP establishments. The risk assessment is available for viewing by the public in the FSIS docket room and on the FSIS Web site at: *http://www.fsis.usda.gov/regulations_&_policies/Proposed_Rules/index.asp.*

FSIS developed the risk assessment to help the Agency determine how it could help reduce risks to public health associated with processed poultry by improving its approach to inspection. To give the Agency the information it needed, the risk assessment focused on four risk management questions: (1) Can FSIS redeploy its inspection activities within official establishments without causing an increased prevalence of microbial pathogens in the establishments? (2) Will redeploying inspectors to offline duties have an effect on the prevalence of microbial pathogens, and hence on human illness? (3) Where in a poultry establishment will redeployed inspection activities have the greatest effect in reducing the prevalence of microbial pathogens and thus, in reducing human illness? (4) What is the quantitative uncertainty of the pathogen prevalence and illness reductions?

2. Model

FSIS developed a risk assessment model for examining relationships between current variations in inspection personnel assignments and prevalence of *Salmonella* and *Campylobacter* on young chicken and turkey carcasses and subsequent human illnesses attributable to those pathogens. FSIS paired inspection data with *Salmonella* and *Campylobacter* prevalence data for the same establishments and timeframes.[8]

FSIS employed a stochastic simulation model using multi-variable logistic regressions to identify correlations between the numbers of offline food-safety inspection procedures, both scheduled and unscheduled, along with numbers of non-compliances and scheduled-but-not-completed procedures, and contamination of poultry with *Salmonella* or *Campylobacter.* (Scheduled procedures are assigned to inspectors at an establishment by the Agency's automated management system. Unscheduled procedures are performed according to inspector needs at an establishment and may include fecal checks for compliance with the zero-tolerance requirement, or they may be a response to unforeseen hazards or unsanitary conditions arising from sanitation SOP failures, or the need to verify corrective actions taken under the establishment's HACCP plan.) The correlations were used to predict the effect that devoting more resources to these procedures would have on human illness attributable to the consumption of young chicken. Stochastic simulations were used to account for uncertainty in the estimates relating inspection procedures in an establishment to detection of *Salmonella* and *Campylobacter* in poultry. Illness estimates were based on CDC data, and uncertainty distributions were used to account for the variability in annual *Salmonella* and *Campylobacter* illnesses and uncertainty about the relationship between the pathogen prevalence levels at the establishments and the corresponding annual number of illnesses that could be attributed to the pathogens.

3. Conclusions of the Risk Assessment

The results of the risk assessment show that redeployment of Agency resources from on-line inspection activities to unscheduled off-line activities to verify compliance with Sanitation SOPs, HACCP requirements, and other requirements that are important to food safety, is correlated with lower prevalence of carcasses contaminated with *Salmonella* and *Campylobacter* and may result in a reduction in the number of human illnesses.

Regarding the first risk-management question, the risk assessment showed that establishments with more unscheduled offline inspection activities have lower *Salmonella* and *Campylobacter* prevalence than establishments with fewer unscheduled offline activities. The assessment also suggested that there may be fewer illnesses attributable to both *Salmonella* and *Campylobacter* when additional unscheduled offline inspection procedures are performed.

In answer to the second risk-management question, the lower prevalence of *Salmonella* and *Campylobacter* on poultry at establishments where additional unscheduled offline procedures were performed could lead to as many as 4286 fewer *Salmonella*-related illnesses and 986 fewer *Campylobacter*-related illnesses per year. FSIS has estimated that 174,686 expected annual *Salmonella* illnesses could be attributed to both young chicken and turkey consumption, and an estimated 169,005 expected annual *Campylobacter* illnesses attributable to young chicken or turkey consumption. Thus, a reduction of 4,286 expected *Salmonella* illnesses annually, reflects a 2.5% reduction in attributable illnesses. A reduction of 986 expected *Campylobacter* illnesses annually reflects a 0.6% reduction in attributable illnesses.

Responding to the third question, the risk assessment showed that the greatest effect on *Salmonella* and *Campylobacter* prevalence and related illness would occur when inspection activities were concentrated on increased unscheduled off-line procedures. These could include additional unscheduled sanitation procedures, additional unscheduled sampling procedures, or additional unscheduled HACCP procedures.

In answer to the fourth risk-management question, on the uncertainty of the results for pathogen prevalence and illness reductions, FSIS analysts reflected the uncertainty of illness estimates by reporting not only expected values but also the upper and lower bounds of an 80-percent confidence band around the estimates. Thus, for example, they calculated the annual averted *Salmonella* illnesses to be as few as 1514 and as many as 7682, and the averted *Campylobacter* illnesses as few as 26 and as many as 2865. Table 7 presents total estimated reductions in human illnesses relating to increased offline inspection procedures.

[8] The prevalence of *Salmonella* on young chickens came from the USDA/FSIS *Salmonella* PR/HACCP verification testing program from July 2007 to September 2010 and the most recent young chicken baseline study (2007–2008). Data for prevalence of *Campylobacter* on young chickens came from the young chicken baseline study (2007–2008). Data for inspection procedures performed in an establishment came from the FSIS performance-based inspection system (PBIS) data base (July 2007–September 2010). Data for turkey establishments comprise results of the FSIS ''Young Turkey Baseline'' (August 2008 through July 2009, 9) and PR/HACCP *Salmonella* verification program (July 2007 through September 2010).

TABLE 7—TOTAL POTENTIAL REDUCTIONS IN ANNUAL HUMAN ILLNESSES RELATING TO BETTER OFFLINE INSPECTION PROCEDURE PERFORMANCE IN YOUNG CHICKEN AND TURKEY SLAUGHTER ESTABLISHMENTS

	What happens if unscheduled offline inspection procedures increase in young chicken and turkey establishments? [1]		
	Expected value	Confidence interval	
		10th%	90th%
Annual *Salmonella* illnesses prevented	4286	1514	7682
Annual *Campylobacter* illnesses prevented	986	26	2865

[1] Risk assessment scenario assumes that all unscheduled inspection activities could change by as little as no increase to as much as a 60% increase.

III. Proposed New Poultry Inspection System for Young Chickens and Turkeys

A. Replacement of SIS, NELS, and NTIS With the New Poultry Inspection System

Based on the Agency's experience under HIMP and the improved performance related to food safety and non-food-safety standards and especially in reducing pathogen levels, FSIS is proposing to eliminate SIS, NELS, and NTIS and to replace them with the New Poultry Inspection System. All young chicken and turkey slaughter establishments would be required to operate under either the new inspection system or the traditional inspection system.

Establishments that slaughter classes of poultry other than young chickens and turkeys would be permitted to operate under the New Poultry Inspection System under a waiver through the SIP. FSIS would consider the data collected in poultry slaughter establishments operating under a SIP waiver to determine whether to expand the New Poultry Inspection System to other classes of poultry.

B. Carcass Sorting and Online Carcass Inspection

Under the new inspection system, establishments will be required to sort carcasses, to dispose of carcasses that must be condemned, and to conduct any necessary trimming or reprocessing activities before carcasses are presented to the online FSIS carcass inspector. After these sorting activities have been completed, the online carcass inspector will conduct a carcass-by-carcass inspection before the carcasses enter the chiller. If the online carcass inspector observes any food safety defects on any of the carcasses, such as the presence of septicemic or toxemic animal disease or fecal material, he or she will stop the line to prevent the contaminated carcass from entering the chiller. Under this new inspection system, the inspector will not restart the line until establishment personnel have removed the contaminated carcass from the line. The online carcass inspector will notify the inspector-in-charge if the presence of excessive food safety related or non-food-safety related conditions, poor presentation of carcass for inspection by the carcass inspector, or other indications that there may be a loss of process control. Under such conditions, the inspector-in-charge will take appropriate remedial action and will be authorized to require that the establishment slow the line speed.

Establishments' responsibility for carcass sorting under the proposed new inspection system would include removing carcasses that exhibit septicemic and toxemic conditions from the processing line. Carcasses that exhibit septicemic and toxemic conditions are likely to contain infectious agents, such as bacteria, virus, richettsia, fungus, protozoa, or helminth organisms, which can be transmitted to humans. For this reason, they present a food safety risk if they are permitted to enter the chiller.

Because establishments operating under the proposed new inspection system would be required to identify and remove carcasses affected by septicemic and toxemic conditions before FSIS carcass inspection, FSIS is proposing that establishments under the new system address, as part of their HACCP plan, or sanitation SOP, or other prerequisite program, procedures for ensuring that septicemic and toxemic carcasses are prevented from entering the chiller. These procedures must cover, at a minimum, establishment sorting activities for these conditions.

Under this proposal, FSIS would maintain its zero tolerance for septicemic and toxemic carcasses. Carcasses exhibiting septicemic and toxemic conditions would be condemned, if not removed by the establishment, by the online carcass inspector, as under the existing regulations (9 CFR 381.83). A noncompliance record (NR) would be issued for every carcass affected by septicemia and toxemia that reaches the online carcass inspection station. Moreover, because establishments would be required to address this food safety hazard in their HACCP plan, or sanitation SOP, or other prerequisite programs, the Agency continuously would assess the effectiveness of an establishment's HACCP system if FSIS inspection personnel observed septicemic or toxemic carcasses.

Under the proposed new inspection system, because the online carcass inspector will be positioned immediately before the chiller and will not conduct a carcass inspection until after sorting, trimming, and reprocessing has been completed by establishment employees, viscera will not be presented together with the carcasses as in the current inspection systems. FSIS has determined that not presenting the viscera will not prevent the online carcass inspector from ensuring that all carcasses are unadulterated and wholesome. With the exception of one condition, i.e., visceral leukosis, observing the outside of the carcass is sufficient to determine whether the carcass should be condemned. Systemically affected carcasses are darker in color from dehydration and hemorrhaging and may be smaller or have less body fat because of inappetence or increased metabolic rate. There may be an obvious cause of the systemic involvement such as a large tumor, bruise, or infected joint. Although observing the viscera provides additional assurance that the decision to condemn is correct and may help determine the specific category for recording the reason for condemnation, observing the viscera is not required to identify the presence of a condemnable condition, with the exception of visceral leukosis.

Avian visceral leukosis can only be detected by observing the viscera. Avian visceral leukosis, a rare manifestation of the viral disease leukosis, is not transmissible to humans and does not

present a human health concern. However, it may render poultry unwholesome or otherwise unfit for human food.

Avian leukosis can be identified by observing the viscera of the first 300 birds of each flock because if avian visceral leukosis is present, it will be present throughout the entire flock. In general, a flock constitutes birds raised under similar circumstances on the same premises. It is common commercial practice to vaccinate each flock of chickens for viral leukosis. Nationwide data from 1984 revealed that all forms of leukosis (skin, visceral, other viral leukoses) resulted in the condemnation of 0.017 percent of the approximately 7.4 billion young chickens slaughtered. On rare occasions, the vaccine is not effective. If it is not, visceral leukosis is present on a flock basis. Accordingly, FSIS is proposing that an offline inspector will observe the viscera of the first 300 birds slaughtered of each young chicken flock under the New Poultry Inspection System to determine whether the disease is present in the flock. FSIS has followed this practice in young chicken HIMP establishments, and it has been shown to be effective. (See HIMP Report, available for viewing by the public in the FSIS docket room and on the FSIS Web site at: *http://www.fsis.usda.gov/regulations_&_policies/Proposed_Rules/index.asp)*. Turkeys do not typically display liver lesions associate with leukosis, therefore, the 300 bird viscera check is not performed on turkeys.

To allow FSIS to properly inspect viscera for avian leukosis, FSIS is proposing to require that establishments that slaughter young chickens notify the FSIS IIC prior to the slaughter of each new flock. Under this proposed rule, if the inspector identifies a carcass affected with visceral leukosis, he or she may expand the sample beyond 300 birds. The decision to designate a flock as leukosis positive would be made by the FSIS inspector-in-charge (IIC). In case of a positive flock, the IIC would position an inspector to inspect each viscera for visceral leukosis only, at a location where viscera and carcass can be identified together. This activity would be for the duration of the slaughter of the flock.

C. Offline Verification Inspection

In addition to the online carcass inspector, FSIS is proposing that one offline verification inspector be assigned for each evisceration line in establishments operating under the New Poultry Inspection System. As in HIMP, verification inspectors under the new inspection system will conduct food safety related inspection activities and will continuously monitor and evaluate establishment process control. Verification inspectors will conduct inspection activities including HACCP, sanitation SOP, and other prerequisite program verification procedures; verification checks for septicemia and toxemia, and fecal contamination; checks to verify and ensure that sanitary dressing requirements are being met; ante-mortem inspection; and sample collection for pathogen testing. The offline verification inspector will work with the inspector-in-charge to ensure that food safety related or non-food-safety related conditions do not impair the online carcass inspector's ability to conduct the inspection of each carcass or will notify the inspector-in-charge whenever circumstances indicate a loss of process control. Under such conditions, the inspector-in-charge will take appropriate remedial action and will be authorized to require that the establishment slow the line speed.

D. Finished Product Standards To Be Replaced With Requirement That Establishments Maintain Records To Document That the Products Resulting From Their Slaughter Operations Meet the Definition of Ready-to-Cook Poultry

1. Establishment Requirements

FSIS is proposing to eliminate SIS, NELS, and NTIS, which would include eliminating the current ''Finished Product Standards'' (FPS) under 9 CFR 381.76 that address trim and dressing defects. FSIS is proposing to replace these FPS with a requirement that establishments operating under the New Poultry Inspection System document that the products resulting from their slaughter operations meet the definition of ready-to-cook poultry.

FPS are criteria applied to processed birds before and after chill to ensure that the product being produced is consistently wholesome and unadulterated. The FPS address defects that are less important to food safety than conditions such as septicemia/toxemia or visible fecal contamination. However, the conditions addressed in the FPS may render a carcass unwholesome or adulterated.

Ready-to-cook poultry is ''* * * any slaughtered poultry free from protruding pinfeathers and vestigial feathers (hair or down) from which the head, feed crop, oil gland, trachea, esophagus, entrails, and lungs have been removed, and from which the mature reproductive organs and kidneys may have been removed, and with or without giblets, and which is suitable for cooking without need for further processing'' (9 CFR 381.1). All poultry slaughter establishments are required to prepare all eviscerated carcasses as ''ready-to-cook poultry'' (9 CFR 381.76(a)). Carcasses affected with removable animal diseases or that contain numerous trim and dressing defects are not ''suitable for cooking without the need for further processing,'' and thus do not meet the definition for ready-to-cook poultry.

Examples of removable animal diseases include airsacculitis, arthritis, ascites, avian leukosis complex, avian tuberculosis, cadaver, enteritis, erysipelas, generalized inflammatory process, generalized keratoacanthomas, neoplasms, nephritis, osteomyelitis, pericarditis, salpingitis, tenosynovitis, and tumors (e.g., carcinoma or sarcoma). Although these conditions are less important to food safety than conditions such as septicemic/toxemic carcasses or visible fecal contamination do, they do render carcasses unwholesome and unfit for human food at levels above those provided for in the regulations. Moreover, under 9 CFR 381.81–90, carcasses and parts affected with these conditions must be condemned unless the condition can be removed.

Examples of trim and dressing defects include extraneous material, such as, feathers, lung, oil gland, trachea, and bile; digestive tract tissue defects, such as bursa of fabricius, cloaca, crop, esophagus, and intestine; non-fecal digestive content contamination, such as ingesta; and other miscellaneous defects, such as breast blisters, bruises, external mutilation, fractures, overscald, scabs, trimable keratoacanthomas, and localized inflammatory process. Like removable animal diseases, poultry carcasses or parts that contain a large number of trim or dressing defects would not be ''suitable for cooking without the need for further processing'' and therefore would not meet the definition of ready-to-cook poultry.

As discussed above, under HIMP, removable animal diseases and trim and dressing defects addressed in the FPS are referred to as ''OCPs.'' There are five categories of OCPs addressing removable animal diseases and various types of trim and dressing defects that account for 29 specific defects addressed under the existing FPS.

To develop the OCP categories FSIS first determined baseline performance levels for establishments operating under the FPS. To do this, a private consulting firm, Research Triangle Institute, collected thousands of samples from 16 young chicken slaughter establishments operating under the existing inspection systems. The sampled carcasses had passed FSIS

online inspection, undergone trimming by establishment personnel to remove visible defects, and been determined by FSIS offline inspectors to be in compliance with the FPS. As such, these carcasses were suitable for cooking without the need for further processing, and thus met the definition of ready-to-cook poultry.

FSIS ranked the 16 establishments based on their performance under each of the five OCP categories. The performance standard for each OCP category was then established based on the performance level of the establishment representing the 75th percentile for that category (i.e., the performance level of the fourth-best performing establishment of each category). Thus, the OCP performance standards represent a reduction from the highest prevalence of defects found in ready-to-cook poultry that had passed the FPS.

Data collected from young chicken and turkey establishments operating under HIMP show that for the two year period CY2009 through CY2010, HIMP establishments maintained OCP defect levels that average about half the corresponding OCP performance standards derived from the performance of non-HIMP establishments. Thus, the data show that establishments operating under both HIMP and non-HIMP inspection systems perform well in controlling for OCP defects, but that establishments operating under the HIMP system do exceptionally well. Accordingly, FSIS has concluded that it is not necessary to adopt prescriptive OCP requirements as a condition for establishments to participate in the New Poultry Inspection System. Under this proposal, establishments operating under the New Poultry Inspection System will be allowed to implement the process controls that they have determined will best allow them to produce ready-to-cook poultry that is wholesome and not adulterated.

Under this proposed rule, establishments will have the flexibility to design and implement measures to address OCP defects that are best suited to their operations. They will also be responsible for determining the type of records that will best document that they are meeting the ready-to-cook poultry definition. FSIS expects that most establishments will implement some type of statistical process control to address removable animal diseases and trim and dressing defects and use the statistical control charts associated with such procedures to document that the resulting products are ready-to-cook poultry.

If they choose to do so, establishments operating under the New Poultry Inspection System could incorporate procedures to address removable animal diseases and trim and dressing defects into their HACCP plans, or sanitation SOPs, or other prerequisite programs, and rely on the records generated under these programs to document that the resulting products are ready-to-cook poultry. Establishments would most likely address these defects in their sanitation SOPs or other prerequisite programs. However, an establishment could address these defects in its HACCP plan if its hazard analysis determined that one or more of these removable diseases presented a food safety hazard. Establishments could also address removable animal diseases and trim and dressing defects as part of a quality control program and rely on the records generated under that program to document that they are meeting the ready-to-cook poultry definition.

2. FSIS Verification

Under this proposed rule, FSIS would verify that an establishment's poultry products comply with the ready-to-cook poultry definition by reviewing the records maintained by the establishment to document that its products are ready-to-cook poultry. In addition to inspecting for food safety defects, the FSIS on-line carcass inspector will also inspect carcasses for trim and dressing defects and removable animal diseases. The presence of persistent, unattended trim and dressing defects or removable animal diseases would indicate that the plant is not producing ready-to-cook poultry. Furthermore, an establishment's inability to consistently produce product that meets the ready-to-cook poultry definitions may indicate a general lack of control in an establishment's overall slaughter and dressing process. Thus, if the establishment or FSIS inspection personnel observe the presence of persistent, unattended removable animal diseases or trim and dressing defects on poultry carcasses or parts, FSIS would require the establishment to take appropriate actions to ensure that it is operating under conditions needed to produce safe, wholesome, and unadulterated products. Under this proposal, if inspection personnel see evidence that an establishment is not producing products that meet the definition of ready-to-cook poultry, then inspector-in-charge would be authorized to require that the establishment reduce its line speed and remedy the defects.

E. Maximum Line Speeds Under the New Poultry Inspection System

Based on FSIS's experience under HIMP, the Agency is proposing that the maximum line speed for young chicken slaughter establishments be 175 birds per minute, and that the maximum line speed for turkey slaughter establishments be 55 birds per minute.

Establishments operating under HIMP have demonstrated that they are capable of consistently producing safe, wholesome, and unadulterated poultry products while operating at these line speeds. Moreover, they have consistently met pathogen reduction and other performance standards operating at these line speeds. The new inspection system is modeled on HIMP and, as discussed later in this document, also incorporates additional measures that will apply to all poultry establishments. These measures, which include testing for microbial organisms at pre-chill and post-chill, are designed to ensure that establishments maintain process control.

To gather additional data on the effects of line speeds on the worker safety and the ability of establishments to maintain process control, the Agency will select a maximum of five non-HIMP establishments that applied through the SIP to receive waivers of existing regulations restricting line speeds. The Agency limited the number of non-HIMP establishments that would receive SIP waivers for line speed requirements to five because FSIS inspectors rather than establishment personnel would continue to be responsible for conducting carcass sorting. Thus, these non-HIMP plants would need additional inspectors to ensure that faster line speeds do not affect product safety.

FSIS recognizes that evaluation of the effects of line speed on food safety should include the effects of line speed on establishment employee safety. To obtain preliminary data on this matter, FSIS asked the National Institute for Occupational Safety and Health (NIOSH) to evaluate the effects of increased line speed by collecting data from the five non-HIMP plants that have been granted waivers from line speed restrictions under the SIP. NIOSH has expressed its willingness to evaluate the effects of increased production volume on employee health, with a focus on musculoskeletal disorders and acute traumatic injuries (76 FR 41186, 41189). NIOSH will prepare a report based on its findings of short-, intermediate-, and long-term effects from the process modifications. NIOSH will make recommendations as needed. FSIS has made cooperation with NIOSH a

condition for the five non-HIMP plants to operate at faster line speeds under the SIP waiver. FSIS will consider the available data on employee effects collected from NIOSH activities when implementing any final rule resulting from this proposal.

F. Facilities Requirements for Establishments Operating Under the New Poultry Inspection System

1. General

As discussed above, the new inspection system would replace SIS, NELS, and NTIS. FSIS anticipates that most, if not all, of the establishments that will choose to use the proposed inspection system are establishments that operate under one of those inspection systems. Accordingly, the following discussion of the facilities requirements associated with the proposed new inspection system highlights the differences between the proposed system and the existing inspection systems.

The proposed regulatory text describing the facilities requirements under the new inspection system is organized differently than the existing regulatory text. Whereas the existing regulations describe facilities requirements under Sections 9 CFR 381.36 and 381.76, the proposed regulatory text incorporates all facilities requirements relating to the new inspection system under proposed 9 CFR 381.36(c). The requirements are subdivided into four paragraphs: Paragraph (1) describes facilities requirements for the online carcass inspection station; Paragraph (2) describes facilities requirements for the offline verification inspection stations; Paragraph (3) describes facilities requirements pertaining to inspection of the viscera of the first 300 carcasses of each flock; and Paragraph (4) describes a facilities requirement for a trough extending beneath the processing line from the point of evisceration to the point where trimming is performed.

2. Online Carcass Inspection Stations

Under the proposed inspection system, one online carcass inspection station will be provided on each processing line. If this proposal is adopted, it will be located at the end of the processing line, immediately before the chiller and after the establishments has conducted sorting, trimming, and reprocessing activities and has applied all pre-chill interventions. This location for the online inspection station differs from the existing inspection systems, which require several online inspection stations to be located after evisceration has occurred but before any trimming or pre-chill interventions have been applied. Based on its experience under HIMP, FSIS expects that when establishments operating under SIS, NELS, or NTIS convert to the new inspection system, they will use their existing online inspection stations to conduct required establishment sorting activities.

Under the proposed inspection system, as under the existing inspection systems, the conveyor line will be level for the entire length of the online carcass inspection station, and the vertical distance from the bottom of the shackles to the top of the platform will be at least 60 inches. Other requirements for the proposed online inspection station that are the same as those under the existing inspection systems include requirements for a conveyor line start/stop switch, for proper lighting, for a clipboard holder, for receptacles to be used for condemned carcasses and parts, and for hangback racks.

FSIS is proposing that the platform for the online carcass inspection station be of the same dimensions and include the same safety features as under the existing inspection systems except that under the proposed system, the platform need only be four feet long instead of eight feet long. The inspection platform can be shorter under the proposed inspection system because, unlike the existing inspection systems, the new inspection system does not require an establishment helper to flank each online carcass inspector. Also unlike the existing inspection systems, the platform need not be height-adjustable under the proposed inspection system because the inspection procedure under the proposed system does not require the online carcass inspector to handle every carcass.

As under the existing inspection systems, FSIS is proposing that establishments equip each online carcass inspection station with hand rinsing facilities to prevent cross-contamination from occurring when the online carcass inspector is required to touch carcasses with his or her hands. However, the carcass inspection method under the proposed inspection system does not require the carcass inspector to touch every carcass; such hand contact will be infrequent. Therefore, the Agency is not proposing to require that establishments equip the online inspection station with continuous flow hand rinse facilities as under the existing regulations. Instead, the Agency is proposing that establishments provide either continuous flow hand rinse facilities or hand rinse facilities capable of being activated in a hands-free manner (e.g., by placing the hands in front of a motion sensor or by stepping on a foot pedal). This flexibility will allow establishments to conserve water. As is the case now, under this proposal, all online hand rinse facilities must operate in a sanitary manner that minimizes splashing and the risk of cross-contamination, and the hand rinse facilities must provide water that is at least 65 degrees Fahrenheit to ensure effective sanitation.

FSIS is proposing that the water provided by the hand rinse facilities at online carcass inspection stations may not exceed 120 degrees Fahrenheit. The current regulations do not provide a maximum temperature. FSIS is proposing this change to prevent the risk of scalding. According to the U.S. Consumer Product Safety Commission (CPSC), most adults will suffer third-degree burns if exposed to 150 degree Fahrenheit water for two seconds, to 140 degree water for six seconds, to 130 degree water for 30 seconds, and 120 degree water for five minutes.[9] Carcass inspectors wear latex gloves, and it is possible for water to become trapped underneath the gloves and remain in contact with inspectors' hands even after their hands are removed from the water source. FSIS has granted some establishments waivers to install non-continuous flow online hand rinsing facilities in order to conserve water. These facilities are referred to as ''water savers.'' However, inspection personnel have identified that water provided by water savers is oftentimes too hot due to build-up of water in the pipes, causing burning of forearms while contacting the water and/or metal railings at the inspection station. Inspection personnel have also identified that water pressure from water savers is uneven, causes splattering, and does not provide water in a manner that allows inspectors to wash their hands quickly between birds presented for inspection. Inspection personnel have filed grievances against FSIS management for not stopping the use of these hand rinsing facilities or for not getting establishments to correct these problems. Therefore, to ensure that inspectors are protected from scalding and to encourage maximum use of hand rinsing facilities as needed to prevent cross contamination from occurring, FSIS is proposing that hand rinsing facilities provide water at a minimum temperature of 65 degrees Fahrenheit and a maximum temperature of 120 degrees Fahrenheit. The Agency

[9] US Consumer Product Safety Commission Document #5098, ''Tap Water Scalds.'' Available at: *http://www.cpsc.gov/cpscpub/pubs/5098.html.*

requests comment on the efficacy and safety of this proposed temperature range and on the hand rinsing facilities requirement in general.

The online inspection station under the proposed inspection system must also be equipped with a buzzer within reach of the on-line inspector that the inspector can use when necessary to alert the inspector-in-charge, offline inspectors, or establishment management of the need to correct a deficiency that require their attention.

3. Offline Verification Inspection Stations

FSIS is proposing to require that establishments operating under the proposed inspection system provide offline verification inspection stations that are similar to the offline inspection stations required under the existing inspection systems. As under the existing inspection systems, FSIS is proposing that at least one offline verification inspection station be located at a pre-chill location and at least one be located at a post-chill location. For establishments having more than one processing line or more than one chiller, the Agency will determine how many offline verification inspection stations are required under the specific processing conditions of the establishment concerned.

FSIS is proposing to require that the offline verification inspection stations under the new system consist of the same dimensions as the offline stations under the existing inspection systems. The dimensions and features of the offline inspection tables would also be the same. The requirements for lighting, hangback racks, and accessibility to hand washing facilities would also be the same as under the existing inspection systems. The requirement for a clipboard holder is the same except FSIS is also proposing to allow establishments to elect to provide offline verification inspectors with electronic means of recording inspection results.

4. Location To Inspect the Viscera of the First 300 Carcasses of Each Flock

Under the proposed inspection system, an offline inspector in young chicken slaughter establishments will inspect the viscera of each of the first 300 birds slaughtered in each flock. Accordingly, FSIS is proposing to require that young chicken establishments operating under the proposed inspection system provide a location along the processing line after the carcasses are eviscerated at which the viscera inspection can safely and properly be conducted. The viscera must be presented at this location either uniformly trailing or leading. Based on FSIS's experience under HIMP, most establishments choosing to operate under the new inspection system will provide this location where establishment sorting activities take place.

5. Drainage From Processing Line

FSIS is proposing no change to the existing requirement that a trough or other drainage and collection facilities must extend beneath the conveyor at all places where processing operations are conducted from the point where the carcass is opened to the point where trimming has been performed.

G. Eligibility To Operate Under the New Poultry Inspection System

FSIS is proposing that young chicken and turkey slaughter establishments may use the new inspection system if they apply to do so, and if the Administrator determines that they are eligible. To be eligible, the establishment must agree to meet all facilities requirements and to maintain records to document that the products resulting from their slaughter operations meet the definition of ready-to-cook poultry.

Because FSIS is proposing to eliminate SIS, NELS, and NTIS, and to end HIMP, the Agency is also proposing to require that all young chicken and turkey slaughter establishments that do not operate under the new inspection system operate under traditional inspection.

In addition, FSIS is proposing to allow establishments that slaughter poultry classes other than young chicken and turkey to operate under the New Poultry Inspection System if they request and are granted a waiver through the SIP.

IV. Other Proposed Changes to Poultry Slaughter Regulations

A. Proposed Changes to Traditional Inspection System

FSIS is proposing to limit to two the number of online inspectors per line in all poultry slaughter establishments operating under traditional inspection, with an exception for existing establishments other than young chicken and turkey that are currently operating with more than two online inspectors. Under traditional inspection, online carcass inspectors would continue to use the current traditional inspection methods. The Agency anticipates that it will assign approximately one offline inspector for every six online inspectors under traditional inspection. Additionally, the Agency would continue to provide oversight of workforce through veterinarians.

Most poultry slaughter establishments operating under traditional inspection are currently staffed with two online inspectors. As of September 2011, all of the very small establishments that slaughter young chickens or turkeys under the traditional inspection were staffed with two or fewer on-line inspectors. However, there is a small number of poultry slaughter establishments that slaughter species other than young chickens and turkeys that have more than two online inspectors. FSIS will continue to staff these establishments with the number of online inspectors they currently have. FSIS has tentatively concluded that doing so will ensure that this rule change does not have an adverse impact on these establishments. FSIS is proposing that this exception will not apply to new establishments after a final rule is published because the Agency anticipates that new establishments would be aware of the requirements of the rule and would factor this into their decisions to operate. Also, this exception would not apply to young chicken and turkey slaughter establishments because doing so would undercut the efficiencies that are presented by this proposal.

B. Proposed Changes Affecting All Poultry Slaughter Establishments

1. Procedures To Address Contamination by Fecal Material and Enteric Pathogens as Hazards Reasonably Likely To Occur

a. Contamination of Poultry Carcasses and Parts by Fecal Material and Enteric Pathogens Are Hazards Reasonably Likely To Occur in Poultry Slaughter Establishments

The Centers for Disease Control and Prevention collects data on laboratory-confirmed human foodborne illness cases through the Foodborne Diseases Active Surveillance Network (FoodNet), an active, population-based, sentinel surveillance system for the United States.[10] Several FoodNet case-control studies have examined the link between chicken and human infection with *Salmonella* or *Campylobacter* and have found that poultry products are an important vehicle for human *Salmonella* and *Campylobacter* infections in the United States (CDC memo: Foodborne illness from *Salmonella* and *Campylobacter*

[10] For more information on FoodNet see *http://www.cdc.gov/foodnet/*.

associated with poultry, United States, available at: *http://www.fsis.usda.gov/PDF/Salmonella_Campylobacter_011811.pdf*).

In addition to FoodNet case-control studies, CDC collects outbreak data reported by State and local health departments through the Foodbome Disease Outbreak Surveillance System (FDOSS). Outbreak data collected through FDOSS provides important evidence linking sources of *Salmonella* and *Campylobacter* to human illness.[11]

Fecal contamination is a major vehicle for spreading enteric pathogenic microorganisms, such as *Salmonella,* to raw poultry. Accordingly, contamination of poultry carcasses and parts by fecal material and enteric pathogens (e.g., *Salmonella* and *Campylobacter*) are hazards reasonably likely to occur in poultry slaughter establishments unless addressed in a sanitation SOP or other prerequisite program.

In order to ensure that establishments properly address the food safety hazards associated with contamination of poultry carcasses by fecal material and enteric pathogens, FSIS is proposing to amend the poultry slaughter inspection regulations as described in the following two sections.

b. Procedures Addressing Zero Tolerance for Visible Fecal Material Before Chilling

In 1997, FSIS codified its zero tolerance policy for poultry carcasses contaminated with visible fecal material entering the chiller (62 FR 5139, February 4, 1997). At that time, the Agency published a final rule that removed ''feces'' from the list of nonconformance elements under the FPS and provided that ''Poultry carcasses contaminated with visible fecal material shall be prevented from entering the chilling tank'' (9 CFR 381.65(e)). The preamble to that final rule emphasized that the ''zero tolerance policy for visible fecal contamination is an important food safety standard because fecal contamination is a major vehicle for spreading pathogenic microorganisms, such as *Salmonella,* to raw poultry.''

Later the same year, FSIS published a second **Federal Register** document entitled ''Notice on complying with food safety standards under the HACCP system regulations'' (62 FR 63254, November 28, 1997). The purpose of the second document was to ensure that establishments understood the Agency's zero tolerance policy for visible fecal material as a food safety hazard as establishments prepared to comply with the then newly enacted HACCP system regulations. The notice first cited the zero tolerance policy for visible fecal contamination before the chiller that had recently been codified at 9 CFR 381.65(e). Then, the notice explained that, ''to meet the zero tolerance standard, an establishment's [HACCP] controls must (among other things) include limits that ensure that no visible fecal material is present * * * before poultry carcasses enter the chilling tank'' (citing 9 CFR 417.2(c)). Finally, the notice explained that ''Under the HACCP system regulations, critical control points to eliminate contamination with visible fecal material are predictable and essential components of all slaughter establishments' HACCP plans.''

Thus, in February 1997, FSIS codified the requirement that all poultry slaughter establishments must prevent carcasses contaminated with visible fecal material from entering the chiller (9 CFR 381.65(e)); and in November 1997, FSIS specified in a **Federal Register** notice that procedures for doing so must be incorporated in establishments' HACCP systems. As a result, all poultry slaughter establishments' HACCP plans currently include critical control points for preventing carcasses contaminated with visible fecal material from entering the chiller. Accordingly, FSIS is proposing to amend 9 CFR 381.65 to require poultry slaughter establishments to develop, implement, and maintain as part of their HACCP plans, or sanitation SOPs, or other prerequisite programs, written procedures to ensure that poultry carcasses contaminated with visible fecal material do not enter the chilling tank. Such a requirement will ensure that establishments maintain the records to verify that that they have implemented the necessary measures and, when necessary, have taken appropriate corrective actions to prevent carcasses contaminated with visible fecal material from entering the chiller.

c. Procedures To Prevent Contamination of Carcasses and Parts by Enteric Pathogens and Fecal Material Throughout the Entire Slaughter and Dressing Operation

Background

Although the existing requirement for establishments to prevent visible fecal material from entering the chiller, and the proposed clarification described above that establishments must have procedures addressing how they do so, are important safeguards, those safeguards will not be fully effective if an appropriate effort is not made to prevent contamination from occurring throughout the slaughter and dressing operation. Fecal material is a major vehicle for spreading pathogenic microorganisms, such as *Salmonella* and *Campylobacter,* to raw poultry, and therefore it is vital for establishments to maintain sanitary conditions and to prevent, to the maximum extent possible, contamination from occurring before slaughter and throughout the slaughter and dressing process.

Under HACCP, establishments are responsible for identifying food safety hazards that are reasonably likely to occur in the production process and for implementing preventive measures to control those hazards. However, FSIS's experience with HACCP shows that instead of implementing controls to prevent contamination from occurring early in the production process, some poultry slaughter establishments rely on interventions applied at the end of the process to remove contamination after it occurs. This may be due in part to the fact that FSIS inspectors perform verification checks for zero visible fecal contamination and *Salmonella* and *Campylobacter* testing at the end of the slaughter and chilling processes. Failure to implement preventive measures throughout the slaughter and dressing process can lead to the creation of insanitary conditions in the establishment and increases the potential for carcasses and parts to become contaminated with enteric pathogens and fecal material. Interventions with chemical antimicrobials applied at the end of the process are less likely to be fully effective on carcasses that contain high levels of pathogens, and these chemical treatments are not effective in preventing insanitary conditions throughout the slaughter establishment.

Information that FSIS has collected from comprehensive Food Safety Assessments (FSA's) it has conducted in establishments that have failed to meet the Agency's *Salmonella* performance standards demonstrate the need for establishments to adopt preventive measures to control contamination throughout the entire production process, as well as the need to maintain documentation to verify the effectiveness of those measures on an on-going basis.

For example, FSIS conducted an FSA at a young chicken slaughter establishment that failed its *Salmonella* set in 2007. For the FSA, FSIS reviewed the establishment's *Salmonella* testing data, controls, and records associated

[11] For more information on CDC's FDOSS see: *http://www.cdc.gov/outbreaknet/surveillance_data.html.*

with the establishment's sanitary dressing procedures and microbial interventions, and observed the establishment's implementation of these controls and procedures. The Agency's review found that the establishment had high levels of *Salmonella* on incoming birds. The high levels of *Salmonella* sustained throughout the process appeared to have overwhelmed any subsequent in-process interventions. As a result of the FSA findings, FSIS notified the establishment in writing that the Agency would withhold or suspend inspection unless the establishments provided a written response within 72 hours on the actions it would take to achieve compliance. In response, the establishment gave a written description of immediate corrective actions it would take, including removing debris and repositioning equipment, retraining of employees in the HACCP and Sanitation SOP methodology prescribed in the establishments control programs, and reassessing the establishments HACCP plan to incorporate a new antimicrobial treatment for the chill tank and similar antimicrobial interventions applied during the dressing operation. FSIS then put in place a verification plan in which inspectors in that establishment were expected to routinely verify the corrective actions proffered by the establishment. Since implementation of these corrective actions, the establishment has passed all of its *Salmonella* performance sets.

In another example, FSIS conducted an FSA in an establishment that had failed a *Salmonella* set in 2005. From the FSA, the Agency found that the establishment failed to: (i) Identify *Salmonella* as a significant hazard, (ii) control hazards it did identify, (iii), identify corrective actions in its sanitation SOPs, (iv) perform verification, (v) perform all corrective actions, and (vi) monitor pre-shipment records sufficiently. As a result, FSIS notified the establishment in writing that the Agency would withhold or suspend inspection unless the establishment provided a timely response on how it would achieve compliance. Consequently, the establishment reassessed and redesigned its HACCP plan for slaughter; revised its preoperational plan; and conducted remedial training of personnel in HACCP and sanitation SOPs. Because the establishment did not previously have defined verification activities for its employees to perform and document, the establishment instituted hourly checks for sanitary dressing at evisceration. FSIS issued a Notice of Deferral on August 8, 2005, and a Closeout Letter of Warning on March 3, 2006. FSIS then put in place a verification plan in which inspectors in that establishment were expected to routinely verify the corrective actions proffered by the establishment. Since implementation of these corrective actions, the establishment has passed all of its *Salmonella* performance sets.

Proposed Regulatory Requirements

To ensure that establishments implement appropriate measures to prevent carcasses from becoming contaminated with pathogens, and to ensure that both FSIS and establishments have the documentation they need to verify the effectiveness of these measures on an on-going basis, FSIS is proposing to require that all poultry slaughter establishments develop, implement, and maintain written procedures to prevent contamination of carcasses and parts by enteric pathogens and fecal material throughout the entire slaughter and dressing operation. FSIS is proposing that establishments incorporate these procedures into their HACCP plans, or sanitation SOPs, or other prerequisite programs, and that they maintain records sufficient to document the implementation and monitoring of these procedures. These proposed requirements are necessary to fully implement the existing HACCP regulations.

Many establishments have in place process control measures to address the prevention of contamination by enteric pathogens and fecal material, but are not maintaining documentation to verify the effectiveness of these procedures on an on-going basis. If this rule becomes final, establishments may choose to incorporate those measures into their procedures addressing how they prevent contamination from occurring during slaughter and dressing operations. Examples of such measures include: monitoring of evisceration equipment to ensure it is properly adjusted to the size of birds within a particular flock; purchase specification agreements requiring feed withdrawal; and employee hygiene and hand washing policies. Under this proposed rule, establishments will be required to incorporate these procedures into their HACCP plans, or Sanitation SOPs, or other prerequisite programs, and to maintain on-going documentation to demonstrate that the procedures are effective. This on-going documentation will allow both the establishment and FSIS to identify specific points in the production process where a lack of process control may have resulted in product contamination or insanitary conditions, which will allow the establishment to take the necessary corrective actions to prevent further product contamination.

FSIS is not proposing to prescribe the specific procedures that establishments must follow to prevent carcasses from becoming contaminated by enteric pathogens or fecal material because the Agency believes that establishments should have the flexibility to implement the most appropriate measures that will best achieve the requirements of this proposed rule. However, on-going verification and documentation to demonstrate that an establishment's process controls are effective in preventing food safety hazards are critical components of the HACCP system. FSIS believes that microbiological test results that represent levels of microbial contamination at key steps in the slaughter process, are necessary for establishments to provide comprehensive, objective evidence to demonstrate that they are effectively preventing carcasses from becoming contaminated with pathogens before and after they enter the chiller.

As discussed in detail earlier in this document, the current regulations require that official poultry slaughter establishments conduct regular testing for generic *E. coli* at the end of the chilling process as a means of verifying process control (9 CFR 381.94(a)). The regulations include performance criteria that are intended to represent the highest expected microbial loads on carcasses when the slaughter process is in control (9 CFR 381.94(a)(5)(1)). However, FSIS's experience with using post-chill testing for generic *E. coli* to monitor process control for fecal contamination and sanitary dressing has led the Agency to conclude that such testing is not the most effective way to prevent contamination from occurring throughout the slaughter and dressing operation. As noted above, recent studies indicate that *E. coli* levels may not be a valid measure of fecal contamination. This finding was also supported by a 2004 report issued by the National Advisory Committee on Microbiological Criteria for Foods (NACMCF). Additionally, while post-chill testing may be useful for identifying microbial levels on carcasses after they have been subjected to antimicrobial chemicals in the chiller, it does not necessarily reflect the effectiveness of the preventive measures implemented earlier in the process to address contamination at points in the process before the chiller.

Given these limitations, FSIS is proposing to rescind the generic *E. coli* testing requirements in 9 CFR 381.94 and to replace them with a new testing requirement that will provide establishments the flexibility to sample for other, potentially more useful indicator organisms. Under this proposal, establishments would continue to conduct sampling and analysis of carcasses for microbial organisms at the post-chill location, but in addition the Agency is proposing a second testing location at the pre-chill position in order to ensure establishments will be able to monitor the effectiveness of process control for enteric pathogens throughout the slaughter and dressing operation.

Although FSIS has tentatively concluded that verification testing conducted at two proposed points, i.e., pre-chill and post-chill, will provide the evidence establishments need to verify that their process control measures are effective in preventing carcasses from becoming contaminated with pathogens, the Agency also considered two alternatives approaches. FSIS considered requiring a third verification test at the re-hang position to monitor the incoming load of pathogens but does not believe it is necessary to impose the additional costs that would be associated with testing at this point. FSIS also considered requiring only one verification test at any position along the production line to provide maximum flexibility but concluded this approach may not be sufficient to monitor the effectiveness of an establishment's procedures to prevent contamination throughout the slaughter and dressing operation. The Agency requests comments on these alternatives.

Under this proposed rule, instead of following a prescribed microbiological testing program, each establishment would be responsible for developing and implementing its own microbiological sampling plan, which would be required to include carcass sampling at pre-chill and post-chill. The establishment would be responsible for determining which microbiological organisms will best help it to monitor the effectiveness of its process control procedures. Because FSIS is proposing that an establishment's microbiological sampling plan be part of its HACCP plan, sanitation SOP, or other prerequisite program, each establishment would be required to provide scientific or technical documentation to support the judgments made in designing its sampling plan (see 9 CFR 417.4(a)). Under this proposal, establishments could develop sampling plans to test carcasses for enteric pathogens, such as *Salmonella* and *Campylobacter,* at pre-chill and post chill, or they could test for an appropriate indicator organism. FSIS intends to provide sampling guidance to assist small and very small establishments develop sampling plans that meet the Agency's expectations for testing designs and sampling frequency.

This proposed rule does not prescribe how frequently establishments must sample and test poultry carcasses for microbiological organisms at pre-chill and post-chill. Instead, FSIS is proposing to require that an establishment's sampling frequency be adequate to monitor the effectiveness of the establishment's process control for enteric pathogens. The frequency with which establishments would need to conduct such testing will depend on a number of factors, including their production volume, the source of their flocks, their slaughter and dressing process, and the consistency of their microbial test results over time. Because the testing frequency would be an integral part of an establishment's HACCP system verification procedures, establishments would need to collect and maintain data to demonstrate that their testing frequency is adequate to verify the effectiveness of their process control procedures.

This proposed rule does not mandate that establishments meet specific performance standards for microbial testing. Rather, because establishments would be required to incorporate their procedures for preventing contamination by enteric pathogens and fecal contamination into their HACCP plans, or sanitation SOPs, or other prerequisite programs, establishments would be required to take appropriate corrective action when either the establishment or FSIS determines that the establishment's procedures are not effective in preventing carcass contamination throughout the entire slaughter and dressing process. Establishments would also need to routinely evaluate the effectiveness of their procedures in preventing carcass contamination.

Small and very small, low-volume establishment [12] that choose to operate under the revised traditional inspection system rather than the New Poultry Inspection System may not need to conduct testing at two points in the slaughter process to adequately monitor process control. Therefore, FSIS is considering permitting these establishments to conduct testing for microbial pathogens at one point in the process if they can demonstrate that they are maintaining adequate process control. Under this proposal, if the Agency had evidence to indicate that an establishment conducting testing at a single point in the process was having difficulty maintaining process control, such as not meeting FSIS's pathogen performance standards, the establishment would need to conduct additional testing or implement additional measures to ensure that its process remains in control. The Agency request comments on this aspect of the proposed rule.

If this proposal is finalized, FSIS will issue guidance to assist establishments in developing procedures for controlling contamination throughout the slaughter and processing operation and for developing appropriate sampling plans to verify the effectiveness of their procedures. This guidance will include a default sampling frequency for small and very small establishments.

Under this proposed rule, FSIS would verify the effectiveness of an establishment's process control procedures in preventing carcasses from becoming contaminated with enteric pathogens and fecal material by reviewing the establishment's monitoring records, including the establishment's microbial testing results, observing an establishment implementing its procedures, and inspecting carcasses and parts for visible fecal contamination when conducting both online carcass inspection and offline verification inspection procedures. FSIS personnel would consider both the establishment's testing results, as well as the results of the Agency's testing for *Salmonella* and *Campylobacter* to determine young chicken and turkey establishment's compliance with the Agency's *Salmonella* and *Campylobacter* performance standards, to help assess how well the establishment is controlling its slaughter and dressing processes.

If inspection personnel determine that an establishment's process control procedures are not effective in preventing contamination by enteric pathogens or fecal contamination, the Agency would take appropriate regulatory action to ensure that the establishment's production process is in control, and that product is not being adulterated. Such action could include performing additional visual inspections of products or equipment

[12] Low-volume establishments would include those classified as very low volume establishments under the existing generic *E. coli* testing regulations, e.g., establishments that slaughter no more than 440,000 young chicken or no more than 60,000 young turkeys on an annual basis (9 CFR 381.94(a)(2)(v)).

and facilities, increasing offline verification inspections, initiating Food Safety Assessments (FSAs), conducting hazard analysis verification procedures, conducting intensified product sampling for *Salmonella* and *Campylobacter* under the Agency's performance standard sampling program, and retaining or condemning product.

2. Impact Considerations for Small/Very Small Low Volume Establishments

As noted in the Preliminary Impact Analysis (PRIA) for this proposed rule, FSIS projects that all 51 of the very small establishments that operate under the existing traditional inspection system will chose to operate under the proposed revised traditional inspection system. However, this proposed rule will impose certain costs on establishments regardless of the proposed inspection system under which they chose to operate. Therefore, because FSIS is interested in implementing this proposed rule in a manner that will minimize the impact on small and very small establishments, the Agency requests comments on the following measures to help mitigate the impact on to small and very small establishments.

• *Phase-in for small businesses:* FSIS requests comments on whether a phased implementation would help to mitigate the impact of this proposed rule on small and very small establishments. The Agency also requests comments on the type of phased implementation that would be most effective in mitigating the impact on very small establishments. For example, would a phased implementation that establishes separate effective dates for large, small, and very small establishments be effective in mitigating the impact of this proposed rule on small and very small establishments?

• *Allow small and very small plants that operate under the modified traditional inspection system to test for microbial pathogens at one point in the slaughter process instead of two.* As noted above, this proposed rule requires that all young chicken and turkey slaughter establishments conduct testing for microbial pathogens at two points in the slaughter process regardless of the inspection system that they operate under. However, FSIS believes that it may not be necessary for very small, low-volume establishments that operate under the revised traditional inspection system to conduct testing at two points in the process to effectively monitor process control. Therefore, FSIS requests comments on whether it should revise this provision in the proposed rule to permit very small, low volume establishments to conduct testing for microbial pathogens at one point in the process if these establishments can demonstrate that they are maintaining adequate process control through other means.

• *Number of on-line inspectors permitted for revised traditional inspection:* As discussed earlier in this document, this proposed rule would limit the number of on-line inspectors for the revised traditions inspection system to two, with an exception for existing establishments other than young chicken and turkey that are currently operating with more than two online inspectors. FSIS is proposing to continue to staff establishments that slaughter poultry other than young chickens and turkeys with the number of online inspectors that they currently have to mitigate the impact of this proposed rule on these establishments. FSIS has tentatively decided that this exception would not apply to young chicken and turkey slaughter establishments because doing so would undercut the efficiencies that are presented by this proposal. However, because the young chicken and turkey slaughter establishments that operate under the existing traditional inspection system are classified as either small or very small, FSIS requests comments on it should permit these establishments to retain more than two inspectors if they are currently operating with more than two inspectors under the existing traditional inspection system.

In addition to the proposed mitigations discussed above, FSIS intends to adopt the following measures to assist small and very small establishments meet the requirements of this proposed rule.

• *Provide FSIS outreach training programs to small and very small establishments to help them comply with the proposed requirements to address enteric pathogens and fecal contamination.* FSIS intends to provide training to small and very small establishments to assist them to develop, implement, and maintain written procedures for the prevention of contamination by enteric pathogens and fecal material and for preventing carcasses contaminated with fecal material from entering the chill tank. To ensure that very small plant operators have access to such training, FSIS is considering providing computer-based training or using a webinar format.

• *Provide guidance on measures small establishments can take to control for enteric pathogens.* As discussed above, under both the New Poultry Inspection System and the revised traditional inspection system, establishments will be required to conduct testing for microbial pathogens at pre-chill and post-chill to verify process control. The frequency with which establishments conduct testing under this proposed rule will depend on, among other things, the production volume, source of flock, and the plants slaughter and dressing process. FSIS believes that very small, low volume establishments that have slower line speeds and that do not use automated evisceration equipment will likely not need to conduct frequent testing to demonstrate that their process is in control. Therefore, FSIS intends to develop guidance to assist small plants implement measures other than testing to demonstrate that their process is in control. FSIS believes that this will help to minimize the amount of testing (and the associated costs) that small plants will need to conduct to comply with the proposed rule. The guidance would provide for an increase in testing frequency if an establishment is having difficulty maintaining process control, such as not meeting FSIS's pathogen performance standards.

FSIS requests comments on these and other possible measures that that the Agency can implement to minimize this proposed rule's impact on small and very small, low volume establishments.

3. Proposed Changes to Time and Temperature Requirements for Chilling

a. Background

As discussed earlier in this document, FSIS has granted SIP waivers from the time and temperature chilling regulations to six poultry slaughter establishments. The current poultry chilling regulations (9 CFR 381.66) require ready-to-cook poultry, except for ratites, to be chilled immediately after evisceration unless the poultry is to be frozen or cooked immediately at the establishment. The purpose of these regulations is to ensure prompt removal of body heat and to prevent the incubation and rapid growth of bacterial populations on or within the carcasses, thereby preserving the conditions and wholesomeness of the poultry and preventing adulteration (9 CFR 381.66(a); 35 FR 15739, October 7, 1970).

Under the current regulations, poultry slaughtering establishments must ensure that the internal temperature of poultry carcasses weighing 4 to 8 pounds is reduced to 40 °F or below within 4 hours; carcasses weighing 4 to 8 pounds, within 6 hours; and those weighing over 8 pounds, within 8 hours (9 CFR 381.66(b)). Once chilled, poultry

to be packaged and shipped must be stored at 40 °F or less. FSIS believes that a chilling process satisfying the present requirement results in no outgrowth of bacteria.

During further processing and packaging operations, the internal temperature of the poultry carcass may be allowed to rise to 55 °F, provided that immediately after packaging, the poultry is chilled to 40 °F or placed in a freezer. The regulation requires that any poultry that is to be held at the establishment in packaged form longer than 24 hours must be held in a room at a temperature of 36 °F or lower (9 CFR 381.66(c)(3)). This requirement provides assurance that no bacterial outgrowth occurs before the package leaves the establishment.

9 CFR 381.66(c)(4) requires the chilling of giblets to 40 °F or lower within two hours of the time that they are removed from the inedible viscera. But when the giblets are cooled with the carcass from which they are drawn, the giblets are subject to the same chilling time as the carcass. 9 CFR 381.66(e) requires that the temperature of air-chilled, ready-to-cook poultry be reduced to 40 °F or lower within 16 hours.

The temperature limits in these regulations were based on the fact that most relevant foodborne bacteria have not been reported as being capable of multiplying at temperatures below 40 °F (35 FR 15739). Thus, any bacteria would be in a suspended state, if not actually killed. Chilling ready-to-cook poultry and keeping it at sufficiently low temperatures inhibits the multiplication of spoilage organisms as well as foodborne pathogens on the poultry and permits the poultry to be sold in markets at great distances from the processing establishment.

Most poultry slaughtering establishments in the United States chill eviscerated poultry by immersion in vats of water and ice. Where the chilling operation has been identified as a CCP in an official establishment's HACCP plan, FSIS inspectors verify that the establishment is monitoring at that CCP, and that the establishment's process is meeting the critical limits for the CCP. For raw poultry products, the chilling operation must meet the 40 °F temperature and time requirement, no matter what other limits the establishment may have identified in its hazard analysis. FSIS inspectors may determine whether products are compliant with the regulatory requirements by taking the temperatures of fresh and frozen poultry products—including carcasses, parts, and giblets—or by observing establishment employees conducting monitoring, by verification procedures, or by reviewing establishment records.

The regulation limiting chilling operations to specific time-and-temperature combinations is at odds with the PR/HACCP regulations. Additionally, FSIS has two long pending petitions requesting that the Agency repeal the prescriptive time and temperature chilling requirements. The American Meat Institute (AMI) petitioned the Department to amend the regulations governing moisture absorption and retention in certain raw meat and poultry products. AMI also requested other changes, including repeal of the regulations requiring poultry carcasses to be chilled below 40 °F within a specified time. The National Turkey Federation (NTF) has requested that FSIS waive the time and temperature requirements for poultry carcass cooling. FSIS has carefully considered the AMI and NTF requests in developing this proposal.

FSIS has concluded that alternative approaches to chilling are effective and safe. As discussed above, under SIP, the Agency has granted six poultry slaughter establishments waivers from the specific time and temperature chilling requirements prescribed in 9 CFR 381.66. FSIS will review the data provided through these waivers to ensure that these alternative approaches to chilling poultry are effective at controlling levels of bacteria and ensuring food safety. The Agency will take this data into consideration before issuing a final rule in this proceeding.

Based on the foregoing, FSIS is proposing to eliminate the time and temperature requirements for chilling ready-to-cook poultry carcasses and giblets. The existing requirements prescribe both the time and temperature parameters to be used in the chilling process and do not allow for alternative approaches that the establishment can use to control levels of bacteria. The regulation gives an establishment producing ready-to-cook poultry no flexibility to use procedures other than those in the regulations, even if alternative procedures achieve the same results. Because the objective of the current chilling regulations is to prevent microbial multiplication, establishments should have the option of choosing the means to do so, instead of being required to use a prescribed method of chilling that achieves a specific temperature limit, 40 °F, that applies to ready-to-cook poultry products.

In addition, the time and temperature regulations are inconsistent with the Agency's regulations on retained water (9 CFR 441.10) in that they tend to prevent poultry establishments from making full use of available options for reducing retained water in their products, such as the option of reducing the dwell time of products in immersion chillers.

b. Proposed Rule

FSIS is proposing to replace these prescriptive time and temperature requirements with a requirement that poultry slaughter establishments develop and maintain procedures that control the levels and prevent the multiplication of spoilage organisms and pathogenic bacteria in the product after evisceration. Establishments would have to include these procedures in their HACCP plans, or sanitation SOPs, or other prerequisite programs. Establishments would be required to maintain a chilling process so that at the end of slaughter operations, no pathogen outgrowth occurs.

Additionally, establishments would be required to keep previously chilled poultry carcasses and major portions chilled so that there would be no outgrowth of the pathogens, unless such poultry is to be packed and frozen immediately at the official establishment. And establishments would be required to chill giblets after processing so that there is no outgrowth of pathogens. Giblets could either be chilled with the carcass or separately.

Under this proposed rule, unless poultry are to be frozen or cooked immediately at the establishment after evisceration, poultry establishments would be required to identify those conditions at the establishment affecting carcass chilling and pathogen outgrowth afterwards. These conditions could include the amount of agitation of the chiller medium, the concentration of anti-microbial substances in the chiller medium, the temperature of the chiller medium, the rate of temperature reduction of the carcasses, and the internal temperature or microbial condition of the carcasses exiting the chiller.

Establishments would have to incorporate procedures for chilling into their HACCP plans, or Sanitation SOPs, or other prerequisite programs. These written procedures would include the conditions of use affecting carcass chilling and microbial multiplication identified by the establishment.

FSIS would consider the present chilling requirements as safe harbors. If an establishment uses a chilling and subsequent storage process different from the present requirements, the establishment would be required to specify the point where chilling has been completed and to validate that at

that point any residual microbial population is inhibited from growing. The establishment would also be required to validate that the bacterial population does not increase during storage at the establishment.

To ensure that the bacterial population does not multiply during storage (after chilling), the establishment could take into account any of several effects of temperature on microbial growth. For example, at temperatures of 48 °F (10 °C) or below, the multiplication of microorganisms of concern is very slow and has no significant effect on the microbiological quality of the carcass. At temperatures below 50 °F, spoilage bacteria generally multiply faster than pathogens, and meat or poultry kept below 50 °F will tend to spoil before excessive pathogen multiplication could occur. Gram negative pathogens, such as salmonellae, tend not to multiply below 45 °F (7° C).

Removal of the time and temperature chilling requirements is unlikely to lead to a significant change in carcass chilling methods or long-established packaging and shipping practices that the poultry products industry considers necessary to meet both regulatory and market requirements to maintain raw products in a sanitary condition. It would, however, eliminate a prescriptive requirement and give establishments greater flexibility to manage how they chill poultry. Processors must ensure good temperature controls at the establishment and during shipment to maintain product quality during transport and ensure a usable shelf life for the products after delivery to retail establishments.

More than half of the raw poultry products destined for the retail market are shipped using the chill-pack method of refrigeration, under which the products are quickly chilled after packaging and held at temperatures of from 28 °F to 32 °F. The rapid chilling limits the growth of pathogenic and spoilage bacteria on the carcass. Almost a third of the products are packed in containers filled with shaved or crushed ice (the ice-pack method) or dry ice (dry-ice pack) and held at temperatures between 30 °F and 35 °F and shipped to distributors, grocers, and fast-food chains. Other raw poultry products are shipped either in the frozen state or under other forms of refrigeration. This proposal would not affect these practices and the resulting consumer protections. The Agency has, therefore, concluded that consumers would be fully protected without the very prescriptive requirements that this proposed rule would eliminate.

Time and temperature requirements are intended to remove animal heat and inhibit the multiplication of bacteria, including food-poisoning organisms, on ready-to-cook poultry products. But time and temperature combinations other than those in the current regulations and technologies other than chilling are available to reduce bacterial levels and control bacterial multiplication on products at the processing establishment.

FSIS would verify that establishments are controlling levels of bacteria through verifying an establishment's chilling procedures in its HACCP plan or Sanitation SOP or other prerequisite programs. Consistent with current regulations, once the product is chilled, the establishment would be required to continue to inhibit the outgrowth of such organisms as long as the product remains at the establishment.

c. Air Chilling

Under this proposal, air-chilled poultry would be required to meet the same regulatory requirements for pathogen control as poultry chilled by immersion. FSIS is proposing to amend the regulations to clarify what constitutes the air chilling of poultry carcasses and parts. Air chilling is a production method that rapidly cools poultry carcasses and parts by moving them through cold air chambers. In immersion chilling, by contrast, the carcasses are dipped into ice cold water containing one or more antimicrobial agents. Regardless of the method used, establishments would need to define when the chilling process is complete.

The Agency is taking this step because industry is using ''air chilling'' and ''air chilled'' as label claims on packages of ready-to-cook poultry and parts. Moreover, many consumers apparently believe that air-chilled poultry is superior in taste and in wholesomeness to poultry that is chilled by conventional methods.

Because of the perceived marketing advantage in air chilling poultry, the industry has asked FSIS exactly what constitutes air chilling. Consequently, the Agency has decided to propose a definition of air chilling. Based on FSIS' knowledge of industry practices and consumer expectations, the Agency is proposing to define ''air chilling'' as the method of chilling raw poultry carcasses and parts exclusively with air. Under this proposed definition, an anti-microbial intervention that is applied with water may be used for a short duration if its use does not result in any pick-up of water or moisture, and if it does not assist the chilling process by lowering the product temperature (cooling effect).

By contrast, so-called evaporation chilling does not qualify as air chilling. Evaporation chilling consists of using a mist to chill poultry carcasses and parts and then using air to further chill the poultry.

FSIS is also proposing that ready-to-cook poultry may bear an ''air chilled'' or ''air chilling'' claim on the label if the chilling process used with the poultry carcasses and parts meets the definition of air chilling.

FSIS would verify that establishments that use air chilling and include ''air chilled'' or ''air chilling'' on their product labels use procedures that meet all the regulatory requirements, i.e., no water is used to aid the chilling process, and, if water is used to apply an anti-microbial, the product retains no water.

4. Proposed Changes to Online and Offline Reprocessing Regulations

a. Background

As noted earlier in this document, 144 poultry slaughter establishments are operating under waivers that allow them to use online antimicrobial systems to reprocess carcasses accidentally contaminated with digestive tract contents. On December 1, 2000, FSIS issued a proposed rule to permit the use of online reprocessing in poultry slaughter establishment (''Performance Standards for On-line Antimicrobial Reprocessing of Pre-chill Poultry Carcasses'' (65 FR 75187)). FSIS initiated this rulemaking in response to petitions submitted by two companies that have developed online reprocessing systems, Rhodia, Inc. and Alcide Corporation. Rhodia's online reprocessing system uses trisodium phosphate (TSP) rinse in combination with a chlorinated water system to treat carcasses pre-chill. Alcide's system uses acidified sodium chlorite as pre-chill antimicrobial treatment. Both systems are among those used in establishments operating under online reprocessing waivers.

The Agency proposed to amend its regulations to allow establishments to reprocess contaminated carcasses online by applying a pre-chill antimicrobial intervention if such carcasses met pre-chill performance standards for *Salmonella* and generic *E. coli* that would be significantly lower than the current generic *E. coli* regulatory criteria for verifying process control and the codified pathogen reduction *Salmonella* performance standards (65 FR 75192). At that time, FSIS had determined that it was necessary to hold poultry

contaminated with digestive tract contents to a more rigid pathogen reduction standard than product that is not visibly contaminated because digestive tract contents are a source of pathogens and other microorganisms. The available data evidenced that physical removal of visible contamination does not necessarily remove significant levels of pathogens and other microorganisms. However, although both the Rhodia and Alcide petition included data from in-plant trials that demonstrated that each company's pre-chill online reprocessing system is effective in reducing pathogens and other microorganisms on visibly contaminated poultry carcasses, Rhodia's data were quantitative and focused on absolute levels of reduction (e.g., less than 0.5 percent of the treated samples were positive for *Salmonella*), while Alcide's data documented degrees of reduction (e.g., there was an average reduction by 27.27 percent of the prevalence of *Salmonella* on the treated samples).

Therefore, because the various antimicrobial treatments used in the in-plant online reprocessing trials had differing effects with respect to pathogen reduction, FSIS did not include specific pre-chill standards in the proposed rule. Instead, the December 2000 proposed rule requested comments, especially in the form of additional data, on the specific performance standards that establishments that use pre-chill online antimicrobial reprocessing systems should be required to meet.

Most of the comments submitted in response to the proposed rule supported the use of online reprocessing. Some commenters recommended different kinds of performance standards that could be associated with online reprocessing but did not include microbiological data to support the suggested standards. There was also a general lack of consensus on the type of performance standard the Agency should adopt. Other commenters said that FSIS should not require a performance standard specifically for the use of online reprocessing.

As discussed above, FSIS enforces a zero tolerance standard for contamination by visible fecal material on poultry carcasses and parts pre-chill. Under the current regulations, the Agency permits the reprocessing of carcasses contaminated on their inner surfaces with visible digestive tract material before they enter the chilling tank. The regulations require that all reprocessing of poultry occur at an approved reprocessing station away from the processing line. Contaminated surfaces that are cut must be reprocessed only by trimming. Contaminated inner surfaces that are not cut may be reprocessed by trimming alone or in combination with other methods, such as washing and vacuuming. If the inner surfaces of carcasses are reprocessed other than solely by trimming, all surfaces of the carcass must be treated with chlorinated water containing 20 ppm available chlorine (9 CFR 381.91 (b)). The Agency estimates that approximately 2 to 3 percent of inspected poultry carcasses is reprocessed offline.

There are concerns that offline reprocessing of poultry carcasses may spread pathogenic organisms because the technique involves a significant amount of product handling and provides ample opportunity for cross contamination. As mentioned earlier in this document, FSIS has experience with industry use of online reprocessing in poultry slaughter establishments through approved experimentation conducted under waivers from the current regulations. Although the data generated from these in-plant trials demonstrated that various online antimicrobial treatments have differing effects with respect to pathogen reduction, the results indicate that online reprocessing, when properly employed, is safe and effective. The results of 11 online reprocessing system waivers show that on the aggregate, online reprocessing reduces APC, *E. coli,* Coliforms, and *Salmonella* on treated carcass.

The Agency also has experience with industry use of offline reprocessing using antimicrobial agents other than chlorinated water containing 20 ppm available chlorine through approved experimentation conducted under waivers. The results from four offline reprocessing system waivers show that on the aggregate, offline reprocessing using antimicrobial agents other than chlorine reduces APC, *E. coli,* and *Salmonella* at a level equal to or better than chlorine. These waivers have also demonstrated that the use of chlorinated water containing between 20 and 50 ppm available chlorine is safe and effective when properly employed.

b. Proposed Rule

FSIS is re-proposing to amend its regulations to permit the use of online reprocessing of poultry carcasses. However, the Agency has decided not to propose performance standards specifically associated with the use of online reprocessing. As noted above, data generated from in-plant trials show that various online antimicrobial treatments have differing but equally effective results with respect to pathogen reduction. The comments submitted on this issue did not provide any new data on the type of performance standard that the Agency should adopt. Therefore, instead of proposing performance standards, FSIS has decided to permit establishments to use online reprocessing antimicrobial interventions if the parameters for use of the antimicrobial intervention system have been approved by the FSIS, and the establishment incorporates procedures for online reprocessing into its HACCP plan, or sanitation SOP, or other prerequisite programs.

Establishments choosing to use online reprocessing would be required to comply with the same standards and regulations addressing digestive tract contents that are applicable to all poultry slaughter establishments. Establishments using online reprocessing would still be required to ensure that poultry carcasses contaminated with visible fecal material do not enter the chilling tank.

Permitting establishments the option of online reprocessing would allow visibly contaminated poultry carcasses to remain online for treatment by a system of automatic bird washers and antimicrobial spraying or drenching equipment, rather than have to be moved off the line to an offline reprocessing station. All carcasses would remain on the line to be treated with the on-line anti-microbial agent, whether they are contaminated or not. However, carcasses that are mutilated or entirely contaminated are adulterated and would not be permitted to be reprocessed online or offline.

Online reprocessing of pre-chill young poultry carcasses offers substantial benefits—it will reduce the potential of cross-contamination, reduce digestive tract contamination for all carcasses because all carcasses would pass through the same system of automatic bird washers and antimicrobial spraying or drenching equipment, and will maintain a continuous flow of carcasses down the processing line.

This proposed rule would not require establishments to use online reprocessing. Establishments that elect to use online reprocessing would have to incorporate procedures into their HACCP plans, or sanitation SOPs, or other prerequisite programs for applying an online antimicrobial intervention to all carcasses after evisceration and before the carcasses enter the chiller.

FSIS will list all antimicrobial agents that have been approved for use in online reprocessing, together with the specific parameters of use under which

the antimicrobial agents have been approved, in FSIS Directive 7120.1: ''Safe and Suitable Ingredients Used in the Production of Meat, Poultry, and Egg Products.'' As under current regulations, the safety of antimicrobial substances will be determined by the FDA. The suitability of those substances as reprocessing agents will be determined by FSIS. Establishments opting to use online reprocessing would be permitted to use online reprocessing systems and antimicrobial agents that have been approved by FSIS under the specific conditions of use for which they have been approved. Establishments would not need to request a waiver to use these approved online reprocessing systems. If deficiencies occur with the use of online reprocessing, an establishment would be required to take corrective actions.

FSIS would verify that establishments were properly using online reprocessing by verifying an establishment's online reprocessing procedures as detailed in its HACCP plan, sanitation SOP, or other prerequisite programs.

FSIS is also proposing to amend the current regulations pertaining to offline reprocessing to allow establishments that reprocess inner surfaces other than solely by trimming to use chlorinated water containing 20 ppm to 50 ppm available chlorine or another approved antimicrobial substance in accordance with the parameters approved by the Agency. As with the methods of online reprocessing described above, approved methods of offline reprocessing will be listed in FSIS Directive 7120.1, ''Safe And Suitable Ingredients Used in the Production of Meat, Poultry, And Egg Products,'' and establishments would be required to incorporate their procedures for offline reprocessing into their HACCP plans, or sanitation SOPs, or other prerequisite programs.

FSIS is proposing to revise the offline reprocessing regulations to remove the provisions that provide for the Agency to withdraw approval for an establishment to conduct offline reprocessing. As noted above, under this proposal, FSIS would ensure the effectiveness of an establishment's procedures for online or offline reprocessing through its HACCP verification activities.

Finally, even though a poultry product has been subjected to anti-microbial treatments as part of online reprocessing, it may still qualify for a certified organic claim, depending on the anti-microbial agent that was used. The use of ''organic'' labeling for such poultry products is determined on a case-by-case basis. Two treatments permitted for use in poultry products labeled as ''organic'' are Hydrogen Peroxide and Peracetic Acid. In addition, Orange Pulp and Acidified Sodium Chlorite have been formally recommended for use in organic handling in an Agricultural Marketing Service (AMS) National Organic Program (NOP) proposed rule.

V. Executive Order 12866 and Executive Order 13563

Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated an ''economically significant regulatory action,'' under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget.

Introduction

The Food Safety and Inspection Service (FSIS) is proposing to implement a new system for inspecting the slaughter of young chickens and turkeys. Furthermore, other proposed actions include a revised traditional inspection system for inspecting the slaughter of all poultry; and proposed requirements that would apply to all establishments that slaughter poultry, other than ratites (e.g., ostriches, emu, and rhea).

Need for the Rule

Given technological advances in the production of poultry, the current inspection system's line speed restrictions result in higher-than-necessary costs per bird. The new system described in this document makes available a new voluntary inspection system that would enable producers to decrease production costs by increasing line speeds in a manner that does not compromise the safety of the production process. Based on our experience with the HIMP program, FSIS expects the new inspection system to improve food safety and the effectiveness of inspection systems, remove unnecessary regulatory obstacles to innovation, and make better use of the Agency's resources.

Furthermore, FSIS has determined that contamination of poultry carcasses and parts by fecal material and enteric pathogens (e.g., *Salmonella* and *Campylobacter*) are hazards reasonably likely to occur in poultry slaughter establishments unless addressed in a sanitation SOP or other prerequisite program.

Therefore, to ensure that all establishments that slaughter poultry properly address the food safety hazards associated with contamination of poultry carcasses by fecal material and enteric pathogens, FSIS is proposing that all poultry establishments develop, implement and maintain written procedures to (1) prevent poultry carcasses contaminated with visible fecal material from entering the chiller and (2) prevent contamination of carcasses and parts by enteric pathogens and fecal contamination throughout the entire slaughter and dressing operation. FSIS is proposing that establishments incorporate these procedures into their HACCP plan, or sanitation SOP, or other prerequisite program.

Proposed Actions

Table 8 compares the components or requirements of the actions of the proposed rule with a comparison to the current regulatory environment for the approximately 289 federally inspected establishments that slaughtered all poultry other than ratites in 2010 (FSIS Animal Disposition Reporting System (ADRS)). Actions include requirements for young chicken and turkey establishments and requirements for all poultry slaughter establishments excluding ratites. Table 8 includes information for SIS and NELS inspection systems and SIS Automated Evisceration Equipment Systems, referred to as MAESTRO, which is an acronym for ''Meyn's Automatic Evisceration System Total Removal of Organs'', and Nu-Tech Nuova. These automated poultry evisceration systems were introduced in the late 1990s. For young chicken establishments, four inspectors are stationed on the same side of a processing line that runs at a maximum of 140 bpm or 35 bpm per inspector—the same per-inspector line speed as under SIS. The evisceration equipment used in SIS or NELS must be supported by establishment employees who manually complete carcass and viscera presentation. In contrast, the automated evisceration systems do not require that support.

TABLE 8—COMPARISON OF KEY COMPONENTS OF THE BASELINE REGULATORY ENVIRONMENT AND PROPOSED RULE

Key features or provisions of the proposal	Very small and small establishments, traditional		Small and large, non-traditional		
	Baseline	Proposed	Non-HIMP baseline	HIMP baseline	Proposed
Number of Establishments	70		194	25	
Carcass Sorting Activities	FSIS	FSIS	FSIS	Establishment	Establishment.
Online Inspector per Line	1–4	1–2 [a]	2–4	1	1.
Online Inspector Limit	No	Yes	No	Yes	Yes.
Addition of Online Establishment Workers because of Relocation of Online IPP.	No	Yes	No	Yes	Yes.
Line Speed Maximum Birds per minute for Young Chickens.	16–25	16–25	70–140	175	175.
Line Speed Maximum Birds per minute for Mature Chickens.	16–25	16–25	70		SIP Waiver determined.
Line Speed Maximum Birds per minute for Turkeys.	21–51	21–51	45	55	55.
Line Speed Maximum Birds per minute for Other Poultry.	16–25	16–25	Na	Na	SIP Waiver determined.
Records to document that products meet the definition of ready-to-cook poultry.	No	No	No	No	Yes.
New Facilities Requirements	No	No	No	Yes	Yes.
New carcass inspection station online for each evisceration line.	No	No	No	Yes	Yes.
New carcass inspection station offline for each evisceration line.	No	No	No	Yes	Yes.
New carcass inspection area online for avian leukosis for each evisceration line.	No	No	No	No	Yes.
Underline Trough for each evisceration line	No	No	No	Yes	Yes.
HACCP System—written to prevent contamination by enteric pathogens and fecal material & testing.	No	Yes	No	No	Yes.
HACCP System—written to prevent carcasses contaminated with fecal material from entering the chill tank.	No	Yes	No	No	Yes.
Replace Requirement to Test for Generic *E. coli* and *Salmonella* performance standards with 2-point testing.	No	Yes	No	No	Yes.
End Waivers for: Chilling Requirements for RTC Time and Temp Eliminated.	No	Yes	No	No	Yes.
End Waivers for: Use Online Reprocessing (OLR) Antimicrobial Systems or Offline Antimicrobial Agents.	No	Yes	No	No	Yes.

Na Does not apply.
[a] Establishments that already have more than two Inspection Program Personnel (IPP) per evisceration line will get to keep all of them.

As shown in Table 8, online inspectors in the Very Small and Small establishments currently range from 1 to 4 per line. Under the revised traditional inspection system, this range will decrease to 1 to 2 (except that establishments that already have more than two IPP per evisceration line will be allowed to keep them). The Small and Large Establishments, all of which FSIS expects to adopt the proposed new inspection system, will have 1 online inspector per line, down from the current 2 to 4 online inspectors per line under the current non-traditional systems (SIS, NELS, and NTIS) and equal to the number of online inspectors per line under HIMP.

Summary of the Proposed Rule's Provisions

A. Elements of the new system for the slaughter of young chickens and turkeys:

(1) Requirements by establishment personnel to conduct carcass sorting activities before FSIS inspection program personnel (IPP) conduct online carcass inspection so that only carcasses that the establishment deems likely to pass inspection are presented to the FSIS carcass IPP, expected to impact 194 establishments;

(2) A limit of one FSIS online carcass inspector per evisceration line, expected to impact 194 establishments;

(3) Faster slaughter and evisceration line speeds than are permitted under the current inspection systems. Existing evisceration line speeds in the non-traditional inspection systems are currently operating below capacity, expected to impact 194 establishments;

(4) Development, implementation, and maintenance of written procedures to ensure that young chicken and turkey carcasses contaminated with septicemic and toxemic conditions do not enter the chilling tank. Establishments must incorporate these procedures into their HACCP plans, or sanitation SOPs, or other prerequisite programs, expected to impact 219 establishments;

(5) Removal of the existing Finished Product Standards (FPS) and subsequent replacement with a requirement to maintain records that document finished products meet the definition of ready-to-cook poultry. Establishments will have the flexibility to design and implement measures for producing ready-to-cook poultry that are best suited to their operations. In addition to inspecting for food safety defects, the FSIS on-line carcass inspector will also conduct a carcass inspection for defects that are less important to food safety. The presence of persistent, unattended defects would indicate that the plant is not producing ready-to-cook poultry, expected to impact 219 establishments; and

(6) Requirement that facilities in the establishment include: (a) an online carcass inspection station for each evisceration line; (b) one or more offline carcass inspection stations for each evisceration line; (c) an online area for the online inspection of carcasses for avian leukosis; and (d) an underline trough for each evisceration line in order to prevent the contamination of online carcasses by removed poultry waste or inedible products of the evisceration process. FSIS projects that this action would affect about 219 establishments of about 270 official federally inspected establishments that slaughter young chickens and turkeys and that would adopt this proposed new inspection system. This 219 total includes HIMP establishments, though they will have already installed this equipment, meaning that 194 establishments are affected.

B. Elements that would affect all 289 poultry, non-ratite slaughter establishments:

(1) Development, implementation, and maintenance of written procedures to prevent contamination of carcasses and parts by fecal material and enteric pathogens (e.g., *Salmonella* spp. and *Campylobacter* spp.) as part of an establishment's HACCP plans, sanitation SOP, or other prerequisite programs. FSIS is proposing that, at a minimum, these written procedures include sampling and analysis for microbial organisms at the pre-chill and post-chill points in the process to verify process control.

(2) Development, implementation, and maintenance of written procedures to ensure that carcasses and parts with visible fecal contamination do not enter the chiller as part of an establishment's HACCP plans, sanitation SOP, or other prerequisite programs.

(3) Removal of current requirement to test for generic *E. coli* and the codified *Salmonella* pathogen reduction performance standards for poultry.

(4) Removal of the chilling requirements for ready-to-cook (RTC) poultry, which now provide specific time and temperature parameters.

(5) Requirements regarding the use of approved online reprocessing antimicrobial systems or offline reprocessing approved antimicrobial agents, if these procedures for reprocessing are incorporated into their HACCP plans, sanitation SOPs, or other prerequisite programs.

Among the 70 establishments that are expected to use the revised traditional inspection system, the maximum number of FSIS IPP per poultry evisceration line will be set to two unless the establishment is already operating with more than two online IPP per line under the current traditional poultry inspection system.[13] FSIS projects that this action would affect about 51 establishments of about 270 official federally inspected establishments that slaughter young chickens and turkeys; and all 19 official federally inspected establishments that slaughter other chicken and other poultry and that would choose to switch to the proposed revised traditional inspection system.

Analysis of the Benefits and Expenditures (Costs) of the Proposed Action

Baseline

Table 9 shows the baseline characterization of the U.S. poultry market other than ratites in 2010. Domestic federally inspected establishments slaughtered and dressed about 9.0 billion birds other than ratites in 2010, including about 8.4 billion young chickens; about 140 million other chickens (e.g., fowl and capon); about 252 million turkeys; and about 27 million other poultry (e.g., ducks, geese, quail, pheasants, and squab).

TABLE 9—BASELINE CHARACTERIZATION OF THE U.S. POULTRY MARKET

	Young chickens	Other chickens	Turkey	Other poultry
Market price ($/bird) [a]	$3.38	$1.34	$22.74	$9.02
Market quantity [b] (thousand birds/year)				
Domestic production	8,386,671.6	139,499.2	251,787. 8	26,781.1
Exports	1,314,710.8	14,675.8	18,428.9	903.4
Imports	9,314.1	0	229.8	243.2

A summary of the types of young chicken and turkey operations and the sizes of these official establishments is in Table 10 (FSIS ADRS 2010). Table 10 summarizes the 270 federally inspected establishments that slaughtered young chickens (231 establishments) and turkeys (39 establishments) and excludes the 19 other establishments that slaughtered only other chickens (such as fowl and capon) (6 establishments) and only other poultry (such as squabs, pheasants, quail, ducks or geese) (13 establishments) in 2010 along with the 19 that slaughtered other chicken and other poultry.

TABLE 10—SUMMARY OF HACCP ESTABLISHMENT SIZE OF THE 289 OFFICIAL ESTABLISHMENTS THAT SLAUGHTERED ALL POULTRY UNDER FEDERAL INSPECTION IN 2010 (FSIS ADRS, 2010)

Type of operation	Very small	Small	Large	Total	Percent of all establishments
Young Chicken:*					
Young Only	7 (4%)	33 (20%)	124 (76%)	164	(57%)
Young and Mature	11 (42%)	14 (54%)	1 (4%)	26	(9%)
Young Chicken and Other Poultry	26 (63%)	13 (32%)	2 (5%)	41	(14%)
Turkey:					
Young Only	7 (23%)	6 (20%)	17 (57%)	30	(10%)
Young and Mature	0	4 (44%)	5 (56%)	9	(3%)

[13] Under the revised traditional inspection system, only establishments that currently have more than two inspectors per line will be allowed to retain more than two inspectors per line.

TABLE 10—SUMMARY OF HACCP ESTABLISHMENT SIZE OF THE 289 OFFICIAL ESTABLISHMENTS THAT SLAUGHTERED ALL POULTRY UNDER FEDERAL INSPECTION IN 2010 (FSIS ADRS, 2010)—Continued

Type of operation	Very small	Small	Large	Total	Percent of all establishments
Total Young Chicken and Turkeys	51 (19%)	70 (26%)	149 (55%)	270 (100%)	(93%)
Other Chicken	0	4 (67%)	2 (33%)	6	(2%)
Other Poultry	3 (23%)	10 (77%)	0	13	(4%)
Total Poultry	54 (19%)	84 (29%)	151 (52%)	289 (100%)	(100%)

* Establishments that slaughter primarily young chickens.

Projected Number of Establishments That Will Opt for the Revised Traditional System

FSIS is proposing that all establishments that slaughter poultry other than ratites and are not participating in the new inspection system must switch to the proposed revised traditional inspection system.

FSIS projects that about 70 federally inspected establishments will switch from their current traditional inspection system to the proposed revised traditional system for the slaughter of poultry, other than ratites.

The basis for this projection is that these 70 establishments consist of 51 HACCP Very Small establishments, or about 19 percent, of the 270 official federally inspected establishments that slaughter young chickens and turkeys and 19 establishments that slaughter poultry other than young chicken or turkey (or ratites). The Very Small young chicken and turkey establishments do not have sufficient output volume over which to spread the initial set-up costs of the proposed new system or the training and maintenance costs resulting from this system.

These 70 establishments represent about 24 percent of the 289 official federally inspected establishments that slaughtered one or more classes of poultry other than ratites,[14] under all poultry inspection systems in 2010. In addition, based on FSIS's ADRS records, the 70 establishments slaughtered less than 1 percent of all poultry (other than ratites) of the domestic poultry industry, in 2010. Furthermore, based on FSIS's Animal Disposition Reporting System (ADRS) records of 2010, the approximately 219 official federally inspected establishments slaughtered about 99.9 percent of the young chickens and turkeys of the domestic poultry industry in 2010.

Projected Changes in the Number of Lines and Shifts Under the Revised Inspection System

FSIS ADRS 2010 records indicated that there were 663 line shifts in 270 establishments that slaughter young chickens and turkeys, as shown in Table 11.[15] In these establishments, one shift is defined as about 8 hours per day and two shifts as about 16 hours per day. Approximately 55 percent of the 270 establishments operated two slaughter shifts per day in 2010. For this analysis, the 663 line-shifts of production results from multiplying the number of lines by the number of shifts. Table 11 shows the details of the FSIS ADRS 2010 information on the 270 young chicken and turkey establishments, classified by current inspection system. FSIS maintains this type of information because staffing patterns in current inspection are determined based on the number and type of slaughter lines. These 663 lines operate daily in the 270 young chicken and turkey establishments with one or two 8-hour-shift(s), on about 5 or 6 days of the week.

Table 11 also summarizes the transition of the young chicken and turkey industry to the proposed new inspection system. This table shows distribution of the 270 establishments that slaughtered young chickens and turkeys in 2010.

Of the 187 young chicken establishments (not under the traditional inspection system) with 542 high-speed lines, there were 117 establishments under SIS inspection, 50 under NELS inspection, and 20 under the HIMP inspection. Of the 32 turkey establishments (not under the traditional inspection system) with 56 high-speed lines, there were 27 establishments under NITS inspection, and 5 under the HIMP inspection. Therefore, 219 of the 270 young chicken and turkey establishments, or 81 percent, have about 598 lines that are high speed.

[14] Based on FSIS's Animal Disposition Reporting System (ADRS) of 2010, 289 establishments slaughtered all classes of poultry, under all poultry inspection systems in 2010, other than ratites. Of the 289 establishments, about 270 establishments slaughtered young chicken and young turkey in 2010.

[15] The very small establishments that slaughter annually a relatively small number of young chickens and turkeys by methods that do not use a high-speed line are included.

TABLE 11—TRANSITION OF 270 OFFICIAL ESTABLISHMENTS AND LINE-SHIFTS THAT SLAUGHTERED YOUNG CHICKENS AND TURKEYS UNDER FEDERAL INSPECTION SYSTEMS TO THE NEW INSPECTION SYSTEMS AND THE REVISED TRADITIONAL INSPECTION SYSTEM

[Source: FSIS ADRS, 2010]

Inspection Systems Before the Rule					
Slaughter Processing—With Lines in 2010 270 Establishments 663 Line-shifts					
High-Speed Lines 219 Establishments 598 Line-shifts					Low-Speed Lines 51 Establishments 65 Line-shifts
Young Chickens 187 Establishments 542 Line-shifts			Turkeys 32 Establishments 56 Line-shifts		Young Chickens and Turkeys 51 Establishments 65 Line-shifts
SIS 117 Estab 346 Line-shifts	NELS 50 Estab 153 Line-shifts	HIMP 20 Estab 43 line-shifts	NTIS 27 Estab 42 line-shifts	HIMP 5 Estab 14 line-shifts	Traditional. 51 Establishments. 65 Line-shifts.
Expected Inspection Systems After the Proposed Rule Is Implemented					
New Inspection System (Young Chickens and Turkeys) 219 Establishments 598 Line-shifts					Revised Traditional 51 Establishments 65 Line-shifts

Notes: The number of line shifts is the number of slaughter lines in establishments that operate one shift plus two times the number of lines in establishments that operate two shifts.

Each shift is about 8 hours of operation per day.

Table 12 shows that of the 187 young chicken establishments (not under the traditional inspection system) with 542 high-speed lines, 127 were HACCP large establishments and 60 were HACCP small establishments. Of the 32 turkey establishments (not under the traditional inspection system) with 56 high-speed lines, 22 were HACCP large establishments and 10 were HACCP small establishments. None of the HACCP very small establishments is known to have high-speed line systems.

TABLE 12—NUMBER OF LINES OF 289 ESTABLISHMENTS THAT SLAUGHTERED YOUNG CHICKENS, OTHER CHICKENS, TURKEYS, AND OTHER POULTRY UNDER FEDERAL INSPECTION SYSTEMS

[FSIS ADRS, 2010]

Establishment HACCP Size	Number of establishments	Number of evisceration line-shifts	Number of establishments—1-shift	Number of establishments—2-shifts
Numbers of Evisceration Lines in Active Federally Inspected Establishments That Slaughter All Classes of Poultry Other Than Ratites				
Very Small	54	68	54	0
Small	84	99	82	2
Large	151	531	0	151
Total	289	698	136	153
Numbers of Evisceration Lines in Active Federally Inspected Establishments That Slaughter Primarily Young Chickens				
Very Small	44	58	44	0
Small	60	60	60	0
Large	127	482	0	127
Total	231	600	104	127
Numbers of Evisceration Lines in Active Federally Inspected Establishments That Slaughter Primarily Turkeys				
Very Small	7	7	7	0
Small	10	15	10	0
Large	22	41	0	22
Total	39	63	17	22
Numbers of Evisceration Lines in Active Federally Inspected Establishments That Slaughter Only Other Chickens (e.g., Fowl)				
Very Small	0	0	0	0

TABLE 12—NUMBER OF LINES OF 289 ESTABLISHMENTS THAT SLAUGHTERED YOUNG CHICKENS, OTHER CHICKENS, TURKEYS, AND OTHER POULTRY UNDER FEDERAL INSPECTION SYSTEMS—Continued

[FSIS ADRS, 2010]

Establishment HACCP Size	Number of establishments	Number of evisceration line-shifts	Number of establishments—1-shift	Number of establishments—2-shifts
Small	4	4	4	0
Large	2	8	0	2
Total	6	12	4	2
Numbers of Evisceration Lines in Active Federally Inspected Establishments That Slaughter Primarily Other Poultry (e.g., Ducks)				
Very Small	3	3	3	0
Small	10	20	8	2
Large	0	0	0	0
Total	13	23	11	2

Notes:
(1) Source: FSIS PBIS, March 2011. These federally inspected establishments have 03J HACCP codes for slaughter operations
(2) Source: FSIS ADRS, March 2011. These federally inspected establishments slaughtered poultry in 2010.
(3) 1-shift is about 8 hours of slaughter operation; 2-shifts are about 16 hours of slaughter operation, each workday.

Expected Benefits associated with the voluntary portion of the proposed action—Consumer and producer benefits from increased line speed:

Reducing current restrictions on line speeds will result in more birds being processed per minute. For this analysis, we used a conservative increase of an average of 6 percent for the line speed and measured as increased birds per minute (BPM), for young chickens.[16] FSIS requests comments on the precision of this estimate for increased line speed. At this relatively low marginal increase in line speed or BPM, we expect that the affected establishments would process an average of 6 percent more BPM with no additional online labor cost on the evisceration line. This is because we expect that the establishments would do some of their sorting and removal of defective birds before rehang. Then there should be few if any empty shackles as can happen when FSIS inspection program personnel remove defective birds after the rehang process. Furthermore, the additional adoption of online reprocessing under these actions would keep additional birds in the evisceration shackles instead of being sent to the rework area. These changes with the new inspection system would increase the number of birds populating the evisceration shackles and thus increase the throughput or BPM under the new inspection system. For the private sector (e.g., industry and consumer groups) of the economy, FSIS projects that the proposed rule will result in lower costs of production, which will lead to more industry profits and lower consumer prices. The lower production costs may also lead to increased sales of domestic and exported products in the long run. We estimate these economic benefits to be at least $258.9 million (3 cents per bird for 99.9 percent of 8.64 billion birds) annually. This is the expected annual net increase in consumer and producer surplus and does not take into account either the increased long-term production or expanded exports. This increase in well-being from the lower cost will benefit both consumers and producers. Given the estimates of own price elasticity of demand and elasticity of supply for both chicken and turkey,[17] the expectation is that, with the relatively high (in absolute terms) estimate for own price elasticity of demand, 2 to 2.4 cents of the 3 cents per bird will go to producer surplus and the remaining 0.6 to 1 cent will go to consumer surplus. Assuming an increase of 6 percent in line speed allows for an estimate of the decrease in processing cost per bird. This means that, for a given unit of a worker's time, 6 percent more birds will be processed. Assuming that labor is 15 percent of the total cost of processing a bird,[18] then this increase of 6 percent in the number of birds per period of time means a decrease of 0.85% in the processing cost of a bird. Using a wholesale price of ready-to-cook poultry of $1.35 per kilogram and a ready-to-cook poultry wholesale cost of $1.23 per kilogram,[19] then the mark-up from wholesale is 10 percent ((1.35 − 1.23)/1.23 = 9.8%). With a weighted average wholesale price per bird for young chicken and turkey of $3.94,[20] the wholesale cost, using the mark-up margin of 10.0%, is $3.58. With the 0.85% reduction in cost, the wholesale cost will decline by 3 cents ($3.58 × 0.0085). This reduction of 3 cents will be divided between producers and consumers, based on the relative absolute values of the elasticities of demand and supply.

Expected Benefits associated with the voluntary portion of the proposed action—Public health benefits from reallocating FSIS inspection activities:

[16] This estimate is very conservative because the current maximum speed allowed is 140 BPM for young chickens (45 for turkeys), while the proposed rule increases this maximum speed to 175 BPM for young chickens (55 for turkeys), which represents a 25 percent increase in line speed for young chickens (22 percent for turkey).

[17] The 3 cents per bird cost reduction will be divided between producers and consumers. The own price elasticity of demand estimates are −0.43 for chicken and −0.58 for turkey and estimates of elasticity of supply are 0.22 and 0.26 for chicken and turkey, respectively. Muth, M.K., R.H. Beach, C.L. Viator, S.A. Karns, and J.L. Taylor. 2006. ''Poultry Slaughter and Processing Sector Facility-Level Model.'' Prepared for U.S. Department of Agriculture, Food Safety and Inspection Service. Research Triangle Park, NC: RTI International. ERS has estimates of own price elasticity of demand for chicken ranging from −0.602 (1985) to −0.841 (1975–80) (see USDA Economic Research Service at *http://www.ers.usda.gov/Data/Elasticities/Query.aspx*). The greater value, in absolute terms, for elasticity of demand suggests that the division of the cost reduction between producers and consumers will be weighted toward producers.

[18] Structural Change in U.S. Chicken and Turkey Slaughter. By Michael Ollinger, James MacDonald, Economic Research Service, U.S. Department of Agriculture. Agricultural Economic Report No. 787.

[19] See p. 269 of Watkins, B, YC Lu, and YR Chen. Economic feasibility analysis for an automated on-line poultry inspection technology. Poultry Science 2000 79: 265–274.

[20] Muth, M.K., R.H. Beach, C.L. Viator, S.A. Karns, and J.L. Taylor. 2006. ''Poultry Slaughter and Processing Sector Facility-Level Model.'' Prepared for U.S. Department of Agriculture, Food Safety and Inspection Service. Research Triangle Park, NC: RTI International.

FSIS hypothesizes that switching existing FSIS IPP activities towards more off-line verification activities (such as sanitation performance standards, sampling, other inspection requirements, and fecal inspections) may reduce pathogen levels in poultry slaughter establishments. This is supported in the findings from the FSIS Risk Assessment (October, 2011), which found a significant correlation between more off-line inspection activities and lower levels of *Salmonella* and *Campylobacter* in certain poultry products. It is possible that these reductions may lead to a corresponding reduction in illnesses.

Using results from this risk assessment (Table 7), FSIS estimates that the proposed rule is expected to reduce the number of human illness attributed to young chicken and turkey products by an average of about 4,286 (with a range of 1,514 to 7,682) *Salmonella* spp. illnesses and about 986 (with a range of 26 to 2,865) *Campylobacter* spp. illnesses. Annual *Salmonella* spp. cost savings from an averted case is $18,000 (74 FR 33030); [21] and the annual *Campylobacter* spp. cost savings from an averted case is $2,067.[22] Thus, FSIS projects that the monetized value of the human illness reductions is an expected annual average of about $79.19 million (with a range of $27.3 million to $144.2 million).

TABLE 13—EXPECTED TOTAL POTENTIAL REDUCTIONS IN HUMAN ILLNESSES OR ILLNESSES AVERTED AND PROJECTED COST SAVINGS DUE TO BETTER INSPECTION PROCEDURE PERFORMANCE IN YOUNG CHICKEN AND TURKEY SLAUGHTER ESTABLISHMENTS

	What happens if all young chicken and turkey establishments have increased unscheduled offline inspection procedures? [1 2 3]		
	Expected value	Range	
		10th percentile	90th percentile
Annual *Salmonella* spp. cost savings [a] and averted illnesses:	$77.15 million (4,286 illnesses averted)	$27.25 million (1,514 illnesses averted)	$138.28 million. (7,682 illnesses averted).
Annual *Campylobacter* spp. cost savings [b] and averted illnesses:	$2.04 million (986 illnesses averted)	$0.05 million (26 illnesses averted)	$5.92 million (2,865 illnesses averted).
Annual Total Cost savings	$79.19 million	$27.30 million	$144.20 million.

[1] The number of establishments in each size category throughout the economic analysis is different from the number used in the risk assessment. The risk assessment uses the most recent data for the correlation between baseline and inspection data (2008) and participating establishments, while the economic analysis uses 2010 size categories to reflect the most up-to-date size distribution.
[2] The reported expected reductions in illnesses represent the unscheduled inspection procedures scenario from the risk assessment.
[3] Totals may not add up due to rounding.
[a] Average cost savings from an averted *Salmonella* spp. cost case is $18,000. This estimate is based on the FDA estimate (74 FR 33030).
[b] Average cost savings from an averted *Campylobacter* spp. is $2,067. This estimate is based on Batz, Michael B., Sandra Hoffman, and J. Glenn Morris, Jr. 2011.

Thus, FSIS estimates that the total annual average private sector benefit from this proposed rule is approximately $338.1 million ($258.9 + $79.19).

Unquantifiable Benefits Associated With the Mandatory Portion of the Proposed Action—Public Health Benefits Resulting From Preventing Contamination of Carcasses and Parts by Enteric Pathogens and Fecal Material Throughout the Entire Slaughter and Dressing Operation

In addition to the benefits listed in the previous section, FSIS expects public health benefits from the mandatory component of the proposed rule, which is proposed to apply to all poultry slaughter establishments. FSIS is proposing to require that all poultry slaughter establishments develop, implement, and maintain, as part of their HACCP plans, sanitation SOPs, or other prerequisite programs, written procedures to prevent contamination of carcasses and parts by enteric pathogens and fecal contamination throughout the entire slaughter and dressing operation. FSIS is proposing that, at a minimum, these procedures must include sampling and analysis for microbial organisms at the pre-chill and post-chill points in the process to monitor process control for enteric pathogens.

Effective sanitary dressing and process control procedures are crucial to an establishment's ability to produce a clean, safe, and wholesome product. The existing regulations require that establishments prevent poultry carcasses contaminated with visible fecal contamination from entering the chiller (9 CFR 381.65(a)). To clarify the existing requirements, FSIS is proposing to require that that establishments develop, implement, and maintain written procedures to ensure that poultry carcasses contaminated with visible fecal material do not enter the chilling tank. However, because this proposed requirement reflects existing practices, it is unlikely to have a significant effect on the poultry industry.

While preventing poultry carcasses contaminated with visible fecal material from entering the chiller is an important safeguard for reducing the prevalence of pathogens on poultry carcasses, it cannot be fully effective unless establishments implement appropriate measures to prevent contamination from occurring throughout the slaughter and dressing operation. Although many establishments do have in place process control measures to prevent contamination of carcasses by enteric pathogens and fecal material throughout the slaughter and dressing process, they are not required to maintain written procedures that describe their process control measures or to maintain records to verify the effectiveness of their process controls. In addition, under the existing regulations, official poultry slaughter establishments are required to comply with prescriptive requirements

[21] Food and Drug Administration, Prevention of *Salmonella* Enteritidis in Shell Eggs During Production, Storage, and Transportation, July 2009. Batz et. al estimate an averted *Salmonella* illnesses is $3,220. This would reduce the estimated cost savings from 4,286 averted cases from *Salmonella,* from $77.15 million to $13.8 million. The final economic analysis will provide estimates for *Salmonella* and *Campylobacter* based on consistent methodology.

[22] Batz, Michael B., Sandra Hoffman, and J. Glenn Morris, Jr. 2011. *Ranking the Risks: The 10 Pathogen-Food Combinations with the Greatest Burden on Public Health.* University of Florida Emerging Pathogens Institute.

for testing for generic *E. coli* at the end of the chilling process as a means of verifying process control.

As discussed earlier in this document, FSIS's experience with using post-chill testing for generic *E. coli* to monitor process control for fecal contamination and sanitary dressing has led the Agency to conclude that such testing is not the most effective way to prevent contamination from occurring throughout the slaughter and dressing operation. Therefore, FSIS is proposing to remove the prescriptive generic *E. coli* testing and replacing it with a more flexible microbiological testing scheme that provides for testing at the points in the process where contamination is most likely to occur, i.e., pre-chill and post-chill. Such a testing scheme has the benefit of allowing poultry slaughter to have the flexibility they need to determine which microbiological organisms will best help them to monitor the effectiveness of their process control procedures. It will also allow establishments to identify the points in their production process where microbial levels are the highest and to implement controls at the points where contamination is most likely to occur.

FSIS is proposing to require that establishments incorporate their procedures for preventing contamination of carcasses with enteric pathogens and fecal material into their HACCP systems, and that they maintain records sufficient to document the implementation and monitoring of their procedures. These records will improve the establishment's overall HACCP system by providing additional documentation that the establishment and FSIS can use to verify the effectiveness of the establishment's process control procedures. The records that would be required under this proposed rule, including the records of the establishment's testing results, will provide establishments and FSIS with on-going information on the effectiveness of the establishment's process controls, and allow establishments to identify situations associated with in an increase in microbial levels so that they can take the necessary corrective actions to prevent further potential contamination. The documentation that would result from this proposed rule could also limit the scope of a product recall if the establishment maintains records sufficient to allow it to identify the point when a lack of process control could have resulted in product contamination.

Summary of Estimated Costs and Cost Savings of the Proposed Rule

Items 1–7 are costs and cost savings associated with the voluntary component of the proposed new rule:

1. Addition of Online Establishment Workers Because of the Relocation of Online Inspection Program Personnel and Online Sorters—Annual Cost Associated With the Voluntary Component

FSIS expects, based on information provided by establishments participating in the HIMP pilot program, that young chicken and turkey establishments initially would expand their labor resources by employing about 0.8 staff-years of online sorters and carcass-inspection helpers that substitute for every 1.0 staff-year of FSIS online inspection program personnel. For example, in one shift, an establishment that had ten FSIS online inspection program personnel would add eight online sorters and carcass-inspection helpers in response to the proposal. This substitution rate is based on survey results of young chicken and turkey establishments that are in the HIMP pilot program. As the line speed is increased, however, the substitution rate is expected to increase to 1.0 FTE or even higher.

In the 219 establishments that will slaughter young chickens and turkeys under the new inspection system, FSIS expects between 663 and 750 FSIS online inspection program personnel will be shifted from online inspection to verification inspection activities and online inspection of carcasses (carcass inspection, after the final wash and before the chiller). FSIS estimates that this shifted number of 750 FSIS online inspection program personnel is the upper bound of the expected range for the 219 establishments that would transition to the new inspection system, if the proposed rule is put into effect.

Using the expected substitution rate of 0.8 (8 for 10), the 219 establishments would initially need about 600 (750 × .8) additional trained personnel to do the online sorting of young chickens and turkeys, and helping carcass inspection program personnel for all shifts. This implies that about 750 inspection program personnel would be reassigned to other inspection activities within the establishment (e.g. carcass inspection, verification inspection, and relief coverage). The 750 inspection program personnel, however, may be an over estimate, because of attrition.

The Bureau of Labor Statistics indicated that the expected standard rate for establishment labor is about $13.95 per hour,[23] and including benefits and related costs, the wage cost is taken for this analysis to be about $27,900 per staff-year (for about 2000 hours[24] per staff-year). Therefore, the average cost to 219 establishments for the initial additional 600 staff-years of online sorter labor is about $16.7 million annually (600 × $27,900). The cost is expected to decrease on a per-bird basis, because of the expected labor productivity increase associated with increased line speed and more cost-effective evisceration equipment.

2. Training Online Sorters, Under the New Inspection System—One-Time Cost Associated With the Voluntary Component

Initial training costs are expected, based on information provided by establishments participating in the HIMP pilot program, to be about $200 to $600 per employee (sorter), or an average cost of about $400 per employee. Additional training costs accrue for the extra establishment employees (sorters) needed to cover for task rotation patterns and scheduled and unscheduled leave of trained establishment employees. FSIS projects, based on information provided by establishments participating in the HIMP pilot program, that rotation schedules would be about three times per shift. FSIS did not report costs in the official HIMP Report. FSIS, however, obtained information on establishment costs and practices from site visits to the HIMP project establishments and non-HIMP establishments that slaughter poultry. The HIMP establishments (20 young chickens and 5 turkeys, as shown in Table 11) reported a range of costs for their implementation of the FSIS's requirements of the HIMP inspection system. Based on this information, FSIS made assumptions on costs and practices of the poultry establishments that would be affected by this proposed rule. We are requesting information on the expected costs to the plants that will be affected by the proposal.

FSIS assumes that the 219 establishments will need about 3.5 to 4 times the replacement staff-hours, or about 2,100 (600 × 3.5) to 2,400 (600 × 4) establishment employees who are trained to perform online sorting and CI helper activities. Therefore, initially, an average of about 2,250 establishment employees will need to be trained at a one-time average cost of about $400 each, or a total for 219 establishments,

[23] Based on the 2008 Bureau of Labor Statistics employment cost index.

[24] This is a simplifying assumption.

of about $0.9 million (2,250 × $400). FSIS is requesting comments on these assumptions for staff turnover in the official establishments.

3. Training, Annually—for Replacement Sorters Due to Labor Turnover—Annual Cost Associated With the Voluntary Component

Annual labor costs are estimated based on information provided by establishments participating in the HIMP pilot program, in order to account for the expected labor turnover rates in young chicken and turkey establishments and the need to train and educate replacement establishment personnel for sorting young chickens and turkeys.

FSIS projects that if the annual turnover rate of trained sorters is taken to be between 5 and 20 percent, or an average of 12.5 percent over a five-year period, then about 281 (.125 × 2250) new establishment sorters will need to be trained annually. FSIS projects that the initial training costs are expected to be about $200 to $600, or an average of about $400 per employee (sorter), then the additional training costs will average about $0.11 million (281 × $400), annually.

4. Continuing Education & Training, Annually—for Existing Sorter Labor—Annual Cost Associated With the Voluntary Component

After the initial training, the establishments will have additional costs to provide ongoing annual education and training (formalized). This education and training is for the knowledgeable establishment staff (sorters) of an average of about 2,250 persons who need to maintain a sufficiently high correlation of agreement with FSIS on regulatory compliance for dressing performance standards. The annual training cost, based on information provided by establishments participating in the HIMP pilot program, was about $150 to $200 per sorter, or an average of $175 per sorter, then the total average cost would be about $0.39 million (2250 × $175), annually.

5. Additional Facilities: Online Carcass and Offline Inspection Stations, Avian Leukosis Inspection Area, and Underline Troughs Associated With the Voluntary Component

Under the proposal, all of the poultry establishments participating in the new poultry slaughter inspection system will need to add capital investments to install a carcass inspection station except for the establishments participating in the HIMP pilot.

Establishments operating under SIS, NELS, and NTIS are currently required to have an underline trough but they will need an additional new trough at the end of the evisceration line. The 25 establishments (20 young chicken and 5 turkey) that operate under HIMP will not need new trough installations under the proposed new rule. This means that of the 219 establishments projected to adopt the proposed new system, 194 will need installations that will require inspection stations that will cost about $5,000 to $6,000, or an average of about $5,500, for most establishments, based on information provided by establishments participating in the HIMP pilot program. FSIS assumes installations will require a stainless steel underline trough (or equivalent) that will cost about $8,000 to $12,000, or an average of about $10,000, for most establishments, based on information provided by commercial construction guidelines of costs for purchasing (or constructing) and installing such systems.

For the carcass inspection station, this cost is for the construction of a stainless steel elevated stand that has stairs and a surrounding guardrail. This carcass inspection stand must have a floor area large enough to allow sufficient space to accommodate the carcass inspection program person and an establishment employee, that is, a helper for removal of defective or rejected birds from the line. This inspection station would contain plumbing for hot and cold water, and a stainless steel hand-washing basin.

Furthermore, electrical service must be installed for powering bright lights (200 foot-candles of illumination at the level of the bird) required for inspection, and control switches must be installed to allow the starting and stopping of the eviscerating line. The verification inspection station typically is already in place in most young chicken and turkey, and other poultry slaughter establishments. Therefore, in most cases, there would be no additional cost for a verification inspection station near the end of the eviscerating line. The verification inspection station is typically a stainless steel table illuminated with bright lights (200 foot-candles).

These capital investments for the carcass inspection stations are necessary for each of the about 566 eviscerating lines now installed in the 194 non-HIMP establishments that will implement the new inspection system. Therefore, the calculated cost for adding carcass and verification inspection stations for the 194 establishments is about $8.8 million (566 × $15,500).

6. Carcass Dressing for Meeting the Definition of Ready-to-Cook (RTC) Poultry and the Removal of the Finished Product Standards (FPS) Under the New Inspection System Associated With the Voluntary Component

FSIS is proposing to remove the existing Finished Product Standards (FPS) and replacing them with a requirement that establishments maintain documentation to demonstrate that the products resulting from their slaughter operations meet the definition of ready-to-cook poultry. Establishments will have the flexibility to design and implement measures for producing ready-to-cook poultry that are best suited to their operations. FSIS on-line carcass inspectors will inspect each carcass for defects that are important for food safety, such as septicemia and toxemia, as well as for defects that are less important to food safety but that may render carcasses or parts unwholesome or adulterated, such as persistent, unattended removable animal diseases and trim and dressing defects.

FSIS seeks comments on these carcass dressing issues—products resulting from their slaughter operations would meet the definition of ready-to-cook poultry. Based on meeting the definition of ready-to-cook poultry, how many additional birds would go to the salvage and reprocessing area? How many additional establishment employees would be added to the eviscerating line to do online trimming and reprocessing? What are the relationships between salvage and reprocessing activities (online and offline) and eviscerating line speeds? For example, for every 20 to 25 percent increase in line speed, would the establishment require a five percent increase in labor time for extra trimming and cleaning activities (online and offline)? FSIS also seeks comments on the requirement that establishments maintain documentation to demonstrate that the products resulting from their slaughter operations meet the definition of ready-to-cook poultry.

7. Elimination of Some Line Speed Restrictions—Annual Cost Savings Associated With the Voluntary Component

Based on information provided by establishments participating in the HIMP pilot program, establishments will marginally increase their line speeds given the opportunity to take advantage of the flexibility provided by the proposal and relocation of inspection program personnel. This will reduce their dressing costs, as discussed in the benefits section above. To

gradually increase line speeds, some establishments will not need to purchase additional equipment, until they reach their slaughter and eviscerating-line system capacity limit (i.e., re-hang, chilling, or cold (chilled and frozen) storage capacity). Some establishments will need to purchase more automated evisceration and dressing equipment, or eliminate bottlenecks. Eliminating bottlenecks of production could include the establishment's additional capital investments (facilities or equipment) of upgrading the capacity of transfer and re-hang stations; straightening the run of slaughter and eviscerating lines; increasing cut-up or deboning capacity; adding chillers or increasing chilling capacity; or increasing cold (chilled and frozen) storage capacity.

FSIS solicits information on how the elimination of some line speed restriction in the proposed rule would affect cost saving per dressed carcass, such with greater throughput of dressed carcasses and a lower unit cost per dressed carcass or per pound of product for labor, materials, water, and energy per bird or per pound of dressed poultry carcass. FSIS also solicits information on planned investments in the domestic poultry industry in order to increase evisceration line speed within the next few years.

The estimated costs and costs savings to establishments from the voluntary portion of the proposed regulation are summarized in Table 14a. Annualized costs are calculated using a discount rate of 7% over a ten year planning period.

TABLE 14a—ESTIMATED ANNUAL COST (COST SAVINGS) OF THE PROPOSED RULE TO ESTABLISHMENTS: ELEMENTS ASSOCIATED WITH THE VOLUNTARY COMPONENT OF THE PROPOSED NEW RULE (MILLIONS OF DOLLARS)

	One-time costs	Recurring annual costs
Additional annual sorting labor	.....	16.7
Additional knowledge costs (human capital):		
Initial one-time training of sorting workers	0.9	.....
Training annual sorting labor-turnover rate of 12.5%	.....	0.11
Continuing annual education and training	.....	0.39
Additional one-time capital expenditure for inspection stations and underline troughs	8.8	.....
Total costs to establishments from voluntary component	9.7	17.2
Average cost to establishments from voluntary component	18.49	

Items 8–13 are costs and cost savings associated with the mandatory component of the proposed new rule:

8. Sampling and Analysis for Microbial Organisms Pre-Chill and Post-Chill to monitor Process Control for Enteric Pathogens—One-Time and Annual Cost Associated With the Mandatory Component

New sampling is required for a one-time baseline and for recurring microbial testing to monitor process control for enteric pathogens. Such testing is required as part of the written procedures to prevent contamination of carcasses and parts by enteric pathogens and fecal contamination throughout the entire slaughter and dressing operation. FSIS is proposing that establishments incorporate these procedures into their HACCP plan, or sanitation SOP, or other prerequisite program, and that they maintain records sufficient to document the implementation and monitoring of these procedures.

The baseline sampling would be done in a relatively short period of time and only sample a few events. Thus it would require less labor for collection compared to the ongoing sampling that would extend over a year with multiple sampling events. Therefore, the estimated cost per sample for the one-time baseline is lower than for the ongoing sampling. The baseline was calculated by multiplying 150 samples collected for the baseline by the prorated hourly pay of $29.03 for a QC technician for 25 minutes needed to collect the samples and a cost of $33.75 for analytical cost of the samples. This was done for all 289 firms.

For annual costs, the same salary and analytical costs were applied and multiplied by the estimated number of samples, which was calculated by assuming 319,332 chicken samples (8.526 billion chickens divided by 26,700 chickens for the number of sampling events) plus 83,929 turkey samples (251.787 million turkeys divided by 3,000 for sampling events number) multiplied by a wage rate of $29.03 times 5/60.[25]

FSIS projects this cost for testing samples and collection of the samples to be about $2.0 million one-time for the baseline and about $12.6 million annually for the poultry industry.[26]

Furthermore, FSIS expects costs for the ''ready-to-cook'' proposed requirements would be offset by the present costs to industry for the Finished Product Standards, and that additional cost, if any, to industry would be minimal. Thus FSIS did not include costs associated with the requirement.

9. Additional Labor Due to Increased Line Speed Associated With the Mandatory Component

Young chicken and turkey, and other poultry slaughter establishments that can increase line speed with their existing eviscerating line equipment, would probably also need to add additional labor to the line in order to handle the additional birds per minute that need to be sorted and trimmed, salvaged, or reprocessed, online and offline. In this scenario, the establishment does not replace its existing eviscerating line equipment with newer technology. More labor is applied to the line but the labor per bird would decrease due to the increase in

[25] Samples are assumed to be collected for every 26,700 chickens and every 3,000 turkeys. The sampling event refers to sampling at pre-chill and post-chill. This ensures that sampling is based on volume of output and does not impose unnecessary burdens on small businesses.

[26] The baseline sampling has less labor for collection because it is done in a relatively short period of time (a few sampling events) versus ongoing sampling that extends over a year with multiple sampling events. Therefore, the cost per sample for the one-time baseline is lower than for the ongoing sampling. The baseline was calculated by multiplying 150 samples collected for the baseline by the prorated hourly pay of $29.03 for a QC technician for 25 minutes needed to collect the samples and a cost of $33.75 for analytical cost of the samples. This was done for all 289 firms. For annual costs, the same salary and analytical costs applied and were multiplied by the estimated number of samples assuming 1 for each 26,700 chickens and 3,000 turkeys.

throughput from the increase in the line speed.

FSIS solicits information on the additional labor that might be needed.

10. Additional Recordkeeping, Monitoring, and Record Storage Associated With the Mandatory Component

Establishments are required to maintain written documentation of sample results for verifying their process controls. The proposal that all poultry slaughter establishments monitor their systems through microbial testing and recordkeeping implies more information than presently required to be monitored. Thus, FSIS includes only recurring costs associated with record keeping. FSIS assumed that the time spent for a QC technician salaried at $29.03 per hour for recording results keeping (including review) for each sample event is 5 minutes. FSIS estimates the time spent presently is about 2.5 minutes. From these, FSIS estimated recordkeeping costs for this proposed requirement to be $975,600 per year, based on an assumption of 5 minutes to record each of the over 403,300 samples [27] under the new system. This replaces $568,500 for recordkeeping for the generic *E. coli* testing, based on an estimate of 2.5 minutes per sample for recording. Since FSIS does not specify required testing frequencies, establishments may test with lower frequency than the one assumed and would therefore have lower costs. FSIS does not dictate the frequency of testing that is assumed in the cost estimates. A lower frequency would result in lower costs.

11. a. Modification of the HACCP Plans and Process Control Plans—One-Time Cost Associated With the Mandatory Component

The establishments would need to modify their HACCP plans, Sanitation SOPs, or other Pre-requisite programs so as to address septicemic and toxemic carcasses and food safety hazards that are reasonably likely to occur. Establishments would also be required to maintain records to document that their product meet the definition for ready-to-cook poultry. Under the proposed rule, establishments will have the flexibility to design and implement measures to address OCP defects that are best suited to their operations. They will also be responsible for determining the type of records that will best document that they are meeting the ready-to-cook poultry definition. The FSIS estimates based on information provided by establishments participating in the HIMP pilot program, that these initial costs (for developing and verifying the plan) would average about $5,000 for a HACCP small and about $9,000 for a HACCP large establishment; and FSIS projected about $2,000 for a HACCP very small establishment for process control implementation costs in response to the requirements for the new inspection system in the first year; or a one-time average cost of about $1.9 million ((83 × $5000) + (151 × $9000) + (55 × $2000)) in total for 289 establishments.

11. b. Written Procedures To Ensure That Carcasses and Parts With Visible Fecal Contamination Do Not Enter the Chiller, After Evisceration Operations Associated With the Mandatory Component

FSIS is proposing that all of the 289 federally inspected establishments that slaughtered poultry other than ratites in 2010 develop, implement, and maintain, as part of their HACCP plans, or sanitation SOPs, or other prerequisite programs, written procedures to ensure that carcasses and parts with visible fecal contamination do not enter the chiller, after evisceration operations. The one-time cost to develop the plan and ongoing cost of implementation and maintenance of the plan are included in the costs of changing the HACCP system as discussed in cost item number 5 above. FSIS solicits information on added costs that are associated with the proposed requirement for written procedures, and then the implementation and maintenance costs of the procedures to ensure that carcasses and parts with visible fecal contamination do not enter the chiller, after evisceration operations.

11. c. Written Procedures To Ensure That Young Chicken and Turkey Carcasses Contaminated With Septicemic and Toxemic Conditions Do Not Enter the Chilling Tank, for the New Inspection System Associated With the Mandatory Component

FSIS is proposing that the 219 federally inspected establishments that would slaughter young chickens and turkeys under the new inspection system develop, implement, and maintain written procedures to ensure that poultry carcasses contaminated with septicemic and toxemic conditions do not enter the chilling tank. Establishments must incorporate these procedures into their HACCP plans, or sanitation SOPs, or other prerequisite programs. The one-time cost to develop the plan and ongoing cost of implementation and maintenance of the plan are included in the costs of changing the HACCP system as discussed in cost item number 5 above. FSIS solicits information on added costs that are associated with this proposed requirement.

12. Elimination of Generic E. Coli Standards—Annual Cost Savings Associated With the Mandatory Component

FSIS proposes the removal of the current requirement that poultry establishments test for generic *E. coli* and to remove the codified *Salmonella* pathogen reduction performance standards for poultry. For the poultry industry, this would mean about 77,000 fewer samples collected and tested for generic *E. coli.* FSIS projects that this action would affect about 289 official federally inspected establishments that slaughter all poultry other than ratites. FSIS projects that this would have a cost savings of approximately $11.71 million per year for the 289 official federally inspected establishments that slaughter all poultry other than ratites. This is the cost saving of labor for sampling event collection; materials; shipping; and laboratory testing from eliminating about 470,000 *E. coli* samples and testing. The estimated cost per sampling avoided is about $57.10 per sampling event. For 470,000 sampling events at $30, the annual total would be about $11.71 million.

13. Elimination of Carcass Cooling Standards—Possible Cost Savings Associated With the Mandatory Component

FSIS projects that the proposed elimination of carcass cooling standards will remove some of the ''bottleneck'' restrictions of the chilling system. FSIS projects that the birds may take less time to cool to meet this new requirement of no microbial growth. FSIS projects that the establishments will be able to increase the output from the chiller in order to accommodate increased line speed. FSIS solicits information on any added costs and any cost saving associated with the proposed elimination of carcass cooling standards.

Table 14b shows the considered additional one-time, first-year, and annual average expenditures for the proposed rule for the 289 affected poultry establishments of complying with the mandatory actions of the

[27] Calculated by assuming 319,332 chicken samples (8.526 billion chickens divided by 26,700 chickens for the number of sampling events) plus 83,929 turkey samples (251.787 million turkeys divided by 3,000 for sampling events number) multiplied by a wage rate of $29.03 times 5/60. For eliminated *E. coli* recordkeeping, 470,000 samples were recorded in 2.5 minutes at $29.03 per hour.

proposal. Again, annualized costs are calculated using a discount rate of 7% over a ten year planning period.

TABLE 14b—ESTIMATED ANNUAL COST (COST SAVINGS) OF THE PROPOSED RULE TO ESTABLISHMENTS: ELEMENTS ASSOCIATED WITH THE MANDATORY COMPONENT OF THE PROPOSED NEW RULE (MILLIONS OF DOLLARS)

	One-time costs	Recurring annual costs
Additional PC microbial testing—plate counts, collection, packaging, shipping	.....	.....
One-time baseline	2	.....
Annual recurring testing	.....	12.6
Additional annual recordkeeping, monitoring, and record storage	.....	0.98
Eliminated generic *E. coli* testing recordkeeping	.....	−0.57
Additional one-time HACCP system plans (additions and modifications) and ProcessControl (PC) plan development	1.9	.....
Reduced annual microbial testing—generic *E. coli* plate counts, collection, packaging, and shipping	.....	−11.7
Total costs to establishments from mandatory component	3.9	1.3
Average costs to establishments from mandatory component	1.82	

For the poultry industry, as shown in Tables 14a and 14b, the one-time costs are about $13.6 million, consisting of $9.7 million in one-time costs incurred by the establishments that adopt the proposed new inspection system and $3.9 million in one-time costs for all firms in the industry with the requirements of the proposed new rule. The on-going annual average net expenditure to the poultry industry would be about $18.5 million, with $17.2 million from adopting the proposed new rule and $1.3 million in costs for all firms with this proposed rule. These cost figures annualize to $20.3 million over 10 years at 7%. In addition, however, FSIS projects a cost savings for the poultry industry. FSIS projects that the dressing costs per bird will be lowered for about 99.9 percent of the RTC young chicken and turkey production of the poultry industry. FSIS projects a net cost savings with the proposed regulation of about $258.9 million annually for companies that slaughter poultry (see Table 16 below). The initial one-time expenditure and on-going annual expenditures are more than offset by these savings due to the increased line speed. These net savings are included in the expected benefits.

The proposed new rule will have mandatory costs for all firms, whether they adopt the proposed new rule or go to the revised traditional inspection system. FSIS expects the 51 very small establishments that slaughter young chicken and turkey to adopt the revised traditional inspection system instead of the proposed rule yet still incur the mandatory costs listed in Table 14b. To assess the impact on these very small establishments, Table 14c lists these estimated mandatory costs.

As mentioned, the baseline was calculated by multiplying 150 samples collected for the baseline by the prorated hourly pay of $29.03 for a QC technician for 25 minutes needed to collect the samples and a cost of $33.75 for analytical cost of the samples for all 289 establishments. This comes to about $6,900 per firm and $351,000 for the 51 very small establishments. For annual recurring costs, the same salary and analytical costs applied and were multiplied by the estimated number of samples, as before, and adjusted for volume so that the cost of annual recurring testing for very small establishments is 0.1 percent of the cost for recurring testing in Table 14b. For annual recording and storage, the samples are based on volume and this is adjusted to 0.1 percent of the costs in Table 14b, or about $1,000 annually, to be balanced by the savings from eliminated generic *E. coli* testing recordkeeping of 0.1 percent of the estimated $568,500 annually. The cost of the additions and modifications to the HACCP plans and the process control (PC) plan development are estimated at $2,000 per very small establishment, for a total cost of $102,000 for the 51 very small establishments. The cost savings for very small establishments from reduced annual microbial testing is volume-based and is 0.1 percent of the $11.7 million in annual savings to the industry.

TABLE 14c—ESTIMATED ANNUAL COST (COST SAVINGS) OF THE PROPOSED RULE TO VERY SMALL ESTABLISHMENTS: ELEMENTS ASSOCIATED WITH THE MANDATORY COMPONENT OF THE PROPOSED NEW RULE (MILLIONS)

	One-time costs	Recurring annual costs
Additional PC microbial testing—plate counts, collection, packaging, shipping:		
One-time baseline	0.351	
Annual recurring testing	.....	0.013
Additional annual recordkeeping, monitoring, and record storage	.....	0.001
Eliminated generic *E. coli* testing recordkeeping	.....	−0.001
Additional one-time HACCP system plans (additions and modifications) and ProcessControl (PC) plan development	0.102	
Reduced annual microbial testing—generic *E. coli* plate counts, collection, packaging, and shipping	.....	−0.012
Total costs to establishments from mandatory component	0.453	0.001
Average costs to very small establishments from mandatory component	0.061	

These costs are estimated at about $0.453 million in one-time costs and about $0.001 million for annual costs. This is over $8900 per very small establishment in one-time costs, primarily for establishing the baseline testing required for all firms under the proposed rule, and very low costs per very small establishment in annual costs. These costs are based on the mandatory elements of the proposed new rule that apply to all establishments that slaughter young chicken and turkey, whether they adopt the proposed new rule or move to the revised traditional system of inspection. These estimates include the reduction in costs from the elimination of the generic *E. coli* testing. The annualized costs of these requirements for very small establishments are $0.061 million, or about $1,200 per establishment for the 51 very small establishments. This represents an average annual cost per bird of less than 0.9 cents (and less than 0.25 cents per pound), based on the assumption that very small establishments slaughter one-tenth of one percent of the nearly 9 billion birds slaughtered annually.

These costs are estimated at about $0.45 million in one-time costs and about $0.02 million for annual costs. This is over $8800 per very small establishment in one-time costs, primarily for establishing the baseline testing required for all firms under the proposed rule, and about $400 per very small establishment in annual costs. These costs are based on the mandatory elements of the proposed new rule that apply to all establishments that slaughter young chicken and turkey, whether they adopt the proposed new rule or move to the revised traditional system of inspection. These estimates include the reduction in costs from the elimination of the generic *E. coli* testing. The annualized costs of these requirements for very small establishments are $0.08 million, or about $1,600 per establishment for the 51 very small establishments. This represents an average annual cost per bird of less than 0.9 cents (and less than 0.25 cents per pound), based on the assumption that very small establishments slaughter one-tenth of one percent of the nearly 9 billion birds slaughtered annually.

Expected FSIS Budgetary Effects: Table 15 shows the expected FSIS budgetary net savings effects from the proposed rule for the slaughter of all poultry other than ratites and including the new inspection system for the slaughter of young chickens and turkeys.

FSIS used the following scenario assumptions in its financial cost model to project the FSIS budgetary effects of the proposed rule:

- 175 establishments (150 young chicken establishments and 25 turkey establishments)
- 1,498 food inspector grade increases (from GS7 to GS8) (1,436 inspectors in young chicken establishments and 62 inspectors in turkey establishments)
- 375 CSI (Consumer Safety Inspector) upgrades (from GS8 to GS9) (354 in young chicken establishments and 21 in turkey establishments)
- A reduction in the number of inspector positions (between approximately 500 and 800) through managing vacancy or refill rates, a reduction of approximately 190 positions will be affected in the following way:
  - Of the 190 positions, 100 will be relocated to livestock slaughter establishments
  - 90 inspectors will be relocated to jobs in the Agency for which their skills and experience qualify them.
- A reduction of approximately 140 SCSI (Slaughter Consumer Safety Inspector) positions—potentially all of the personnel involved to be relocated
- 150 fewer OTP staff years required for relief—no severance or relocation impact
- Training costs for approximately 3,300 employees
- Relocation costs for approximately 350 CSI employees
- Travel savings with fewer number of relief inspectors

FSIS projects that the 25 young chicken and turkey establishments currently under HIMP inspections would switch to the new inspection system. The equipment used in the HIMP, as well as in the other current non-traditional inspection systems, can be used in the proposed new inspection system. Furthermore, FSIS projects that about 19 other poultry establishments may enter the program under the SIP waiver. FSIS projects that these establishments will choose to make the capital and labor investment, when they see that their economic competitiveness may diminish. FSIS did not include the impact from these additional establishments in the financial cost model of Table 15 that projects the FSIS budgetary effects of the proposed rule because we expect it to be very small. Establishments that change operations but continue to produce will continue to have FSIS inspectors.

TABLE 15—ESTIMATED ANNUAL COST (COST SAVINGS) OF THE PROPOSED RULE TO FSIS: ELEMENTS ASSOCIATED WITH THE VOLUNTARY COMPONENT OF THE PROPOSED NEW RULE (MILLIONS OF DOLLARS)

	First year costs (cost savings) [28]	Recurring costs (cost savings) after first year
Cost from Grade Increases (Salary & Benefits)	$5.1	$8.26
Training Costs	4.78	0
Relocation Costs	3.79	0
Savings From Position Elimination	(26.4)	(47.62)
Savings from reduced Relief Inspector Travel	(.14)	(.22)
Total Costs (Savings)	(12.9)	(39.58)

The expected FSIS budgetary savings effects are cost savings to the FSIS related to position elimination of about $47.6 million, after the first year of implementation. Furthermore, FSIS projects cost savings annually from

[28] First year cost savings are lower than for the following years because the rule will not be in effect for the full first year.

expected reduction in travel expenses for relief IPP. FSIS projected total Relief Inspector travel savings of about $223,000, after the first year of implementation. FSIS, however, projects an annual cost increase for the FSIS IPP upgrade increases from GS–7 to GS–8 and GS–8 to GS–9 that would total about $8.3 million, after the first year of implementation. In addition, FSIS projects a one-time training cost for the FSIS IPP that would total about $4.8 million, and a one-time relocation cost for the FSIS IPP that would total about $3.8 million, in the first year of implementation.

Furthermore, possible IPP health improvement effects are expected to be associated with lower recruitment costs, lower medical and worker compensation costs, and fewer unscheduled leaves.

In summary, budgetary benefits in cost savings will accrue to FSIS from the more effective utilization of its inspection program personnel (IPP) to focus on activities that affect food safety. Based on FSIS projections of its budget cost-savings analysis, the expected benefit to FSIS would be the net savings of about $14.6 million, in the first full year of implementation in FY 2013. Then, in subsequent years, the projected net savings would average about $39.6 million.

Summary of Net Social Benefits

Considering the social benefits and costs discussed, FSIS expects the average net benefits to the public health, the poultry industry and consumers is about $377.7 million annually. The costs outlined in Table 16 below are annualized over 10 years at 7% to $20.3 million. Annual net benefits, therefore are $357.4 million.

TABLE 16—EXPECTED NET SOCIAL BENEFITS FROM THE PROPOSED RULE (MILLIONS OF DOLLARS) STARTING WITH THE FIRST FULL YEAR OF IMPLEMENTATION

	Primary estimate	Minimum estimate	Maximum estimate
Benefits:			
Annual public health benefits	79.2	27.3	144.2
Annual FSIS net savings	39.6	.....	.....
Annual cost savings for establishments *	258.9	.....	.....
Annual total benefits	377.7	325.8	442.7
Unquantified benefits	Additional public health benefits from documentation and testing		
Costs:			
Annual cost to establishments	20.3	.....	.....
Annual net benefits	357.4	305.5	422.4

Note: These cost savings will not all be enjoyed by the establishments. A portion of these savings will be passed on to consumers in the form of lower prices.

Analysis of Considered Alternatives

FSIS considered several alternatives to the proposed rule. Table 17 summarizes these alternatives and presents the annual net benefits associated with each alternative.

A. Taking No Action

FSIS considered maintaining the current inspection system and finished product standards requirements for the 289 establishments that slaughtered young chickens and turkeys, and other poultry in 2010. That is, FSIS considered taking no action. Consequently, poultry establishments slaughtering young chickens and turkeys, and other poultry would not benefit from increased flexibility, productivity, or opportunity for innovation. FSIS would not be able to focus its inspection activities on verification of process controls for product safety and OCPs or on additional offline activities (such as unscheduled sanitary procedures, for example). Under this alternative, establishments would be restricted to the current regulated eviscerating line speeds that in most cases are operated below the capability of their currently installed eviscerating equipment. This action will have zero net benefits.

TABLE 17—COMPARISONS OF THE CONSIDERED ALTERNATIVES TO THE PROPOSED POULTRY SLAUGHTER RULE

Considered alternatives	Benefits	Costs	Net benefits
A. Take No Action	No change in the existing inspection systems for poultry. FSIS does not need significantly more resources.	Establishments would be restricted to the current regulated eviscerating line speeds that in most cases are operated below the capability of their currently installed eviscerating equipment.	Zero Net Benefits.
B. Intensifying the Present Inspection Systems by Allocating Additional FSIS Resources to Eliminate FSIS Inspection Personnel (IPP) Vacancies.	Annual benefits of about $258.9 million from reducing dressing costs.	$32.76 million per year for FSIS to add extra inspectors. FSIS resources are limited for expansion of its workforce and these costs may be prohibitive.	Annual net benefits of $225.0 million.

TABLE 17—COMPARISONS OF THE CONSIDERED ALTERNATIVES TO THE PROPOSED POULTRY SLAUGHTER RULE—Continued

Considered alternatives	Benefits	Costs	Net benefits
C. Mandatory Use of Dressing Performance Standards and the New Poultry Inspection System for All Establishments that Slaughter Young Chickens and Turkeys.	About $259.2 million from reducing dressing costs added to public health benefits and reduced FSIS costs for total benefits of $378.0 million annually.	Annualized costs of $20.4 million, of which about $0.06 million annually borne by very small establishments under this alternative.	This alternative would have net benefits equal to $357.6 million.
D. The Proposed Rule: the Requirement of a New Inspection System for Young Chickens and Turkeys; a Revised Traditional Inspection System for All Poultry other than Ratites; Requirement of Three Locations for Sampling to monitor process control for enteric pathogens; and other Actions (see Table 8 above)..	Public health benefits from reduced illnesses, reduced dressing costs, and FSIS savings add to total benefits of $377.7 million annually. Additional unquantified public health benefits from the mandatory component of the proposed rule.	Annualized costs equal $20.3 million. See Tables 14a and 14b below for explanation of these costs.	Selected Alternative Annual net benefits equal $357.4 million, from $377.7 million in benefits less the costs to industry of $20.3 million.
E. Voluntary component only	$377.7 million in benefits. No additional unquantified benefits, as detailed in section titled "other public health benefits resulting from the mandatory component of the proposed rule."	Annualized costs of $18.5 million.	$359.2 million annually.

B. Intensifying the Present Inspection Systems by Allocating Additional FSIS Resources To Allow Establishments To Increase the Line Speed and Maintain the Same Level of Food Safety

FSIS considered intensifying the present inspection system by allocating additional FSIS resources to accommodate the demand of the industry for additional IPP on high-speed evisceration systems that the poultry industry is adopting in order to produce safe poultry products and reduce dressing costs per bird. Annual benefits of this alternative equal approximately $258.9 million from reducing dressing costs by 3 cents per bird for 99.9 percent of 8.64 billion birds slaughtered annually. No additional public health benefits result from this alternative because FSIS staff will not be doing additional offline inspection activities.

This alternative does not change the existing inspection system, no additional training is needed for FSIS or establishment staff. This alternative, however, requires an extra FSIS inspector at each of the 573 high-speed non-HIMP chicken and turkey line shifts at $57,153 year for $32.76 million in annual costs. Resource constraints would not allow for this option. These additional costs (to FSIS) will not be offset by increased safety as the newly hired inspectors will not be performing additional offline tasks. This alternative has net benefits of $225.0 million.

C. Requiring Mandatory Use of Dressing Performance Standards and the New Poultry Inspection System for All Establishments That Slaughter Young Chickens and Turkeys

FSIS considered proposing the mandatory use of dressing performance standards and a New Poultry Inspection System in all federally inspected establishments that slaughter young chickens and turkeys. This alternative is the same as the proposed regulation except that this alternative would be mandatory for the young chicken and turkey industry, while the proposed regulation s a choice between the new inspection system and the revised traditional inspection system. This alternative would result in a replacement of existing choices among other (traditional, SIS, NELS, and NTIS) types of inspection systems within the RTC young chicken and turkey industry. For the projected 270 federally inspected establishments that would slaughter young chickens and turkeys under the new inspection system, this alternative has the costs to the poultry industry of replacing online FSIS IPP with trained establishment personnel for sorting birds. As a result, the poultry industry annual labor costs and labor training costs would be higher due to the extra labor and training necessary to take over the sorting and to maintain personnel proficiency in the sorting of young chickens and turkeys, in the establishments that would not voluntarily choose the new inspection system. These establishments are the very small establishments that do not have large enough volume to make up for the additional costs imposed by this proposed rule.

This alternative has total annual benefits of 378.0 million. This includes benefits of $259.2 million from reducing costs by 3 cents per bird for 100 percent of the 8.64 billion birds slaughtered annually, and public health benefits of about $79.19 million, and FSIS budget savings, which may exceed the estimate of $39.6 million as establishment personnel replace FSIS inspectors. These benefits are slightly higher than those of the proposed alternative because this alternative covers 100 percent of plants and production. Costs to very small establishments are $0.453 million in initial one-time costs and $0.001 million in annual costs, primarily for underline troughs for one-time costs and additional sorter labor and training for ongoing costs. Annualizing the one-time costs for 10 years at 7 percent brings the annualized cost to $0.061 million. These costs for very small establishments are in addition to the $20.3 million annually calculated for the other establishments, bringing the annual cost of the alternative to $20.4 million. The net benefits of this alternative equal $357.6 million annually.

D. The Proposed Rule: the Requirement of a New Inspection System for Young Chickens and Turkeys; a Revised Traditional Inspection System for All Poultry Other Than Ratites; Requirement That All Poultry Slaughter Establishments Develop, Implement, and Maintain Written Procedures To Prevent Contamination of Carcasses and Parts by Enteric Pathogens and Fecal Material Throughout the Entire Slaughter and Dressing Process; Requirement That Procedures To Prevent Contamination Include Three Locations for Sampling To Monitor Process Control for Enteric Pathogens; and Other Actions (See Table 8 Above)

FSIS's preferred alternative is the proposed rule as discussed above. The Proposed Rule has the requirement of a new inspection system for young chickens and turkeys; a revised traditional inspection system for all poultry other than ratites; requirement that establishments develop, implement, and maintain written procedures to prevent contamination of carcasses with enteric pathogens and fecal material contamination, and that these procedures include, at a minimum, three locations for sampling for microbial organisms to monitor process control for enteric pathogens; and other actions (see Table 8).

The proposed rule gives the individual establishment the choice between the new inspection system and the revised tradition inspected system. An establishment will choose the new inspection system if the benefits, primarily from the expected increased flexibility of operations and lower dressing costs per RTC bird, exceeds the costs of implementation of this proposed new inspection system. While this would probably be true for the HACCP large and HACCP small establishments that slaughtered young chickens and turkeys in 2010, the HACCP very small establishments would find that the initial capital investment in additional facilities and equipment, additional labor for sorting and training sorters costs, and other additional annual costs for maintaining the additional facilities and equipment would not lower their average cost of dressing a RTC bird. FSIS rejected this alternative (alternative C above) in order to minimize the impact on small businesses and to allow them the flexibility to choose the proposed revised traditional inspection system, if they stand to lose from the proposed new slaughter inspection system.

Public health benefits (discussed in detail in the next section) of the proposed rule include a reduction in illnesses attributed to young chicken and turkey. The monetized value of this reduction is $79.19 million annually. Industry cost reductions from the proposed rule are about $258.9 million annually from reducing dressing costs by 3 cents per bird for 99.9 percent of 8.64 billion birds. FSIS savings under the proposed rule are expected to equal $39.58 million annually, bringing total benefits to $377.7 million annually.

Costs of the proposed rule include a one-time expenditure of about $13.6 million and net variable expenditures of $18.5 million annually (see Tables 14a and b). Annualizing the costs at 7 percent for 10 years brings the annual cost total to $20.3 million. Net benefits of the proposed rule are $357.4 million annually.

While Alternative C, mandating uniform standards for all establishments, provides net benefits greater in value to the net benefits of the proposed rule, in the interest of regulatory flexibility requirements for small businesses, FSIS proposes in the preferred alternative to make compliance with the proposed new system voluntary. Not adopting the system under the proposed rule will not disadvantage very small establishments that have niche markets and local markets because the expected market price reduction from the proposed rule is 0.6 to 1 cent per bird which, for an average bird weight of 3.94 lbs., means a price reduction of around 0.15 to 0.25 cents per pound. Evidence of a willingness of consumers to pay a premium for the local food products exists,[29] suggesting that this reduction in price for the output of the firms that adopt the proposed new rule is not expected to disadvantage these establishments that slaughter for local, niche markets.

E. Requiring Only the Voluntary Component of the Proposed Rule

The benefits from this alternative include, as under the proposed rule, the budgetary savings to FSIS from reallocation of personnel and the lower costs per bird from the increased line speeds and public health benefits of $79.19 million annually from reduced illnesses.

As shown in Table 14a, the costs to firms that adopt the proposed new rule are $9.7 million in one-time costs and $17.2 million in annual costs. These costs annualize to $18.5 million over 10 years at 7%.

This alternative eliminates the mandatory costs to all firms, whether they adopt the proposed new inspection system or not, under the proposed rule. Under the proposed rule, all firms, including the very small firms that FSIS expects will not adopt the proposed rule, must adopt some measures, as listed in Table 14b. These costs are from plan development, recordkeeping, and testing. The benefits[30] of these activities include the conduct of business in a manner more accountable to the public; the support and document of production safety decision-making; and the facilitation of oversight and transparency activities like audits and inspections. The proposed recordkeeping requirements are designed to help operators of facilities and the Agency to identify potential sources of contamination and contain and mitigate the adverse health effects of contaminated food. While many of these benefits are social and not captured by the firms, the lower probability of recall, the lower costs of indentifying contaminated product if a recall occurs, and enhanced product reputation when a product is not subject to recall, all benefit the implementing firms. Table 14c lists the mandatory costs that FSIS expects for the 51 very small establishments that FSIS projects will not adopt the proposed new inspection system.

With annual benefits estimated at $377.7 million and costs at $18.5 million, the annual net benefits of this alternative are $359.2 million. FSIS did not select this alternative even though it has higher quantified net benefits (compared to the proposed rule) because the net benefits of the proposed rule are expected to be higher due to additional benefits (disc used in section titled ''Other public health benefits resulting from the mandatory component of the proposed rule''). from the voluntary component of the proposed rule.

VI. Initial Regulatory Flexibility Analysis

In accordance with the Regulatory Flexibility Act, FSIS reviewed the proposed rule for its effects on small businesses. The Administrator has determined that, for the purposes of the Regulatory Flexibility Act (5 U.S.C. 601–612); this proposed rule would not have a significant economic impact on a substantial number of small companies or small entities.

[29] Martinez, Steve *et al., Local Food Systems: Concepts, Impacts, and Issues,* ERR 97, U.S. Department of Agriculture, Economic Research Service, May 2010, discusses consumers' willingness to pay a price premium (p. 29) for such characteristics as traceabililty (p. 26) offered by local producers.

[30] Please see the FDA's preliminary regulatory impact analysis of the Preventive Controls rule for a similar discussion of recordkeeping benefits.

FSIS considered proposing the mandatory use of dressing performance standards and the New Poultry Inspection System in all federally inspected establishments that slaughter young chickens and turkeys. (See Table 17 for a list of all alternatives considered.) This alternative is the same as the proposed rule except that this alternative would make the new inspection system mandatory for the young chicken and turkey industry, while the proposed rule is a choice between the new inspection system and the revised traditional inspection system.

This alternative would result in a replacement of existing choices among other (traditional, SIS, NELS, and NTIS) types of inspection systems within the RTC young chicken and turkey industry. The poultry industry would not have a choice between the proposed new inspection system and the revised traditional inspection system for establishments that slaughter the young chickens and turkeys.

The preferred alternative (the proposed rule) has the choice that is given to the individual establishment to determine if it is beneficial for the establishment to choose the new inspection system (if the expected increased flexibility of operations and lower dressing costs per RTC bird results in benefits that would exceed the costs of implementation of this inspection system).

While this would probably be true for the HACCP large and HACCP small establishments that slaughtered young chickens and turkeys in 2010, and the HACCP very small establishments could find that the initial capital investment in additional facilities and equipment, additional labor for sorting and training sorters costs, and other additional annual costs for maintaining the additional facilities and equipment a burdensome change. FSIS expects dressing costs to decrease by about $2.6 million for very small establishments with the proposed new inspection system while expenditures would increase by an annualized amount of $0.28 million for 10 years at 7% to comply with the system. These costs are already in addition to those outlined in Table 14c, which annualize to $0.13 million at 7% over 10 years.

This alternative of mandatory adoption by all establishments was not selected because of its expected economic burden on small businesses and to allow small producers the flexibility to choose the proposed revised traditional inspection system, if they stand to lose from the proposed new slaughter inspection system.

Expected Effects on Small Entities or Small Companies

There are economies of size and scale with the evisceration and dressing of young chickens and turkeys.[31] A possible result of these economies of size and scale is that there are only about 54 HACCP very small establishments owned by 54 small companies under Federal Inspection that slaughter poultry. These very small companies slaughtered only about one-tenth of one percent of the young chickens, turkeys, and other poultry slaughtered, in 2010 (ADRS, 2010). Further, about 34, or about 63 percent, of these 54 very small companies slaughtered other livestock such as cattle, calves, swine, sheep, and goats, in 2010, according to FSIS's ADRS. These 34 companies often operate seasonally for slaughtering poultry, yet slaughter livestock during the entire year.

The proposed rule is expected to result in a cost reduction of about 3 cents per bird and a reduction of the price of poultry of about 0.6 to 1 cent per bird (or about 0.15 to 0.25 cents per pound) for those establishments that choose to operate under the new poultry inspections system. All of the very small establishments that slaughter poultry are expected to choose to operate under the revised traditional inspection system rather than the New Poultry Inspection System. However, the reduction in price per bird for establishments operating under the proposed new rule is not expected to impose a burden on very small establishments because they generally slaughter birds that are sold in local, niche markets, where consumers have shown a willingness to pay more for a food product that is of local origin.[32] An ability to charge a higher price for product differentiation based on origin enables the very small establishments to compete in the market even with the cost advantage that other producers will have with the proposed new rule.

Under the proposed rule, the mandatory costs on very small establishments (shown in Table 14c) annualize at 7% over 10 years to $0.130 million, or about $2,500 per establishment. With the assumption that very small establishments account for one-tenth of one percent of the total number of the nearly 9 billion birds slaughtered annually, the annualized costs of the mandatory portion of the proposed rule amount to less than 1.5 cents per bird or less than 0.4 cents per pound.

There are about 109 small companies that slaughter small quantities of federally inspected poultry. FSIS expects that none of the very small companies would choose to participate in the new inspection system for the slaughter of young chickens and turkeys because of the one-time set-up costs associated with the new system, but would slaughter young chickens, turkeys, and other poultry under the revised traditional inspection system. The revised traditional inspection system is designed to minimize costs on these small entities while preserving the social benefits from testing and recordkeeping. Using the estimated cost per very small establishment from the Table 14c figures, the annual burden to small entities that do not adopt the rule because the additional fixed costs required by the rule is $1,500. With an estimated cost of establishment labor of $13.95 per hours, this represents about 100 staff hours annually. The return for this expenditure is the benefits from better testing and recordkeeping, such as greater ability to fulfill mandatory oversight requirements, which cost an unspecified number of staff-hours under the current inspection system, and lower insurance premiums. FSIS believes that a Regulatory Flexibility analysis would not be necessary to evaluate the effects of the proposal on small companies. In making this determination, the Agency considered alternatives (see table 17) to the proposed rule, including one alternative rejected for its small business impact: Taking no action, intensifying the current system, mandatory standards for all firms that slaughter young chickens and turkeys, and the voluntary component only. Taking no action would prevent the increased utilization of capacity by firms that FSIS expects to voluntarily choose the proposed new system. For this reason, FSIS rejected this alternative. The second alternative was to intensify the present system but this would require more FSIS resources and was therefore not feasible. FSIS rejected the third option of mandatory requirements for all firms that slaughter young chickens and turkeys because of the burden that this alternative would place on small establishments. The last option of the voluntary component of the proposed new rule only (as shown

[31] Ollinger, M., J. MacDonald & M. Madison, Structural Change in U.S. Chicken and Turkey Slaughter. USDA Economic Research Service, Agricultural Economics Report 787. 2000.

[32] Please see Martinez, Steve *et al., Local Food Systems: Concepts, Impacts, and Issues,* ERR 97, U.S. Department of Agriculture, Economic Research Service, May 2010 for a discussion of consumers' willingness to pay a price premium (p. 29) for such characteristics as traceability (p. 26, p. 70) offered by local producers.

in Table 14a) would eliminate the public health benefits of the mandatory requirements.

Public health safeguards are a cost of entering commerce and FSIS believes that product differentiation, based on the growing preference for local produce, will enable very small establishments to effectively compete for market share against the larger firms that will enjoy the cost reduction from the proposed new rule.

FSIS assumes that some of the small companies may choose the new inspection system under the proposed rule. With this choice, these small businesses will incur the costs associated with the rule, including the documentation requirements for HACCP systems and sanitation SOPs. These documentation requirements represent fixed costs that small establishments will allocate to fewer sales units when compared to the number of sales units available for the same purpose for large establishments. With the choice of the revised traditional system, however, FSIS believes that small firms that adopt the new system under the proposed rule will do so only when estimates of the benefits exceed the costs, meaning that small companies that adopt the new system will expect net benefits.

The proposed PSR limits the number of on-line inspectors for the revised traditions inspection system to two. However, plants that are currently operating with more than two on-line inspectors per line will be permitted to continue to do so after the rule goes into effect. Thus, small and very small plants that currently operate with more than two inspectors will not need to modify their operations based on a reduction in inspectors.

Table 18 shows the capacity comparisons for SBA small and large companies. FSIS shows in this table that SBA small companies have a relatively small share of the capacity, 4.7 percent, to slaughter poultry.

TABLE 18—CAPACITY COMPARISONS FOR SMALL AND LARGE COMPANIES

Company size (SBA definition)	Number of companies	Number of facilities	Share of facilities (in percent)
Small	109	110	38.10
Large	49	179	61.90
Total	158	289	100.00

Source: ADRS.

Table 19 shows the capacity comparisons for HACCP very small, small, and large establishments.

TABLE 19—CAPACITY COMPARISONS FOR VERY SMALL, SMALL, AND LARGE ESTABLISHMENTS

Establishment size (HACCP definition)	Number of facilities	Share of facilities
Very Small	54	18.70
Small	84	29.00
Large	151	52.30
Total	289	100.00

Source: ADRS.

TABLE 20—ACCOUNTING SUMMARY FOR PROPOSED RULE

Category	Primary estimate	Minimum estimate	Maximum estimate	Source citation
BENEFITS:				
Annualized monetized benefits.	$377.7 million	$325.8 million	$442.7 million	RA, PRIA.
Unquantified benefits	Public health benefits from documentation and revised testing.			
COSTS:				
Annualized monetized costs.	$20.3 million			PRIA.

VII. E–Government Act

FSIS and USDA are committed to achieving the purposes of the E–Government Act (44 U.S.C. 3601, *et seq.*) by, among other things, promoting the use of the Internet and other information technologies and providing increased opportunities for citizen access to government information and services, and for other purposes.

VIII. Executive Order 13175

This proposed rule has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation will not have substantial and direct effects on Tribal governments and will not have significant Tribal implications.

IX. USDA Nondiscrimination Statement

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis

of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.)

Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's Target Center at 202–720–2600 (voice and TTY).

To file a written complaint of discrimination, write USDA, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW., Washington, DC 20250–9410 or call 202–720–5964 (voice and TTY). USDA is an equal opportunity provider and employer.

X. Environmental Impact

Summary: Each USDA agency is required to comply with 7 CFR part 1b of the Departmental regulations, which supplements the National Environmental Policy Act regulations published by the Council on Environmental Quality. Under these regulations, actions of certain USDA agencies and agency units are categorically excluded from the preparation of an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) unless the agency head determines that an action may have a significant environmental effect (7 CFR 1b.4(b)). FSIS is among the agencies categorically excluded from the preparation of an EA or EIS (7 CFR 1b.4(b)(6)).

Evaluation: Under this proposed rule, young chicken and turkey slaughter establishments that operate under the proposed New Poultry Inspection System will be able to slaughter and process birds more efficiently because they will be permitted to operate faster line speeds. In the Preliminary Regulatory Impact Analysis (PRIA) of this proposed rule, FSIS predicted that, because of the efficiencies in the proposed new poultry inspections system, the price of chicken products would decrease by two cents per bird. FSIS projected that the predicted price reduction could lead to an increase in sales of poultry products of about a quarter of one percent or less. With the slight increase in sales of poultry products, some establishments may choose to increase the number of birds that they slaughter, which could result in an increase in the number of condemned carcasses and parts that must be disposed of. However, because the predicted increase in sales is very small, FSIS has determined that the increase in the number of birds slaughtered, as well as the number of condemned carcasses and parts that will need to be disposed of, will also be very small and thus will not have a significant individual or cumulative effect on the human environment.

Expected sales of poultry products will determine the number of birds that poultry establishments slaughter. Allowing establishments to operate at faster lines speeds will allow them to slaughter the birds more efficiently. It will also allow them to reduce their hours of operation while maintaining production at a rate necessary to meet market demands. Thus, by allowing establishments to reduce their hours of operations, the faster line speeds permitted under this proposed rule will result in a small, if any, increase in water use or runoff by establishments that operate under the New Poultry Inspection System. In addition, poultry slaughter establishments are required to meet all local, State, and Federal environmental requirements. Thus, FSIS has determined that allowing establishments to operate under faster line speeds provided in the proposed PSR will not have a not have a significant individual or cumulative effect on the human environment.

FSIS also considered the potential environmental effects of the provision in the proposed rule that would permit poultry slaughter establishments to use approved online reprocessing (OLR) antimicrobial systems. One antimicrobial agent used in OLR systems, trisodium phosphate (TSP), can result in high levels of phosphorus as a byproduct, which, if untreated, could overcome local municipal water systems. FSIS estimates that approximately 5–7 of the 144 establishments operating under regulatory waivers for OLR are using TSP as an antimicrobial agent. As noted above, regardless of the substance that an establishment chooses to use for its OLR system, it is required to meet all local, State, and Federal environmental requirements. The waste water from the few poultry establishments that use TSP is handled routinely by existing water treatment systems or recycled as by-products without entering the plant's systems, municipal water systems, or the ground water. Thus, FSIS has determined that allowing establishment to use approved OLR antimicrobial systems will not have a significant individual or cumulative effect on the human environment.

Conclusion: For the reasons discussed above, FSIS has determined that the proposed PSR will not have individual or cumulative effect on the human health environment. Therefore, this regulatory action is appropriately subject to the categorical exclusion from the preparation of an EA or EIS provided under 7 CFR 1b.4(b)(6) of the USDA regulations.

XI. Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995, the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB).

Title: Poultry Slaughter Inspection.

Type of Collection: New.

Abstract: Under this proposed rule, each official poultry slaughter establishment would need to maintain as part of its HACCP plan, or sanitation SOP, or other prerequisite program, written procedures addressing (1)the prevention, throughout the entire slaughter and dressing operation, of contamination of carcasses and parts by enteric pathogens (e.g. *Salmonella* and *Campylobacter*) and by fecal material, and (2) the prevention of carcasses and parts contaminated by visible fecal material from entering the chiller. Each establishment operating under the proposed new inspection system would also have to maintain written procedures to prevent caracasses affected with septicemia and toxemia from entering the chiller. The procedures addressing prevention of contamination by enteric pathogens would need to include, at a minimum, microbial testing at pre-chill and at post-chill. In addition, each establishment operating under the proposed inspection system would need to maintain records that document that the products resulting from its slaughter operations meet the definition of ready-to-cook poultry.

The proposed regulations that would require poultry slaughter establishments to have written procedures in their HACCP plans, or sanitation SOPs, or prerequisite programs is already covered under an approved information collection, Pathogen Reduction/Hazard Analysis and Critical Control Point Systems (OMB control number 0583–0103).

The proposal that poultry slaughter establishments monitor their systems through microbial testing and recordkeeping creates a new information collection burden. FSIS estimates that large establishments will test and record microbial results at the 2 prescribed locations (pre-chill and post-chill) 15 times a day, small establishments 7 times a day, and very small establishments 3 times a day.

Estimate of Burden: FSIS estimates that it will take 5 minutes per response.

Respondents: Poultry Slaughter Establishments.

Estimated Number of Respondents: 289.

Estimated Number of Responses per Respondent: Large establishments 15,300; small establishments 7,140; very small establishments 1,800.

Estimated Total Annual Burden on Respondents: 250,160 hours.

Copies of this information collection assessment can be obtained from John O'Connell, Paperwork Reduction Act Coordinator, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW., Room 6083, South Building, Washington, DC 20250.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of FSIS's functions, including whether the information will have practical utility; (b) the accuracy of FSIS's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (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 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.

Comments may be sent to both John O'Connell, Paperwork Reduction Act Coordinator, at the address provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20253. To be most effective, comments should be sent to OMB within 60 days of the publication date of this proposed rule.

XII. Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that the public and in particular minorities, women, and persons with disabilities, are aware of this proposed rule, FSIS will announce it on-line through the FSIS Web page located at *http://www.fsis.usda.gov/regulations_&_policies/Proposed_Rules/index.asp.* FSIS also will make copies of this **Federal Register** publication available through the *FSIS Constituent Update,* which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The *Update* is communicated via Listserv, a free email subscription service consisting of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals who have requested to be included. The *Update* also is available on the FSIS Web page. Through Listserv and the Web page, FSIS is able to provide information to a much broader, more diverse audience.

In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/news_&_events/email_subscription/.* Options range from recalls to export information to regulations, directives and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

XIII. Proposed Regulatory Amendments

List of Subjects

9 CFR Part 381

Poultry inspection, Poultry products, Recordkeeping requirements.

9 CFR Part 500

Administrative practice and procedure, Meat inspection, Poultry and poultry products.

For the reasons stated in the preamble, FSIS is proposing to amend 9 CFR Chapter III as follows:

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

1. The authority citation for part 381 continues to read as follows:

Authority: 7 U.S.C. 138f, 450; 21 U.S.C. 451–470; 7 CFR 2.7, 2.18, 2.53.

2. Section 381.36 is amended as follows:

a. Paragraph (c) is revised.

b. Paragraphs (d) and (e) are removed.

The revisions read as follows:

§ 381.36 Facilities required.

* * * * *

(c) *Facilities for post-mortem inspection under the New Poultry Inspection System.* The following facilities requirements apply to establishments operating under the New Poultry Inspection System and are in addition to the requirements for obtaining a grant of inspection.

(1) The following provisions apply to the online carcass inspection station:

(i) On each production line, at a point before the chiller and after the establishment has completed all sorting, trimming, and reprocessing activities necessary to comply with § 381.76(d)(2) of this part, at least 4 feet of floor space along the conveyor line must be provided for one online carcass inspection station.

(ii) The conveyor line must be level for the entire length of the online carcass inspection station. The vertical distance from the bottom of the shackles to the top of the platform (paragraph (c)(1)(iii) of this section) must not be less than 60 inches.

(iii) Each online carcass inspection station must have a platform that is slip-resistant and can be safely accessed by the inspector. The platform must be a minimum length of 4 feet and have a minimum width of 2 feet. The platform must be designed with a 42-inch high rail on the back side and with ½-inch foot bumpers on both sides and front to allow safe working conditions. The platform must be large enough for the inspector to sit on a stool and to change stations during breaks or station rotation.

(iv) Conveyor line stop/start switches must be located within easy reach of the online carcass inspector.

(v) A minimum of 200-foot candles of shadow-free lighting with a minimum color rendering index value of 85 must be provided where the birds are inspected to facilitate online carcass inspection.

(vi) Hand rinsing facilities must be provided for use by and within easy reach of the online carcass inspector. The hand rinsing facilities must have a continuous flow of water or be capable of being immediately activated and deactivated in a hands-free manner, must minimize any splash affect, and must otherwise operate in a sanitary manner that prevents contamination of carcasses and inspector clothing. The hand rinsing facilities must provide water at a temperature between 65 and 120 degrees Fahrenheit.

(vii) A separate clipboard holder for holding recording sheets must be provided for and within easy reach of the online carcass inspector.

(viii) Receptacles for condemned carcasses and parts that comply with the performance standards in § 416.3(c) of this chapter must be provided at each online carcass inspection station.

(ix) Hangback racks designed to hold at least 10 carcasses must be provided and positioned within easy reach of the online carcass inspector.

(x) A buzzer switch shall be located within easy reach of the online carcass inspector to be used by the carcass inspector to alert the inspector-in-charge, offline inspectors, or

establishment management of conditions that require their attention.

(2) The following provisions apply to pre-chill and post-chill offline verification inspection stations:

(i) One or more offline verification inspection stations must be located at the end of the line or lines prior to the chiller; one or more offline verification inspection stations must also be located after the chiller or chillers. The Agency will determine the number of stations needed in establishments having more than one processing line or more than one chiller.

(ii) Floor space for all offline verification inspection stations must consist of a minimum of 3 feet along each conveyor line and after each chiller, as applicable, to allow carcasses to be removed for evaluation by the verification inspector. The space must be level and protected from all traffic and overhead obstructions.

(iii) At the pre-chill location, the vertical distance from the bottom of the shackles to the floor must not be less than 48 inches.

(iv) At each offline verification inspection station, a table designed to be readily cleanable and drainable must be provided for offline verification inspectors to conduct offline verification activities. At turkey slaughter establishments, the table must be at least 3 feet wide, 2 feet deep, and 3 feet high. At all other poultry slaughter establishments, the table must be at least 2 feet wide, 2 feet deep, and 3 feet high.

(v) A minimum of 200-footcandles of shadow-free lighting with a minimum color rendering index of 85 on the table surface must be provided.

(vi) The establishment must provide a separate clipboard holder for holding recording sheets; or alternatively, the establishment may provide electronic means for the offline verification inspector to record inspection results.

(vii) Hangback racks designed to hold at least 10 carcasses must be provided and positioned within easy reach of the offline verification inspector.

(viii) Hand washing facilities must be provided within easy access of all offline verification inspection stations.

(3) Each establishment operating under the New Poultry Inspection System must provide a location at a point along the production line after the carcasses are eviscerated at which an inspector may safely and properly inspect for leukosis the first 300 carcasses of each flock together with associated viscera either uniformly trailing or leading, or otherwise identified with the corresponding carcass. The leukosis inspection area must provide a minimum of 200-footcandles of shadow-free lighting on the surface where the viscera are inspected.

(4) A trough or other similar drainage facility must extend beneath the conveyor at all places where processing operations are conducted from the point where the carcass is opened to the point where trimming has been performed. The trough must be of sufficient width to preclude trimmings, drippage, and debris from accumulating on the floor or platforms. The clearance between suspended carcasses and the trough must be sufficient to preclude contamination of carcasses by splashing.

3. Section 381.65 is amended as follows:

a. Paragraphs (e) and (f) are redesignated as paragraphs (f) and (e) respectively.

b. Newly redesignated as paragraph (f) is revised.

c. A new paragraph (g) is added.

d. A new paragraph (h) is added.

The revisions and additions read as follows:

§ 381.65 Operations and procedures, generally.

* * * * *

(f) Procedures for controlling visible fecal contamination. Official poultry slaughter establishments must develop, implement, and maintain written procedures to ensure that poultry carcasses contaminated with visible fecal material do not enter the chilling tank. Establishments must incorporate these procedures into their HACCP plans, or sanitation SOPs, or other prerequisite programs.

(g) Procedures for controlling contamination throughout the slaughter and dressing process. Official poultry slaughter establishments must develop, implement, and maintain written procedures to prevent contamination of carcasses and parts by enteric pathogens (e.g., *Salmonella* and *Campylobacter*) and fecal contamination throughout the entire slaughter and dressing operation. Establishments must incorporate these procedures into their HACCP plans, or sanitation SOPs, or other prerequisite programs. At a minimum, these procedures must include sampling and analysis for microbial organisms at the pre-chill and post-chill points in the process. The sampling frequency must be adequate to monitor the establishment's ability to maintain process control for enteric pathogens. Establishments must maintain accurate records of all test results and retain these records as provided in paragraph (h) of this section.

(h) Recordkeeping requirements. Official poultry slaughter establishment must maintain daily records sufficient to document the implementation and monitoring of the procedures required under paragraph (g) of this section. Records required by this section may be maintained on computers provided that the establishment implements appropriate controls to ensure the integrity of the electronic data. Records require by this section must be maintained for at least one year and must be accessible to FSIS.

4. Section 381.66 is amended as follows:

a. Paragraph (b) is revised.

b. Paragraphs (c)(3) and (c)(4) are removed.

c. Paragraph (e) is revised.

The revisions read as follows:

§ 381.66 Temperatures and chilling and freezing procedures.

* * * * *

(b) *Chilling performance standards, except for ratites.*

(1)(i) Each official poultry slaughter establishment must ensure that all poultry carcasses, parts, and giblets are chilled immediately after slaughter operations so that there is no outgrowth of pathogens, unless such poultry is to be frozen or cooked immediately at the official establishment.

(ii) Previously chilled poultry carcasses and major portions must be kept chilled so that there is no outgrowth of the pathogens, unless such poultry is to be packed and frozen immediately at the official establishment.

(2) After product has been chilled, the establishment must prevent the outgrowth of pathogens on the product as long as the product remains at the establishment.

(3) The establishment must develop, implement, and maintain written procedures for chilling that address, at a minimum, the potential for pathogen outgrowth, the conditions affecting carcass chilling, and when its chilling process is completed. The establishment must incorporate these procedures into its HACCP plan, or sanitation SOP, or other prerequisite program.

* * * * *

(e) *Air chilling.* Air chilling is the method of chilling raw poultry carcasses and parts exclusively with air. No water, including mists or sprays, may be used to help chill the product. However, an anti-microbial intervention that is applied with water may be used for a short duration if its use does not result in any pick-up of water or moisture and

if it does not assist the chilling process by lowering the product temperature.

* * * * *

5. Section 381.67 is amended as follows:

a. The section heading is revised.

b. The first sentence of the introductory text is amended by removing the words ''young chicken and squab'' and adding in their place the word ''poultry.''

c. The second to the last sentence of the introductory text is removed.

d. The last sentence of the introductory text is revised.

e. The table is revised.

f. A new table is added after the first table.

The revisions read as follows:

§ 381.67 Poultry slaughter inspection rate maximums under traditional inspection procedure.

* * * Section 381.76(b) specifies when the traditional inspection procedure can or must be used.

MAXIMUM PRODUCTION LINE RATES—POULTRY OTHER THAN TURKEYS AND RATITES—TRADITIONAL INSPECTION PROCEDURES

Line configuration [1]	Number of inspection stations	Birds per inspector per minute
6–1	1	25
12–1	2	23
12–2	2	21

[1] Birds are suspended on the slaughter line at 6-inch intervals. The first number indicates the interval in inches between the birds that each inspector examines, i.e., 6 or 12 inches. The second number indicates how many of the birds presented, the inspector is to inspect, i.e., ''1'' means inspect every bird and ''2'' means inspect every second bird.

MAXIMUM PRODUCTION LINE RATES—TURKEYS—TRADITIONAL INSPECTION PROCEDURES

Line configuration[1]	Number of inspection stations	Birds per inspector per minute for light birds (<16 lbs)	Birds per inspector per minute for heavy birds (>16 lbs)
12–1	1	20	16
24–2	2	34	26

[1] Birds are suspended on the slaughter line at 12-inch intervals. The first number indicates the interval in inches between the birds that each inspector examines, i.e., 12 or 24 inches. The second number indicates how many of the birds presented, the inspector is to inspect, i.e., ''1'' means inspect every bird and ''2'' means inspect every second bird.

6. Section 381.68 is revised to read as follows:

§ 381.68 Maximum line speed rates under the New Poultry Inspection System.

(a) The maximum line speed for young chicken slaughter establishments that operate under the New Poultry Inspection System is 175 birds per minute.

(b) The maximum line speed for turkey slaughter establishments that operate under the New Poultry Inspection System is 55 birds per minute.

(c) Notwithstanding paragraphs (a) and (b) of this Section, establishments that operate under the New Poultry Inspection System must reduce their line speed as directed by inspectors-in-charge. Inspectors-in-charge are authorized to direct establishments to operate at a reduced line speed when in his or her judgment a carcass-by-carcass inspection cannot be adequately performed within the time available due to the manner in which the birds are presented to the online carcass inspector, the health conditions of a particular flock, or factors that may indicate a loss of process control.

7. Section 381.76 is revised to read as follows:

§ 381.76 Post-mortem inspection under Traditional Inspection, the New Poultry Inspection System, and Ratite Inspection.

(a) A post-mortem inspection shall be made on a bird-by-bird basis on all poultry eviscerated in every official establishment. Each carcass, or all parts comprising such carcass, must be examined by an inspector, except for parts that are not needed for inspection purposes and are not intended for human food and are condemned. Each carcass eviscerated shall be prepared as ready-to-cook poultry.

(b) There are three systems of post-mortem inspection: New Poultry Inspection System, which may be used for young chickens and turkeys; Traditional Inspection, which may be used for all poultry, except for ratites; and ratite inspection. Traditional Inspection must be used for young chickens and turkeys if the New Poultry Inspection System is not used.

(c) Official establishments that operate under traditional inspection must meet the following requirements:

(1) No viscera or any part thereof may be removed from any poultry processed in any official establishment, except at the time of post-mortem inspection, unless its identity with the rest of the carcass is maintained in a manner satisfactory to the inspector until such inspection is made;

(2) Each carcass to be eviscerated must be opened so as to expose the organs and the body cavity for proper examination by the inspector.

(3) If a carcass is frozen, it must be thoroughly thawed before being opened for examination by an inspector.

(d) The New Poultry Inspection System may be used for young chickens and turkeys if the official establishment requests to use it and meets or agrees to meet the requirements of this paragraph (d) and the Administrator approves the establishment's request. The Administrator may permit establishments that slaughter classes of poultry other then young chickens and turkeys to operate under the New Poultry Inspection System under a waiver from the provisions of the regulations as provided in § 381.3(b) of this part.

(1) *Facilities:* The establishment must comply with the facilities requirements in § 381.36(c) of this part.

(2) *Carcass Sorting and Disposition:*

(i) The establishment must conduct carcass with associated viscera sorting activities, dispose of carcasses and parts exhibiting condemnable conditions, and conduct appropriate trimming and

reprocessing activities before carcasses are presented to the online carcass inspector.

(ii) Any carcasses removed from the line for reprocessing activities or salvage must be returned to the line before the online carcass inspection station. The establishment must include in its written HACCP plan, or sanitation standard operating procedure, or other prerequisite program a process by which parts, other than parts identified as ''major portions'' as defined in 9 CFR 381.170(b)(22), are available for inspection offline after reprocessing or salvage.

(iii) The establishment must develop, implement, and maintain written procedures to ensure that poultry carcasses contaminated with septicemic and toxemic conditions do not enter the chilling tank. Establishments must incorporate these procedures into their HACCP plans, or sanitation SOPs, or other prerequisite programs. These procedures must cover, at a minimum, establishment sorting activities required under paragraph (d)(2)(i) of this section.

(iv) The establishment must maintain records to document that the products resulting from their slaughter operations meet the definition of ready-to-cook poultry in § 381.1 of this part.

(v) If there is evidence that a flock may be affected by avian visceral leukosis, the inspector-in-charge is authorized to adjust inspection procedures as needed to ensure adequate inspection of each carcass and viscera for that condition. The inspector-in-charge is also authorized to require the establishment to adjust its processing operations as needed to accommodate the adjusted inspection procedures.

(3) *Presentation for Online Carcass Inspection:* To ensure the online carcass inspector may properly inspect every carcass, the establishment must present carcasses as follows:

(i) Each carcass, except carcasses and parts identified as ''major portions'' under 9 CFR 381.179(b)(22), must be held by a single shackle;

(ii) Both hocks of each carcass must be held by the shackle;

(iii) The back side of the carcass must be faced toward the inspector;

(iv) There must be minimal carcass swinging motion; and

(v) Establishments that slaughter young chickens must notify the inspector-in-charge prior to the slaughter of each new flock to allow the inspection of viscera as provided in § 381.36(c)(3) of this part. The establishment must ensure that it can sufficiently identify viscera and parts corresponding with each carcass inspected by the online carcass inspector so that if the carcass inspector condemns a carcass all corresponding viscera and parts are also condemned.

8. Section 381.91 is amended by revising paragraph (b) to read as follows:

§ 381.91 Contamination.

* * * * *

(b) Any carcass of poultry accidentally contaminated during slaughter with digestive tract contents need not be condemned if promptly under the supervision of an inspector and thereafter found not to be adulterated. Contaminated surfaces that are cut must be removed only by trimming. Contaminated inner surfaces that are not cut may be cleaned by trimming alone or may be re-processed as provided in subparagraph (b)(1) or (b)(2) of this section.

(1) *Online.* Poultry carcasses accidentally contaminated with digestive tract contents may be cleaned by applying an online antimicrobial intervention to all carcasses after evisceration and before the carcasses enter the chiller if the parameters for use of the antimicrobial intervention system have been approved by the Administrator. Establishments must incorporate procedures for the use of any online reprocessing antimicrobial intervention system into their HACCP plans, Sanitation Standard Operating Procedures, or other prerequisite programs.

(2) *Offline reprocessing.* Contaminated inner surfaces that are not cut may be cleaned at an approved reprocessing station away from the main processing line by any method that will remove the contamination, such as vacuuming, washing, and trimming, singly or in combination. All visible specks of contamination must be removed, and if the inner surfaces are reprocessed other than solely by trimming, all surfaces of the carcass must be treated with chlorinated water containing 20 ppm to 50 ppm available chlorine or another approved antimicrobial substance in accordance with the parameters approved by Administrator . Establishments must incorporate procedures for the use of any offline reprocessing into their HACCP plans, Sanitation Standard Operating Procedures, or other prerequisite programs.

9. Section 381.94 is removed.

10. Section 381.129 is amended by adding a new paragraph (b)(6)(v) to read as follows:

§ 381.129 False or misleading labeling or containers.

* * * * *

(b) * * *

(6) * * *

(v) Ready-to-cook chicken may bear the claim ''air chilled'' or ''air chilling'' on its label only if the product was chilled under a process that meets the definition of air chilling in § 381.66(e) of this part.

* * * * *

PART 500—RULES OF PRACTICE

11. The authority citation for part 500 continues to read as follows:

Authority: 21 U.S.C. 451–470, 601–695; 7 U.S.C. 450, 1901–1906; 7 CFR 2.18, 2.53.

§ 500.6 [Amended]

12. Section 500.6 is amended to remove and reserve paragraph (f).

Done in Washington, DC, on January 20, 2012.

Alfred V. Almanza,

Administrator.

Note: The following Appendix will not appear in the Code of Federal Regulations.

APPENDIX A—HIMP PERFORMANCE STANDARDS

Establishments operating under HIMP are required to meet performance standards for food safety and non-food-safety related defects and to maintain process control plans to meet those performance standards. The following is a description of the HIMP performance standards.

FSIS has a zero tolerance for visible fecal contamination and septicemic and toxemic animal diseases (see 9 CFR 381.83 and 381.65(e)). Notwithstanding this zero tolerance policy, there are two categories of food safety related performance standards under HIMP for these conditions: ''FS–1'' addresses septicemic and toxemic animal diseases and ''FS–2'' addresses visible fecal material. The Agency developed performance standards for FS–1 and FS–2 conditions to compare the performance of HIMP and non-HIMP establishments in meeting the zero tolerance for septicemic and toxemic animal diseases and visible fecal contamination.

To develop the performance standards, a private contractor, the Research Triangle Institute (RTI), conducted a study of 16 young chicken establishments operating under the existing poultry inspection systems to establish baseline organoleptic and microbial levels at young chicken slaughter establishments operating under the inspection systems provided for under the current regulations. The baseline studies were conducted between 1998 and 2000, prior to young chicken slaughter establishments beginning to operate under HIMP. The performance standards for the FS–1 and FS–2 conditions were set at the 75th percentile of what was achieved under the RTI baseline study. The young chicken performance standards for each food safety defect category are presented in Table 1.

TABLE A–1—FOOD SAFETY PERFORMANCE STANDARDS FOR YOUNG CHICKEN SLAUGHTER ESTABLISHMENTS *

Defect categories	Performance standards based on existing inspection systems (% of carcasses)
Food Safety 1:	
Condition—Infectious (e.g., Septicemia, toxemia)	0.1 *
Food Safety 2:	
Contamination—Digestive Content (e.g., fecal material)	1.5 *

* FSIS has a zero tolerance for Food Safety 1 and 2 defects.

As noted above, the FS–1 and FS–2 HIMP performance standards were developed for purposes of comparison. Therefore, FSIS inspection personnel in HIMP establishments are responsible for enforcing the zero tolerance for visible fecal contamination and septicemic and toxemic animal diseases. If the online carcass inspector in a HIMP establishment identifies a carcass with FS–1 or FS–2 conditions, he or she stops the evisceration line and notifies the establishment to hang the affected carcass back for condemnation or reprocessing. The carcass inspector does not restart the line until the contaminated carcass is removed.

Non-food-safety related performance standards are referred to as ''Other Consumer Protection'' standards, or ''OCPs,'' under HIMP. There are five categories of OCPs various types of trim and dressing defects that mainly affect the quality of products. Examples include removable non-septicemic and non-toxemic animal diseases, breast blisters, bruises, fractures, and feathers. Together, the five OCP categories account for 29 specific defects addressed under the current regulations by the FPS, codified at 9 CFR 381.76. The OCP categories are logically grouped and simpler to apply than the FPS. Under the FPS, defects are weighted and a complex numerical system is applied to each sample group of carcasses. In contrast, to determine compliance with the OCP categories, an individually sampled carcass with any defect in one of the five categories is counted as ''defective.'' A carcass with more than one category of defects is counted in both (or more) categories. The performance standard for each category is expressed as the maximum percentage of sampled carcasses that may contain one or more defects from that category. The young chicken performance standards for each OCP category are presented in Table A–2.

TABLE A–2—OCP PERFORMANCE STANDARDS FOR YOUNG CHICKEN SLAUGHTER ESTABLISHMENTS

Nonconformance category	Performance standard (% carcasses)
OCP–1:	
Condition—Animal Diseases—non-septicemic or non-toxemic (e.g., airsacculitis, arthritis, ascites, skin leukosis, avian tuberculosis, cadaver, enteritis, erysipelas, inflammatory process, nephritis, osteomyelitis, other tumors—carcinoma, sarcoma, etc., pericarditis, pneumonia, reportable disease, salpingitis, tenosynovitis	1.7
OCP–2:	
Condition—Miscellaneous (e.g., breast blister, bruises, external mutilation, fractures, overscald, sores, scabs, and localized inflammatory process)	52.5

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This is the final list of public bills from the first session of the 112th Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws*.

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H.R. 1540/P.L. 112–81

National Defense Authorization Act for Fiscal Year 2012 (Dec. 31, 2011; 125 Stat. 1298)

H.R. 515/P.L. 112–82

Belarus Democracy and Human Rights Act of 2011 (Jan. 3, 2012; 125 Stat. 1863)

H.R. 789/P.L. 112–83

To designate the facility of the United States Postal Service located at 20 Main Street in Little Ferry, New Jersey, as the "Sergeant Matthew J. Fenton Post Office". (Jan. 3, 2012; 125 Stat. 1869)

H.R. 1059/P.L. 112–84

To protect the safety of judges by extending the authority of the Judicial Conference to redact sensitive information contained in their financial disclosure reports, and for other purposes. (Jan. 3, 2012; 125 Stat. 1870)

H.R. 1264/P.L. 112–85

To designate the property between the United States Federal Courthouse and the Ed Jones Building located at 109 South Highland Avenue in Jackson, Tennessee, as the "M.D. Anderson Plaza" and to authorize the placement of a historical/identification marker on the grounds recognizing the achievements and philanthropy of M.S. Anderson. (Jan. 3, 2012; 125 Stat. 1871)

H.R. 1801/P.L. 112–86

Risk-Based Security Screening for Members of the Armed Forces Act (Jan. 3, 2012; 125 Stat. 1874)

H.R. 1892/P.L. 112–87

Intelligence Authorization Act for Fiscal Year 2012 (Jan. 3, 2012; 125 Stat. 1876)

H.R. 2056/P.L. 112–88

To instruct the Inspector General of the Federal Deposit Insurance Corporation to study the impact of insured depository institution failures, and for other purposes. (Jan. 3, 2012; 125 Stat. 1899)

H.R. 2422/P.L. 112–89

To designate the facility of the United States Postal Service located at 45 Bay Street, Suite 2, in Staten Island, New York, as the "Sergeant Angel Mendez Post Office". (Jan. 3, 2012; 125 Stat. 1903)

H.R. 2845/P.L. 112–90

Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (Jan. 3, 2012; 125 Stat. 1904)

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