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Presidential Documents

Title 3—

The President

Presidential Determination No. 2012–05 of March 30, 2012

Presidential Determination Pursuant to Section 1245(d)(4)(B) And (C) of the National Defense Authorization Act for Fiscal Year 2012

Memorandum for the Secretary of State[,] the Secretary of the Treasury[, and] the Secretary of Energy

By the authority vested in me as President by the Constitution and the laws of the United States, after carefully considering the report submitted to the Congress by the Energy Information Administration on February 29, 2012, and other relevant information, and given current global economic conditions, increased production by certain countries, the level of spare capacity, and the existence of strategic reserves, among other factors, I determine, pursuant to section 1245(d)(4)(B) and (C) of the National Defense Authorization Act for Fiscal Year 2012, Pub1ic Law 112–81, that there is a sufficient supply of petroleum and petroleum products from countries other than Iran to permit a significant reduction in the volume of petroleum and petroleum products purchased from Iran by or through foreign financial institutions.

I will closely monitor this situation to assure that the market can continue to accommodate a reduction in purchases of petroleum and petroleum products from Iran.

The Secretary of State is authorized and directed to publish this memorandum in the *Federal Register*.

THE WHITE HOUSE,
Washington, March 30, 2012

[FR Doc. 2012–8671
Filed 4–9–12; 8:45 am]
Billing code 4710–10–P

Presidential Documents

Presidential Determination No. 2012–06 of April 3, 2012

Unexpected Urgent Refugee and Migration Needs

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States, including section 2(c)(1) of the Migration and Refugee Assistance Act of 1962 (the ''Act''), as amended, (22 U.S.C. 2601(c)(1)), I hereby determine, pursuant to section 2(c)(1) of the Act, that it is important to the national interest to furnish assistance under the Act, in an amount not to exceed $26 million from the United States Emergency Refugee and Migration Assistance Fund, for the purpose of meeting unexpected and urgent refugee and migration needs, including by contributions to international, governmental, and nongovernmental organizations and payment of administrative expenses of the Bureau of Population, Refugees, and Migration of the Department of State, related to the humanitarian crisis resulting from conflict in South Kordofan and Blue Nile States of Sudan.

You are authorized and directed to publish this memorandum in the *Federal Register*.

THE WHITE HOUSE,
Washington, April 3, 2012

[FR Doc. 2012–8674
Filed 4–9–12; 8:45 am]
Billing code 4710–10–P

Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 985

[Doc. No. AMS–FV–10–0094; FV11–985–1B IR]

Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Revision of the Salable Quantity and Allotment Percentage for Class 1 (Scotch) Spearmint Oil for the 2011–2012 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This rule revises the quantity of Class 1 (Scotch) spearmint oil that handlers may purchase from, or handle on behalf of, producers during the 2011–2012 marketing year. This rule increases the Scotch spearmint oil salable quantity from 733,913 pounds to 876,596 pounds, and the allotment percentage from 36 percent to 43 percent. The marketing order regulates the handling of spearmint oil produced in the Far West and is administered locally by the Spearmint Oil Administrative Committee (Committee). The Committee unanimously recommended this rule for the purpose of avoiding extreme fluctuations in supplies and prices and to help maintain stability in the Far West spearmint oil market.

DATES: Effective June 1, 2011, through May 31, 2012; comments received by June 11, 2012 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this interim rule. Comments must be sent to the Docket Clerk, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or Internet: *http://www.regulations.gov.* All comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov.* All comments submitted in response to this rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the Internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Barry Broadbent, Marketing Specialist, or Gary Olson, Regional Manager, Northwest Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; Telephone: (503) 326–2724, Fax: (503) 326–7440, or Email: *Barry.Broadbent@ams.usda.gov* or *GaryD.Olson@ams.usda.gov.*

Small businesses may request information on complying with this regulation by contacting Laurel May, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Laurel.May@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 985 (7 CFR part 985), as amended, regulating the handling of spearmint oil produced in the Far West (Washington, Idaho, Oregon, and designated parts of Nevada and Utah), hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the provisions of the marketing order now in effect, salable quantities and allotment percentages may be established for classes of spearmint oil produced in the Far West. This rule increases the quantity of Scotch spearmint oil produced in the Far West that handlers may purchase from, or handle on behalf of, producers during the 2011–2012 marketing year, which ends on May 31, 2012.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

The original salable quantity and allotment percentages for Scotch and Native spearmint oil for the 2011–2012 marketing year were recommended by the Committee at its October 13, 2010, meeting. The Committee recommended salable quantities of 694,774 pounds and 1,012,983 pounds, and allotment percentages of 34 percent and 44 percent, respectively, for Scotch and Native spearmint oil. A proposed rule was published in the **Federal Register** on March 4, 2011 (76 FR 11971). Comments on the proposed rule were solicited from interested persons until April 4, 2011. No comments were received. A final rule establishing the salable quantities and allotment percentages for Scotch and Native spearmint oil for the 2011–2012 marketing year was published in the **Federal Register** on May 13, 2011 (76 FR 27852).

The Committee met again on August 17, 2011, to consider amending the salable quantities and allotment percentages for Scotch and Native spearmint oil for the 2011–2012 marketing year. At the meeting, the Committee recommended increasing the salable quantities to 733,913 pounds and 1,266,161 pounds, and allotment percentages to 36 percent and 55 percent, respectively, for Scotch and Native spearmint oil. The 2011–2012

marketing year salable quantities and allotment percentages were subsequently amended to those levels by an interim rule published in the **Federal Register** on October 6, 2011 (76 FR 61933). Comments on the interim rule were solicited from interested persons until December 5, 2011. No comments were received in response to the interim rule. A final rule establishing the amended salable quantities and allotment percentages was published in the **Federal Register** on February 3, 2012 (77 FR 5385).

This rule further revises the quantity of Scotch spearmint oil that handlers may purchase from, or handle on behalf of, producers during the 2011–2012 marketing year, which ends on May 31, 2012. Pursuant to authority contained in §§ 985.50, 985.51, and 985.52 of the order, the full eight member Committee met on February 22, 2012, to consider pertinent market information on the current supply, demand, and price of spearmint oil. In a vote with seven members in favor and one member opposed, the Committee recommended that the 2011–2012 Scotch spearmint oil allotment percentage be increased by 7 percent, from 36 percent to 43 percent. The Committee member that voted against the increase concurred with the rest of the Committee members that an increase was justified; however, he felt that a 7 percent increase was an excessive response to the current Scotch spearmint oil marketing conditions.

Thus, taking into consideration the following discussion, this rule increases the 2011–2012 marketing year salable quantity and allotment percentage for Scotch spearmint oil to 876,596 pounds and 43 percent.

The salable quantity is the total quantity of each class of oil that handlers may purchase from, or handle on behalf of, producers during the marketing year. The total salable quantity is divided by the total industry allotment base to determine an allotment percentage. Each producer is allotted a share of the salable quantity by applying the allotment percentage to the producer's individual allotment base for the applicable class of spearmint oil.

The total industry allotment base for Scotch spearmint oil for the 2011–2012 marketing year was initially estimated by the Committee to be 2,043,453 pounds. When that allotment base was applied to the originally established allotment percentage of 34 percent, the initially established 2011–2012 marketing year salable quantity was set at 694,774 pounds.

The total allotment base is adjusted at the end of each marketing year to account for the bona fide effort provision of the order. In accordance with § 985.53(e), producers must make a bona fide effort to produce a quantity of oil equal to or greater than their allotment base. Should a producer fail to produce that amount, their allotment base is reduced by an amount equal to the unproduced portion. The production data used to accurately make this adjustment to the total industry allotment base is not available until after the end of the marketing year. Consequently, since the rule that established the 2011–2012 marketing year initial allotment percentage and salable quantity for Scotch spearmint oil was published prior to the end of the 2010–2011 marketing year, an estimate of the total industry allotment base was relied upon in the calculation of the initial salable quantity for the 2011–2012 marketing year.

After the end of the 2010–2011 marketing year on May 31, 2011, however, the Committee recalculated the final total industry allotment base for Scotch spearmint oil to be 2,038,595 pounds rather than 2,043,453 pounds. The 4,858 pound difference between the estimated number and the final number is the amount of Scotch spearmint oil allotment base that producers failed to produce during the 2010–2011 marketing year.

The Committee met again in August 2011 to consider the current market conditions of the spearmint oil industry and to recommend increases in allotment percentages and salable quantities for both Scotch and Native spearmint oil. The allotment percentage and salable quantity for Scotch spearmint oil was subsequently increased in an interim rule that was finalized February 3, 2012 (77 FR 5385). That rule increased the allotment percentage 2 percent and effectively increased the 2011–2012 marketing year salable quantity by 142,683 pounds. The total salable quantity was increased to 733,913 pounds and was calculated by applying the increased allotment percentage (36 percent) to the revised total industry allotment base of 2,038,595 pounds and adjusted for rounding.

This interim rule further increases the allotment percentage and salable quantity for the remainder of the 2011–2012 marketing year, which ends May 31, 2012. The Scotch spearmint oil salable quantity is increased from 733,913 pounds to 876,596 pounds, and the allotment percentage from 36 percent to 43 percent. The additional amount of Scotch spearmint oil is made available by releasing oil from the reserve pool. The reserve pool is composed of Scotch spearmint oil that producers have produced in prior years in excess of their annual allotment and is restricted in its disposition. The oil is held in storage and may only be released to fill the producer's future production deficiencies or when additional oil is needed to satisfy normal market demand. The reserve is an important component of volume regulation, providing a mechanism to supply the market in times of unanticipated increases in the demand for spearmint oil. As of February 1, 2012, the Committee estimated the reserve pool of Scotch spearmint oil to be 366,988 pounds.

When the allotment percentage increase established by this rule is applied to each individual producer, that producer may take up to an amount equal to such allotment from their reserve of Scotch spearmint oil. Producers that do not have excess oil in the reserve pool equal to or greater than their respective share of the pro rata increase in the salable quantity will not be able to exercise the full marketing rights associated with such an increase. Also, pursuant to §§ 985.56 and 985.156, producers with excess oil are not able to transfer such excess oil to other producers to fill deficiencies in annual allotments after October 31 of each marketing year. As a result, the Committee has calculated that deficiencies in individual producer's oil reserves will most likely result in a reduction in the amount of Scotch spearmint oil that will actually made available to the market by this rule. The Committee estimates that as much as 24,453 pounds of the additional salable quantity will not actually enter the market.

Therefore, the anticipated effect of the 7 percent increase in the salable percentage established by this rule is that an estimated total of 1,079,384 pounds of Scotch spearmint oil will be available for the 2011–2012 marketing year. This amount is lower that the established salable quantity and accounts for the expected producer reserve pool deficiencies. The Committee believes the net effect of this rule is to release an estimated additional 118,230 pounds of Scotch spearmint oil into the market.

The following summarizes the Committee recommendations:

Scotch Spearmint Oil Recommendation

(A) Estimated 2011–2012 Allotment Base—2,043,453 pounds. This is the estimate on which the original 2011–2012 Scotch spearmint oil salable quantity and allotment percentage was based.

(B) Revised 2011–2012 Allotment Base—2,038,595 pounds. This is 4,858 pounds less than the estimated allotment base of 2,043,453 pounds due to the accounting for producers that failed to produce all of their 2011–2012 allotment.

(C) Original 2011–2012 Allotment Percentage—34 percent. This was unanimously recommended by the Committee on October 13, 2010.

(D) Original 2011–2012 Salable Quantity—694,774 pounds. This figure is 34 percent of the originally estimated 2011–2012 allotment base of 2,043,453.

(E) Prior Revision to the 2011–2012 Salable Quantity and Allotment Percentage:

(1) Increase in Allotment Percentage—2 percent. The Committee recommended a 2 percent increase at its August 17, 2011, meeting.

(2) 2011–2012 Allotment Percentage—36 percent. This figure is derived by adding the increase of 2 percent to the originally established 2011–2012 allotment percentage of 34 percent.

(3) Calculated Revised 2011–2012 Salable Quantity—733,913 pounds. This figure is 36 percent of the revised 2011–2012 allotment base of 2,038,595 pounds, plus 19 pounds to account for a rounding adjustment.

(4) Computed Increase in the 2011–2012 Salable Quantity—40,772 pounds. This figure is 2 percent of the revised 2011–2012 allotment base of 2,038,595.

(F) Current Revision to the 2011–2012 Salable Quantity and Allotment Percentage effectuated by this rule:

(1) Increase in Allotment Percentage—7 percent. The Committee recommended a 7 percent increase at its February 22, 2012, meeting.

(2) 2011–2012 Allotment Percentage—43 percent. This figure is derived by adding the increase of 7 percent to the revised 2011–2012 allotment percentage of 36 percent.

(3) Calculated Revised 2011–2012 Salable Quantity—876,596 pounds. This figure is 43 percent of the revised 2011–2012 allotment base of 2,038,595 pounds.

(4) Computed Increase in the 2011–2012 Salable Quantity—142,702 pounds. This figure is 7 percent of the revised 2011–2012 allotment base of 2,038,595 pounds.

The 2011–2012 marketing year began on June 1, 2011, with an estimated carry-in of 227,241 pounds of salable Scotch spearmint oil. When the estimated carry-in is added to the revised 2011–2012 salable quantity of 876,596 pounds, the result is a total available supply of Scotch spearmint oil for the 2011–2012 marketing year of 1,103,837 pounds. However, the Committee estimates that only 1,079,384 will actually be available to the market given producer reserve pool deficiencies. Of this amount, 915,964 pounds of oil has already been sold or committed for the 2011–2012 marketing year. This would leave approximately 163,420 pounds to fulfill market needs for the remainder of the marketing year.

In making this recommendation, the Committee considered all available information on price, supply, and demand. The Committee also considered reports and other information from handlers and producers in attendance at the meeting and reports given by the Committee manager from handlers and producers who were not in attendance. By increasing the 2011–2012 Scotch spearmint oil salable percentage by 7 percent, an additional 142,702 pounds of Scotch spearmint oil is theoretically made available to the market. However, as previously discussed, deficiencies in producer's reserves are expected to limit the amount of Scotch spearmint oil that is actually released into the market.

Scotch spearmint oil handlers originally estimated that the trade demand for Scotch oil for the 2011–2012 marketing year may be 850,000 pounds. Sales and commitments for Scotch spearmint oil have already eclipsed that estimate, and the industry expects that market activity will continue through the end of the marketing year. The Committee believes that this rule will release enough oil to satisfy the demand for Scotch spearmint oil for the remainder of the 2011–2012 marketing year and will carry over a sufficient quantity of Scotch spearmint oil into the 2012–2013 marketing year to adequately supply the market.

When the Committee made its original recommendation for the establishment of the Scotch spearmint oil salable quantity and allotment percentage for the 2011–2012 marketing year, and again when it recommended the first increase, it anticipated that its actions would provide the industry with an ample available supply. In the interim, the Scotch spearmint oil market has experienced dynamic changes in the demand for oil. The Committee believes that the supply of Scotch spearmint oil that is available to the market without the issuance of this rule would be insufficient to satisfy the current demand at reasonable price levels. Therefore, the industry may not be able to adequately meet market demand without this increase.

Based on its analysis of available information, USDA has determined that the salable quantity and allotment percentage for Scotch spearmint oil for the 2011–2012 marketing year should be increased to 876,596 pounds and 43 percent, respectively.

This rule relaxes the regulation of Scotch spearmint oil and will allow producers to meet market demand while improving producer returns. In conjunction with the issuance of this rule, the Committee's revised marketing policy statement for the 2011–2012 marketing year has been reviewed by USDA. The Committee's marketing policy statement, a requirement whenever the Committee recommends implementing volume regulations or recommends revisions to existing volume regulations, meets the intent of § 985.50 of the order. During its discussion of revising the 2011–2012 salable quantities and allotment percentages, the Committee considered: (1) The estimated quantity of salable oil of each class held by producers and handlers; (2) the estimated demand for each class of oil; (3) prospective production of each class of oil; (4) total of allotment bases of each class of oil for the current marketing year and the estimated total of allotment bases of each class for the ensuing marketing year; (5) the quantity of reserve oil, by class, in storage; (6) producer prices of oil, including prices for each class of oil; and (7) general market conditions for each class of oil, including whether the estimated season average price to producers is likely to exceed parity. Conformity with USDA's ''Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders'' has also been reviewed and confirmed.

The increase in the Scotch spearmint oil salable quantity and allotment percentage allows for anticipated market needs for this class of oil. In determining anticipated market needs, consideration by the Committee was given to historical sales, and changes and trends in production and demand.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are 8 spearmint oil handlers subject to regulation under the order and approximately 32 producers of Scotch spearmint oil in the regulated production area. Small agricultural service firms are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $7,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000.

Based on the SBA's definition of small entities, the Committee estimates that two of the eight handlers regulated by the order could be considered small entities. Most of the handlers are large corporations involved in the international trading of essential oils and the products of essential oils. In addition, the Committee estimates that 8 of the 32 Scotch spearmint oil producers could be classified as small entities under the SBA definition. Thus, a majority of handlers and producers of Far West spearmint oil may not be classified as small entities.

The Far West spearmint oil industry is characterized by producers whose farming operations generally involve more than one commodity, and whose income from farming operations is not exclusively dependent on the production of spearmint oil. A typical spearmint oil-producing operation has enough acreage for rotation such that the total acreage required to produce the crop is about one-third spearmint and two-thirds rotational crops. Thus, the typical spearmint oil producer has to have considerably more acreage than is planted to spearmint during any given season. Crop rotation is an essential cultural practice in the production of spearmint oil for weed, insect, and disease control. To remain economically viable with the added costs associated with spearmint oil production, most spearmint oil-producing farms fall into the SBA category of large businesses.

Small spearmint oil producers generally are not as extensively diversified as larger ones and as such are more at risk to market fluctuations. Such small producers generally need to market their entire annual crop and do not have the luxury of having other crops to cushion seasons with poor spearmint oil returns. Conversely, large diversified producers have the potential to endure one or more seasons of poor spearmint oil markets because income from alternate crops could support the operation for a period of time. Being reasonably assured of a stable price and market provides small producing entities with the ability to maintain proper cash flow and to meet annual expenses. Thus, the market and price stability provided by the order potentially benefit the small producer more than such provisions benefit large producers. Even though a majority of handlers and producers of spearmint oil may not be classified as small entities, the volume control feature of this order has small entity orientation.

This rule revises the quantity of Scotch spearmint oil that handlers may purchase from, or handle on behalf of, producers during the 2011–2012 marketing year, which ends on May 31, 2011. This rule increases the Scotch spearmint oil salable quantity from 733,913 pounds to 876,596 pounds and the allotment percentage from 36 percent to 43 percent.

The use of volume control regulation allows the industry to fully supply spearmint oil markets while avoiding the negative consequences of over-supplying these markets. Volume control is believed to have little or no effect on consumer prices of products containing spearmint oil and likely does not result in fewer retail sales of such products. Without volume control, producers would not be limited in the production and marketing of spearmint oil. Under those conditions, the spearmint oil market would likely fluctuate widely. Periods of oversupply could result in low producer prices and a large volume of oil stored and carried over to future crop years. Periods of undersupply could lead to excessive price spikes and could drive end users to source flavoring needs from other markets, potentially causing long term economic damage to the domestic spearmint oil industry. The marketing order's volume control provisions have been successfully implemented in the domestic spearmint oil industry for nearly three decades and provide benefits for producers, handlers, manufacturers, and consumers.

Based on projections available at the meeting, the Committee considered a number of alternatives to this increase. The Committee not only considered leaving the salable quantity and allotment percentage unchanged, but also considered other potential levels of increase. The Committee reached its recommendation to increase the salable quantity and allotment percentage for Scotch spearmint oil after careful consideration of all available information, and believes that the levels recommended will achieve the objectives sought. Without the increase, the Committee believes the industry would not be able to satisfactorily meet market demand.

In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0178, Vegetable and Specialty Crop Marketing Orders. No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large spearmint oil handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

In addition, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

Further, the Committee's meeting was widely publicized throughout the spearmint oil industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the February 22, 2012, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *www.ams.usda.gov/MarketingOrdersSmallBusinessGuide.* Any questions about the compliance guide should be sent to Laurel May at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

This rule invites comments on a change to the salable quantity and allotment percentage for Scotch spearmint oil for the 2011–2012 marketing year. Any comments received will be considered prior to finalization of this rule.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that this interim rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This rule increases the quantity of Scotch spearmint oil that may be marketed during the marketing year, which ends on May 31, 2012; (2) the current quantity of Scotch spearmint oil may be inadequate to meet demand for the 2011–2012 marketing year, thus making the additional oil available as soon as is practicable will be beneficial to both handlers and producers; (3) the Committee recommended these changes at a public meeting and interested parties had an opportunity to provide input; and (4) this rule provides a 60-day comment period and any comments received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 985

Marketing agreements, Oils and fats, Reporting and recordkeeping requirements, Spearmint oil.

For the reasons set forth in the preamble, 7 CFR part 985 is amended as follows:

PART 985—MARKETING ORDER REGULATING THE HANDLING OF SPEARMINT OIL PRODUCED IN THE FAR WEST

■ 1. The authority citation for 7 CFR part 985 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. In § 985.230, paragraph (a) is revised to read as follows:

[**Note:** This section will not appear in the annual Code of Federal Regulations.]

§ 985.230 Salable quantities and allotment percentages—2011–2012 marketing year.

* * * * *

(a) Class 1 (Scotch) oil—a salable quantity of 876,596 pounds and an allotment percentage of 43 percent.

* * * * *

Dated: April 4, 2012.

Robert C. Keeney,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2012–8531 Filed 4–9–12; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0333; Directorate Identifier 2011–NM–085–AD; Amendment 39–17011; AD 2012–07–05]

RIN 2120–AA64

Airworthiness Directives; Fokker Services B.V. Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Fokker Services B.V. Model F.27 Mark 050 airplanes. This proposed AD would require performing a low frequency eddy current inspection for cracks of the lap joint of the rear fuselage, and repair if necessary. This AD was prompted by reports of cracking in the fuselage lap joint. We are issuing this AD to detect and correct exponential crack growth, which could lead to failure of the lap joint over a certain length and consequent in-flight decompression of the airplane.

DATES: This AD becomes effective April 25, 2012.

The Director of the Federal Register approved the incorporation by reference of the service information listed in the AD as of April 25, 2012.

We must receive comments on this AD by May 25, 2012.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1137; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2011–0064, dated April 7, 2011 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> One operator reported a clearly visible crack in a fuselage lap joint, just forward of the ice protection plate in the forward fuselage. During a subsequent review of fatigue lives of lap joints in general, a critical location was found at a skin cut-out for a water service panel in the rear fuselage. Analysis by Fokker Services shows that at this specific location, due to the high local loads, cracks can occur from about 47,000 flight cycles (FC) in the inner skin. The outer skin will cover a crack in the inner skin and a crack will therefore not be visible.
>
> This condition, if not detected and corrected, can result in an exponential crack growth rate, possibly leading to failure of the lap joint over a certain length and consequent in-flight decompression of the aeroplane.
>
> For the reasons described above, this [EASA] AD requires a one-time low-frequency eddy current inspection of the lap joint for cracks and, depending on findings, repair of the lap-joint. This [EASA] AD also requires sending an inspection report (even when no cracks are found) to the TC [type certificate] holder to confirm the selected inspection threshold for aeroplanes that have not yet accumulated 45,000 FC, as well as the inspection interval. The repetitive inspection task will be introduced in a future revision of the Fokker 50/60 Maintenance Review Board (MRB) Document.
>
> Repair of the lap joint constitutes terminating action for the repetitive inspections. In addition, the terminating action can also be applied before the initial inspection is required, thereby preventing the need for inspection altogether.

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

Relevant Service Information

Fokker Services B.V. has issued Service Bulletin SBF50–53–061, dated January 13, 2011; and Service Bulletin

SBF50–53–062, dated January 13, 2011. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This AD

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

There are no products of this type currently registered in the United States. However, this rule is necessary to ensure that the described unsafe condition is addressed if any of these products are placed on the U.S. Register in the future.

FAA's Determination of the Effective Date

Since there are currently no domestic operators of this product, notice and opportunity for public comment before issuing this AD are unnecessary.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2012–0333; Directorate Identifier 2011–NM–085–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Authority for This Rulemaking

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

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

Regulatory Findings

We determined that this 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 this AD:

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

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

List of Subjects in 14 CFR Part 39

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

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 AD:

2012–07–05 Fokker Services B.V.: Amendment 39–17011. Docket No. FAA–2012–0333; Directorate Identifier 2011–NM–085–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective April 25, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Fokker Services B.V. Model F.27 Mark 050 airplanes; certificated in any category; serial numbers 20103 through 20252 inclusive, 20254 through 20267 inclusive, 20270 through 20279 inclusive, 20281, 20283 through 20286 inclusive, 20288 through 20317 inclusive, 20328, 20331, 20333, and 20335; except those that have already been modified in accordance with Fokker Service Bulletin SBF50–53–062.

(d) Subject

Air Transport Association (ATA) of America Code 53: Fuselage.

(e) Reason

This AD was prompted by reports of cracking in the fuselage lap joint. We are issuing this AD to detect and correct exponential crack growth, which could lead to failure of the lap joint over a certain length and consequent in-flight decompression of the airplane.

(f) Compliance

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

(g) Inspection

Within the applicable times specified in paragraphs (g)(1), (g)(2), or (g)(3) of this AD: Do a low frequency eddy current (LFEC) inspection for cracks of the lap joint of the rear fuselage, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF50–53–061, dated January 13, 2011.

(1) For airplanes that have accumulated 47,000 total flight cycles or more as of the effective date of this AD: Within 3 months after the effective date of this AD.

(2) For airplanes that have accumulated more than 46,000 total flight cycles but less than 47,000 total flight cycles as of the effective date of this AD: Within 6 months after the effective date of this AD.

(3) For airplanes that have accumulated more than 45,000 total flight cycles but less than or equal to 46,000 total flight cycles as of the effective date of this AD: Within 12 months after the effective date of this AD.

(h) Corrective Action

If any crack is found during the LFEC inspection required by paragraph (g) of this AD, before further flight, repair the lap joint in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF50–53–062, dated January 13, 2011.

(i) Reporting Requirement

Submit a report of the findings (both positive and negative) of the inspection required by paragraph (g) of this AD to Fokker Services B.V., Technical Services, in accordance with the instructions of Figure 6 of Fokker Service Bulletin SBF50–53–061, dated January 13, 2011, at the applicable time specified in paragraph (i)(1) or (i)(2) of this AD.

(1) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(2) If the inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

(j) Optional Terminating Action

Repairing the lap joint in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF50–53–062, dated January 13, 2011, terminates the action required by paragraph (g) of this AD provided that the action is accomplished within the applicable compliance time specified in paragraph (g) of this AD.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1137; fax (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(3) *Reporting Requirements:* A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(l) Related Information

Refer to Mandatory Continuing Airworthiness Information (MCAI) European Aviation Safety Agency (EASA) AD 2011–0064, dated April 7, 2011; Fokker Service Bulletin SBF50–53–061, dated January 13, 2011; and Fokker Service Bulletin SBF50–53–062, dated January 13, 2011; for related information.

(m) Material Incorporated by Reference

(1) You must use the following service information to do the actions required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference (IBR) of the following service information under 5 U.S.C. 552(a) and 1 CFR part 51:

(i) Fokker Service Bulletin SBF50–53–061, dated January 13, 2011.

(ii) Fokker Service Bulletin SBF50–53–062, dated January 13, 2011.

(2) For Fokker Services B.V. service information identified in this AD, contact Fokker Services B.V., Technical Services Dept., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands; telephone +31 (0)252–627–350; fax +31 (0)252–627–211; email *technicalservices.fokkerservices@stork.com;* Internet *http://www.myfokkerfleet.com.*

(3) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

(4) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at an NARA facility, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on March 28, 2012.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–8218 Filed 4–9–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–1060; Directorate Identifier 2011–NM–015–AD; Amendment 39–16945; AD 2012–03–04]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are superseding an existing airworthiness directive (AD) for certain Airbus Model A310 series airplanes. That AD currently requires, for certain airplanes, modifying the wire routing and installing additional protective sleeves. This new AD adds, for certain airplanes, modifying wire routings and installing a modified bracket. This AD was prompted by analyses of the wire routing showing that the route of the fuel electrical circuit in the right-hand wing must be modified in order to ensure better segregation between fuel quantity indication wires and the 115-volt alternating current wires. We are issuing this AD to prevent short circuits leading to arcing, and possible fuel tank explosion.

DATES: This AD becomes effective May 15, 2012.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of May 15, 2012.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of February 20, 2008 (73 FR 2795, January 16, 2008).

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of September 3, 2004 (69 FR 45578, July 30, 2004).

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton,

Washington 98057–3356; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

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 was published in the **Federal Register** on October 11, 2011 (76 FR 62653), and proposed to supersede AD 2008–01–05, Amendment 39–15330 (73 FR 2795, January 16, 2008). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

Within the scope of the Fuel System Safety Program (FSSP), analyses of the wire routing showed that the route 2S of the fuel electrical circuit in the Right Hand (RH) wing must be modified in order to ensure better segregation between fuel quantity indication wires and the 115 Volts Alternating Current (VAC) wires of route 2S.

This condition, if not corrected, could result in short circuits leading to arcing, and possible fuel tank explosion.

To address this unsafe condition, [Direction Générale de l'Aviation Civile] DGAC France issued AD 2002–578(B) [which corresponds to FAA AD 2004–15–16, Amendment 39–13750 (69 FR 45578, July 30, 2004)] to require improvements of the design as specified in Airbus Service Bulletin (SB) A310–28–2148 original issue or Revision 01. EASA AD 2007–0230 [which corresponds to FAA AD 2008–01–05 (73 FR 2795, January 16, 2008)], which superseded DGAC France AD 2002–578(B), required those same actions, plus additional work as defined in Airbus SB A310–28–2148 Revision 02.

Since EASA AD 2007–0230 was issued, an operator reported the possibility of chafing with the new routing of the wire bundle 2S in the RH wing pylon area to the generator wire bundle of engine 2. The modification of this zone was introduced by A310–28–2148 Revision 02 as additional work. Investigation showed that, to avoid the risk of chafing, the affected wiring harnesses must be installed at a higher position to provide sufficient clearance with the newly routed wire bundle 2S conduit.

Airbus published Revision 03 of SB A310–28–2148 to describe these changes, but a new interference has been found and requires updating SB A310–28–2148 to Revision 04 [or 05].

For the reasons described above, this new [EASA] AD retains the requirements of EASA AD 2007–0230, which is superseded, and requires the additional work as specified in Revision 04 [or 05] of Airbus SB A310–28–2148.

Required actions include modifying the wire routings and installing a modified bracket. You may obtain further information by examining the MCAI in the AD docket.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comments received.

Request To Reference Latest Service Information

FedEx noted that Airbus has issued Mandatory Service Bulletin A310–28–2148, Revision 06, dated August 31, 2011.

We infer that FedEx is requesting that we reference Airbus Mandatory Service Bulletin A310–28–2148, Revision 06, dated August 31, 2011, in this AD. We agree and have reviewed Airbus Mandatory Service Bulletin A310–28–2148, Revision 06, dated August 31, 2011. We have added this reference to paragraphs (g), (i), (j), and (n) of this AD as an optional source of service information for doing the required actions.

Explanation of Additional Changes Made to This AD

We have revised certain paragraph headers throughout this AD. We have also revised the wording in paragraphs (h) and (m) of this AD; this change has not changed the intent of those paragraphs.

Conclusion

We reviewed the available data, including the comment received, and determined that air safety and the public interest require adopting the AD with the changes described previously—and minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (76 FR 62653, October 11, 2011) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (76 FR 62653, October 11, 2011).

Costs of Compliance

We estimate that this AD will affect about 61 products of U.S. registry. The following table provides the estimated costs for U.S. operators to comply with this AD.

TABLE—ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Modification (required by AD 2004–15–16, Amendment 39–13750 (69 FR 45578, July 30, 2004))	35	$85	$4,459	$7,434	68	$505,512
Modification (required by AD 2008–01–05, Amendment 39–15330 (73 FR 2795, January 16, 2008))	22	85	1,870	3,740	68	254,320
Modification (new action)	62	85	2,210	7,480	61	456,280

Authority for This Rulemaking

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

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

Regulatory Findings

We determined that this 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 the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

3. Will not affect intrastate aviation in Alaska; and

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM (76 FR 62653, October 11, 2011), the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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 removing Amendment 39–15330 (73 FR 2795, January 16, 2008) and adding the following new AD:

2012–03–04 Airbus: Amendment 39–16945. Docket No. FAA–2011–1060; Directorate Identifier 2011–NM–015–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective May 15, 2012.

(b) Affected ADs

This AD supersedes AD 2008–01–05, Amendment 39–15330 (73 FR 2795, January 16, 2008).

(c) Applicability

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

(d) Subject

Air Transport Association (ATA) of America Code 28: Fuel.

(e) Reason

This AD was prompted by analyses of the wire routing showing that the route of the fuel electrical circuit in the right-hand wing must be modified in order to ensure better segregation between fuel quantity indication wires and the 115-volt alternating current wires. We are issuing this AD to prevent short circuits leading to arcing, and possible fuel tank explosion.

(f) Compliance

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

(g) Retained Modification With New Service Information

This paragraph restates the modification required by paragraph (a) of AD 2004–15–16, Amendment 39–13750 (69 FR 45578, July 30, 2004), with revised service information. For all airplanes except airplanes on which Airbus Service Bulletin A310–28–2148, Revision 02, dated March 9, 2007, has been done (Airbus Modifications 12427 and 12435): Within 4,000 flight hours after September 3, 2004 (the effective date of AD 2004–15–16), modify the routing of wires in the right hand (RH) wing by installing cable sleeves, per the Accomplishment Instructions of Airbus Service Bulletin A310–28–2148, Revision 01, dated October 29, 2002; Airbus Service Bulletin A310–28–2148, Revision 02, dated March 9, 2007; Airbus Mandatory Service Bulletin A310–28–2148, Revision 05, dated August 3, 2010; or Airbus Mandatory Service Bulletin A310–28–2148, Revision 06, dated August 31, 2011. As of February 20, 2008 (the effective date of AD 2008–01–05, Amendment 39–15330 (73 FR 2795, January 16, 2008)), Airbus Service Bulletin A310–28–2148, Revision 02, dated March 9, 2007; Airbus Mandatory Service Bulletin A310–28–2148, Revision 05, dated August 3, 2010; or Airbus Mandatory Service Bulletin A310–28–2148, Revision 06, dated August 31, 2011; must be used. As of the effective date of this AD, Airbus Mandatory Service Bulletin A310–28–2148, Revision 05, dated August 3, 2010; or Airbus Mandatory Service Bulletin A310–28–2148, Revision 06, dated August 31, 2011; must be used.

(h) Credit for Previous Actions

This paragraph provides credit for the modification of the routing of wires required by paragraph (g) of this AD, if the modification was performed before September 3, 2004 (the effective date of AD 2004–15–16, Amendment 39–13750 (69 FR 45578, July 30, 2004)), using Airbus Service Bulletin A310–28–2148, dated January 23, 2002.

(i) Retained Modification With New Service Information

This paragraph restates the modification required by paragraph (h) of AD 2008–01–05, Amendment 39–15330 (73 FR 2795, January 16, 2008), with revised service information. For airplanes on which the actions specified in Airbus Service Bulletin A310–28–2148, dated January 23, 2002; or Airbus Service Bulletin A310–28–2148, Revision 01, dated October 29, 2002; have been done before February 20, 2008 (the effective date of AD 2008–01–05), except for airplanes on which Airbus Service Bulletin A310–28–2148, Revision 02, dated March 9, 2007, has been done (Airbus Modifications 12427 and 12435): Within 6,000 flight hours or 30 months after February 20, 2008, whichever occurs first, perform further modification by installing additional protection sleeves in the outer wing area near the cadensicon sensor and segregating wire route 2S in the RH pylon area, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A310–28–2148, Revision 02, dated March 9, 2007; Airbus Mandatory Service Bulletin A310–28–2148, Revision 05, dated August 3, 2010; or Airbus Mandatory Service Bulletin A310–28–2148, Revision 06, dated August 31, 2011. As of the effective date of this AD, Airbus Mandatory Service Bulletin A310–28–2148, Revision 05, dated August 3, 2010; or Airbus Mandatory Service Bulletin A310–28–2148, Revision 06, dated August 31, 2011; must be used.

(j) New Modification/Installation for Certain Airplanes

For airplanes on which the actions specified in Airbus Service Bulletin A310–28–2148, Revision 02, dated March 9, 2007, have been accomplished, and do not have production modification 07633; and on which Airbus Service Bulletin A310–36–2015 has not been done: Within 6,000 flight hours or 30 months after the effective date of this AD, whichever occurs first, modify the wire routings, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A310–28–2148, Revision 05, dated August 3, 2010; or Airbus Mandatory Service Bulletin A310–28–2148, Revision 06, dated August 31, 2011.

(k) New Modification/Installation for Certain Other Airplanes

For airplanes on which the actions specified in Airbus Service Bulletin A310–28–2148, Revision 02, dated March 9, 2007, have been accomplished, and have production modification 07633; or on which Airbus Service Bulletin A310–36–2015 has been done: Within 1,000 flight hours after the effective date of this AD, install a modified bracket, in accordance with paragraph 3.B.(7), ''Additional Work 2,'' of the Accomplishment Instructions of Airbus Mandatory Service Bulletin A310–28–2148, Revision 05, dated August 3, 2010; or Airbus Mandatory Service Bulletin A310–28–2148, Revision 06, dated August 31, 2011.

(l) No Additional Modification/Installation for Certain Airplanes

For airplanes on which the actions specified in Airbus Service Bulletin A310–

28–2148, Revision 03, dated June 2, 2009, have been accomplished; and have modification 07633 done in production; or on which the actions specified in Airbus Service Bulletin A310–36–2015 have been done; no further action is required by this AD.

(m) Credit for Previous Actions

This paragraph provides credit for modifications required by paragraphs (g), (i), (j), and (k) of this AD, if the modifications were performed before the effective date of this AD using Airbus Mandatory Service Bulletin A310–28–2148, Revision 04, dated April 14, 2010.

(n) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–2125; fax (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD. AMOCs approved previously in accordance with AD 2008–01–05, Amendment 39–15330 (73 FR 2795, January 16, 2008), are approved as AMOCs for the corresponding provisions of this AD.

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

(o) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) Airworthiness Directive 2011–0005, dated January 17, 2011, and the following service information for related information.

(1) Airbus Service Bulletin A310–28–2148, Revision 01, dated October 29, 2002.

(2) Airbus Service Bulletin A310–28–2148, Revision 02, dated March 9, 2007.

(3) Airbus Mandatory Service Bulletin A310–28–2148, Revision 05, dated August 3, 2010.

(4) Airbus Mandatory Service Bulletin A310–28–2148, Revision 06, dated August 31, 2011.

(p) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the following service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use the following service information to do the actions required by this AD, unless the AD specifies otherwise.

(3) The following service information was approved for IBR on May 15, 2012.

(i) Airbus Mandatory Service Bulletin A310–28–2148, Revision 05, dated August 3, 2010.

(ii) Airbus Mandatory Service Bulletin A310–28–2148, Revision 06, dated August 31, 2011.

(4) The following service information was approved for IBR on February 20, 2008 (73 FR 2795, January 16, 2008).

(i) Airbus Service Bulletin A310–28–2148, Revision 02, dated March 9, 2007.

(5) The following service information was approved for IBR on September 3, 2004 (69 FR 45578, July 30, 2004).

(i) Airbus Service Bulletin A310–28–2148, Revision 01, dated October 29, 2002.

(6) For service information identified in this AD, contact Airbus SAS—EAW (Airworthiness Office), 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.*

(7) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

(8) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at an NARA facility, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on January 26, 2012.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–8220 Filed 4–9–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–1342; Directorate Identifier 2011–CE–038–AD; Amendment 39–16996; AD 2012–06–15]

RIN 2120–AA64

Airworthiness Directives; DG Flugzeugbau GmbH Sailplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for DG Flugzeugbau GmbH Models DG–500 Elan Orion, DG–500 Elan Trainer, DG–500/20 Elan, and DG–500/22 Elan sailplanes and Models DG–500M and DG–500MB powered sailplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as incorrect re-installation of the rear cockpit securing rope for the headrest of the rear seat during maintenance, which could cause the rear seat to interfere with the control stick of the sailplane. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective May 15, 2012.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of May 15, 2012.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at 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 service information identified in this AD, contact DG Flugzeugbau GmbH, Otto-Lilienthal-Weg 2, 76646 Bruchsal, Federal Republic of Germany; telephone: +49 (0) 7251 3020140; fax: +49 (0) 7251 3020149; Internet: *http://www.dg-flugzeugbau.de/tech-mitteilungen-e.html;* email: *dirks@dg-flugzeugbau.de.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

FOR FURTHER INFORMATION CONTACT: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4165; fax: (816) 329–4090; email: *jim.rutherford@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a supplemental notice of proposed rulemaking (SNPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That SNPRM was published in the **Federal Register** on January 17, 2012 (77 FR 2236). That SNPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> Several occurrences have been reported of incorrect re-installation of rear cockpit securing rope for the headrest of the rear seat during maintenance. In one of these occurrences, the aeroplane suffered an accident. The technical investigations following this accident have revealed that the rear cockpit headrest securing rope was too long, which caused the rear seat to interfere with the control stick of the aeroplane.
>
> This condition if not detected and corrected, could lead to loss of control of the aeroplane.
>
> To address this unsafe condition, DG Flugzeugbau have developed a modification to be accomplished in accordance with the Working Instruction No. 1 for Technical Note (TN) 348/20 in issue 3, dated 13 September 2011, for the English language version and in issue 2, dated 22 October 2008, for the German language version (English version revised at issue 3 to correct a translation discrepancy), which aims to prevent wrong re-installation of the headrest securing rope. TN 500/05 embodies this Working Instruction.
>
> For the reasons described above, this AD requires a one-time inspection of the length of the rear cockpit headrest securing rope and, in case of discrepancy, readjustment of the length. In addition, this AD requires the installation of a modified headrest securing rope with snap hook.

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

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the SNPRM (77 FR 2236, January 17, 2012) or on the determination of the cost to the public.

Conclusion

We reviewed the relevant data and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the SNPRM (77 FR 2236, January 17, 2012) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the SNPRM (77 FR 2236, January 17, 2012).

Costs of Compliance

We estimate that this AD will affect 16 products of U.S. registry. We also estimate that it will take about 2.5 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $1,088 per product.

Based on these figures, we estimate the cost of this AD on U.S. operators to be $20,808, or $1,300.50 per product.

In addition, we estimate that any necessary follow-on actions will take about 0.5 work-hour, for a cost of $42.50 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

We determined that this 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 this AD:

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

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

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

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

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 the SNPRM (77 FR 2236, January 17, 2012), the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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 AD:

2012–06–15 DG Flugzeugbau GmbH: Amendment 39–16996; Docket No. FAA–2011–1342; Directorate Identifier 2011–CE–038–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective May 15, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to DG Flugzeugbau GmbH Models DG–500 Elan Orion, DG–500 Elan Trainer, DG–500/20 Elan, and DG–500/22 Elan sailplanes and Models DG–500M and DG–500MB powered sailplanes, all serial numbers, that are:

(i) Equipped with a headrest on the rear seat; and

(ii) Certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 25: Equipment/Furnishing

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as incorrect re-installation of the rear cockpit securing rope for the headrest of the rear seat during maintenance. We are issuing this AD to correct the length of the rear cockpit headrest securing rope, which if too long, could cause the rear seat to interfere with the control stick of the sailplane and could result in loss of control of the sailplane.

(f) Actions and Compliance

Unless already done, do the following actions:

(1) Within the next 30 days after May 15, 2012 (the effective date of this AD), inspect the rear cockpit headrest securing rope to determine the length. Do the inspection as specified in Instruction No. 2 of DG Flugzeugbau GmbH Technical Note No. 500/05, dated September 19, 2011.

(i) If the length of the rear cockpit headrest securing rope is more than 450 millimeters (mm) or less than 400 mm, before further flight after the inspection required in paragraph (f)(1) of this AD, adjust the length of the rear cockpit headrest securing rope to a length between 400 mm and 450 mm as shown in Sketch 2 of DG Flugzeugbau GmbH Working Instruction No. 1 for TN348/20, Issue 3, dated September 13, 2011. After doing the adjustment, do the action required in paragraph (f)(2) of this AD.

(ii) If the length of the rear cockpit headrest securing rope is between 400 mm and 450 mm, do the action required in paragraph (f)(2) of this AD.

(2) Within 3 months after May 15, 2012 (the effective date of this AD), replace the rear cockpit headrest securing rope with a rear cockpit headrest securing rope with a snap hook. Do the replacement following DG Flugzeugbau GmbH Working Instruction No. 1 for TN348/20, Issue 3, dated September 13, 2011, as specified in Instruction No. 3 of DG Flugzeugbau GmbH Technical Note No. 500/05, dated September 19, 2011.

(3) Replacement of the rear cockpit headrest securing rope with a rear cockpit headrest securing rope with a snap hook done before May 15, 2012 (the effective date of this AD) following DG Flugzeugbau GmbH Working Instruction No. 1 for TN348/20, Issue 2, is considered acceptable for compliance with paragraph (f)(2) of this AD.

(4) Although the European Aviation Safety Agency (EASA) MCAI and DG Flugzeugbau GmbH Technical Note No. 500/05, dated September 19, 2011, allows the inspection required in paragraph (f)(1) of this AD to be done by a pilot-owner, the U.S. regulatory system requires all actions required by this AD be done by a certified mechanic.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4165; fax: (816) 329–4090; email: *jim.rutherford@faa.gov*. Before using any approved AMOC on any sailplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

(3) *Reporting Requirements:* For any reporting requirement in this AD, a federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(h) Related Information

Refer to MCAI EASA AD No.: 2011–0191, dated September 30, 2011; DG Flugzeugbau GmbH Technical Note No. 500/05, dated September 19, 2011; and DG Flugzeugbau GmbH Working Instruction No. 1 for TN348/20, Issue 3, dated September 13, 2011, for related information.

(i) Material Incorporated by Reference

(1) You must use the following service information to do the actions required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference (IBR) under 5 U.S.C. 552(a) and 1 CFR part 51.

(i) DG Flugzeugbau GmbH Technical Note No. 500/05, dated September 19, 2011, and

(ii) DG Flugzeugbau GmbH Working Instruction No. 1 for TN348/20, Issue 3, dated September 13, 2011.

(2) For service information identified in this AD, contact DG Flugzeugbau GmbH, Otto-Lilienthal-Weg 2, 76646 Bruchsal, Federal Republic of Germany; telephone: +49 (0) 7251 3020140; fax: +49 (0) 7251 3020149; Internet: *http://www.dg-flugzeugbau.de/tech-mitteilungen-e.html*; email: *dirks@dg-flugzeugbau.de*.

(3) You may review copies of the service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

(4) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at an NARA facility, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

Issued in Kansas City, Missouri, on March 19, 2012.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–7003 Filed 4–9–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–1113; Directorate Identifier 2009–SW–53–AD; Amendment 39–17005; AD 2012–06–24]

RIN 2120–AA64

Airworthiness Directives; Sikorsky Aircraft Corporation Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for Sikorsky Aircraft Corporation (Sikorsky) Model S–92A helicopters. This AD was prompted by the discovery of tail rotor blade assemblies (blades) manufactured with mislocated aluminum wire mesh, leaving portions of the graphite torque tube (spar) region unprotected from a lightning strike. The actions are intended to detect mislocated blade wire mesh and to prevent spar delamination, loss of the blade tip cap during a lightning strike, blade imbalance, loss of a blade, and subsequent loss of control of the helicopter.

DATES: This AD is effective May 15, 2012.

The Director of the Federal Register approved the incorporation by reference of certain documents listed in this AD as of May 15, 2012.

ADDRESSES: For service information identified in this AD, contact Sikorsky Aircraft Corporation, Attn: Manager, Commercial Technical Support, mailstop s581a, 6900 Main Street, Stratford, CT 06614; telephone (800) 562–4409; email

tsslibrary@sikorsky.com; or at *http://www.sikorsky.com.* You may review a copy of the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

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

FOR FURTHER INFORMATION CONTACT: Nicholas Faust, Aviation Safety Engineer, Boston Aircraft Certification Office, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; telephone (781) 238–7763; email *nicholas.faust@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

On October 26, 2011, at 76 FR 66209, the **Federal Register** published our Notice of proposed rulemaking (NPRM), which proposed to amend 14 CFR part 39 to include an AD that would apply to Sikorsky Model S–92A helicopters with a tail rotor blade assembly (blade) part numbers (P/N) 92170–11000–044, –045, and –046, with a serial number with a prefix of ''A111'' and a number equal to or less than ''-00585,'' installed, certificated in any category. That NPRM proposed to require inspecting each blade to determine if the wire mesh is mislocated and replacing the blade with an airworthy blade if the wire mesh is mislocated. The proposed requirements were intended to detect mislocated blade wire mesh and to prevent spar delamination, loss of the blade tip cap during a lightning strike, blade imbalance, loss of a blade, and subsequent loss of control of the helicopter.

Comments

We gave the public the opportunity to participate in developing this AD, but we did not receive any comments on the NPRM.

Related Service Information

Sikorsky issued Special Service Instructions SSI No. 92–021A, Revision A, dated October 21, 2009 (SSI), which specifies inspecting the blade for mislocated blade wire mesh. Two options are identified in the SSI. One option is to conduct an eddy current inspection and the other option is to conduct a visual inspection after sanding to determine if there is mislocated wire mesh.

FAA's Determination

We have reviewed the relevant information and determined that an unsafe condition exists and is likely to exist or develop on other products of the same type design and that air safety and the public interest require adopting the AD requirements as proposed except for formatting changes. These formatting changes will not increase the economic burden on any operator nor increase the scope of the AD.

Costs of Compliance

We estimate that this AD will affect 44 helicopters of U.S. Registry. There are 486 suspect blades worldwide and we assume 29 percent (141) of those blades may be on helicopters of U.S. registry.

We estimate that operators may incur the following costs in order to comply with this AD. We estimate that inspecting a blade for mislocated wire mesh will take about 4 work-hours per blade, assuming all operators opt to do the blade sanding inspection rather than the eddy current inspection, at an average labor rate of $85 per work-hour. Required parts will cost about $13,000 for each blade repaired by the manufacturer or $180,000 for each new blade. The total cost of the AD for U.S. operators is $3,215,940, assuming 51 blades are found with mislocated wire mesh, and assuming 36 of those blades are replaced with blades repaired by the manufacturer and 15 blades are replaced with new blades.

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 to the extent that it justifies making a regulatory distinction; and

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

We prepared an economic evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

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

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):

2012–06–24 Sikorsky Aircraft Corporation: Amendment 39–17005; Docket No. FAA–2011–1113; Directorate Identifier 2009–SW–53–AD.

(a) Applicability

This AD applies to Sikorsky Aircraft Corporation (Sikorsky) Model S–92A helicopters with a tail rotor blade assembly (blade), part number (P/N) 92170–11000–044, –045, and –046, with a serial number with a prefix of ''A111'' and a number equal to or less than ''-00585,'' installed, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as mislocated aluminum wire mesh in the blade skin which leaves portions of the graphite torque tube (spar) region unprotected from a lightning strike. This condition could result in spar delamination, loss of the blade tip cap during a lightning strike, blade imbalance, loss of a blade, and subsequent loss of control of the helicopter.

(c) Effective Date

This AD becomes effective May 15, 2012.

(d) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(e) Required Actions

Within 60 days, inspect the upper and lower airfoils of each tail rotor blade to determine if the wire mesh is mislocated.

(1) Inspect by using either an eddy current inspection in accordance with paragraphs B.(1)(a) through B.(1)(o) or using the hand-sanding method and visually inspecting in accordance with paragraphs B.(2)(a) through B.(2)(d) of Sikorsky Special Service Instructions SSI No. 92–021A, Revision A, dated October 21, 2009, except you are not required to contact or report nonconforming blades to the manufacturer. If you sand and visually inspect and confirm the correct location of the wire mesh, touch-up and repaint the sanded area.

(2) If there is a blade with a mislocated wire mesh, before further flight, replace the blade with an airworthy blade.

(f) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Boston Aircraft Certification Office, FAA, may approve AMOCs for this AD. Send your proposal to: Nicholas Faust, Aviation Safety Engineer, Boston Aircraft Certification Office, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; telephone (781) 238–7763; email *nicholas.faust@faa.gov.*

(2) For operations conducted under a Part 119 operating certificate or under Part 91, Subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office before operating any aircraft complying with this AD through an AMOC.

(g) Subject

Joint Aircraft Service Component (JASC) Code: 6410, Tail Rotor Blades.

(h) Material Incorporated by Reference

(1) You must use the specified portions of Sikorsky Special Service Instructions SSI No. 92–021A, Revision A, dated October 21, 2009, to do the specified actions required by this AD. The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Sikorsky Aircraft Corporation, Attn: Manager, Commercial Technical Support, mailstop s581a, 6900 Main Street, Stratford, CT 06614; telephone (800) 562–4409; email *tsslibrary@sikorsky.com;* or at *http://www.sikorsky.com.*

(3) You may review a copy of the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137 or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Fort Worth, Texas, on March 20, 2012.

Kim Smith,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2012–8052 Filed 4–9–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0109; Directorate Identifier 2007–NM–235–AD; Amendment 39–16990; AD 2012–06–09]

RIN 2120–AA64

Airworthiness Directives; Lockheed Martin Corporation/Lockheed Martin Aeronautics Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Lockheed Martin Corporation/Lockheed Martin Aeronautics Company Model 382, 382B, 382E, 382F, and 382G airplanes. This AD was prompted by a report of incidents involving fatigue cracking and corrosion in transport category airplanes that are approaching or have exceeded their design service objective. This AD requires revising the maintenance inspection program to include inspections that will give no less than the required damage tolerance analysis for each principal structural element (PSE), doing repetitive inspections to detect cracks of all PSEs, and repairing cracked structure. We are issuing this AD to maintain the continued structural integrity of the fleet.

DATES: This AD is effective May 15, 2012.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of May 15, 2012.

ADDRESSES: For service information identified in this AD, contact Lockheed Martin Corporation/Lockheed Martin Aeronautics Company, Airworthiness Office, Dept. 6A0M, Zone 0252, Column P–58, 86 S. Cobb Drive, Marietta, Georgia 30063; telephone 770–494–5444; fax 770–494–5445; email *ams.portal@lmco.com;* Internet *http://www.lockheedmartin.com/ams/tools/TechPubs.html.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this 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: Carl Gray, Aerospace Engineer, Airframe Branch, ACE–117A, FAA, Atlanta Aircraft Certification Office, 1701 Columbia Avenue, College Park, Georgia 30337; phone: 404–474–5554; fax: 404–474–5606; email: *carl.w.gray@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

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 was published in the **Federal Register** on November 14, 2007 (72 FR 64005) (corrected December 3, 2007 (72 FR 67998)). That NPRM proposed to require revising the maintenance inspection program to include inspections that will give no less than the required damage tolerance rating for each structural significant item (SSI), doing repetitive inspections to detect cracks of all SSIs, and repairing cracked structure.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal (72 FR 64005, November 14, 2007; corrected December

3, 2007 (72 FR 67998)) and the FAA's response to each comment.

Support for the Proposed AD (72 FR 64005, November 14, 2007; Corrected December 3, 2007 (72 FR 67998))

Safair and Lockheed Martin Aeronautics Company (LM Aero) concurred with the proposed requirement to implement the Lockheed Martin Model 382, 382B, 382E, 382F, and 382G Series Aircraft Service Manual Publication (SMP), Supplemental Structural Inspection Document (SSID), SMP 515–C–SSID, Change 1, dated September 10, 2010 (''the SSID'').

Lynden Air Cargo (Lynden) agreed that the SSID would provide an acceptable way to comply with the maintenance program requirements of the inspection procedures specified in section 121.370a of the Federal Aviation Regulations (14 CFR 121.370a), which was superseded by section 121.1109 of the Federal Aviation Regulations (14 CFR 121.1109).

Request To Extend Comment Period

The SSID identified eight individual ADs that affect the principal structural elements (PSEs) identified in Section 4.0 (Principle Structural Elements) of the SSID. (The individual ADs are identified in the SSID in Section 2.0, Table 2.1, pages 2–3.) Lynden requested additional time to comment on the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)) to compare the compliance intervals and standards with those in the proposed AD, the individual ADs, and the continuous airworthiness maintenance program (CAMP). Lynden was unable to determine how the SSID addresses the existing ADs, and added that the proposed AD did not indicate that it would supersede the existing rules.

We reopened the comment period to allow additional time for operators to comment on the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)). We also provide the following clarification of the relationship among the various programs. The SSID can be used to show compliance for the baseline inspections for section 121.1109(c)(1) of the Aging Airplane Safety Rule (section 121.1109(c)(1) of the Federal Aviation Regulations (14 CFR 121.1109(c)(1)). This AD adds other more broad and specific inspections that supplement but do not conflict with other ADs. The SSID inspections should identify safety issues related to the PSEs. When a SSID inspection reveals a certain number of positive findings on a PSE, that part—and only that part—of the PSE will be removed from the SSID and addressed in an individual AD and associated service bulletin. The remainder of the PSE will remain in the SSID and will be subject to the SSID inspections only. If the problem area is not removed from the SSID, the SSID requirements still apply, but at a lower priority until the area is removed. We have not changed the final rule regarding this issue.

Request To Consider Industry Participation in Lockheed Working Group Sessions

The proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)) stated that members of the airline industry participated with Lockheed in working group sessions and developed the Supplemental Structural Inspection Program (SSIP) for the affected airplanes, but Lynden reported that it was not consulted by the type certificate (TC) holder, and it was not aware of or invited to participate in any working group on this issue. Further, Lynden stated that it understood that the TC holder used military operational and design data for the basis of the SSID. Lynden, as the lead carrier for the Model L–382 Master Minimum Equipment List (MMEL) and the largest part 121 operator of the affected airplanes, would have provided valuable input on the civil operation and maintenance of the affected airplanes. Lynden requested that we consult the service difficulty report (SDR) database for the operator's submitted data regarding the structural inspection findings of the operator's CAMP.

According to Lynden, the SDRs ensure that the airplane is in an airworthy condition because fatigue cracks are found and reported before any adverse effect on airworthiness. The existing inspections in the CAMP reveal cracks based on existing inspection intervals, which, in most cases, are identical to the inspection intervals in the CAMP now being used by the operators. The SDRs also prove the accuracy of the evaluation by the FAA and design approval holder (DAH) of commercial usage (military usage for baseline structure is very similar to commercial usage), based on objective criteria and information submitted by the operators to the SDR database. Operators may request approval of an alternative method of compliance (AMOC) based on the existing CAMP.

The information in the SSID is based on military usage, which defined the baseline inspection requirements. Operators may be allowed to extend the inspection intervals by completing an operational usage evaluation (OUE) as specified in Lockheed Service Bulletin 382–57–84, and requesting approval of an AMOC from the FAA. Recent analysis of the usage data has shown that typical commercial operations of the affected airplanes are at higher payloads than military operations with significantly less time in training. Analysis and in-service cracking data have also shown that the crack growth rate severity of typical commercial usage is very similar to the baseline military usage. Therefore, the FAA's evaluation of commercial usage is based on objective criteria and information submitted by the operators. We have not changed the final rule regarding this issue.

Request To Withdraw the Proposed AD (72 FR 64005, November 14, 2007; Corrected December 3, 2007 (72 FR 67998)): No Unsafe Condition

Lynden noted that the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)) was prompted by incidents involving fatigue cracking and corrosion in transport airplanes that are approaching or have exceeded their design service objective. The proposed AD was intended to maintain the continued structural integrity of the entire fleet of Model 382, 382B, 382E, 382F, and 382G airplanes. Lynden reported there have been no accidents involving fatigue cracking and corrosion relating to this type design on its airplanes. Lynden asserted that the program required by section 121.370a of the Federal Aviation Regulations (14 CFR 121.370a) ensures that such accidents will not happen. Lynden therefore questioned the conclusion that an unsafe condition even exists. Lynden alleged that we have not provided objective evidence of the unsafe condition in the affected airplanes, but have general concerns regarding aging airplanes. Lynden added that continued airworthiness of an airplane is ensured by the development of extensive inspection and maintenance programs. In Lynden's case, those maintenance requirements are detailed in an extensive CAMP, which has been proven to ensure the airworthiness of its fleet for over 97,000 flight hours.

We infer that Lynden was requesting that we withdraw the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)), because no unsafe condition has been identified. We disagree. The DAH performed several full-scale fatigue tests on the Model L–382, and has developed a large data bank of service history

(including SDRs) to identify problem areas and PSEs that provide objective evidence that an unsafe condition exists. The damage tolerance analysis (DTA) assessments established inspection intervals after many of the PSEs were identified. Initially the fatigue test and service history data were used only to identify the problem areas (i.e., PSEs) that were to receive DTA evaluation, and to validate the DTA data. Every PSE received a DTA assessment. As part of the assessment of each PSE, the DAH found that in some instances the DTA did not correlate well with the fatigue test and service life data. In these instances, the fatigue test and service life data were used to establish the inspection intervals that are specified in the SSID.

Lynden has developed an FAA-approved, operator-specific CAMP for its fleet in accordance with section 121.1109 of the Federal Aviation Regulations (14 CFR 121.1109) based upon the latest guidance and documents from the DAH. The latest guidance and documents from the DAH were provided in the Lockheed Martin Model L382, SMP 515–C–MASTER Report, dated November 2010. This document should already be incorporated into the operator's CAMP. Therefore, if the operator has been performing its CAMP as required, adequate information is available to perform the required inspections. The operator should already be in compliance with the SSID. If the operator has made changes to the CAMP to meet its maintenance schedules that were previously approved by the FAA, the subject operator may request approval of an AMOC to the SSID based on the existing CAMP, in accordance with the provisions of paragraph (q) in this final rule. If the AMOC is approved by the FAA, the operator will not need to change the CAMP except for minor changes provided in the SSID, and would already be in compliance with this AD except for the minor changes.

As discussed previously, the SSID addresses an identified safety issue on the affected airplanes and therefore must be mandated by an AD. The inspection requirements in the SSID are required for the continued safe operation of the aircraft. We have not changed the final rule regarding this issue.

Request To Withdraw the Proposed AD (72 FR 64005, November 14, 2007; Corrected December 3, 2007 (72 FR 67998)): Redundant With Existing Programs

Lynden asserted that it is already required to comply with the intent and scope of the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)) through accomplishment of the CAMP, which ensures the continued airworthiness of its fleet through constant analysis and surveillance. The CAMP and the improvements required through the CAMP procedures ensure that fatigue cracks will be detected before becoming critical. The CAMP will be used as the basis for compliance with section 121.370a of the Federal Aviation Regulations (14 CFR 121.370a) (which was superseded by section 121.1109(c)(1) of the Federal Aviation Regulations (14 CFR 121.1109(c)(1)). Lynden stated that the proposed requirements of the SSID are comparable to the requirements already imposed under section 121.370a of the Federal Aviation Regulations (14 CFR 121.370a), and the proposed grace period will provide nearly the same timeline. Lynden noted that the proposed AD stated that fatigue cracking may increase as a result of transport airplanes reaching or exceeding their design service objective (DSO), and as a result of their increased utilization and longer operation. Lynden asserted that the proposed AD would be redundant with the requirements for the SSIP, which are contained in section 121.370a of the Federal Aviation Regulations (14 CFR 121.370a). Section 121.370a of the Federal Aviation Regulations (14 CFR 121.370a) already requires incorporation of FAA-approved damage-tolerance-based inspections into the maintenance program for aircraft structure susceptible to fatigue cracking for the airplane to continue operating after December 20, 2010.

Lynden was concerned that the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)) will not establish compliance with section 121.370a of the Federal Aviation Regulations (14 CFR 121.370a) and will cause confusion and/or duplicative recordkeeping requirements regarding whether a particular inspection is acceptable for compliance. If the AD does establish compliance with section 121.370a of the Federal Aviation Regulations (14 CFR 121.380a), then it is unnecessary and redundant, since section 121.370a of the Federal Aviation Regulations (14 CFR 121.370a) will ensure the aircraft's structural integrity. On the other hand, if the AD does not establish complete compliance, section 121.370a of the Federal Aviation Regulations (14 CFR 121.370a) needs to be reviewed to ensure that it establishes the level of safety originally anticipated by the FAA. In either case, both requirements should not be needed to establish continuous structural integrity of the affected airplanes.

We infer that Lynden was requesting that we withdraw the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)) as unnecessary because it is redundant with the CAMP or the requirements of section 121.1109(c)(1) of the Federal Aviation Regulations (14 CFR 121.1109(c)(1)). Some inspections were not included in the SMP–515–C inspection program, and some operators do not have the latest revision to this program, including the changes made by the SSID and required by this AD. So an AD is necessary to mandate the implementation of the SSID. Further, an AD would be necessary to ensure continued operational safety if a related operational rule is changed in the future. Except for some minor changes made by the DAH and approved by the FAA, any operator with a CAMP already meets the requirements of the SSID and this AD; no additional work would be required, and no alternative method of compliance would be necessary to demonstrate compliance. However, the SSID can also be used as a means to show compliance for the baseline inspections for the section 121.1109(c)(1) of the Federal Aviation Regulations (14 CFR 121.1109(c)(1)) (which superseded section 121.370a of the Federal Aviation Regulations (14 CFR121.370a). That rule requires operators to incorporate FAA-approved damage-tolerance-based inspections and procedures into the maintenance program for airplane structure susceptible to fatigue cracking that could contribute to a catastrophic failure on airplanes meeting the following criteria:

- Transport category airplanes
- Airplanes type certificated after January 1, 1958
- Turbine power airplanes
- Airplanes having a maximum type-certificated passenger seating capacity of 30 or more, or a maximum payload capacity of 7,500 pounds or more

Those airplanes must have FAA-approved damage-tolerance-based inspections and procedures incorporated into the maintenance program for airplane structure susceptible to fatigue cracking that could contribute to a catastrophic failure. The SSID meets this requirement for the affected airplanes. Therefore, no change to the final rule is necessary regarding this issue.

Requests To Revise Repair Approval

Safair, Lynden, and LM Aero requested that we change paragraph (n) of the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)), which would have required repair ''using a method approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA.''

Safair requested that we instead require repair ''in accordance with an FAA-approved method'' to alleviate unnecessary burdens on both the Atlanta ACO and the operators.

Lynden noted that the preamble to the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)) explained that the AD would allow the use of FAA-approved methods for the repair, but the proposed regulatory language would actually require each repair to be specifically approved by the ACO. Lynden requested that the preamble and regulatory language agree. Lynden believed that requiring approval for each repair is an unworkable and unacceptable regulatory burden for operators and the FAA. Lynden added that a typical Boeing SSID AD does not contain such an onerous paragraph, but allows cracked structure to be repaired in accordance with an FAA-approved method. Lynden added that the FAA's Transport Airplane Directorate has specifically promised to use the following language: ''Cracked structure must be repaired prior to further flight in accordance with an FAA-approved method.'' If the suggested language is used, operators can perform repairs in accordance with previously acceptable methods, techniques, and practices that are based on approved data—whenever they find cracked structure, not just when performing inspections required by the AD. Lynden asserted that it is extremely important for the FAA to understand that an operator with an effective CAMP is constantly inspecting for structural integrity, not just when an AD requires an inspection. To ensure proper alignment with their responsibilities to ensure the continuous airworthiness of the affected airplanes, operators must not face conflicting, overlapping, or confusing compliance requirements.

LM Aero interpreted paragraph (n) in the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)) as a requirement to obtain an approval letter from the Atlanta ACO for every repair carried out on PSEs with cracks detected by the SSID inspections. LM Aero added that, in many cases, cracking detected by the SMP–515–C inspection procedures in the SSID can be repaired with existing FAA-approved repair procedures. Including the additional requirement to obtain specific approval letters for each repair is likely to place significant burden on both operators and the FAA. LM Aero requested that we revise paragraph (n) of the proposed AD to add the following provision:

> Existing FAA approved repair procedures that are applicable to repair the damage detected, such as FAA approved Lockheed Model 382 Series Service Bulletins (when so stated in the Service Bulletin) and the Lockheed Service Manual Publication SMP 583 Structural Repair Manual [SRM], do not require further approval.

Lynden concurred with LM Aero's comment.

We agree with the commenters' rationale. Accordingly, we have revised the final rule to add new Note 1 to paragraph (o) of this AD, which explains the source of guidance for repairing damage. We also added new Note 2 to paragraph (o) of this AD to explain that operators may contact the Manager, Atlanta ACO, for information regarding the use of published service data approved by the FAA for these repairs, as required by paragraph (n) of this AD.

Request To Revise Terminology: ''PSE'' vs. ''SSI''

LM Aero and Lynden requested that we revise the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)) to be consistent with the SSID, which uses the term ''principle structural element (PSE)'' instead of ''structural significant item (SSI).''

We agree to standardize the terminology. The original term was ''Structural Significant Item (SSI).'' Although the two terms are currently used interchangeably, we agree to use the latest terminology in this AD. We have revised the final rule to replace ''SSI'' with ''PSE.''

Request To Revise Terminology: ''DTA Values'' vs. ''Inspection Intervals''

Lynden stated that neither the FAA nor the operators can ensure compliance with the AD without a clear understanding of how the DTA was conducted and without the required DTA values. If we were to accept LM Aero's inspection intervals as ''DTA values,'' Lynden requested that we revise the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)) to correspond with the SSID. Lynden noted, for example, that paragraph (g) of the proposed AD states, in part, ''The required DTA value for each PSE is listed in the SSID.'' Lynden asserted that there are no DTA values or ratings listed in the subject SSID.

We partially agree. We agree to accept the DAH's inspection intervals (presented in the SSID as ''DTA values''), and we have revised the final rule to correspond to the SSID by changing ''DTA values'' to ''inspection intervals'' throughout this final rule. We disagree that compliance with the AD cannot be ensured without clear understanding of how the DTA was conducted and without DTA values. The operator is required to set up a tracking system for each inspection and maintain that system at all times. The operator and the FAA can track the status of the inspections using inspection numbers assigned to each inspection requirement by the operator or they can track the inspections by the procedure/card number defined by the SSID document or any other procedure approved by the FAA. The DAH has given an adequate description of its DTA methodology in Section 5.0 (Damage Tolerance Analysis Methodology) of the SSID. This methodology should provide the operators an understanding of how the DTA was conducted. In addition, the FAA is familiar with the DAH's DTA procedures and has a good understanding of how the DTA was conducted. The FAA has reviewed and approved the DTA analysis and inspection intervals as approved in the SSID. This information cannot be released to the operators because it is the DAH's proprietary data. In addition, we have determined that operators do not need this information to do the SSID inspections.

Request To Revise Applicability: Exclude Airplanes Subject to Section 121.1109 of the Federal Aviation Regulations (14 CFR 121.1109)

LM Aero and Lynden requested that we revise the applicability of the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)) to include only those airplanes on which the SMP–515–C inspection program has not been incorporated and the applicable service bulletins identified in the SSID have not been accomplished. Lynden added that, according to Section 2.0 (Introduction) of the SSID, some operators have not updated the SMP–515–C inspection program in many years, and some commercially certified aircraft in other countries may not have an SMP–515–C inspection program. Lynden noted that the TC holder issued the SSID only for those operators without a CAMP or an updated one, and the AD should

therefore apply only to airplanes that are not subject to section 121.370a of the Federal Aviation Regulations (14 CFR 121.370a).

We disagree to change the applicability. The SSID addresses a safety issue on all Model 382, 382B, 382E, 382F, and 382G airplanes as the specified unsafe condition is likely to exist on all of these products. The inspections in the SSID are necessary for the continued safe operation of all applicable aircraft, and must be mandated by an AD. If the operator has been performing the CAMP as required, the operator is in compliance with the SSID, except for the minor changes. We have not changed the final rule regarding this issue.

Request To Revise Applicability: Remove Airplanes With CAMPs

Lynden alleged that the SDR database is directly related to the specific inspections contemplated by the SSID and the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)), and that the required reports are evidence that the FAA-approved part 121 CAMP is keeping the aircraft in an airworthy condition; i.e., defects are found and repaired before there is any adverse impact on airworthiness.

We infer that Lynden was requesting that we revise the applicability to remove airplanes with CAMPs. We disagree. The purpose of the SDRs is to help the FAA identify and address problem areas in the fleet before a catastrophic failure occurs. The SDRs are used to justify the inspection intervals in the SSID. The SDRs help maintain affected airplanes in an airworthy condition because the reports advise of fatigue cracks found before any adverse effect on airworthiness is encountered. The existing inspections in the CAMP reveal cracks based on existing inspection intervals. The inspection intervals in the SSID are in most cases identical to the inspection intervals in the CAMPs now being used by operators. The SDRs also verify the accuracy of the FAA's and DAH's evaluations of commercial usage and are based on objective criteria and information submitted by the operators to the SDR database. Not all affected operators use a CAMP or have equal maintenance programs. Consequently, and based on the SDRs of Lynden and other operators, we have determined that the PSEs on the affected airplanes are a potential safety issue that needs to be addressed.

We have chosen to address this issue with an AD that will mandate the inspections provided in the SSID, through an FAA-approved SSIP. We intend to reduce the workload for the DAH, operators, and the FAA, and still accomplish the intent of the AD. The SSID meets the requirements for all Model 382, 382B, 382E, 382F, and 382G airplanes. Except for some minor changes made by the DAH and approved by the FAA, any operator with a CAMP is already in compliance with the SSID. If the inspections per the CAMP have been accomplished, except for the minor changes that may be incorporated into the program and accomplished as required, no additional work is required by the operator. If the operator has changed the CAMP to meet maintenance schedules previously approved by the FAA, the operator may request approval of an AMOC to the AD based on the existing CAMP. If an AMOC request is approved by the Atlanta ACO, the operator would not have to change the CAMP, except for minor changes, and would already be in compliance with this AD.

In summary, airplanes with CAMPs are in compliance because either (1) the initial inspection has been done in accordance with the CAMP or (2) the inspection is not yet due, in which case the inspection would be done in accordance with the SSID. But airplanes with CAMPs are still affected by the AD because the repetitive inspection intervals may not agree between the SSID and the CAMP. We have not changed the final rule regarding this issue.

Request To Clarify Applicability: Airplanes Identified in SSID AD vs. SSID

Lynden requested that Section 3.0 (Affected Aircraft) be removed from the SSID. Lynden asserted that an AD identifies the affected airplanes, and conflicting information in the SSID does not aid clarity.

We disagree with the request. Paragraph (c) in this AD identifies the affected airplanes, and the service documents identify the respective individual affected serial numbers. Where there are differences, the AD prevails. We have not changed the final rule regarding this issue.

Request To Clarify Applicability: U.S.- vs. Non-U.S.-Registered Airplanes

While the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)) reported there are ''91 airplanes of the affected design in the worldwide fleet,'' Lynden stated that the proposed AD would affect U.S.-registered airplanes only.

We agree to provide clarification. Lynden is correct that the AD affects U.S.-registered airplanes only. The quoted statement is from the Cost of Compliance section of the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)). In that section, we report the number of affected airplanes operated worldwide, but provide the cost estimates for only U.S.-registered airplanes. All airplanes are identified in the AD; airplanes that are later added to the U.S. registry will also be affected by this AD. We have not changed the final rule regarding this issue.

Requests To Revise Compliance Time: Revise the Initial Compliance Time

LM Aero stated that the compliance times for the initial inspections specified in paragraph (h) of the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)) provide operators with considerable time to implement inspection requirements that should already be in their inspection programs. LM Aero agreed that a grace period to initiate the inspections (36 months as specified in the proposed AD) might be necessary, but recommends against exceeding the ''initial'' interval plus one ''recurring'' interval by more than 12 months. LM Aero added that the compliance times, including a grace period exceeding twice the ''initial'' interval on wing PSEs, would exceed the crack growth ''Safety Limit'' defined in Section 5.0 (Damage Tolerance Analysis Methodology) of the SSID, and would contravene the intent of section 25.571 of the Federal Aviation Regulations (14 CFR 25.571) and FAA Advisory Circular (AC) 91–56B, ''Continuing Structural Integrity Program for Airplanes,'' dated March 7, 2008 (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgAdvisoryCircular.nsf/0/c41f92c5f55751a58625740800686473/$FILE/AC%2091-56B.pdf*). LM Aero recommended the initial compliance times in the following table.

RECOMMENDED COMPLIANCE TIME

Airplane status	Commenter's recommended compliance time
Has not exceeded the initial [1] threshold	Before the initial threshold plus 10 percent of the specified interval.
Has exceeded the initial threshold	Before reaching the initial plus one recurring inspection interval, or within 36 months after the effective date of the AD, whichever occurs first.
Has exceeded the initial threshold plus one recurring inspection interval.	Within 12 months after the effective date of the AD, or before reaching twice the initial threshold, whichever comes first.
Has exceeded twice the initial threshold	Before the next flight.

[1] The ''initial'' threshold is specified in Section 6.3 of the SSID.

Lynden concurred with this comment.

We disagree with the requests to revise the compliance time. Most SSIDs provide operators 12 months to incorporate the inspections into the maintenance program. Then the compliance time starts for those inspections that have exceeded the threshold; otherwise the first inspection is due at the threshold. We have not changed the final rule regarding this issue.

Request To Revise Compliance Time: Extend Repetitive Interval for Sloping Longerons

LM Aero questioned the repetitive inspection intervals specified in paragraph (k) of the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)) for the ''Special Condition'' of the sloping longeron at the fuselage station (FS) 1041 fitting (per Special Inspections card (SP) 113). LM Aero stated that the proposed 12-month interval would be too frequent and would add a significant burden on the operator to continually remove the FS 1041 fitting to perform the inspection. Furthermore, frequent repeated removal would likely result in excessive over-sizing of the holes, which would require replacement of the sloping longeron (FS 737 to 1041). The intent of this inspection is to provide an opportunity to inspect the longeron for stress corrosion cracking that is hidden under the FS 1041 fitting. Although stress corrosion cracks that have not propagated beyond the FS 1041 fitting do not affect the structural integrity of the longeron, they will eventually propagate out from under the fitting for which the SSID recommends replacement. The need to replace the FS 1041 fitting depends on crack findings during the task associated with SP–109—which will also detect relatively long stress corrosion cracks in the sloping longeron by the x-ray primary procedure No. 2. Lynden concurred with this comment.

For the reasons provided by LM Aero, we agree to revise the repetitive intervals, specified in paragraph (l) in this final rule, from 12 months to an interval that corresponds to the ''Special Condition'' inspection interval currently in the SSID, which requires the inspection when the FS 1041 fitting is replaced. Paragraph (l) in this final rule agrees with the SSID revision for the inspection requirements for PSE 53–50–13.

Request To Remove Repetitive Inspection Requirement for ''Special Conditions''

LM Aero asserted that the intent of the SSID ''Special Condition'' inspections is to provide an opportunity to perform an enhanced inspection of the applicable PSE during another unscheduled maintenance action—typically, the removal of a component or structural part. LM Aero recommended against mandatory scheduled intervals for these inspections, because of the potential for associated damage from repetitive part removal and replacement. LM Aero agreed that the inspections should be done in accordance with paragraph (j) of the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)), if none of the ''Special Condition'' inspections are part of an operator's maintenance program. Lynden concurred with this comment.

We agree that the subject inspections should be done only when the part is removed for scheduled maintenance—not at regular intervals. The inspection area is a PSE but not a problem area. The inspection requires removing parts, and continually removing the part for inspection will result in excessive damage to the airplane structure compromising the use and value of the inspection. The current schedule is adequate to maintain safety. Because more damage will be done by removing the parts to do the inspection, we have changed this final rule to refer to the exceptions noted in paragraph (j) of this AD to agree with the provisions of the SSID.

Request To Revise Compliance Time: Extend Repetitive Interval for Aft Engine Mount

LM Aero also questioned the repetitive inspection interval specified in paragraph (m) of the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)) for the ''Special Condition'' inspection of the aft engine mount beam (SP–190). LM Aero stated that the proposed 24-month interval would result in a significant burden on the operator to remove the aft engine mount to do the inspection. This inspection is intended to provide an enhanced procedure for detecting cracking of the aft mount beam normally hidden by the lord mount. The aft lord mount does not have a scheduled removal time, and replacement is based on the condition found (cracks in the rubber mounts). The inspections associated with SP–189 performed at 24-month intervals will detect cracking in the aft mount beam that extends beyond the lord mount. Lynden concurred with this comment.

We agree, for the reasons provided by the LM Aero. The proposed compliance time could also result in excessive hole over-sizing, requiring replacement of the steel beam. We have revised paragraph (n) of this final rule to require the repetitive inspection interval as specified in the SSID when the aft lord mount is replaced. Paragraph (n) in this final rule agrees with the revision in the SSID for the inspection requirements for PSE 71–10–03.

Request To Revise Compliance Time: Allow Changes to Intervals Based on Findings and Design Changes

Lynden stated that Section 5.0 (Damage Tolerance Analysis Methodology) of the SSID presents two steps: (1) Incorporating the methodology for assessing/analyzing each PSE listed in Section 4.0 (Principle Structural Elements) that validates the assigned DTA value; and (2) implementing inspection intervals established for each PSE based on the DTA and the value assigned. During the actual accomplishment of the PSE inspections, findings are evaluated to determine

whether the results are within the anticipated safety limits, i.e., within assigned values. When implemented, this requirement would provide a methodology to allow adjustments to the inspection intervals based on findings, changes in design, and implemented repairs and alterations.

We infer that Lynden was requesting that we revise the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)) to allow for adjustments to the inspection intervals based on the suggested criteria. We disagree. Section 5.0 (Damage Tolerance Analysis Methodology) of the SSID clearly describes the DTA and methodology, and Section 6.0 (Structural Inspection Requirements) of the SSID clearly specifies the required inspection intervals for each PSE. As previously stated we have evaluated the document and supporting data, and have established that the methodology presented in the SSID will ensure that the identified unsafe condition will be corrected. All the information that the operator needs to incorporate into the maintenance inspection program is the inspection procedures and the inspection intervals, in Section 6.0 (Structural Inspection Requirements) of the SSID. The discrepancy reporting requirements specified in Section 7.0 (Discrepancy Reporting) of the SSID must also be included. The DTA Methodology in Section 5.0 (Damage Tolerance Analysis Methodology) of the SSID provides the basic information needed to develop the inspection intervals provided in Section 6.0 (Structural Inspection Requirements) of the SSID. The inspection intervals are already provided, so operators do not need the detailed analysis. By incorporating inspection intervals provided in Section 6.0 (Structural Inspection Requirements) of the SSID, the operator is already in compliance with Section 5.0 (Damage Tolerance Analysis Methodology) because the intervals were based on Section 5.0 (Damage Tolerance Analysis Methodology). This AD does not allow adjustments to the inspection intervals without FAA approval. Operators may request AMOCs for this purpose in accordance with procedures specified in paragraph (q) of this AD.

Request To Revise Compliance Time: Require SSID Incorporation by Certain Date

Lynden requested that we revise the proposed compliance time to a specific date, such as December 2010—for the pending DTA requirements in section 121.370a of the Federal Aviation Regulations (14 CFR 121.370a).

We partially agree. December 20, 2010, is the date by which operators must incorporate an inspection program into their maintenance program to address the baseline structure inspections required by the Aging Aircraft Safety Rule (14 CFR 121.1109, ''Supplemental Inspections''). Operators may either use the SSID or incorporate their own FAA-approved inspection program for baseline structure. Lockheed has agreed, once the AD is issued, to provide operators that have incorporated certain inspections into their maintenance program with a revision of Lockheed Service Manual SMP–515–C that includes the SSID requirements. Therefore, most if not all operators have complied with this AD by that date, with no additional work required of operators. We have not changed the final rule regarding this issue.

Request To Revise Compliance Time: Match CAMP's Inspection Intervals

Lynden questioned whether operators will be able to comply with the proposed requirements in the proper timeframe, adding that several proposed inspection intervals would be problematic. Lynden emphasized that the CAMP's intervals have ensured the structural integrity of its fleet for 97,000 flight hours of civil operation in the most difficult civil operating conditions envisioned by the type design. Lynden observed that the proposed inspection intervals are slightly shorter than those established by Lynden's CAMP, and suggests that changing these intervals could introduce the potential for maintenance error, with possible harmful results. Lynden stated that the proposed AD must correspond with its CAMP to ensure compliance and structural integrity without unnecessary duplication and cost.

We infer that Lynden was requesting that we revise the proposed inspection intervals to match those in its CAMP. We disagree. In developing an appropriate compliance time for this AD, we considered the practical aspect of accomplishing the inspections within intervals of time that correspond to typical scheduled maintenance for affected operators. But since the various operators have different maintenance schedules, we could not provide optimal schedules for each operator in the AD. As previously explained, operators who perform the CAMP as required should already be in compliance with the SSID, except for the differences noted. Operators with FAA-approved revisions to their CAMP to meet maintenance schedules may request an AMOC to the AD, in accordance with the provisions of paragraph (q) of this AD, based on the existing CAMP to adjust the maintenance schedule, provided no interval exceeds the DTA-established inspection intervals mandated by the AD and presented in the SSID. We have not changed the final rule regarding this issue.

Request To Revise Compliance Time: Extend Time To Incorporate SSID

Lynden was concerned that the compliance times in the SSID and the AD do not contain the exact same language. Determining exact compliance is essential to an operator's efficient and effective management of ADs. Lynden requested additional time to ensure that its current CAMP establishes compliance with the AD, which will in turn comply with section 121.1109 of the Federal Aviation Regulations (14 CFR 121.1109). Lynden has already worked with its Principal Aviation Safety Inspector (PASI) to ensure that its program can comply with the requirements of section 121.1109 of the Federal Aviation Regulations (14 CFR 121.1109) and the December 2010 deadline. Lynden has followed FAA Advisory Circular (AC) 120–93, ''Damage Tolerance Inspections for Repairs and Alterations,'' dated November 20, 2007 (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgAdvisoryCircular.nsf/0/f73fd2a31b353a71862573b000521928/$FILE/AC%20120-93.pdf*), regarding the actual accomplishment and implementation of the section 121.370a of the Federal Aviation Regulations (14 CFR 121.370a) program. The operator's PASI has agreed to the carrier's phased approach and will ensure the following:

1. The maintenance program for the airplane includes FAA-approved damage-tolerance-based inspections and procedures for airplane structure susceptible to fatigue cracking that could contribute to a catastrophic failure. These inspections and procedures account for the effects of adverse repairs, alterations, and modifications on fatigue cracking of airplane structure.

2. The Atlanta ACO has approved the damage-tolerance-based inspections and procedures, including any revisions. Lynden has already included the SSID's damage-tolerance-based inspections and procedures in its CAMP.

We agree with the request to revise the compliance time in this AD. As stated previously, we have changed the compliance time of paragraph (g) of this final rule to 12 months after the effective date of the AD for operators to incorporate the requirements of the

SSID into their maintenance program. Lynden has a CAMP, and the latest guidance and documents from the DAH should already be incorporated into the operator's CAMP. So operators performing their CAMP as required already have the necessary information to perform these inspections. The operator should already be in compliance with the SSID so it should not be necessary to revise the compliance time. If the operator has made changes to the CAMP to meet its maintenance schedules that were previously approved by the FAA, the subject operator may request an AMOC based on the existing CAMP; if the AMOC is approved by the FAA, the operator will not have to change the CAMP, and they would already be in compliance with this AD, except for the minor changes.

Request To Clarify Compliance Times (DTA Initial Values)

Lynden questioned how operators will know how to comply with paragraph (g) of the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)), since the SSID provides a methodology for accomplishing the DTA but does not assign the initial values (compliance times).

We disagree that the SSID does not assign the initial values. The initial and repetitive inspections are provided in Section 6.0 (Structural Inspection Requirements) of the SSID, along with a reference to the inspection procedure for each PSE. Paragraph (g) of this AD requires operators to incorporate the information in the SSID (inspection intervals and procedures) into their maintenance inspection programs within 12 months. Paragraph (i) of this AD specifies the compliance time for accomplishing the initial inspections. We have not changed the final rule regarding this issue.

Request To Revise Cost Estimate: Cost for SSID Incorporation Is for the Fleet, Not per Airplane

LM Aero noted that the estimated cost of implementing the AD applies to operators that do not currently follow the Model 382 SMP–515–C inspection program. To LM Aero's knowledge, all U.S. operators currently use this program (although it is not yet mandated by the FAA), and the latest revision includes the intent of the SSID. Revising the maintenance program therefore should be considered a one-time effort of 600 hours for the entire fleet (not per airplane). Lynden concurred with this comment.

We agree. The proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)) inadvertently stated that revising the maintenance program would take 600 work hours per airplane. We have revised the Costs of Compliance section of this final rule accordingly.

Request To Revise Cost Estimate: Include Work Hours for Recordkeeping

Lynden stated that the estimated costs specified in the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)) do not include the additional recordkeeping requirements necessary to comply with the AD. Lynden owns and operates six of the affected airplanes, all under part 121 and all under a program developed to comply with section 121.370a of the Federal Aviation Regulations (14 CFR 121.370a). Lynden noted that operators must report structural issues under the SDR rules as well as reporting findings to the TC holder in accordance with the AD. This duplicative action must take place at the time of the inspections and repairs so that the airplane can be approved to return to service and accomplishment with the AD requirements can be recorded.

We infer that Lynden was requesting that we revise the cost estimate in the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)) to include additional time for recordkeeping. We disagree. Based on the best data available, the manufacturer provided the number of work hours necessary to do the basic required actions. This number represents the time necessary to perform only the actions actually required by this AD. We recognize that, in doing the actions required by an AD, operators might incur incidental costs in addition to the direct costs. The cost analysis in AD rulemaking actions, however, typically does not include incidental costs such as the time required for recordkeeping or other administrative actions. Those incidental costs, which might vary significantly among operators, are almost impossible to calculate.

Further, the SSID requirements are already part of the maintenance program, so if the inspections have been done as specified in the SSID, no additional work is required. Most of the information required by the SSID will be identical to the SDRs except for some minor changes. To simplify the reporting requirements, operators may use one report for both the SSID inspections and the SDRs. For these reasons we find that there will be very little additional cost for recordkeeping once the maintenance program is revised to incorporate the SSID requirements. We have not changed the final rule regarding this issue.

Request To Revise Cost Estimate: Account for Duplicate Inspections

The Cost of Compliance section in the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)) explained the following:

> The number of inspection work hours * * * is presented as if the accomplishment of the actions in this proposed AD [(72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998))] are to be conducted as ''stand alone'' actions. However, in actual practice, these actions for the most part will be done coincidentally or in combination with normally scheduled airplane inspections and other maintenance program tasks. Therefore, the actual number of necessary additional inspection work hours will be minimal in many instances. * * *

Lynden alleged that this is not true for its current program, and that if the AD is issued as proposed, Lynden would be required to duplicate inspections to comply with its program and the AD.

We infer that Lynden was requesting that we revise the cost estimates in this AD. We disagree. Each operator's inspection schedule will be different, and we cannot account for the individual costs incurred by each operator. We have not changed the final rule regarding this issue.

Request To Revise Cost Estimate: Account for Discrepancies Between AD and SSID

Lynden contended that the cost estimates specified in the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)) would be more accurate if we reconcile the differences between the AD and the SSID. Lynden asserted that the estimated costs are based on the assumption that the proposed inspection intervals were in line with the inspection intervals already used by air carriers. Lynden stated that these intervals do not align and would add scheduling complexities and associated costs for the operators. Lynden requested that we revise the proposed AD based on Lynden's estimated costs, since Lynden operates the most affected airplanes.

We disagree with the request to revise the cost estimate. Where safety considerations allow, we try to set compliance times that generally coincide with operators' maintenance schedules. But since schedules vary substantially, we cannot accommodate each operator's optimal scheduling in

each AD. Therefore, we do not consider it appropriate to attribute to the AD the costs associated with the type of special scheduling that might otherwise be required. Each AD does allow individual operators to request approval to adjust the compliance time via an alternative method of compliance, based on data showing that the adjustment will not adversely affect safety. In any event, any compliance time adjustments would have little effect on costs since most of the inspections already align with each operator's maintenance program. We have not changed the AD regarding this issue.

Request To Address Imprecision in SSID

Lynden objected to the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)) incorporating the SSID ''by reference'' because the SSID is not precisely written. Lynden alleged that other supplemental structural inspection documents adopted through ADs clearly delineate the methodology used to develop the requirements for determining the structural elements and the inspection intervals. Lynden stated that those documents also clearly lay out the damage tolerance values for each element. Lynden added that Section 5 (DTA Methodology) is not like the sections of other SSIDs referenced in other ADs. Those SSIDs clearly establish the DTA methodology and the DTA value assigned to each SSI. Lynden added that such clarity is necessary for appropriate changes to the maintenance program and for the assignment and continued evaluation of the inspection intervals implemented under that program.

Lynden made no specific request to change the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)), but we provide the following explanation to address Lynden's concerns.

We disagree with the assertion that the SSID is not precisely written. As explained previously, an operator's CAMP is based on the latest guidance and documents from the DAH, as provided in the Lockheed Martin Model L382 SMP 515–C–MASTER Report, dated November 2010.

We also disagree that the SSID does not clearly delineate the methodology used to develop the requirements for determining the PSEs and the inspection intervals. Section 4.0 (Principle Structural Elements) of the SSID provides enough information for operators to determine how the PSEs were developed. Sections 4.0 (Principle Structural Elements) and 8.0 (Inspection Zone Description) also provide enough information to identify each PSE and its location on the aircraft by zones. Section 5.0 (Damage Tolerance Analysis Methodology) clearly explains the DTA methodology, and Section 6.0 (Structural Inspection Requirements) clearly states the required inspection intervals (damage tolerance values) for each of the PSEs. Further, operators have already incorporated into the CAMP the inspection procedures required to perform the SSID inspections on SP cards (special inspection cards) and ST cards (structural inspections cards). The operators have not advised of any concerns about these inspections, and therefore must be following the procedures to perform the inspections without difficulty. The inspection procedure/card number to be used for each inspection is clearly identified in the first column of the table in Section 6.0 (Structural Inspection Requirements) of the SSID. Also, the required inspection intervals (assumed to be the damage tolerance values referenced in the comments) are clearly defined in the fourth and fifth columns of the table in Section 6.0 (Structural Inspection Requirements) of the SSID. Operators are required to set up a tracking system for each inspection, and to maintain that system at all times. Operators and the FAA can track the status of the inspections using inspection numbers assigned by the operator to each inspection requirement, or operators can track the inspections by the procedure/card number defined by the SSID document or any other procedure approved by the FAA.

We have reviewed and approved the DTA and inspection intervals as approved in the SSID. This information is the DAH's proprietary data, and we cannot release it to the operators. Further, operators do not need this information to accomplish the SSID requirements.

Each manufacturer's SSID is different, and each DAH has a different approach regarding methods for developing the data, information they need to provide to accomplish the required inspections, and reporting procedures. The different overseeing ACOs also have authority to approve whatever data they deem necessary to meet the requirements of the AD, provided the data meet the intent of the FAA regulations, policies, and guidance materials. We find that the SSID meets those requirements.

We have not changed this final rule regarding these issues.

Request To Address General Differences Between AD and SSID

Lynden was concerned about differences noted between the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)) and the SSID, and made several assertions based on these alleged differences.

1. The SSID's stated purpose is to capture a point in time to help civil operators establish compliance with section 121.1109(c)(1) of the Federal Aviation Regulations (14 CFR 121.1109(c)(1)).

We partially agree with Lynden's position. The SSID inspections are necessary for the continued safe operation of the affected airplanes, and therefore must be mandated by an AD. However, the SSID can also be used to show compliance for the baseline inspections for the Aging Airplanes Safety Rule (14 CFR 121.1109(c)(1)). That rule requires operators to incorporate FAA-approved damage-tolerance-based inspections and procedures into the maintenance program for airplane structure susceptible to fatigue cracking that could contribute to a catastrophic failure on airplanes meeting the following criteria:

- Transport category airplanes.
- Airplanes type certificated after January 1, 1958.
- Turbine power airplanes.
- Airplanes having a maximum type-certificated passenger seating capacity of 30 or more, or a maximum payload capacity of 7,500 pounds or more.

The SSID meets the requirements for the affected airplanes.

2. Section 121.1109 of the Federal Aviation Regulations (14 CFR 121.1109) is tied to the operator's CAMP, which can be continually adjusted, with FAA approval, to accommodate improvements in design, production, maintenance, and operations. Lynden added that an AD is ''carved in stone'' and may be changed only through an AMOC or a superseding AD, which require expenditures of time and money by the operator, the DAH, and the FAA.

We partially agree with Lynden. Because the subject regulation is tied to each operator's CAMP, which may be adjusted to accommodate such improvements, we required the DAH to develop a separate document—the SSID—and have mandated its incorporation by this AD, so that the inspection requirements in the SSID cannot be revised by the operator without approval by the Atlanta ACO. The inspection program may be incorporated into operators'

maintenance programs in one of two ways: (1) By developing a separate maintenance inspection document that stands alone and requires that only those instructions in the SSID be accomplished in accordance with the AD, or (2) by incorporating the SSID inspections into the existing maintenance program. Either method is approved for the SSID AD, because they are both considered part of an operator's maintenance program. As Lynden noted, those inspections can then be changed only by an AMOC approved by the FAA, or by a revision to the SSID followed by a new or superseding AD that mandates the new requirements.

3. The SSID is adequate for its stated purpose, but it does not provide the certainty and objectivity required to be incorporated into a rule.

We disagree that the SSID lacks certainty and objectivity. As previously explained, the inspection intervals and procedures are clearly identified in Section 6.0 (Structural Inspection Requirements) of the SSID, and the PSEs are identified in Section 4.0 (Principle Structural Elements). And, if the operator has been performing the CAMP as required, adequate information is available to perform the required inspections, and the operator should already be in compliance with the SSID except for the noted changes.

No change is necessary in this final rule to address these assertions.

Request To Address Additional Differences Between AD and SSID

Lynden asserted that the SSID is inadequate, and will need considerable revision and additions to satisfy the intent and purpose of FAA Advisory Circular (AC) No. 91–56, ''Supplemental Structural Inspection Program for Large Transport Category Airplanes,'' dated May 6, 1981 (now 91–56B, dated March 7, 2008). Lynden was concerned that it will need an AMOC immediately to establish compliance with the intent of the AD. Further, the AD changes the SSID in significant portions. Lynden stated that, to ensure proper compliance, the SSID must align properly with the proposed requirements of paragraphs (k) through (m) of the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)).

Lynden also requested that we ensure that Section 6.0 (Structural Inspection Requirements) of the SSID and paragraphs (h) through (m) of the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)) match exactly. Reconciling these differences would (1) ensure that any changes to the SSID can be quickly reconciled with the final rule and any unique air carrier requirements; (2) ensure that an appropriate AMOC can be approved by the FAA without unnecessary explanation or confusion; (3) allow the original equipment manufacturer itself to apply for an AMOC to change the DTA and/or assigned values based on design changes; and (4) enhance compliance.

We agree with the request and made the requested revisions (in paragraphs (j) through (n) in this final rule) to ensure that the requirements of the AD align with the SSID accordingly. We agree that the SSID must align with the AD, but the AD is the prevailing source and we have determined these intervals to be appropriate.

Request To Clarify Section 6.0 (Structural Inspection Requirements) of SSID

Lynden requested that we account for conflicts and confusing information in Section 6.0 (Structural Inspection Requirements) of the SSID:

> The inspection intervals provided in this Section should be taken as the minimum required intervals for a typical cargo transport operational usage with average payloads not exceeding 20,000 lbs. For routine carriage of cargo in excess of 30,000 lbs, the inspection intervals for wing lower surface PSEs should be reduced by a factor of 2. * * * In no circumstances should the operator extend these inspection intervals without having completed an LM Aero Operational Usage Evaluation and obtaining FAA approval for an updated SMP 515–C inspection program.

Lynden asserted that there is no definition of the term ''routine,'' and no requirement for deviations if the operator has obtained an OUE. Lynden questioned whether an operator with an FAA-approved program developed to comply with section 121.370a of the Federal Aviation Regulations (14 CFR 121.370a) would need an AMOC to comply with the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)). Lynden further questioned whether an operator would have an automatic AMOC if it completed an OUE and obtained FAA-approval of the updated inspection program through its local Flight Standard District Office (FSDO). Lynden was concerned about potential conflicts and confusion between the SSID and the proposed AD, and notes a specific example of confusing information, where Section 6.3 of the SSID includes the caveat of ''later than +10% of the specified interval.'' Lynden questioned whether this indicates that the proposed AD would allow the addition of 10% to all intervals without additional approval.

We agree to provide clarification. In this AD, ''routine'' refers to typical cargo transport operational usage with an average payload of 30,000 pounds, rather than the defined typical usage of 20,000 pounds; in that case the inspection intervals should be reduced by a factor of 2.

AMOCs are never automatically approved. The operator must substantiate, and we must approve, any AMOC for a different compliance method or compliance time not specifically identified in the AD. The OUE and the +10% extension have not been evaluated or approved by the FAA, so these may not be approved as AMOCs to this AD without further substantiation that these methods provide an equivalent level of safety. Further, the OUE will vary from operator to operator, so we must review each AMOC on a case-by-case basis in lieu of including this information in this AD. We have not changed the final rule regarding this issue.

Request To Address Errors in SSID and Clarify Use of References in AD

Lynden noted certain errors and omissions throughout the SSID, including references to certain documents.

We infer that Lynden was requesting that we revise the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)) to explain and correct the noted errors in the SSID. We disagree with the request, and we disagree that the SSID contains errors that would affect compliance with the requirements of this AD. In the SSID, the PSEs are clearly identified in Section 4.0 (Principle Structural Elements), and the locations and inspection requirements are clearly identified in Sections 6.0 (Structural Inspection Requirements) and 8.0 (Inspection Zone Description), and these cannot be changed without FAA approval. All the information necessary to accomplish the AD is in Sections 4.0 (Principle Structural Elements), 6.0 (Structural Inspection Requirements), 7.0 (Discrepancy Reporting), and 8.0 (Inspection Zone Description) of the SSID, a stand-alone document. Lynden notes that Section 4.0 (Principle Structural Elements) omits Chapter 52, the PSEs, which are required to comply with Section 6.0 (Structural Inspection Requirements), but there are no SSID PSEs for the doors in Chapter 52. The two PSEs identified in Section 6.0 (Structural Inspection Requirements) in Chapter 52 are actually located on the fuselage and not on the doors, so those

PSEs are listed under Chapter 53 in Section 4.0 (Principle Structural Elements). Those PSEs are referenced in Chapter 52 in Section 6.0 (Structural Inspection Requirements), because they are part of the door surround structure. We have not changed the final rule regarding this issue.

Request To Verify Compliance With Section 121.1109 of the Federal Aviation Regulations (14 CFR 121.1109)

Lynden suggested that the SSID was based on a menagerie of methodologies to determine the inspection intervals, and that the proposed changes to these intervals are based on an unclear understanding of the original analysis. Neither the intervals proposed by the SSID nor the changes proposed in paragraphs (i) through (m) of the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)) can be tracked to a clear, concise, objective DTA evaluation—as required by paragraph (g) of the proposed AD. The proposed AD stated that compliance with the AD including the SSID establishes compliance with section 121.1109 of the Federal Aviation Regulations (14 CFR 121.1109). Lynden requested that we restate this in the final rule.

We partially agree with Lynden. We agree to restate that compliance with the AD establishes compliance with section 121.1109(c)(1) of the Federal Aviation Regulations (14 CFR 121.1109(c)(1)). We have revised this final rule accordingly by adding this information in new Note 3 to paragraphs (g) through (p) of this AD. But we disagree that changes to the inspection interval are based on an unclear understanding of the original analysis. We have previously described the different bases for the SSID, and have explained that all the inspection intervals were originally established using a DTA. We might consider different intervals through requests for AMOCs if the service history data, fatigue test results, or risk analysis does not correlate well with the DTA, or if service history shows no discrepancies in the PSE inspection area following inspections as directed by the SSID. And we might consider different intervals to a calendar schedule if discrepancies exist within a given time period regardless of the aircraft usage, or to fit the operator's maintenance program schedule (although that interval cannot exceed the interval established by a DTA). Changes in inspection intervals must be substantiated by fatigue testing and extensive service history. We might consider a different DTA-based inspection, based on existing data. Or we might consider a different DTA-based inspection interval if a risk analysis shows an extremely low probability of fatigue damage occurring.

Request To Address Differences Between This (SSID) AD and Individual ADs

Lynden was concerned that Table 2.1 on page 2–3 of the SSID might conflict with the various requirements of the individual ADs identified in the SSID and the proposed inspection intervals of the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)) or the requirements of section 121.1109 of the Federal Aviation Regulations (14 CFR 121.1109). Lynden stated that the individual ADs must be reconciled appropriately, superseded as appropriate, to ensure continued compliance.

We disagree that it is necessary to revise this final rule. This AD adds inspections that supplement but do not conflict with other ADs. The SSID inspections will identify safety issues related to the PSEs. When a SSID inspection has a certain number of positive findings on a PSE, then that part of the PSEs will be removed from the SSID and addressed in an individual service bulletin and associated AD. The rest of the PSEs will remain in the SSID and will be subject to the SSID inspections only. We have not changed the final rule regarding this issue.

Request To Address Differences in PSEs Identified in SSID and Customer-Specific Programs

Lynden stated that the last sentence of the second paragraph of Section 4.0 (Principle Structural Elements) of the SSID clearly indicates that the inspection intervals derived from the analysis for the United States Air Force have already been incorporated into operator-specific ''SMP–515–C–X Hercules Series Inspection Programs.'' Lynden requested that we revise the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)) to reconcile the PSEs identified in Section V of the customer-specific SMP–515–C–X inspection programs that have been ''superseded'' by the PSEs identified in the SSID. In further support of its request, Lynden has provided the FAA with its analysis of the SSID against its FAA-approved program (SMP–515–C–113). The analysis revealed few, but significant, differences.

We agree that the information in the SSID is based on military usage, which was used to define the baseline inspection requirements. As explained previously, analysis and in-service cracking data have shown that the crack growth rate severity of typical commercial usage is very similar to the baseline military usage. Our evaluation of commercial usage is therefore based on objective criteria and information submitted by the operators. As stated previously, we accept the DAH's inspection intervals presented in the SSID as ''DTA values,'' and have revised this final rule to change ''DTA values'' to ''inspection intervals'' to correspond to the SSID.

But we disagree that the differences are significant. The DAH carefully reviewed and evaluated the operator's maintenance program, and considered the civilian usage of the affected airplanes. Our intent is to reduce the workload of the DAH, operators, and the FAA, and still accomplish the intent of the AD. The SSID meets the requirements for the affected airplanes. Except for some minor changes made by the DAH and approved by the FAA, any operator with a CAMP is already in compliance with the SSID, except for the minor changes. The SSID requirements are already a part of the operators' maintenance programs. If the operator has made changes to the CAMP to meet its maintenance schedules that were previously approved by the FAA, the subject operator may request an AMOC to the SSID based on the existing CAMP. If this is approved by the FAA, the operator will not have to change the CAMP, and would already be in compliance with this AD except for the minor changes in the SSID.

Request To Address Differences Between This AD and AD 92–10–14, Amendment 39–8249 (57 FR 21727, May 22, 1992), and AD 75–17–04, Amendment 39–3185 (43 FR 16151, April 17, 1978)

Lynden suggested that we revise the proposed compliance times in the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)), in light of two related existing ADs, to avoid duplicative or contradictory results.

AD 92–10–14, Amendment 39–8249 (57 FR 21727, April 22, 1992), affects certain Lockheed Model 382 airplanes and addresses fatigue cracking. That AD requires inspections at intervals not to exceed 3,600 flight hours, in accordance with SP–126 and SP–224. Lynden reported being in compliance with that AD at its scheduled C check interval of 2,800 flight hours. The initial compliance times in the SSID are 1,800 flight hours for SP–126 and 3,600 flight hours for SP–224.

AD 75–17–04, Amendment 39–2300 (40 FR 32827, August 5, 1975), as revised by Amendment 39–3185 (43 FR 16151, April 17, 1978), affects certain Lockheed Model 382 series airplanes and addresses cracking on main frames. That AD requires inspections at intervals not to exceed the ''C check'' (which corresponds to 2,800 flight hours for Lynden), in accordance with SP–95, which is required at intervals not to exceed 1,200 flight hours in accordance with the SSID. Lynden reported being in compliance with AD 75–17–04 at 1,400-flight-hour intervals, at B–2 and C checks.

We disagree that it is necessary to change the compliance times in this AD. The inspection requirements of AD 92–10–14, Amendment 39–8249 (57 FR 21727, May 22, 1992); and AD 75–17–04, Amendment 39–3185 (43 FR 16151, April 17, 1978); as well as the other ADs identified in the SSID, do not conflict with this AD. We have not changed the final rule regarding this issue.

Request To Clarify Basis for SSID Inspections

Lynden found no objective evidence that the inspections are based on clear objective damage tolerance evaluations. Lynden noted that the SSID was drawn from existing programs and the inspection areas were validated by ''full scale fatigue test and service corrosion and cracking data.'' Lynden added that the DAH understands that the maintenance program must be based on FAA-approved DT-based structural inspection procedures, but the fourth paragraph of Section 2.0 (Introduction) of the SSID reveals that the information is based only in part on damage tolerance assessments.

We infer that Lynden was requesting clarification of the basis for the inspection procedures. The information in the SSID comes from several sources. On affected airplanes, the DAH performed several full-scale tests and has developed a large data bank of service history (including SDRs) to identify problem areas and PSEs. A DTA was performed to establish the inspection intervals after many of the PSEs had already been identified. Initially, the fatigue test and service history data were used only to identify the problem area PSEs to receive DTA evaluation, and to validate the DTA data. Every PSE received a DTA. As part of the assessment of each PSE, the DAH found that in some instances the DTA did not correlate well with the fatigue test and service life data. In those instances, the fatigue test and service life data were used to establish the inspection intervals that are presented in the SSID. We have not changed the final rule regarding this issue.

Request To Clarify Use of Military Data as Basis for the SSID

According to Sections 1.0 (Purpose) and 2.0 (Introduction) of the SSID, data used by the DAH were based on information from military usage. Lynden concluded that the FAA's evaluation of commercial usage does not appear to be based on objective criteria or on information submitted to the SDR database sufficient to determine whether the ''crack growth rate severity of typical commercial usage is similar to the baseline military usage, particularly in wing lower surface structure.'' Lynden found nothing in the AD docket indicating whether the DAH or the FAA evaluated the findings of commercial operators.

We agree that the SSID is based in part on military usage, which was used to define the baseline inspection requirements. Recent analysis of the usage data has shown that typical commercial operation of the affected airplanes is at higher payloads than that of military operations with significantly less time in training. Analysis and in-service cracking data have also shown that the crack growth rate severity of typical commercial usage is very similar to the baseline military usage. Our evaluation of commercial usage is therefore based on objective criteria and information submitted by operators. We have not changed this final rule regarding this issue. The DAH has advised that the recommended inspection intervals might be extended if operators complete an OUE and request AMOC approval.

Request To Clarify SSID Basis

Paragraph (g) of the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)) would require incorporation of a revision into the maintenance inspection program that provides no less than the required damage-tolerance rating for each PSE listed in the SSID. Lynden noted however that the SSID does not provide damage-tolerance ratings (as published in Boeing SSIDs), and provides only inspection intervals for SPs that are already part of the CAMP. And the required reports have not been incorporated into the findings or reassessment by the TC holder or FAA.

We agree to provide clarification. Each manufacturer's SSID is different. And each DAH has a different approach regarding collecting the data, implementing the required inspection, and reporting the results. Boeing used a damage tolerance rating procedure for its SSID program; Lockheed chose a different method. We accept both methods. The different oversight ACOs also have authority to approve whatever data they deem necessary to meet the requirements of the AD, as long as the data meet the intent of the FAA regulations, policies, and guidance materials. We have determined that the SSID meets those requirements. We have not changed the final rule regarding this issue.

Request To Clarify Purpose of Section 4.0 (Principle Structural Elements) of the SSID

Lynden stated that Section 4.0 (Principal Structural Elements) of the SSID seems to be the list of PSEs required by the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)), yet there is no specific reference to that section, and that section does not contain the required DTA values.

We agree to provide clarification. Section 4.0 (Principle Structural Elements) of the SSID simply links the PSE number with a description of the PSE. Section 4.0 (Principle Structural Elements) identifies and defines the individual PSEs by zones of the airplane. The required DTA values or inspection intervals are presented in Section 6.0 (Structural Inspection Requirements) of the SSID. We have not changed the final rule regarding this issue.

Request To Require Inspections in Service Bulletins Instead of SSID

Lynden stated that the actions proposed in the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)) would increase recordkeeping complexity without equally enhancing safety. Since the SP cards listed in the SSID are already a mandatory part of the CAMP, Lynden requested that we issue an AD that requires accomplishment of the specific structural service bulletins already issued by the TC holder and incorporated into Lynden's inspection program, instead of the SSID inspections. Lynden suggested this as a better, less complex method of ensuring continued structural integrity.

We disagree with the request. Any operator with a CAMP is already in compliance with the SSID, except for the minor changes noted previously. Furthermore, mandating accomplishment of those service bulletins would necessitate issuing a supplemental NPRM to provide the opportunity for the public to comment on the merits of this change, and would further delay issuance of this AD,

without increasing safety. Operators doing the inspection program are required to set up a tracking system for each inspection and maintain that system at all times, so very little additional work for recordkeeping should be required. The operator and the FAA can track the status of the inspections by inspection numbers assigned to each inspection requirement by the operator, or by the procedure and card number defined by the SSID, or by any other procedure approved by the FAA. We have not changed the final rule regarding this issue.

Request To Revise Reporting Requirement

Lynden asserted that the proposed reporting requirement of the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)) (as specified in Section 7.0 (Discrepancy Reporting) of the SSID) is unnecessary and burdensome, because operators must also file SDRs for all structural defects. Lynden stated that submitting the SDRs to the TC holder would comply with the proposed reporting requirements of the proposed AD, since the TC holder could simply query the FAA's SDR database and obtain the same information. To eliminate the need to develop two different reporting systems to comply with both reporting requirements, Lynden requested that we revise the proposed AD to either (1) specify that operators do not need to report to the TC holder if the report is made under the SDR requirements, or (2) match the proposed AD language to the specifications of the SDR.

We partially agree. Most of the information required by the SSID will be identical to the SDRs except for some minor changes. The results reported for the SSID inspections may be used for the SDRs (if the reports include all the information required as specified in the SDR reporting procedures), and the SDRs may be used for the SSID inspections. But to simplify the reporting requirements, one report may be used for both the SDR and the AD. We have revised paragraph (g) in this final rule to include this provision.

Request To Address Cracking Found During Non-SSID Inspections

Lynden requested that we clarify whether cracks found in SSID-specific PSEs fall under the scope of the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)), including repairing and reporting cracks found in SSID-specific PSEs during a non-SSID inspection.

We agree that clarification is necessary. All cracks found during a SSID inspection are covered by the SSIP reporting procedures. Cracks in a PSE found outside a SSID inspection are not part of the SSID reporting but do fall under the Aging Airplane Safety Rule (70 FR 5518, February 2, 2005) (Docket FAA–1999–5401) reporting so they will still need to be reported. The reporting procedures should be the same. We have not changed the final rule regarding this issue.

Request To Allow Future SSID Changes in AD

Lynden stated that, according to Section 1.0 (Purpose) of the SSID, Lockheed Martin will provide operators with a method to comply with section 121.1109 of the Federal Aviation Regulations (14 CFR 121.1109), which allows for continual adjustments to (1) account for changes in the product materials, parts, and processes; and (2) issue new or improved repairs and revisions of the structural repair manual and service bulletins. Lynden noted that changing an AD requires additional time and resources of the operator, the DAH, and the FAA.

We infer that Lynden was requesting that we revise the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)) to allow for unspecified adjustments to the requirements. We disagree. All changes to the SSID must be approved by the Atlanta ACO. We would consider superseding the AD only when significant changes to the SSID affect the airworthiness of the affected airplanes. The only requirements are those specified in the AD—in this case, the specific revision to the SSID. An operator wishing to use any changes in a future revision to the SSID (not mandated by the AD) must request AMOC approval in accordance with the provisions of paragraph (q) of this AD. We have not changed this final rule regarding this issue.

Request for Access to ''Reference #2''

Lynden alleged that the ''initial flaw criteria'' specified in Section 5.2 of the SSID are based on assumptions unknown to Lynden. The SSID states that the initial flaw size and flaw shape assumptions as well as the structural flaw configuration used in the DTA of crack growth are based on the assumptions determined in ''Reference 2,'' as specified in that paragraph. Because ''Reference 2'' is reserved and therefore unidentified, Lynden asserted that it could not review or confirm the methodology. Lynden requested access to all information used to establish compliance with the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)) to make substantive comment to the docket.

We disagree that access to ''Reference 2'' is necessary. We have reviewed ''Reference 2'' and approved the ''initial flaw criteria.'' The information in ''Reference 2'' is the DAH's proprietary data, and the FAA cannot release this information to operators. We have determined that operators do not need this information to accomplish the SSID requirements. We accept the DAH's initial flaw size and flaw shape assumptions as well as the structural flow configuration used in the DTA of crack growth presented in ''Reference 2.'' We have not changed the final rule regarding this issue.

Request To Clarify DAH's Involvement in SSID

Lynden interpreted Section 1.0 (Purpose) of the SSID as suggesting that the DAH anticipated an AD but did not expect it to be based on its ever-changing SSID document. Lynden added that the DAH did not understand that, after the AD is issued, the SSID requirements cannot be changed unless the operator obtains an AMOC or the FAA supersedes the AD. Lynden also asserted that the first paragraph of Section 2.0 (Introduction) of the SSID clearly establishes that the DAH did not understand or appreciate how its SSID document would be used as the basis for an AD.

We disagree with Lynden's assertions. The DAH understands how its SSID will be used as the basis for the AD. The DAH also understands that the FAA must either supersede the AD to incorporate any significant changes to the SSID, or approve AMOCs to make any changes to SSID procedures or compliance times that are not specifically required by the AD. We have not changed the final rule regarding this issue.

Request To Identify Section 6.0 (Structural Inspection Requirements) of SSID

The proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)) proposed implementing the requirements of Section 5.0 (Damage Tolerance Analysis Methodology) and Section 7.0 (Discrepancy Reporting) of the SSID, but LM Aero suggested that the most important requirements are in Section 6.0 (Structural Inspection Requirements). Section 6.0 (Structural Inspection Requirements) contains the references for the required inspection

procedures as well as the compliance times for the initial and repetitive inspections. LM Aero stated that implementing the Section 6.0 (Structural Inspection Requirements) requirements will meet the DTA methodology requirements contained in Section 5.0 (Damage Tolerance Analysis Methodology). LM Aero agreed with the proposed requirement to comply with Section 7.0 (Discrepancy Reporting). Lynden concurred with this comment.

We agree with LM Aero's position. We have revised paragraph (g) in this final rule to include Sections 5.0 (Damage Tolerance Analysis Methodology), 6.0 (Structural Inspection Requirements), and 7.0 (Discrepancy Reporting) of the SSID.

Request To Provide Terminating Action

Lynden noted that the SSID, on page 6–12 in Section 6.0 (Structural Inspection Requirements), requires accomplishment of a certain inspection initially by 12,000 total flight hours, with recurring inspections due at intervals not to exceed 2,400 flight hours thereafter. Lynden requested that the SSID or the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)) be revised to state that accomplishment of Lockheed Service Bulletin 382–71–24, dated January 21, 2010, eliminates the need for this recurring inspection requirement.

We disagree with the request to allow accomplishment of Lockheed Service Bulletin 382–71–24, dated January 21, 2010, as terminating action for the specified inspection requirement. Lockheed Service Bulletin 382–71–24, dated January 21, 2010, was never approved by the Atlanta ACO as terminating action. But replacing the bushing and repairing existing damage per Lockheed Service Bulletin 382–71–24, dated January 21, 2010, will allow operators to zero out the time for the inspection. Operators may request an AMOC for relief from this requirement in accordance with the provisions of paragraph (q) of this AD, provided data are provided that show that accomplishment of Lockheed Service Bulletin 382–71–24, dated January 21, 2010, would provide an acceptable level of safety allowing for this terminating action. Since not all operators have accomplished the actions specified in Lockheed Service Bulletin 382–71–24, dated January 21, 2010, the inspections must remain in the SSID. We have not changed the final rule regarding this issue.

Request To Clarify Impact on Alaska Operations

Lynden interpreted the Regulatory Evaluation for this action as stating that the AD would have no impact on intrastate aviation in the state of Alaska. Lynden reported that it moves over 82 million pounds of cargo per year in Alaska, so the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)) would definitely have an impact on those operations.

We agree to provide clarification. The Regulatory Evaluation states that the AD ''could affect intrastate aviation in Alaska,'' but adds that it is not ''appropriate to include specific requirements for aircraft operated in Alaska.'' This AD applies only to airplanes when operated outside the territorial boundaries of Alaska. We have not changed the final rule regarding this issue. Because of the nature of the unsafe condition, we cannot justify a regulatory distinction between aviation only in Alaska and other aviation.

Request To Account for Widespread Fatigue Damage (WFD) Rulemaking

Lynden was concerned about the pending rulemaking related to WFD to propose certain changes to the requirements for evaluating structure, assigning inspections, and doing other maintenance or alteration tasks.

Lynden made no specific request. The SSIP does not account for the effects of WFD. We have not changed the final rule regarding this issue.

Additional Changes Made to This AD

We have revised this final rule to identify the legal name of the manufacturer as published in the most recent type certificate data sheet for the affected airplane models.

We have added new paragraph (e) in this final rule to provide ATA subject code 51: Standard practices/structures. This code is added to make this final rule parallel with other new AD actions. We have re-identified subsequent paragraphs accordingly.

We have revised paragraph (g) of this AD to remove the phrase ''FAA-approved'' from ''FAA-approved maintenance inspection program,'' because we do not approve operators' maintenance programs.

We have removed the ''Service Information'' paragraph from this final rule. (That paragraph was identified as paragraph (f) in the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)).) Instead, we have provided the full document citations throughout this final rule.

Since we issued the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)), we have increased the labor rate used in the Costs of Compliance from $80 per work-hour to $85 per work-hour. The Costs of Compliance information, below, reflects this increase in the specified labor rate.

We have re-identified Note 3 of the proposed AD (72 FR 64005, November 14, 2007; corrected December 3, 2007 (72 FR 67998)) as Note 1 of this final rule, and relocated that note to follow paragraph (g) of this AD. We have reidentified subsequent notes accordingly.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We also determined that these changes will not increase the economic burden on any operator or increase the scope of the AD.

Costs of Compliance

There are about 91 airplanes of the affected design in the worldwide fleet. The following table provides the estimated costs for the 14 U.S. airplanes to comply with this AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Fleet cost
Revision of maintenance inspection program.	600 for the fleet	$85	$51,000.
Inspections	2,724 per airplane	85	$3,241,560, per inspection cycle.

The number of inspection work hours, as indicated above, is presented as if the accomplishment of the actions in this AD are to be conducted as ''stand-alone'' actions. However, in actual practice, these actions for the most part will be done coincidentally or in combination with normally scheduled airplane inspections and other maintenance program tasks. Therefore, the actual number of necessary additional inspection work hours will be minimal in many instances. Additionally, any costs associated with special airplane scheduling will be minimal.

Further, compliance with this AD is a means of compliance with the aging airplane safety final rule (AASFR) for the baseline structure of Model 382, 382B, 382E, 382F, and 382G series airplanes. The AASFR requires certain operators to incorporate damage tolerance inspections into their maintenance inspection programs. These requirements are described in 14 CFR 121.370(a) and 129.16. Accomplishment of the actions required by this AD will meet the requirements of these CFR sections for the baseline structure. The costs for accomplishing the inspection portion of this AD were accounted for in the regulatory evaluation of the AASFR.

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):

2012–06–09 Lockheed Martin Corporation/Lockheed Martin Aeronautics Company: Amendment 39–16990. Docket No. FAA–2007–0109; Directorate Identifier 2007–NM–235–AD.

(a) Effective Date

This AD is effective May 15, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Lockheed Martin Corporation/Lockheed Martin Aeronautics Company Model 382, 382B, 382E, 382F, and 382G airplanes, certificated in any category.

(d) Unsafe Condition

This AD results from a report of incidents involving fatigue cracking and corrosion in transport category airplanes that are approaching or have exceeded their design service objective. We are issuing this AD to maintain the continued structural integrity of the fleet.

(e) Subject

Air Transport Association (ATA) of America Code 51: Standard Practices/Structures.

(f) Compliance

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

(g) Revision of the Maintenance Inspection Program

Within 12 months after the effective date of this AD, incorporate a revision into the maintenance inspection program that provides no less than the required damage tolerance assessment/analysis (DTA) for each structural significant item (SSI) listed in Lockheed Martin Model 382, 382B, 382E, 382F, and 382G Series Aircraft Service Manual Publication (SMP), Supplemental Structural Inspection Document (SSID), SMP 515–C–SSID, Change 1, dated September 10, 2007. (The required inspection interval for each principal structural element (PSE) is listed in Lockheed Martin Model 382, 382B, 382E, 382F, and 382G Series Aircraft Service Manual Publication (SMP), Supplemental Structural Inspection Document (SSID), SMP 515–C–SSID, Change 1, dated September 10, 2007.) The revision to the maintenance inspection program must include and must be implemented in accordance with the procedures in Section 5.0 (Damage Tolerance Analysis Methodology), Section 6.0 (Structural Inspection Requirements), and Section 7.0 (Discrepancy Reporting) of Lockheed Martin Model 382, 382B, 382E, 382F, and 382G Series Aircraft Service Manual Publication (SMP), Supplemental Structural Inspection Document (SSID), SMP 515–C–SSID, Change 1, dated September 10, 2007. One report may be used to report findings for both the service difficulty report and this AD, provided the report refers to this AD and the PSE number for the inspection being accomplished when the discrepancy was found.

Note 1 to paragraphs (g) through (p) of this AD: Compliance with the requirements of this AD establishes compliance with section 121.1109(c)(1) of the Federal Aviation Regulations (14 CFR 121.1109(c)(1)).

(h) Paperwork Reduction Act Burden Statement

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(i) Initial and Repetitive Inspections

At the later of the times specified in paragraphs (i)(1) and (i)(2) of this AD, except as provided by paragraphs (j) through (n) of this AD: Do the applicable initial inspections to detect cracks of all SSIs, in accordance with Lockheed Martin Model 382, 382B, 382E, 382F, and 382G Series Aircraft Service Manual Publication (SMP), Supplemental Structural Inspection Document (SSID), SMP 515–C–SSID, Change 1, dated September 10, 2007. Repeat the applicable inspections thereafter at intervals not to exceed the ''Recurring'' intervals specified in Section 6.0 (Structural Inspection Requirements) of Lockheed Martin Model 382, 382B, 382E, 382F, and 382G Series Aircraft Service Manual Publication (SMP), Supplemental Structural Inspection Document (SSID), SMP 515–C–SSID, Change 1, dated September 10, 2007, except as provided by paragraphs (l) through (n) of this AD.

(1) Before the applicable ''Initial'' threshold specified in Section 6.0 (Structural Inspection Requirements) of Lockheed Martin Model 382, 382B, 382E, 382F, and 382G Series Aircraft Service Manual Publication (SMP), Supplemental Structural Inspection Document (SSID), SMP 515–C–SSID, Change 1, dated September 10, 2007.

(2) Within 36 months after the effective date of this AD, or within one ''Recurring'' interval measured from 12 months after the effective date of the AD, whichever comes first.

(j) Exception to Service Information Compliance Time (Threshold Since New)

Where Section 6.0 (Structural Inspection Requirements) of Lockheed Martin Model 382, 382B, 382E, 382F, and 382G Series Aircraft Service Manual Publication (SMP), Supplemental Structural Inspection Document (SSID), SMP 515–C–SSID, Change 1, dated September 10, 2007, specifies the ''Initial'' threshold in years (since new), this AD requires compliance within the specified year since the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness.

(k) Exception to Service Information Compliance Time (Special Condition)

Where Section 6.0 (Structural Inspection Requirements) of Lockheed Martin Model 382, 382B, 382E, 382F, and 382G Series Aircraft Service Manual Publication (SMP), Supplemental Structural Inspection Document (SSID), SMP 515–C–SSID, Change 1, dated September 10, 2007, specifies the ''Initial'' threshold as ''Special Condition,'' this AD requires compliance within 24 months after the effective date of this AD.

(l) Exception to Service Information Compliance Time (Fuselage Station (FS) 1041 Fitting Replacement)

Where Section 6.0 (Structural Inspection Requirements) of Lockheed Martin Model 382, 382B, 382E, 382F, and 382G Series Aircraft Service Manual Publication (SMP), Supplemental Structural Inspection Document (SSID), SMP 515–C–SSID, Change 1, dated September 10, 2007, specifies the ''Initial'' threshold and ''Recurring'' interval as ''FS 1041 Fitting Replacement,'' this AD requires compliance within 24 months after the effective date of this AD and thereafter at intervals not to exceed those specified in Lockheed Martin Model 382, 382B, 382E, 382F, and 382G Series Aircraft Service Manual Publication (SMP), Supplemental Structural Inspection Document (SSID), SMP 515–C–SSID, Change 1, dated September 10, 2007, concurrently with any FS 1041 fitting replacement.

(m) Exception to Service Information Compliance Time (Engine Change)

Where Section 6.0 (Structural Inspection Requirements) of Lockheed Martin Model 382, 382B, 382E, 382F, and 382G Series Aircraft Service Manual Publication (SMP), Supplemental Structural Inspection Document (SSID), SMP 515–C–SSID, Change 1, dated September 10, 2007, specifies the ''Initial'' threshold and ''Recurring'' interval as ''Engine Change,'' this AD requires compliance before further flight after the next engine change, and thereafter before further flight whenever the engines are changed.

(n) Exception to Service Information Compliance Time (Aft Lord Mount Change)

Where Section 6.0 (Structural Inspection Requirements) of Lockheed Martin Model 382, 382B, 382E, 382F, and 382G Series Aircraft Service Manual Publication (SMP), Supplemental Structural Inspection Document (SSID), SMP 515–C–SSID, Change 1, dated September 10, 2007, specifies the ''Initial'' threshold and ''Recurring'' interval as ''Aft Lord Mount Change,'' this AD requires compliance before further flight after the next aft lord mount change (FS 1041 fitting change), and thereafter at intervals not to exceed those specified in Lockheed Martin Model 382, 382B, 382E, 382F, and 382G Series Aircraft Service Manual Publication (SMP), Supplemental Structural Inspection Document (SSID), SMP 515–C–SSID, Change 1, dated September 10, 2007, concurrently with any FS 1041 fitting replacement.

(o) Repair

If any cracked structure is found during the inspections required by paragraph (i) of this AD, before further flight, repair the cracked structure using a method approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA. For a repair method to be approved by the Manager, Atlanta ACO, as required by this paragraph, the Manager's approval letter must specifically refer to this AD.

Note 2 to paragraph (o) of this AD: Applicable existing FAA-approved repair procedures do not require further approval provided they have DTA-established inspection procedures and intervals previously approved by the FAA.

Note 3 to paragraph (o) of this AD: Operators may contact the Manager, Atlanta ACO, for information regarding the use of published service data approved by the FAA associated with the repairs specified in paragraph (o) of this AD.

(p) Inspection Program for Transferred Airplanes

Before any airplane that is subject to this AD and that has exceeded the applicable compliance times specified in paragraph (i) of this AD can be added to an air carrier's operations specifications, a program for the accomplishment of the inspections required by this AD must be established in accordance with paragraph (p)(1) or (p)(2) of this AD, as applicable.

(1) For airplanes that have been inspected in accordance with this AD: The inspection of each PSE must be done by the new operator in accordance with the previous operator's schedule and inspection method, or the new operator's schedule and inspection method, at whichever time would result in the earlier accomplishment for that PSE inspection. The compliance time for accomplishment of this inspection must be measured from the last inspection accomplished by the previous operator. After each inspection has been done once, each subsequent inspection must be performed in accordance with the new operator's schedule and inspection method.

(2) For airplanes that have not been inspected in accordance with this AD: The inspection of each PSE required by this AD must be done either before adding the airplane to the air carrier's operations specification, or in accordance with a schedule and an inspection method approved by the Manager, Atlanta ACO. After each inspection has been done once, each subsequent inspection must be done in accordance with the new operator's schedule.

(q) Alternative Methods of Compliance (AMOCs)

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

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(r) Related Information

For more information about this AD, contact Carl Gray, Aerospace Engineer, Airframe Branch, ACE–117A, FAA, Atlanta Aircraft Certification Office, 1701 Columbia Avenue, College Park, Atlanta, Georgia 30337; phone: 404–474–5554; fax: 404–474–5606; email: *carl.w.gray@faa.gov*.

(s) Material Incorporated by Reference

(1) You must use the following service information to do the actions required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference (IBR) of the following service information under 5 U.S.C. 552(a) and 1 CFR part 51:

(i) Lockheed Martin Model 382, 382B, 382E, 382F, and 382G Series Aircraft Service Manual Publication (SMP), Supplemental Structural Inspection Document (SSID), SMP 515–C–SSID, Change 1, dated September 10, 2007.

(2) For service information identified in this AD, contact Lockheed Martin Corporation/Lockheed Martin Aeronautics Company, Airworthiness Office, Dept. 6A0M, Zone 0252, Column P–58, 86 S. Cobb Drive, Marietta, Georgia 30063; telephone 770–494–5444; fax 770–494–5445; email *ams.portal@lmco.com;* Internet *http://www.lockheedmartin.com/ams/tools/TechPubs.html.*

(3) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

(4) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at an NARA facility, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on March 12, 2012.

John P. Piccola,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–8450 Filed 4–9–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0913; Directorate Identifier 2011–NM–031–AD; Amendment 39–17010; AD 2012–07–04]

RIN 2120–AA64

Airworthiness Directives; Cessna Aircraft Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Cessna Aircraft Company Model 680 airplanes. This AD was prompted by a false cross-feed command to the right-hand fuel control card, due to the cross-feed inputs on the left- and right-hand fuel control cards being connected together and causing an imbalance of fuel between the left and right wing tanks. This AD requires adding diodes to the fuel cross-feed wiring, and revising the airplane flight manual to include procedures to use when the left or right generator is selected OFF. We are issuing this AD to prevent lateral imbalance of the airplane, resulting from uncontrolled fuel cross-feed, which can be corrected by deflecting the aileron trim; deflecting the aileron trim increases the pilot's workload and could exceed the airplane's limitation in a short period of time, resulting in reduced controllability of the airplane.

DATES: This AD is effective May 15, 2012.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of May 15, 2012.

ADDRESSES: For service information identified in this AD, contact Cessna Aircraft Co., P.O. Box 7706, Wichita, Kansas 67277; telephone 316–517–6215; fax 316–517–5802; email *citationpubs@cessna.textron.com*; Internet *https://www.cessnasupport.com/newlogin.html.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this 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: Nhien Hoang, Aerospace Engineer, Electrical Systems and Avionics Branch, ACE–119W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; phone: (316) 946–4190; fax: (316) 946–4107; email: *nhien.hoang@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

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 was published in the **Federal Register** on August 31, 2011 (76 FR 54141), and proposed to require adding diodes to the fuel cross-feed wiring, and revising the airplane flight manual to include procedures to use when the left or right generator is selected OFF.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received from Cessna Aircraft Company (Cessna), the manufacturer, on the NPRM (76 FR 54141, August 31, 2011), and the FAA's response to each comment.

Requests To Correct References to Airplane Flight Manual (AFM) Revisions and Temporary Changes (TCs) in Paragraph (h) of This AD

Cessna commented that the NPRM (76 FR 54141, August 31, 2011) has incorrect references to certain AFM TCs, does not refer to certain applicable AFM TCs, and incorrectly addresses the procedure change in the recently FAA-approved Revision 10, dated June 30, 2011, of the Cessna 680 Citation Sovereign AFM. We infer that Cessna requested that we correct references to the AFM revisions and TCs in paragraph (h) of the NPRM.

Cessna also commented that the text for AFM revision 68FM–10, dated June 30, 2011, of the Cessna 680 Citation Sovereign AFM, does not include the instruction to pull the fuel pump circuit breakers, which was part of the TC, and is not necessary once the modification specified in Cessna Service Bulletin 680–24–11, dated December 16, 2010, is done.

Cessna further commented that the wording of the NPRM (76 FR 54141, August 31, 2011) is incorrect in its reference to Cessna TC TC–R09–13, dated October 15, 2010, to the Cessna 680 Citation Sovereign AFM, Revision 9, dated May 24, 2010, and that the TC is applicable until Revision 10, dated June 30, 2011, of the Cessna 680 Citation Sovereign AFM, is incorporated into the AFM. Further, the commenter stated that the remaining TCs for Revision 9, dated May 24, 2010, of the Cessna 680 Citation Sovereign AFM are to be removed when Revision 10 is incorporated, and there are 3 new TCs for Cessna 680 Citation Sovereign AFM, Revision 10, dated June 30, 2011, that are the same as the previous TCs for Cessna 680 Citation Sovereign AFM, Revision 9, dated May 24, 2010.

We agree with Cessna's requests for the reasons given. We have changed paragraph (h) of this AD to include the updated AFM revisions and current TCs. However, some operators still use Cessna 680 Citation Sovereign AFM, Revision 9, dated May 24, 2010, and therefore the TCs referenced in Cessna 680 Citation Sovereign AFM, Revision 9, dated May 24, 2010, still apply for some affected airplanes. Therefore,

paragraph (h) of this AD clarifies the changes to the AFM as they apply to airplanes using Cessna 680 Citation Sovereign AFM, Revision 9, dated May 24, 2010, and to airplanes using Cessna 680 Citation Sovereign AFM, Revision 10, dated June 30, 2011. These changes will not result in an additional burden to the operator.

We have also reviewed Cessna Service Bulletin SB680–24–11, Revision 1, dated November 15, 2011. This service bulletin includes procedures to address both Cessna 680 Citation Sovereign AFM, Revision 9, dated May 24, 2010; and Cessna 680 Citation Sovereign AFM, Revision 10, dated June 30, 2011; and their corresponding AFM actions. We have also changed paragraph (g) of this AD to reference Cessna Service Bulletin SB680–24–11, Revision 1, dated November 15, 2011. We also added paragraph (i) to the AD to give credit for actions accomplished before the effective date of the AD using Cessna Service Bulletin SB680–24–11, dated December 16, 2010, and re-identified subsequent paragraphs accordingly.

Conclusion

We reviewed the relevant data, considered the comment received, and determined that air safety and the public interest require adopting the AD with the changes described previously, and minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (76 FR 54141, August 31, 2011) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (76 FR 54141, August 31, 2011).

We also determined that these changes will not increase the economic burden on any operator or increase the scope of the AD.

Costs of Compliance

We estimate that this AD affects 198 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Installation	4 work-hours × $85 per hour = $340	$40	$380	$75,240

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):

2012–07–04 Cessna Aircraft Company: Amendment 39–17010; Docket No. FAA–2011–0913; Directorate Identifier 2011–NM–031–AD.

(a) Effective Date

This AD is effective May 15, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Cessna Aircraft Company Model 680 airplanes; certificated in any category; serial numbers –0001 through –0289 inclusive, and –0291 through –0296 inclusive.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 24: Electrical power.

(e) Unsafe Condition

This AD was prompted by a false cross-feed command to the right-hand fuel control card, due to the cross-feed inputs on the left- and right-hand fuel control cards being connected together and causing an imbalance of fuel between the left and right wing tanks. We are issuing this AD to prevent lateral imbalance of the airplane, resulting from uncontrolled fuel cross-feed, which can be corrected by deflecting the aileron trim; deflecting the aileron trim increases the pilot's workload and could exceed the airplane's limitation in a short period of time, resulting in reduced controllability of the airplane.

(f) Compliance

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

(g) Installation

Within 400 flight hours or 12 months after the effective date of this AD, whichever occurs first: Install a kit, part number (P/N) SB680–24–11, to the left and right motive flow relays, in accordance with the Accomplishment Instructions of Cessna Service Bulletin SB680–24–11, Revision 1,

dated November 15, 2011. The kit (P/N SB680–24–11) contains 2 sleeves, 4 splices, 2 diodes (P/N 1N4006), and instructions.

(h) Revise Airplane Flight Manual (AFM)

Before further flight after accomplishing the actions required by paragraph (g) of this AD, do the applicable actions specified in paragraph (h)(1) or (h)(2) of this AD.

(1) For airplanes using Cessna 680 Citation Sovereign AFM, Revision 9, dated May 24, 2010: Revise the Cessna 680 Citation Sovereign AFM to include the information in Cessna Temporary FAA Approved Airplane Flight Manual Change 68FM TC–R09–13, dated October 15, 2010, and remove the temporary changes (TCs) identified in paragraphs (h)(1)(i) through (h)(1)(iv) of this AD. Cessna Temporary FAA Approved Airplane Flight Manual Change 68FM TC–R09–13, dated October 15, 2010, introduces procedures to use when the left or right generator is selected OFF. Operate the airplane according to the procedures in Cessna Temporary FAA Approved Airplane Flight Manual Change 68FM TC–R09–13, dated October 15, 2010.

(i) Cessna Temporary FAA Approved Airplane Flight Manual Change 68FM TC–R09–09, dated October 15, 2010.

(ii) Cessna Temporary FAA Approved Airplane Flight Manual Change 68FM TC–R09–10, dated October 15, 2010.

(iii) Cessna Temporary FAA Approved Airplane Flight Manual Change 68FM TC–R09–11, dated October 15, 2010.

(iv) Cessna Temporary FAA Approved Airplane Flight Manual Change 68FM TC–R09–12, dated October 15, 2010.

Note 1 to paragraph (h)(1) of this AD: Updating Cessna 680 Citation Sovereign AFM, Revision 9, dated May 24, 2010, may be done by inserting a copy of Cessna Temporary FAA Approved Airplane Flight Manual Change 68FM TC–R09–13, dated October 15, 2010, into the AFM. Cessna Temporary FAA Approved Airplane Flight Manual Change 68FM TC–R09–13, dated October 15, 2010, should be removed and discarded when Revision 10, dated June 30, 2011, has been collated into the basic airplane flight manual.

(2) For airplanes using the Cessna 680 Citation Sovereign AFM, Revision 10, dated June 30, 2011: Revise the Cessna 680 Citation Sovereign AFM, Revision 10, dated June 30, 2011, by removing the TCs identified in paragraphs (h)(2)(i) through (h)(2)(iii) of this AD.

(i) Cessna Temporary FAA Approved Airplane Flight Manual Change 68FM TC–R10–01, dated June 30, 2011.

(ii) Cessna Temporary FAA Approved Airplane Flight Manual Change 68FM TC–R10–02, dated June 30, 2011.

(iii) Cessna Temporary FAA Approved Airplane Flight Manual Change 68FM TC–R10–03, dated June 30, 2011.

(i) Credit for Previous Actions

This paragraph provides credit for the installation required by paragraph (g) of this AD, if the installation was performed before the effective date of this AD using Cessna Service Bulletin SB680–24–11, dated December 16, 2010.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Wichita Aircraft Certification Office (ACO), ACE–115W, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(k) Related Information

For more information about this AD, contact Nhien Hoang, Aerospace Engineer, Electrical Systems and Avionics Branch, ACE–119W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; phone: (316) 946–4190; fax: (316) 946–4107; email: *nhien.hoang@faa.gov*.

(l) Material Incorporated by Reference

(1) You must use the following service information to do the actions required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference (IBR) of the following service information under 5 U.S.C. 552(a) and 1 CFR part 51:

(i) Cessna Service Bulletin SB680–24–11, Revision 1, dated November 15, 2011.

(ii) Cessna Temporary FAA Approved Airplane Flight Manual Change 68FM TC–R09–13, dated October 15, 2010, to the Cessna 680 Citation Sovereign Airplane Flight Manual, Revision 9, dated May 24, 2010.

(2) For service information identified in this AD, contact Cessna Aircraft Co., P.O. Box 7706, Wichita, Kansas 67277; telephone 316–517–6215; fax 316–517–5802; email *citationpubs@cessna.textron.com;* Internet *https://www.cessnasupport.com/newlogin.html.*

(3) You may review copies of the service information at the FAA, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call (425) 227–1221.

(4) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this of this material at an NARA facility, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on March 22, 2012.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–7853 Filed 4–9–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0303; Directorate Identifier 2010–NM–214–AD; Amendment 39–16939; AD 2012–02–16]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding an existing airworthiness directive (AD) for all The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes. That AD currently requires an inspection of the No. 2 and No. 3 windows on the left and right sides of the airplane to determine their part numbers, related investigative and corrective actions if necessary, and repetitive inspections of single pane windows. This new AD requires installing dual pane No. 2 and No. 3 windows. This new AD also removes certain airplanes from the applicability. This AD was prompted by loss of a No. 3 window in flight, which could result in consequent rapid loss of cabin pressure. Loss of the window could also result in crew communication difficulties or incapacitation of the crew. We are issuing this AD to correct the unsafe condition on these products.

DATES: This AD is effective May 15, 2012.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of May 15, 2012.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in the AD as of September 4, 2007 (72 FR 41438, July 30, 2007; as corrected by 72 FR 53923, September 21, 2007).

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; phone: 206–544–5000, extension 1; fax: 206–766–5680; email: *me.boecom@boeing.com;* Internet: *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of

this material at the FAA, call 425–227–1221.

Examining the AD Docket

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

Nathan P. Weigand, Aerospace Engineer, Airframe Branch, ANM–120S, Seattle Aircraft Certification Office (ACO), FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–917–6428; fax: 425–917–6590; email: *Nathan.P.Weigand@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2007–15–10, Amendment 39–15139 (72 FR 41438, July 30, 2007; as corrected by 72 FR 53923, September 21, 2007). That AD applies to the specified products. The NPRM was published in the **Federal Register** on April 7, 2011 (76 FR 19278). That NPRM proposed to continue to require certain requirements of AD 2007–15–10, and proposed to require installing dual pane No. 2 and No. 3 windows. That NPRM also proposed to prohibit installed dual structural glass pane windows from being replaced with single structural glass pane windows and to add a definition of ''non-clear damage,'' which the Accomplishment Instructions of Boeing Service Bulletin 747–56A2012, Revision 1, dated August 12, 2010, use as criteria for window replacement. Additionally, that NPRM also proposed removing airplanes having line numbers 1418 and on from the applicability.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal and the FAA's response to each comment.

Support for the NPRM (76 FR 19278, April 7, 2011)

British Airways Engineering (British Airways) stated that it supports the intent of the NPRM (76 FR 19278, April 7, 2011) to replace glass number 2 and 3 windows with dual structural ply windows.

Request To Add an Airplane System To Alert the Air Traffic Control Tower When the Tower Is Unresponsive

An anonymous commenter requested that we change the NPRM (76 FR 19278, April 7, 2011) to add a system in the airplane to sound an alarm in the air traffic control tower when the tower fails to respond. The change is requested due to a concern of sleeping air traffic controllers.

We disagree with the request. The suggested change would alter the actions currently required by this AD, so additional rulemaking would be required. We find that delaying this action would be inappropriate in light of the identified unsafe condition. We have not changed this final rule regarding this issue.

Request To Add a Statement in the NPRM (76 FR 19278, April 7, 2011) That Acrylic Windows Are Unaffected

United Airlines (United) requested we add a statement to the NPRM (76 FR 19278, April 7, 2011) indicating that not all acrylic windows are affected by this NPRM, or the six-year threshold for replacing the windows does not apply if an all-acrylic window is installed. Additionally, United requested clarification as to whether an alternative method of compliance (AMOC) is required if an installed new window specified by the NPRM is replaced by an all-acrylic window, or if this is an acceptable procedure. As justification for its request, United stated that Boeing Service Bulletin 747–56A2012, Revision 1, dated August 12, 2010, which was referenced in the NPRM as the appropriate source of service information for window replacement, states that if the window is replaced with an all-acrylic window such as part number (P/N) 65B07639–( ) or P/N 65B07640–( ), no more work is necessary.

We partially agree. Certain acrylic windows provide an equivalent level of safety as compared to the dual pane windows. We have changed paragraph (i) of this AD to include Boeing-supplied acrylic windows having P/N 65B07639–( ) and P/N 65B07640–( ) as allowable replacements for the discrepant windows. The FAA has found these windows provide an equivalent level of safety. Any other windows will need to be evaluated on a case-by-case basis, and any operator may request approval of an AMOC to use these windows as replacements under the provisions of paragraph (l) of this AD. Sufficient data must be submitted to substantiate that the window would provide an acceptable level of safety.

We disagree with adding a statement to the NPRM (76 FR 19278, April 7, 2011) regarding the six-year threshold. This is already addressed in table 1 of Paragraph 1.E., ''Compliance,'' in Boeing Alert Service Bulletin 747–56A2012, dated August 24, 2006, and Boeing Alert Service Bulletin 747–56A2012, Revision 1, dated August 12, 2010, which state that no further action is required if acrylic window part numbers are found. We have not changed the AD in this regard.

Request To Change Window Replacement Compliance Times

Japan Airlines requested a compliance time exception be added to paragraph (i) of the NPRM (76 FR 19278, April 7, 2011) that would allow replacement of single pane windows with dual pane windows within 22,000 flight hours, in addition to the compliance time of within 6 years after the effective date of the AD. We infer that Japan Airlines requests that the compliance time for single pane window replacement be changed to within 22,000 flight hours after new P/N 65B27042–( ) or P/N 65B27046–( ) windows were installed or within 6 years after the effective date of the AD, whichever occurs later. Japan Airlines stated its justification for this change with three reasons. First, during the repetitive inspections, it is almost impossible to detect and correct the moisture ingression into the window, which can contribute to interlayer cracks. Therefore, there are no significant issues that could result in loss of the window. The second reason is the economic impact. The parts price of dual structural glass pane windows is almost twice that of single pane windows. The third reason is that the operational history of the dual pane windows is unknown, and it will be difficult to know how durable the dual pane windows will be compared to the existing single pane windows.

We disagree with changing the compliance time. We concur with the manufacturer's compliance time stated in Boeing Service Bulletin 747–56A2012, Revision 1, dated August 12, 2010, for dual pane window replacement. Fleet data do not support the existence of difficulties with inspection for moisture ingression. Once

we issue this AD, any operator may request approval of an AMOC for a change of compliance time under the provisions of paragraph (l) of this AD. Sufficient data must be submitted to substantiate that the compliance time change would provide an acceptable level of safety. We have not changed the AD in this regard.

We acknowledge the costs of the modification. However, to reduce the reliance on long-term inspections, the modification is necessary to meet an acceptable level of safety. We have not changed the AD in this regard.

Support for the NPRM (76 FR 19278, April 7, 2011) and a Request To Exempt Certain Windows From the NPRM

British Airways requested that the NPRM (76 FR 19278, April 7, 2011) be revised to exempt windows produced by GKN under European Aviation Safety Agency (EASA) Supplemental Type Certificate (STC) EASA.A.S02838 from the six-year window replacement action specified in paragraph (i) of the NPRM. British Airways also recommended that no replacement timescale be applied to these EASA-approved parts and to allow replacement by attrition. British Airways justified its request by stating that these GKN windows were developed to replace the discrepant windows that the NPRM proposed to replace. British Airways stated that the GKN windows have the problematic PVB or PU/PVB interlayers removed, and have had zero removals since 2007 due to failing the inspection standards specified in Boeing Service Bulletin 747–56A2012, Revision 1, dated August 12, 2010. British Airways also stated that in over 15 years of experience with GKN windows, the interlayer has not exhibited cracking at the hot and cold temperatures experienced by the windows under service conditions. British Airways identified certain part numbers of the EASA-approved GKN windows and the corresponding Boeing part numbers to provide assistance to the FAA.

We disagree with exempting windows produced by GKN from replacement. British Airways has provided useful data in support of its request. However, we need additional information to exempt these windows from the AD. Once we issue this AD, any operator may request approval of an AMOC for GKN window substitution under the provisions of paragraph (l) of this AD. Sufficient data must be submitted to substantiate that the GKN windows would provide an acceptable level of safety. We have not changed the AD in this regard.

Request To Clarify Certain Wording in NPRM (76 FR 19278, April 7, 2011)

The Boeing Company requested that we clarify certain statements in the NPRM (76 FR 19278, April 7, 2011) by changing the wording in paragraph (i) of the NPRM from ''Part 3—Window Replacement'' to ''Work Instructions, Part 3—Window Replacement;'' and the wording in paragraph (j) of the NPRM from ''Part 2 of the Work Instructions of'' to ''Work Instructions, Part 2—Window Inspection.''

We agree to revise the references for consistency. We have changed the wording in paragraph (i) and paragraph (j) of this AD.

Explanation of Additional Changes Made to This AD

We have revised certain paragraph headers throughout this AD.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (76 FR 19278, April 7, 2011) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (76 FR 19278, April 7, 2011).

We also determined that these changes will not increase the economic burden on any operator or increase the scope of the AD.

Costs of Compliance

We estimate that this AD affects 144 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection to determine window part numbers; retained from existing AD.	4 work-hours × $85 per hour = $340	$0	$340	$48,960
Detailed inspection, if necessary; retained from existing AD.	1 work-hour × $85 per hour = $85	0	85	12,240
Dual pane window replacement; new action	16 work-hours × $85 per hour = $1,360	44,014	45,374	6,533,856

We estimate the following costs to do any necessary replacements that would be required based on the results of the inspection. We have no way of determining the number of aircraft that might need these replacements:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Window replacement	16 work-hours × $85 per hour = $1,360	$44,014	$45,374

Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with

promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that 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 removing airworthiness directive (AD) 2007–15–10, Amendment 39–15139 (72 FR 41438, July 30, 2007; as corrected by 72 FR 53923, September 21, 2007), and adding the following new AD:

2012–02–16 The Boeing Company: Amendment 39–16939; Docket No. FAA–2011–0303; Directorate Identifier 2010–NM–214–AD.

(a) Effective Date

This airworthiness directive (AD) is effective May 15, 2012.

(b) Affected ADs

This AD supersedes AD 2007–15–10, Amendment 39–15139 (72 FR 41438, July 30, 2007; as corrected by 72 FR 53923, September 21, 2007).

(c) Applicability

This AD applies to The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes, certificated in any category, as identified in Boeing Service Bulletin 747–56A2012, Revision 1, dated August 12, 2010.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 56, Windows.

(e) Unsafe Condition

This AD was prompted by loss of a No. 3 window in flight, which could result in consequent rapid loss of cabin pressure. We are issuing this AD to detect and correct cracking in the fail-safe interlayer of certain No. 2 and No. 3 glass windows, which could result in loss of the window and consequent rapid loss of cabin pressure. Loss of the window could also result in crew communication difficulties or incapacitation of the crew.

(f) Compliance

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

(g) Retained Requirements With New Service Information

This paragraph restates the requirements of paragraph (f) of AD 2007–15–10, Amendment 39–15139 (72 FR 41438, July 30, 2007; as corrected by 72 FR 53923, September 21, 2007), with new service information. Inspect the No. 2 and No. 3 windows on the left and right sides of the airplane to determine their part numbers, and do all the applicable related investigative and corrective actions, by accomplishing all of the actions specified in the Accomplishment Instructions of Boeing Alert Service Bulletin 747–56A2012, dated August 24, 2006; or Boeing Service Bulletin 747–56A2012, Revision 1, dated August 12, 2010; except as required by paragraph (j) of this AD; as applicable. Do all of these actions at the compliance times specified in Tables 1, 2, and 3 of paragraph 1.E. of Boeing Alert Service Bulletin 747–56A2012, dated August 24, 2006; or Boeing Service Bulletin 747–56A2012, Revision 1, dated August 12, 2010; as applicable; except as provided by paragraph (h) of this AD. A review of airplane maintenance records is acceptable in lieu of the inspection if the part numbers of the windows can be conclusively determined from that review. Repeat the related investigative and corrective actions thereafter at the interval specified in Table 2 or 3 of paragraph 1.E. of Boeing Alert Service Bulletin 747–56A2012, dated August 24, 2006; or Boeing Service Bulletin 747–56A2012, Revision 1, dated August 12, 2010; except as required by paragraph (h) of this AD, as applicable. As of the effective date of this AD, only Boeing Service Bulletin 747–56A2012, Revision 1, dated August 12, 2010, except as required by (j) of this AD, may be used. Replacing a window in accordance with paragraph (i) of this AD terminates the requirements of this paragraph for that window.

(h) Retained Exception to Compliance Times

This paragraph restates the exceptions to the compliance times specified in paragraph (g) of AD 2007–15–10, Amendment 39–15139 (72 FR 41438, July 30, 2007; as corrected by 72 FR 53923, September 21, 2007). Where Tables 1, 2, and 3 of paragraph 1.E. of Boeing Alert Service Bulletin 747–56A2012, dated August 24, 2006, specify counting the compliance time from ''* * * after the date on this service bulletin,'' this AD requires counting the compliance time from September 4, 2007 (the effective date of AD 2007–15–10, Amendment 39–15139 (72 FR 41438, July 30, 2007; as corrected by 72 FR 53923, September 21, 2007)). After replacing a discrepant window with a new window having part number (P/N) 65B27042–( ), 65B27043–( ), 65B27046–( ), or 65B27047–( ), do the initial detailed inspection required in paragraph (g) of this AD of the new window at the applicable compliance time: (1) Within 5,500 flight hours after installing P/N 65B27042–( ) or 65B27043–( ), or (2) Within 22,000 flight hours after installing P/N 65B27046–( ) or 65B27047–( ).

(i) New Requirements of This AD: Window Replacement

Within 6 years after the effective date of this AD, replace all No. 2 windows having P/N 65B27042–( ) or 65B27046–( ) with windows having P/N 141U4821–( ), 141U4822–( ), or 65B07639–( ); and replace all No. 3 windows having P/N 65B27043–( ) or 65B27047–( ) with windows having P/N 141U4831–( ), 141U4832–( ), or 65B07640–( ), in accordance with ''Work Instructions, Part 3—Window Replacement,'' of the Accomplishment Instructions of Boeing Service Bulletin 747–56A2012, Revision 1, dated August 12, 2010. Doing this replacement for all windows terminates the actions required by paragraphs (g) and (h) of this AD.

(j) New Requirements of This AD: Non-Clear Damage Definition and Action

Where Step 4.e., ''Work Instructions, Part 2—Window Inspection,'' of the Accomplishment Instructions in Boeing Service Bulletin 747–56A2012, Revision 1, dated August 12, 2010, specifies ''non-clear damage'' as a criterion for window replacement, this AD defines non-clear damage to be any degradation of the transparency of the window, which would hinder the internal or external detailed inspections for fail-safe interlayer cracks, glass pane cracks and chips, and indications of electrical arcing. Replacement for non-clear damage is required by this AD only if the non-clear damage hinders the inspection for fail-safe interlayer cracks, glass pane cracks and chips, or indications of electrical arcing.

(k) Parts Installation

As of the effective date of this AD, do not install any No. 2 or No. 3 window having P/N 65B27042–( ), 65B27043–( ), 65B27046–( ), or 65B27047–( ) that is not new or on which the window flight hours are not known, on any airplanes, unless the actions specified in paragraph (g) of this AD are done.

(l) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane and the approval must specifically refer to this AD.

(4) AMOCs previously approved in accordance with AD 2007–15–10, Amendment 39–15139 (72 FR 41438, July 30, 2007; as corrected by 72 FR 53923, September 21, 2007), are approved as AMOCs for the corresponding provisions of this AD except previous AMOCs approving window replacement that do not specify installing dual structural glass pane windows are not considered approved for corresponding inspection methods required by this AD.

(m) Related Information

For more information about this AD, contact Nathan P. Weigand, Aerospace Engineer, Airframe Branch, ANM–120S, Seattle Aircraft Certification Office (ACO), FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–917–6428; fax: 425–917–6590; email: *Nathan.P.Weigand@faa.gov.*

(n) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use the following service information to do the actions required by this AD, unless the AD specifies otherwise.

(3) The following service information was approved for IBR on May 15, 2012.

(i) Boeing Service Bulletin 747–56A2012, Revision 1, dated August 12, 2010.

(4) The following service information was approved for IBR on September 4, 2007 (72 FR 41438, July 30, 2007; as corrected by 72 FR 53923, September 21, 2007).

(i) Boeing Alert Service Bulletin 747–56A2012, dated August 24, 2006.

(5) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; phone: 206–544–5000, extension 1; fax: 206–766–5680; email: *me.boecom@boeing.com;* Internet: *https://www.myboeingfleet.com.*

(6) You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

(7) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at an NARA facility, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on January 23, 2012.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–8452 Filed 4–9–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0915; Directorate Identifier 2011–NM–020–AD; Amendment 39–17013; AD 2012–07–07]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all The Boeing Company Model 747 airplanes. This AD was prompted by reports of fractured latch pins found in service; investigation revealed that the cracking and subsequent fracture were initiated by fatigue and propagated by a combination of fatigue and stress corrosion. This AD requires repetitive general visual inspections for broken or missing latch pins of the lower sills of the forward and aft lower lobe cargo doors; repetitive detailed inspections for cracking of the latch pins; and corrective actions if necessary. We are issuing this AD to detect and correct fractured or broken latch pins, which could result in a forward or aft lower lobe cargo door opening and detaching during flight, and consequent rapid decompression of the airplane.

DATES: This AD is effective May 15, 2012.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of May 15, 2012.

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; email *me.boecom@boeing.com*; Internet *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this 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: Nathan Weigand, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: (425) 917–6428; fax: (425) 917–6590; email: *nathan.p.weigand@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

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 was published in the **Federal Register** on September 1, 2011 (76 FR 54405). That NPRM proposed to require repetitive general visual inspections for broken or missing latch pins of the lower sills of the forward and aft lower lobe cargo doors; repetitive detailed inspections for cracking of the latch pins; and corrective actions if necessary.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal and the FAA's response to each comment.

Request to Withdraw the NPRM (76 FR 54405, September 1, 2011)

United Parcel Service (UPS) asked that we withdraw the NPRM (76 FR 54405, September 1, 2011). UPS stated that there is a lack of justification for issuing the NPRM and added that it is being issued based on a report of a fatigue crack in the 17–4PH material latch pins of the lower cargo door, and the assumption that adjacent latch pins could also be affected. UPS noted that the latching structures of the lower forward and aft cargo door each include eight latch pins; those latch pins are part of a fail-safe design, which should preclude critical failure with the failure of one element. UPS added that the Model 747–400 maintenance planning document includes a detailed inspection of the latch mechanism of the lower cargo door, which includes the latch pins, at 2 year or 2,000 flight cycle intervals, whichever occurs first. UPS noted that the NPRM would require repetitive inspections at 1,600-flight-cycle intervals—a modest increase in frequency over the existing maintenance program—which has already been proven successful at detecting damage to adjacent latch pins. UPS concluded that, based on the extensive fleet history of the latch pins of these lower cargo doors, with no reports of adjacent pin failures, the existing maintenance program inspections of the latch pins are adequate.

We do not agree with the commenter's request to withdraw the NPRM (76 FR 54405, September 1, 2011). Although the commenter has not experienced pin failure in service, the manufacturer has found pin fatigue failure on another airplane of the same type design. Therefore, we find we must issue this AD to address the identified unsafe condition on the entire fleet.

The inspections identified in the maintenance planning document are general visual inspections of the entire door. The inspections required by this final rule include detailed inspections of the latch pins themselves. These detailed inspections are the result of the pin fracturing in service. The fractured pin was the number eight latch pin on the lower sill of the aft lower lobe cargo door; investigation by the manufacturer revealed that the crack initiated due to fatigue, and propagated by a combination of fatigue and stress corrosion. If the latch pins on the lower sill are not regularly inspected, and broken latch pins are not replaced, the forward and/or aft cargo door could open during service, resulting in loss of the cargo door, rapid decompression, and significant damage to the airplane. No change to the AD is necessary in this regard.

Request To Clarify Language in Relevant Service Information Section

Boeing asked that the description specified in the ''Relevant Service Information'' section of the NPRM (76 FR 54405, September 1, 2011) be changed as follows: ''The service bulletin describes procedures for repetitive detail inspections of latch pins for broken or missing latch pins of the lower sills of the forward and aft lower lobe cargo doors; repetitive detailed inspections of the replaced latch pins for cracked, broken or missing latch pins; and corrective actions if necessary.'' Boeing stated that Boeing Alert Service Bulletin 747–53A2835, dated October 28, 2010, necessitates that a detailed inspection be done on all pins (including previously replaced pins). Boeing added that the detailed inspection is for cracks, and the general visual inspection is to look for the broken and missing pins. Boeing notes that paragraph (g) of the NPRM provides the correct description of the inspections specified in the service bulletin.

We acknowledge the commenter's concern and agree that the language could be clarified somewhat; however, since that section of the preamble does not reappear in the final rule, no change to this AD is necessary in this regard.

Request To Include Revision 1 of the Referenced Service Bulletin

Boeing also asked that Boeing Alert Service Bulletin 747–53A2835, Revision 1, dated December 8, 2011, be included in the NPRM (76 FR 54405, September 1, 2011) for accomplishing certain actions. Boeing Alert Service Bulletin 747–53A2835, dated October 28, 2010, was referred to as the appropriate source of service information for accomplishing the actions specified in the NPRM. Boeing added that Boeing Alert Service Bulletin 747–53A2835, Revision 1, dated December 8, 2011, is scheduled for FAA-approval, and includes a latch pin modification and post-modification inspection to address the safety issue.

We have reviewed Boeing Alert Service Bulletin 747–53A2835, Revision 1, dated December 8, 2011, and agree to include it in this final rule as an additional source of service information. Boeing Alert Service Bulletin 747–53A2835, Revision 1, dated December 8, 2011, reduces an existing compliance time, adds a latch pin modification, and repetitive post-modification inspections. We are including the actions in Boeing Alert Service Bulletin 747–53A2835, Revision 1, dated December 8, 2011, as optional in order to avoid delaying issuance of the AD. We have revised paragraph (g) of this AD accordingly. We are currently considering additional rulemaking to require the modification and post-modification inspections.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously—and minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (76 FR 54405, September 1, 2011) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (76 FR 54405, September 1, 2011).

We also determined that these changes will not increase the economic burden on any operator or increase the scope of the AD.

Costs of Compliance

We estimate that this AD affects 228 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	3 work-hours × $85 per hour = $255 per inspection cycle.	$0	$255 per inspection cycle	$58,140 per inspection cycle.

We estimate the following costs to do any necessary replacements/modifications that would be required based on the results of the required inspection. We have no way of determining the number of aircraft that might need these actions:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement of latch pins	8 work-hours × $85 per hour = $680	$0	$680
Modification of latch fittings	36 hours × $85 per work-hours = $3,060	0	3,060

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):

2012–07–07 The Boeing Company: Amendment 39–17013; Docket No. FAA–2011–0915; Directorate Identifier 2011–NM–020–AD.

(a) Effective Date

This AD is effective May 15, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes; certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 53: Fuselage.

(e) Unsafe Condition

This AD was prompted by reports of fractured latch pins found in service; investigation revealed that the cracking and subsequent fracture were initiated by fatigue and propagated by a combination of fatigue and stress corrosion. We are issuing this AD to detect and correct fractured or broken latch pins, which could result in a forward or aft lower lobe cargo door opening and detaching during flight, and consequent rapid decompression of the airplane.

(f) Compliance

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

(g) Inspections

Before the accumulation of 6,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later: Do a general visual inspection for broken or missing latch pins of the lower sills of the forward and aft lower lobe cargo doors, and a detailed inspection for cracking of the latch pins, in accordance with paragraph 3.B., ''Work Instructions,'' of Boeing Alert Service Bulletin 747–53A2835, dated October 28, 2010; or Boeing Alert Service Bulletin 747–53A2835, Revision 1, dated December 8, 2011. Repeat the inspections thereafter at the applicable intervals specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2835, dated October 28, 2010; or Boeing Alert Service Bulletin 747–53A2835, Revision 1, dated December 8, 2011. Before further flight, do all applicable corrective actions, in accordance with paragraph 3.B., ''Work Instructions,'' of Boeing Alert Service Bulletin 747–53A2835, dated October 28, 2010; or Boeing Alert Service Bulletin 747–53A2835, Revision 1, dated December 8, 2011.

(h) Special Flight Permits

Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the airplane can be modified (if the operator elects to do so), provided the cabin is not pressurized.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov*.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes ODA that has been authorized by the Manager, Seattle

ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane.

(j) Related Information

For more information about this AD, contact Nathan Weigand, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: (425) 917–6428; fax: (425) 917–6590; email: *nathan.p.weigand@faa.gov*.

(k) Material Incorporated by Reference

You must use the following service information to do the actions required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference (IBR) under 5 U.S.C. 552(a) and 1 CFR part 51 of the following service information.

(1) Boeing Alert Service Bulletin 747–53A2835, dated October 28, 2010.

(2) Boeing Alert Service Bulletin 747–53A2835, Revision 1, dated December 8, 2011.

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; email *me.boecom@boeing.com;* Internet *https://www.myboeingfleet.com.*

(4) You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

(5) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on March 28, 2012.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–8232 Filed 4–9–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0025; Directorate Identifier 2010–NM–208–AD; Amendment 39–17012; AD 2012–07–06]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 777 airplanes. This AD was prompted by a new revision to the airworthiness limitations of the maintenance planning document. This AD requires revising the maintenance program to update inspection requirements to detect fatigue cracking of principal structural elements (PSEs). We are issuing this AD to ensure that fatigue cracking of various PSEs is detected and corrected; such fatigue cracking could adversely affect the structural integrity of these airplanes.

DATES: This AD is effective May 15, 2012.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of May 15, 2012.

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; email *me.boecom@boeing.com;* Internet *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this 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: James Sutherland, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–917–6533; fax: (425) 917–6590; email: *James.Sutherland@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

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 January 19, 2011 (76 FR 3054). That NPRM proposed to require revising the maintenance program to update inspection requirements to detect fatigue cracking of principal structural elements (PSEs).

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal (76 FR 3054, January 19, 2011) and the FAA's response to each comment.

Request To Refer to Latest Service Information

Boeing and Japan Airlines (JAL) requested that we revise the NPRM (76 FR 3054, January 19, 2011) to refer to two new revisions of Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' D622W001–9, of the Boeing 777 Maintenance Planning Data (MPD) Document, published after we issued the NPRM. Boeing stated that both revisions contain the same structures airworthiness limitations (AWL) data, but were revised for reasons that did not affect the data in Subsection B, Airworthiness Limitations—Structural Inspections of that document, which was specified in the NPRM.

We agree with the request to refer to the later service information. We have changed this final rule to refer to Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' D622W001–9, Revision July 2011, of the Boeing 777 Maintenance Planning Data (MPD) Document to this AD. (Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' D622W001–9, Revision January 2010, of the Boeing 777 Maintenance Planning Data (MPD) Document was specified in the NPRM (76 FR 3054, January 19, 2011).) (Subsection B, Airworthiness Limitations—Structural Inspections, of Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' D622W001–9, of the Boeing 777 Maintenance Planning Data (MPD) Document is identical to the January 2010 revision.) We have changed paragraph (g) in this final rule accordingly.

Request To Revise Inspection Requirements for Certain Airplanes

JAL requested that, for certain airplanes, we revise paragraph (g) of the NPRM (76 FR 3054, January 19, 2011) to require inspection procedures and intervals as determined by the damage tolerance rating check form, rather than Section 2, Structural Inspection Program, of the Boeing 777 Maintenance Planning Data (MPD) Document. JAL acknowledged that Section 2 of this MPD document usually incorporates recommended inspection procedures and intervals. JAL noted, however, that Section 2 in the latest revision of this MPD document includes data only for Model 777–200 series airplanes. Since no data are provided for the remaining airplanes affected by this AD (Model 777–200LR, –300, –300ER, and 777F series airplanes), JAL requested that those airplanes be excluded from the requirement until the MPD document includes relevant data.

We do not agree that the requested change is necessary, because the information regarding required inspection methods and intervals for these airplanes is provided in Subsection B, Airworthiness Limitations—Structural Inspections, of Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' D622W001–9, Revision July 2011, of the Boeing 777 Maintenance Planning Data (MPD) Document. We have not changed the final rule regarding this issue.

Request To Retain Applicability

Boeing also advised that the revised inspection requirements in Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' D622W001–9, Revision July 2011, of the Boeing 777 Maintenance Planning Data (MPD) Document, affect only Model 777–200, –300, –300ER and –200LR series airplanes. Boeing reported that Section 9 of the Boeing 777F MPD document was previously developed based on the same damage tolerance methods and the same fleet and full-scale test data as those included in Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' D622W001–9, Revision July 2011, of the Boeing 777 Maintenance Planning Data (MPD) Document. Boeing asserted, therefore, that Model 777F series airplanes should be included in the applicability of the NPRM (76 FR 3054, January 19, 2011) regardless of changes made to Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' D622W001–9, Revision July 2011, of the Boeing 777 Maintenance Planning Data (MPD) Document. Including those airplanes will ensure the ability to obtain approval of potential future deviations for repairs or alternative inspections via alternative methods of compliance (AMOCs) (as described in paragraph (j) of this AD). Boeing made this comment in the event another party requested that we remove Model 777F series airplanes from the NPRM.

We acknowledge Boeing's concern, and agree that there is no reason to remove Model 777F series airplanes from the applicability specified in the NPRM (76 FR 3054, January 19, 2011). We have not changed the final rule regarding this issue.

Request To Remove Certain Advisory Circular Reference

Note 2 of the NPRM (76 FR 3054, January 19, 2011) (paragraph (c)(2) of this AD) provided guidance on certain revised operator maintenance documents that include new inspections. Boeing requested that we remove the last sentence of that note, which stated that guidance for the determination can be found in FAA Advisory Circular (AC) 25.1529–1A, dated November 20, 2007 (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgAdvisoryCircular.nsf*). Boeing stated that this AC, as revised, applies only to airplanes below 7,500 pounds gross weight, so this AC no longer applies to Model 777 airplanes.

We agree with Boeing's request and rationale. We have revised paragraph (c) of this AD accordingly.

Request To Allow Additional Alternative Inspections and Intervals

American Airlines (AAL) and Boeing requested that we revise paragraph (h) of the NPRM (76 FR 3054, January 19, 2011), which prohibited alternative inspections or intervals except as specifically approved as AMOCs. To reduce the workload associated with requesting and approving AMOCs, the commenters requested that we include other specified procedures and intervals.

Structurally Significant Items (SSIs) 53–00–I01, –I02, and –I03 define the entire fuselage skin as an SSI, and AAL was concerned that the NPRM (76 FR 3054, January 19, 2011) provided no guidance or information on how to address new and existing repairs. AAL surmised that any external doubler repair (past or future) would conceal a portion of the skin and would need AMOC approval for the inspection, which would be impossible to perform with the repair in place. AAL contended that any repair approved in accordance with section 25.571 of the Federal Aviation Regulations (14 CFR 25.571) or section 26.43(c) of the Federal Aviation Regulations (14 CFR 26.43(c)) has been addressed for fatigue and damage tolerance and would provide the level of safety desired by the NPRM.

Boeing requested that we also allow alternative inspections and intervals specified in a later revision to Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' D622W001–9, of the Boeing 777 Maintenance Planning Data (MPD) Document. Since Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' D622W001–9, of the Boeing 777 Maintenance Planning Data (MPD) Document changes frequently and is FAA approved, no subsequent re-approval should be necessary via AMOC. Boeing also requested that we allow alternative inspections and intervals if certain damage tolerance requirements have been met in accordance with section 25.571(b) of the Federal Aviation Regulations (14 CFR 25.571(b)), or section 26.43(c) of the Federal Aviation Regulations (14 CFR 26.43(c)), or section 26.43(d) of the Federal Aviation Regulations (14 CFR 26.43(d)).

We disagree with the requests. Paragraph (h) in this AD requires compliance with the inspections unless AMOC approval is obtained as specified in paragraph (j) of this AD. Allowing later revisions of service documents in an AD violates Office of the Federal Register regulations for approving materials incorporated by reference. Affected operators may, however, request approval to use a later revision of referenced service information as an alternative method of compliance. In response to AAL's concern, operators must request a method of compliance to address new and existing repairs, under the provisions of paragraph (j) of the final rule. We have not changed the final rule regarding this issue.

Request To Allow Optional Materials

AAL requested that we revise the NPRM (76 FR 3054, January 19, 2011) to allow the optional use of BMS materials (sealants) permitted in Boeing Document D–590, the Boeing 777 Airplane Maintenance Manual, or the Boeing 777 Structural Repair Manual—instead of the specific materials specified in Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' D622W001–9, Revision January 2010, of the Boeing 777 Maintenance Planning

Data (MPD) Document. The use of alternative materials would allow for ready compliance if the current BMS materials were discontinued or improved.

We disagree with the request. The documents referenced by the commenter specify specific procedures to remove the sealant, rather than specific types of sealant. Further, some existing ADs including those related to Special Federal Aviation Regulation No. 88 (''SFAR 88''), Amendment 21–78 and subsequent Amendments 21–82 and 21–83 (67 FR 72830, December 9, 2002), require specific sealants, which may be identified in the BMS specifications, but only certain sealants may be used to comply with SFAR88; operators are limited to the use of sealants approved by other AD actions in areas that overlap with this AD. The application of the sealants and materials in Subsection B, Airworthiness Limitations—Structural Inspections, of Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' D622W001–9, Revision July 2011, of the Boeing 777 Maintenance Planning Data (MPD) Document, is often controlled by other ADs that mandate the use of certain sealants for Subsections D and E (of SFAR88). Operators may request an AMOC to use materials that have been determined to be acceptable for the various ADs applicable to Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' D622W001–9, Revision July 2011, of the Boeing 777 Maintenance Planning Data (MPD) Document. We have not changed the final rule regarding this issue.

Request To Consider Future Boeing Delegated Compliance Organization Delegation

Boeing requested that we revise paragraph (i)(3) of the NPRM (76 FR 3054, January 19, 2011), which provides information about AMOCs for repairs. Boeing requested that we also specify AMOCs for inspection methods, since there may be instances where the operator cannot conduct the inspection method specified in Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' D622W001–9, Revision January 2010, of the Boeing 777 Maintenance Planning Data (MPD) Document, identified in the NPRM. Although authority to approve AMOCs for supplemental inspections of baseline structure may not currently exist for the Boeing Delegated Compliance Organization (BDCO), Boeing suggested that including both repairs and inspections would allow for potential future expansion of delegation.

We disagree with the request. The nondiscretionary basis for this type of delegation has not yet been developed. At present, the FAA must approve tasks that involve discretion, and may delegate only nondiscretionary tasks. In any event, any change to delegation authority in the future will not affect the AD. We have not changed the final rule regarding this issue.

Request To Clarify Allowable Equivalent Procedures

AAL requested clarification of certain procedures. AAL observed the phrase ''refer to,'' used in Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' D622W001–9, Revision January 2010, of the Boeing 777 Maintenance Planning Data (MPD) Document, to specify certain chapters in an AMM. AAL noted that use of this phrase in service bulletins allows operators to use their equivalent procedures. AAL requested that we revise the NPRM (76 FR 3054, January 19, 2011) to state that equivalent procedures are acceptable where the phrase ''refer to'' is used in Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' D622W001–9, Revision July 2011, of the Boeing 777 Maintenance Planning Data (MPD) Document.

We disagree with the request. As the commenter noted, the phrase ''refer to'' is used in both AMMs and Boeing service bulletins. In a service bulletin, use of the phrase ''refer to'' generally means that a determination was made to permit operators' equivalent procedures where applicable, and use of the phrase ''as given in'' or ''in accordance with'' generally means that operators' equivalent procedures are not acceptable. But these definitions do not apply to Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' D622W001–9, Revision July 2011, of the Boeing 777 Maintenance Planning Data (MPD) Document, for which operators' equivalent procedures are not specifically allowed. Under the provisions of paragraph (j) of this final rule, however, we will consider requests for approval to use different procedures, if sufficient data are submitted to substantiate that the procedures would provide an acceptable level of safety. We have not changed the final rule regarding this issue.

Request To Revise Compliance Time for Inspecting Replacement Parts

Boeing requested that we revise paragraph (g) of the NPRM (76 FR 3054, January 19, 2011) to permit the compliance time thresholds to be reset for new replacement parts. Boeing asserted that Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' D622W001–9, Revision July 2011, of the Boeing 777 Maintenance Planning Data (MPD) Document does not explicitly state that the inspection threshold for new parts starts when the part is replaced, and that other existing ADs include terminating action that zero-times certain fastener locations. Boeing made this request to allow operators to take credit for the younger life of those parts.

We agree that this change is necessary to accommodate new replacement parts. We have changed the initial compliance time accordingly in paragraph (g) of this AD.

Request To Revise Compliance Time for Reporting

JAL noted that Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' D622W001–9, Revision July 2011, of the Boeing 777 Maintenance Planning Data (MPD) Document includes a reporting timeframe of 10 days after an inspection finding. JAL reported that these inspections are often accomplished during a heavy maintenance inspection where many inspections are accomplished over many days. Tracking all of the reporting at the time of return to service is easier rather than sending individual events occurring during the maintenance check. JAL therefore requested that the reporting time frames be revised from 10 days after a finding to 10 days after the airplane is returned to service.

We agree with JAL's request and rationale. We have added this reporting provision in paragraph (g) in the final rule. We have also added new paragraph (i) in this final rule to explain the requirements of the Paperwork Reduction Act, which requires agencies to consider the extent of the paperwork burden that will accompany any new rule. And we have reidentified subsequent paragraphs accordingly.

Request To Revise Compliance Time Determination

Boeing noted that FAA Advisory Circular (AC) 120–93, dated November 20, 2007 (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgAdvisoryCircular.nsf*) provides

guidance for addressing damage tolerance inspection requirements for repairs and alterations to certain removable structural components. Boeing requested that we revise the NPRM (76 FR 3054, January 19, 2011) to add a provision to paragraph (g) of the NPRM, allowing FAA AC 120–93 as a means to establish compliance times for rotable parts where the data are not available.

We disagree. That AC provides guidance and an acceptable means for developing the age of removable parts for the purpose of determining compliance times for repairs and alterations. If the actual age, flight hours, and flight cycles are unknown for a part affected by the AD, we would consider the operator's request for an AMOC. This allows Boeing and operators the option to propose methods in detail that use FAA AC 120–93, dated November 20, 2007 (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgAdvisoryCircular.nsf),* for guidance. We have not changed the final rule regarding this issue.

Request To Clarify Certain PSEs

Wang Jian requested clarification of the identity of certain PSEs. Attached to this comment was a copy of a page from the Boeing 777F Structural Repair Manual, which identified primary structure for repair classification. From this page, the commenter observed that the main deck floor panels are identified as PSEs on Model 777F series airplanes, but not on other aircraft such as Model 747–400F series airplanes.

Although the commenter's question concerning the PSE differences between the Model 747 and 777 is not related to the inspections required by this AD, the intent of the question may be explained in more detail in FAA Advisory Circular (AC) 25.1529–1A, dated November 20, 2007 (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgAdvisoryCircular.nsf*). We have not changed the final rule regarding this issue.

Explanation of Additional Changes Made to This AD

We have redesignated Note 1 and Note 2 of the NPRM (76 FR 3054, January 19, 2011) as paragraphs (c)(1) and (c)(2) of this AD respectively. These changes have not changed the intent of this AD.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We also determined that these changes will not increase the economic burden on any operator or increase the scope of the AD.

Costs of Compliance

We estimate that this AD will affect 153 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Maintenance program revision ...	1 work-hour × $85 per hour = $85	$0	$85	$13,005

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):

2012–07–06 The Boeing Company: Amendment 39–17012; Docket No. FAA–2011–0025; Directorate Identifier 2010–NM–208–AD.

(a) Effective Date

This AD is effective May 15, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 777–200, –200LR, –300, –300ER, and 777F series airplanes, certificated in any category, with an original airworthiness certificate or original export certificate of airworthiness issued before September 1, 2010.

(1) Airplanes with an original airworthiness certificate or original export certificate of airworthiness issued on or after September 1, 2010, must already be in compliance with the airworthiness

limitations (AWLs) specified in this AD because those limitations were applicable as part of the airworthiness certification of those airplanes.

(2) This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (j) of this AD. The request should include a description of changes to the required inspections that will ensure the continued damage tolerance of the affected structure.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Codes 27, Flight Controls; 28, Fuel; 32, Landing Gear; 52, Doors; 53, Fuselage; 54, Nacelles/Pylons; 55, Stabilizers; and 57, Wings.

(e) Unsafe Condition

This AD was prompted by a new revision to the airworthiness limitations of the maintenance planning document. We are issuing this AD to ensure that fatigue cracking of various principal structural elements (PSEs) is detected and corrected; such fatigue cracking could adversely affect the structural integrity of these airplanes.

(f) Compliance

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

(g) Revision of Maintenance Program

(1) Within 12 months after the effective date of this AD, revise the maintenance program by incorporating the information in Subsection B, Airworthiness Limitations—Structural Inspections, of Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' D622W001–9, Revision July 2011, of the Boeing 777 Maintenance Planning Data (MPD) Document, except as provided by paragraph (h) of this AD.

(2) The initial compliance time for the inspections is within the applicable times specified in Subsection B, Airworthiness Limitations—Structural Inspections, of Section 9, of ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' D622W001–9, Revision July 2011, of the Boeing 777 Maintenance Planning Data (MPD) Document, or within 18 months after the effective date of this AD, whichever occurs later, or within the applicable time specified in Subsection B, Airworthiness Limitations—Structural Inspections, of Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' D622W001–9, Revision July 2011, of the Boeing 777 Maintenance Planning Data (MPD) Document, from the time of installation for new parts.

(3) Reports specified in Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' D622W001–9, Revision July 2011, of the Boeing 777 Maintenance Planning Data (MPD) Document may be submitted within 10 days after the airplane is returned to service, instead of 10 days after each individual finding as specified in this document.

(h) Alternative Inspections and Inspection Intervals

After accomplishing the actions required by paragraph (g) of this AD, no alternative inspections or inspection intervals may be used unless the alternative inspection or interval is approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j) of this AD.

(i) Paperwork Reduction Act Burden Statement

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/ certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair in the areas affected by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(k) Related Information

For more information about this AD, contact James Sutherland, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle ACO, 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: (425) 917–6533; fax: (425) 917–6590; email: *James.Sutherland@faa.gov.*

(l) Material Incorporated by Reference

(1) You must use the following service information to do the actions required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference (IBR) under 5 U.S.C. 552(a) and 1 CFR part 51 of the following service information:

(i) Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' D622W001–9, Revision July 2011, of the Boeing 777 Maintenance Planning Data (MPD) Document.

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; email *me.boecom@boeing.com;* Internet *https://www.myboeingfleet.com.*

(3) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

(4) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at an NARA facility, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on March 23, 2012.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–8228 Filed 4–9–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2010–1145]

RIN 1625–AA11

Regulated Navigation Area; Pacific Sound Resources and Lockheed Shipyard EPA Superfund Cleanup Sites, Elliott Bay, Seattle, WA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a permanent regulated navigation area (RNA) on a portion of Elliott Bay in Seattle, Washington. The RNA will protect the seabed in portions of the bay that are subject to the U.S. Environmental Protection Agency (EPA)'s Pacific Sound Resources (PSR) and Lockheed Shipyard superfund cleanup remediation efforts. This RNA will prohibit activities that would disturb the seabed, such as anchoring, dragging, trawling, spudding or other activities that involve disrupting the integrity of the sediment caps that cover the superfund sites. It will not affect transit or navigation of the area.

DATES: This rule is effective May 10, 2012.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2010–1145 and are available online by going to *http://www.regulations.gov,* inserting USCG–2010–1145 in the ''Keyword'' box, and then clicking ''Search.'' This material is also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email LT Ian Hanna, Waterways Management Division, Sector Puget Sound, Coast Guard; telephone 206–217–6045, email *SectorPugetSoundWWM@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On August 1, 2011, we published a notice of proposed rulemaking (NPRM) entitled Regulated Navigation Area; Pacific Sound Resources and Lockheed Shipyard EPA Superfund Cleanup Sites, Elliott Bay, WA in the **Federal Register** (76 FR 45738). We received 2 comments on the proposed rule. No one requested a public meeting and a public meeting was not held.

Basis and Purpose

Under the Ports and Waterways Safety Act, the Coast Guard has the authority to establish RNAs in defined water areas that are determined to have hazardous conditions and in which vessel traffic can be regulated in the interest of safety. See 33 U.S.C. 1231 and Department of Homeland Security Delegation No. 0170.1.

This rule is necessary to prevent disturbance of the PSR and Lockheed Shipyard sediment caps. It does so by restricting anchoring, dragging, trawling, spudding or other activities that involve disrupting the integrity of the cap in an RNA around the sediment caps. This RNA is similar to RNAs which protect other caps in the area. Enforcement of this RNA will be managed by Coast Guard Sector Puget Sound assets including Vessel Traffic Service Puget Sound through radar and closed circuit television sensors. The Captain of the Port Puget Sound may also be assisted by other government agencies in the enforcement of this zone.

Background

The PSR superfund site, which is located on the north shore of West Seattle within Elliott Bay, and northwest of the mouth of the Duwamish river, was created by the EPA to cover the remains of the Wyckoff West Seattle Wood Treating Facility. The wood treating facility, which was in operation between 1909 and 1994, was mostly located on a pile-supported facility extending into Elliott Bay. The area was added to the federal Superfund National Priorities List in May 1994. Later that year the entire wood treatment facility was demolished and approximately 4000 cubic yards of highly contaminated soil and process sludge were removed from the site. Construction of a subsurface physical containment barrier was started in 1996 and completed in 1999. The final sediment cap, completed in 2004, is approximately 58-acres which includes approximately 1500 linear feet of shoreline, and intertidal and subtidal areas to depth of about 300 feet.

The Lockheed Shipyard Sediment Operable Unit consists of contaminated near shore sediments within and adjacent to the Lockheed Shipyard on Harbor Island. Harbor Island is located approximately one mile southwest of the Central Business District of Seattle, in King County, Washington, and lies at the mouth of the Duwamish Waterway on the southern edge of Elliott Bay. The Lockheed Shipyard sediments are located on the west side of Harbor Island and face the West Waterway of the Duwamish Waterway. The final site does not protrude a significant distance into the West Duwamish waterway. Lockheed Shipyards acquired the facility in 1959 and conducted shipbuilding operations there until 1986. In April 1997, Lockheed sold the upland property and its legal rights to the submerged portions of the site to the Port of Seattle. The remedy for the contaminated sediments included demolition of 3 piers, three shipways and one finger pier. The piers and shipways primarily consist of timber superstructures supported by approximately 6000 piles. Contaminants found in sediments which were either dredged or capped are arsenic, copper, lead, mercury, zinc, PAHs and PCBs. The metal contaminants were associated with sand blast grit and paint clips.

Remedial actions for both of these sites as established by the EPA include preventing use of large anchors on the cap. This rulemaking is necessary to assist the EPA in that remedial action.

Discussion of Comments and Changes

We received two positive comments in favor of the proposed rule. One commenter simply expressed support for the proposed rule. The second discussed the environmental benefits of creating an RNA that protects the sediment cap as well as supported the points made in our regulatory analysis. There were no changes made to the rule based on these comments.

Regulatory Analyses

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

Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. This expectation is based on the fact that the RNA established by the rule would encompass a small area that should not impact commercial or recreational traffic, and prohibited activities are not routine for the designated areas. There have been no changes to the proposed rule published in **Federal Register** August 1, 2011 (76 FR 45738).

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities.

The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule would affect the following entities, some of which may be small entities: the owners or operators of vessels intending to anchor, dredge, spud, lay cable or disturb the seabed in any fashion when this rule is in effect. The RNA would not have a significant economic impact on small entities due to its minimal restrictive area and the opportunity for a waiver to be granted for any legitimate use of the seabed.

Assistance for Small Entities

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

In preparation for this rulemaking, on October 8, 2010, Sector Puget Sound conducted a tribal consultation with representatives from the Suquamish and Muckleshoot tribes in accordance with Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The group noted that the sediment caps were in the usual and accustomed (U&A) fishing grounds of both tribes. Their main concern was that this RNA would prohibit them from exercising their U&A fishing. The Coast Guard and EPA clarified that nothing in this rulemaking is intended to conflict with these tribes' treaty fishing rights and they are not restricted from any type of fishing in the described areas. As a result of the consultation the Coast Guard added paragraph b.(3) to the regulation. There were no comments to the NPRM concerning tribal implications.

Energy Effects

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

Technical Standards

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

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

Environment

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.1336 to read as follows:

§ 165.1336 Regulated Navigation Area; Pacific Sound Resources and Lockheed Shipyard Superfund Sites, Elliott Bay, Seattle, WA.

(a) *Regulated Areas.* The following areas are regulated navigation areas:

(1) All waters inside an area beginning at a point on the shore at 47°35′ 02.7″ N 122°22′23.00″ W; thence north to 47°35′26.00″ N 122°22′23.00″ W; thence east to 47°35′26.00″ N 122°21′52.50″ W; thence south to 47°35′10.80″ N 122°21′52.50″ W; thence southwest to a point on the shoreline at 47°35′05.9″ N 122°21′58.00″ W. [Datum: NAD 1983].

(2) All waters inside an area beginning at 47°34′ 52.16″ N 122°21′27.11″ W; thence to 47°34′ 53.46″ N 122°21′30.42″ W; thence to 47°34′ 37.92″ N 122°21′30.51″ W; thence to 47°34′ 37.92″ N 122°21′27.65″ W. [Datum: NAD 1983].

(b) *Regulations.* (1) All vessels and persons are prohibited from activities that would disturb the seabed, such as anchoring, dragging, trawling, spudding, or other activities that involve disrupting the integrity of the sediment caps installed in the designated regulated navigation area, pursuant to the remediation efforts of the U.S. Environmental Protection Agency (EPA) and others in the Pacific Sound Resources and Lockheed Shipyard EPA superfund sites. Vessels may otherwise transit or navigate within this area without reservation.

(2) The prohibition described in paragraph (b)(1) of this section does not apply to vessels or persons engaged in activities associated with remediation efforts in the superfund sites, provided that the Captain of the Port, Puget Sound (COTP), is given advance notice of those activities by the EPA.

(3) Nothing in this section is intended to conflict with treaty fishing rights of the Muckleshoot and Suquamish tribes, and they are not restricted from any type of fishing in the described area.

(c) *Waivers.* Upon written request stating the need and proposed conditions of the waiver, and any proposed precautionary measures, the COTP may authorize a waiver from this section if the COTP determines that the activity for which the waiver is sought can take place without undue risk to the remediation efforts described in paragraph (b)(1) of this section. The COTP will consult with EPA in making this determination when necessary and practicable.

Dated: March 25, 2012.

K.A. Taylor,

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

[FR Doc. 2012–8545 Filed 4–9–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2012–0263]

RIN 1625–AA00

Safety Zone, East River, Brooklyn Bridge Scaffolding Repair, Brooklyn, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary Final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the navigable waters of the East River, in the vicinity of the Brooklyn Bridge. This action is necessary to provide for the safety of life and property on the navigable waters during emergency repairs to stabilize and remove the damaged scaffolding under the eastern span of the bridge. This rule is intended to restrict all vessels from a portion of the East River during the repair and removal of the damaged scaffolding.

DATES: This rule is effective from March 27, 2012 until April 30, 2012.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2012–0263 and are available online by going to *http://www.regulations.gov,* inserting USCG–2012–0263 in the ''Keyword'' box, and then clicking ''Search.'' They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or email Lieutenant William George, Coast Guard; telephone (718) 354–4114, email *William.J.George@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because immediate action is necessary to ensure the safety of mariners and vessels intending to transit on the East River in the vicinity of the Brooklyn Bridge where damaged corrugated metal scaffoldings and loosely hanging cables pose a potential hazard to navigation. Temporary repairs of the damaged section of the scaffolding are currently ongoing. The removal of the scaffolding is expected to take approximately three to four weeks. During this period falling debris may pose an imminent danger to the safety of the vessels and their occupants transiting the East River in the vicinity of the Brooklyn Bridge. Therefore, a temporary safety zone to protect transiting mariners and vessels from this hazard is needed immediately.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication because to do otherwise would be contrary to the public interest since immediate action is required to protect mariners and vessels transiting under the bridge while workers conduct emergency repairs and removal of the damaged scaffolding.

Basis and Purpose

The legal basis for this rule is 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

On March 14, 2012 the Coast Guard received a report that a crane barge struck the scaffolding under the eastern span of the Brooklyn Bridge. As a result of the allision the corrugated metal panels that make up the scaffolding structure were damaged and some of the cables that supported the scaffolding were broken and are loosely hanging

approximately 15 feet from the bottom of the bridge, effectively reducing the vertical clearance of the bridge. As a result of the decreased clearance, Vessel Traffic Service New York implemented a temporary measure restricting vessels with an air draft greater than 90 feet from transiting under the Brooklyn Bridge.

During a meeting with New York City Office of Emergency Management the Coast Guard was advised that some of the corrugated metal scaffolding panels that were struck and damaged were not properly secured and may pose a hazard to vessels intending to transit under that portion of the Brooklyn Bridge. The Coast Guard and New York Police Department Harbor Unit began advising vessels to transit around the impacted area. New York City Office of Emergency Management on behalf of the Unified Command requested that the Coast Guard establish a temporary safety zone to restrict vessels from transiting under the eastern portion of the Brooklyn Bridge until emergency temporary repairs and removal of the scaffolding and cables have been completed.

This temporary safety zone is necessary to ensure the safety of vessels and their occupants during the emergency repairs and removal of the scaffolding under the bridge. The Captain of the Port New York (COTP) has determined that establishing a temporary safety zone to restrict vessels from transiting on the East River under the eastern portion of the Brooklyn Bridge where scaffolding are being repaired or removed will help ensure the safety of persons and property and help minimize the associated risks associated with the emergency repair work.

Discussion of Rule

The COTP is establishing a temporary safety zone to ensure the safety of mariners, passengers, and vessels during the emergency repair and removal work necessary to stabilize the damaged scaffolding on the Brooklyn Bridge.

The safety zone will encompass all waters of the East River directly below the scaffolding under the eastern portion of the bridge, from the centerline of the bridge to the tower on the Brooklyn side. The safety zone will encompass the navigable waters within a 270 yards by 50 yards area on the eastern side of the East River directly below the east span of the Brooklyn Bridge. All persons and vessels shall comply with the instructions of the COTP or the designated representative. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the COTP New York or the designated representative. The COTP or the designated representative may be contacted via VHF Channel 16.

Regulatory Analyses

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

Executive Order 12866 and Executive Order 13563

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

This determination is based on the fact that a temporary safety zone will restrict access to a small portion of the navigable waterways of the East River. Vessels will be able to navigate around the safety zone. Furthermore, vessels may be authorized to transit through the temporary safety zone with the permission of the COTP or the designated representative.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The owners and operators of vessels intending to transit or anchor in a small portion of the East River during the effective period.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reason: Vessel traffic can pass safely around the safety zone. Before the effective period, we will issue maritime advisories widely available to users of the waterway.

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T01–0223 to read as follows:

§ 165.T01–0223 Safety Zone; East River, Brooklyn Bridge Scaffolding Repair, Brooklyn, NY.

(a) *Regulated area.* The following area is a temporary safety zone: All waters of the East River within the area bounded by a line drawn from the following approximate position 40°42′14.727″ N, 073°59′41.094″ W; thence west to approximate position 40°42′20.648″ N, 073°59′48.466″ W; thence north to approximate position 40°42′21.672″ N, 073°59′47.050″ W; thence east to approximate position 40°42′15.825″ N, 073°59′39.728″ W; then along the shoreline and back to the point of origin (NAD 83).

(b) *Enforcement period.* This rule is effective from March 27, 2012 until April 30, 2012.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply as well as the following regulations.

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

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

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

(e) Vessel operators desiring to enter or operate within the regulated areas shall contact the COTP or the designated representative via VHF channel 16 or 718–354–4353 (Sector New York Command Center) to obtain permission to do so.

(f) The COTP or the designated representative may delay or terminate this demolition at any time it is deemed necessary to ensure the safety of life or property. All persons and vessels in the regulated area shall comply with the instructions of the COTP New York or the designated representative. Representatives comprise commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of a vessel shall proceed as directed.

Dated: March 27, 2012.

L.L. Fagan,

Rear Admiral, U.S. Coast Guard, Captain of the Port New York.

[FR Doc. 2012–8536 Filed 4–9–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2012–0045]

RIN 1625–AA00

Safety Zones; Annual Events Requiring Safety Zones in the Captain of the Port Lake Michigan Zone

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending its regulation requiring safety zones in the Captain of the Port Lake Michigan zone. This rule will amend, establish, or delete the rules that restrict vessels from portions of water areas during events that pose a hazard to public safety. The safety zones amended or established by this rule are necessary to protect spectators, participants, and vessels from the hazards associated with various maritime events.

DATES: This rule is effective May 10, 2012.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket USCG–2011–0264 and are available online at *www.regulations.gov.* This material is also available for inspection or copying at two locations: 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 and the U.S. Coast Guard Sector Lake Michigan, 2420 South Lincoln Memorial Drive, Milwaukee, WI 53207, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call BM1 Adam Kraft, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI at (414) 747–7148 or email him at *Adam.D.Kraft@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On February 27, 2012, we published a notice of proposed rule making entitled Safety Zones; Annual Events Requiring Safety Zones in the Captain of the Port Lake Michigan Zone in the **Federal Register** (77 FR 11426). We received 0 letters commenting on the proposed rule. No public meeting was requested, and none was held.

Background and Purpose

Currently, 33 CFR 165.929 lists seventy different locations in the Captain of the Port Lake Michigan zone at which safety zones have been permanently established. Each of these seventy safety zones correspond to an annually recurring marine event. During an annual review of 33 CFR 165.929, it was found that the details of two of the annually recurring events have changed. It was also determined that five additional recurring marine events require the implementation of permanent safety zones. Thus, this rule revises the enforcement date and time of two events and adds five recurring events that require safety zones. In addition, this rule revises the organizational structure of 33 CFR 165.929 so that the events will be listed numerically rather than alphabetically. Listing the events numerically is meant to make it easier for the public to identify the annual events requiring safety zones in the Captain of the Port Lake Michigan zone.

Discussion of Comments and Changes

No comments were received regarding this rule.

Discussion of Rule

This rule amends the regulations found in 33 CFR 165.929, Annual Events requiring safety zones in the Captain of the Port Lake Michigan zone. Specifically, this rule revises § 165.929 in its entirety. The revision includes the modification of the name and enforcement period of one safety zone, the modification of the enforcement period of one other safety zone, and the addition of five new safety zones. Each of the existing and newly added safety zones are necessary to protect vessels and people from the hazards associated with various maritime events. Such hazards include obstructions to the navigable channels, explosive dangers associated with various maritime events. Although this rule will remain in effect year round, the safety zones within it will be enforced only immediately before, during, and after each corresponding marine event.

The Captain of the Port Lake Michigan will use all appropriate means to notify the public when the zones in this rule will be enforced. Consistent with 33 CFR 165.7(a), such means of may include, among other things, publication in the **Federal Register** and Broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port will issue a Broadcast Notice to Mariners notifying the public when enforcement of a safety zone in this section is cancelled.

Entry into, transiting, or anchoring within each of the below safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan, or his designated representative. The Captain of the Port or his designated representative may be contacted via VHF Channel 16.

Regulatory Analysis

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

Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zones created by this rule will be relatively small and enforced for a relatively short time. Also, each safety zone is designed to minimize its impact on navigable waters. Furthermore, each safety zone has been designed to allow vessels to transit unrestricted to portions of the waterways not affected by the safety zones. Thus, restrictions on vessel movements within that particular area are expected to be minimal. Under certain conditions, moreover, vessels may still transit through each safety zone when permitted by the Captain of the Port, Sector Lake Michigan. On the whole, the Coast Guard expects insignificant adverse impact to mariners from the activation of these safety zones.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a

significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities. This rule would affect the following entities, some of which might be small entities: The owners and operators of vessels intending to transit or anchor in any one of the below established safety zones while the safety zone is being enforced. These safety zones will not have a significant economic impact on a substantial number of small entities for the following reasons: Each safety zone in this rule will be in effect for only a few hours within any given 24 hour period. Each of the safety zones will be in effect only once per year. Furthermore, these safety zones have been designed to allow traffic to pass safely around each zone. Moreover, vessels will be allowed to pass through each zone at the discretion of the Captain of the Port, Sector Lake Michigan, or his or her designated representative.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195;

33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 165.929 to read as follows:

§ 165.929 Safety Zones; Annual events requiring safety zones in the Captain of the Port Lake Michigan zone.

(a) *Safety Zones.* The following are designated as safety zones:

(1) St. Patrick's Day Fireworks; Manitowoc, WI.

(i) *Location.* All waters of the Manitowoc River and Manitowoc Harbor, near the mouth of the Manitowoc River on the south shore, within the arc of a circle with a 100-foot radius from the fireworks launch site located in position 44°05′30″ N, 087°39′12″ W (NAD 83).

(ii) *Enforcement date and time.* The third Saturday of March; 5:30 p.m. to 7 p.m.

(2) Michigan Aerospace Challenge Sport Rocket Launch; Muskegon, MI.

(i) *Location.* All waters of Muskegon Lake, near the West Michigan Dock and Market Corp facility, within the arc of a circle with a 1500-yard radius from the rocket launch site located in position 43°14′21″ N, 086°15′35″ W (NAD 83).

(ii) *Enforcement date and time.* The last Saturday of April; 8 a.m. to 4 p.m.

(3) Tulip Time Festival Fireworks; Holland, MI.

(i) *Location.* All waters of Lake Macatawa, near Kollen Park, within the arc of a circle with a 1000-foot radius from the fireworks launch site in position 42°47′23″ N, 086°07′22″ W (NAD 83).

(ii) *Enforcement date and time.* The first Friday of May; 7 p.m. to 11 p.m. If the Friday fireworks are cancelled due to inclement weather, then this safety zone will be enforced on the first Saturday of May; 7 p.m. to 11 p.m.

(4) Rockets for Schools Rocket Launch; Sheboygan, WI.

(i) *Location.* All waters of Lake Michigan and Sheboygan Harbor, near the Sheboygan South Pier, within the arc of a circle with a 1500-yard radius from the rocket launch site located with its center in position 43°44′55″ N, 087°41′52″ W (NAD 83).

(ii) *Enforcement date and time.* The first Saturday of May; 8 a.m. to 5 p.m.

(5) Celebrate De Pere; De Pere, WI.

(i) *Location.* All waters of the Fox River, near Voyageur Park, within the arc of a circle with a 500 foot radius from the fireworks launch site located in position 44°27′10″ N, 088°03′50″ W (NAD 83).

(ii) *Enforcement date and time.* The Sunday before Memorial Day; 8:30 p.m. to 10 p.m.

(6) Michigan Super Boat Grand Prix; Michigan City, IN.

(i) *Location.* All waters of Lake Michigan in the vicinity of Michigan City, IN bound by a line drawn from 41°43′42″ N, 086°54′18″ W; then north to 41°43′49″ N, 086°54′31″ W; then east to 41°44′48″ N, 086°51′45″ W; then south to 41°44′42″ N, 086°51′31″ W; then west returning to the point of origin. (NAD 83)

(ii) *Enforcement date and time.* The first Sunday of August; 9 a.m. to 4 p.m.

(7) River Splash; Milwaukee, WI.

(i) *Location.* All waters of the Milwaukee River, near Pere Marquette Park, within the arc of a circle with a 300-foot radius from the fireworks launch site located on a barge in position 43°02′32″ N, 087°54′45″ W (NAD 83).

(ii) *Enforcement date and time.* The first Friday and Saturday of June; 9 p.m. to 11 p.m. each day.

(8) International Bayfest; Green Bay, WI.

(i) *Location.* All waters of the Fox River, near the Western Lime Company 1.13 miles above the head of the Fox River, within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in position 44°31′24″ N, 088°00′42″ W (NAD 83).

(ii) *Enforcement date and time.* The second Friday of June; 9 p.m. to 11 p.m.

(9) Harborfest Music and Family Festival; Racine, WI.

(i) *Location.* All waters of Lake Michigan and Racine Harbor, near the Racine Launch Basin Entrance Light, within the arc of a circle with a 200-foot radius from the fireworks launch site located in position 42°43′43″N, 087°46′40″ W (NAD 83).

(ii) *Enforcement date and time.* Friday and Saturday of the third complete weekend of June; 9 p.m. to 11 p.m. each day.

(10) Spring Lake Heritage Festival Fireworks; Spring Lake, MI.

(i) *Location.* All waters of the Grand River, near buoy 14A, within the arc of a circle with a 500-foot radius from the fireworks launch site located on a barge in position 43°04′24″ N, 086°12′42″ W (NAD 83).

(ii) *Enforcement date and time.* The third Saturday of June; 9 p.m. to 11 p.m.

(11) Elberta Solstice Festival Fireworks; Elberta, MI.

(i) *Location.* All waters of Betsie Bay, near Waterfront Park, within the arc of a circle with a 500-foot radius from the fireworks launch site located in position 44°37′43″ N, 086°14′27″ W (NAD 83).

(ii) *Enforcement date and time.* The last Saturday of June; 9 p.m. to 11 p.m.

(12) Pentwater July Third Fireworks; Pentwater, MI.

(i) *Location.* All waters of Lake Michigan and the Pentwater Channel within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in position 43°46′57″ N, 086°26′38″ W (NAD 83).

(ii) *Enforcement date and time.* July 3; 9 p.m. to 11 p.m. If the July 3 fireworks are cancelled due to inclement weather, then this safety zone will be enforced July 4; 9 p.m. to 11 p.m.

(13) Taste of Chicago Fireworks; Chicago, IL.

(i) *Location.* All waters of Monroe Harbor and all waters of Lake Michigan bounded by a line drawn from 41°53′24″ N, 087°35′59″ W; then east to 41°53′15″ N, 087°35′26″ W; then south to 41°52′49″ N, 087°35′26″ W; then southwest to 41°52′27″ N, 087°36′37″ W; then north to 41°53′15″ N, 087°36′33″ W; then east returning to the point of origin (NAD 83).

(ii) *Enforcement date and time.* July 3; 9 p.m. to 11 p.m. If the July 3 fireworks are cancelled due to inclement weather, then this safety zone will be enforced July 4; 9 p.m. to 11 p.m.

(14) U.S. Bank Fireworks; Milwaukee, WI.

(i) *Location.* All waters and adjacent shoreline of Milwaukee Harbor, in the vicinity of Veteran's park, within the arc of a circle with a 1,200-foot radius from the center of the fireworks launch site which is located on a barge with its approximate position located at 43°02′22″ N, 087°53′29″ W (NAD 83).

(ii) *Enforcement date and time.* July 3; 9 p.m. to 11 p.m. If the July 3 fireworks are cancelled due to inclement weather, then this safety zone will be enforced July 4; 9 p.m. to 11 p.m.

(15) Independence Day Fireworks; Manistee, MI.

(i) *Location.* All waters of Lake Michigan, in the vicinity of the First Street Beach, within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in position 44°14′51″ N, 086°20′46″ W (NAD 83).

(ii) *Enforcement date and time.* July 3; 9 p.m. to 11 p.m. If the July 3 fireworks are cancelled due to inclement weather, then this safety zone will be enforced July 4; 9 p.m. to 11 p.m.

(16) Frankfort Independence Day Fireworks; Frankfort, MI.

(i) *Location.* All waters of Lake Michigan and Frankfort Harbor, bounded by a line drawn from 44°38′05″ N, 086°14′50″ W; then south to 44°37′39″ N, 086°14′50″ W; then west to 44°37′39″ N, 086°15′20″ W; then north to 44°38′05″ N, 086°15′20″ W; then east returning to the point of origin (NAD 83).

(ii) *Enforcement date and time.* July 4; 9 p.m. to 11 p.m. If the July 4 fireworks

are cancelled due to inclement weather, then this safety zone will be enforced July 5; 9 p.m. to 11 p.m.

(17) Freedom Festival Fireworks; Ludington, MI.

(i) *Location.* All waters of Lake Michigan and Ludington Harbor, in the vicinity of the Loomis Street Boat Ramp, within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 43°57′16″ N, 086°27′42″ W (NAD 83).

(ii) *Enforcement date and time.* July 4; 9 p.m. to 11 p.m. If the July 4 fireworks are cancelled due to inclement weather, then this safety zone will be enforced July 5; 9 p.m. to 11 p.m.

(18) White Lake Independence Day Fireworks; Montague, MI.

(i) *Location.* All waters of White Lake, in the vicinity of the Montague boat launch, within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 43°24′33″ N, 086°21′28″ W (NAD 83).

(ii) *Enforcement date and time.* July 4; 9 p.m. to 11 p.m. If the July 4 fireworks are cancelled due to inclement weather, then this safety zone will be enforced July 5; 9 p.m. to 11 p.m.

(19) Muskegon Summer Celebration July Fourth Fireworks; Muskegon, MI.

(i) *Location.* All waters of Muskegon Lake, in the vicinity of Heritage Landing, within the arc of a circle with a 1000-foot radius from a fireworks launch site located on a barge in position 43°14′00″ N, 086°15′50″ W (NAD 83).

(ii) *Enforcement date and time.* July 4; 9 p.m. to 11 p.m. If the July 4 fireworks are cancelled due to inclement weather, then this safety zone will be enforced July 5; 9 p.m. to 11 p.m.

(iii) Impact on Special Anchorage Area regulations: Regulations for that portion of the Muskegon Lake East Special Anchorage Area, as described in 33 CFR 110.81(b), which are overlapped by this regulation, are suspended during this event. The remaining area of the Muskegon Lake East Special Anchorage Area not impacted by this regulation remains available for anchoring during this event.

(20) Grand Haven Jaycees Annual Fourth of July Fireworks; Grand Haven, MI.

(i) *Location.* All waters of The Grand River between longitude 087°14’00’’ W, near The Sag, then west to longitude 087°15’00’’ W, near the west end of the south pier (NAD 83).

(ii) *Enforcement date and time.* July 4; 9 p.m. to 11 p.m. If the July 4 fireworks are cancelled due to inclement weather, then this safety zone will be enforced July 5; 9 p.m. to 11 p.m.

(21) Celebration Freedom Fireworks; Holland, MI.

(i) *Location.* All waters of Lake Macatawa, in the vicinity of Kollen Park, within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 42°47′23″ N, 086°07′22″ W (NAD 83).

(ii) *Enforcement date and time.* July 4, 2007; 9 p.m. to 11 p.m. Thereafter, this section will be enforced the Saturday prior to July 4; 9 p.m. to 11 p.m. If the fireworks are cancelled due to inclement weather, then this safety zone will be enforced the Sunday prior to July 4; 9 p.m. to 11 p.m.

(22) Van Andel Fireworks Show; Holland, MI.

(i) *Location.* All waters of Lake Michigan and the Holland Channel within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 42°46′21″ N, 086°12′48″ W (NAD 83).

(ii) *Enforcement date and time.* July 3; 9 p.m. to 11 p.m. If the July 3 fireworks are cancelled due to inclement weather, then this safety zone will be enforced July 4; 9 p.m. to 11 p.m.

(23) Independence Day Fireworks; Saugatuck, MI.

(i) *Location.* All waters of Kalamazoo Lake within the arc of a circle with a 1000-foot radius from the fireworks launch site in position 42°38′52″ N, 086°12′18″ W (NAD 83).

(ii) *Enforcement date and time.* July 4; 9 p.m. to 11 p.m. If the July 4 fireworks are cancelled due to inclement weather, then this safety zone will be enforced July 5; 9 p.m. to 11 p.m.

(24) South Haven Fourth of July Fireworks; South Haven, MI.

(i) *Location.* All waters of Lake Michigan and the Black River within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 42°24′08″ N, 086°17′03″ W (NAD 83).

(ii) *Enforcement date and time.* July 4; 9 p.m. to 11 p.m. If the July 4 fireworks are cancelled due to inclement weather, then this safety zone will be enforced July 5; 9 p.m. to 11 p.m.

(25) St. Joseph Fourth of July Fireworks; St. Joseph, MI.

(i) *Location.* All waters of Lake Michigan and the St. Joseph River within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 42°06′48″ N, 086°29′5″ W (NAD 83).

(ii) *Enforcement date and time.* July 4; 9 p.m. to 11 p.m. If the July 4 fireworks are cancelled due to inclement weather, then this safety zone will be enforced July 5; 9 p.m. to 11 p.m.

(26) Town of Dune Acres Independence Day Fireworks; Dune Acres, IN.

(i) *Location.* All waters of Lake Michigan within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 41°39′23″ N, 087°04′59″ W (NAD 83).

(ii) *Enforcement date and time.* July 4; 9 p.m. to 11 p.m. If the July 4 fireworks are cancelled due to inclement weather, then this safety zone will be enforced July 5; 9 p.m. to 11 p.m.

(27) Gary Fourth of July Fireworks; Gary, IN.

(i) *Location.* All waters of Lake Michigan, approximately 2.5 miles east of Gary Harbor, within the arc of a circle with a 500-foot radius from the fireworks launch site located in position 41°37′19″ N, 087°14′31″ W (NAD 83).

(ii) *Enforcement date and time.* July 4; 9 p.m. to 11 p.m. If the July 4 fireworks are cancelled due to inclement weather, then this safety zone will be enforced July 5; 9 p.m. to 11 p.m.

(28) Joliet Independence Day Celebration Fireworks; Joliet, IL.

(i) *Location.* All waters of the Des Plains River, at mile 288, within the arc of a circle with a 500-foot radius from the fireworks launch site located in position 41°31′31″ N, 088°05′15″ W (NAD 83).

(ii) *Enforcement date and time.* July 3; 9 p.m. to 11 p.m. If the July 3 fireworks are cancelled due to inclement weather, then this safety zone will be enforced July 4; 9 p.m. to 11 p.m.

(29) Glencoe Fourth of July Celebration Fireworks; Glencoe, IL.

(i) *Location.* All waters of Lake Michigan, in the vicinity of Lake Front Park, within the arc of a circle with a 500-foot radius from the fireworks launch site located in position 42°08′17″ N, 087°44′55″ W (NAD 83).

(ii) *Enforcement date and time.* July 4; 9 p.m. to 11 p.m. If the July 4 fireworks are cancelled due to inclement weather, then this safety zone will be enforced July 5; 9 p.m. to 11 p.m.

(30) Lakeshore Country Club Independence Day Fireworks; Glencoe, IL.

(i) *Location.* All waters of Lake Michigan within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 42°08′27″ N, 087°44′57″ W (NAD 83).

(ii) *Enforcement date and time.* July 4; 9 p.m. to 11 p.m. If the July 4 fireworks are cancelled due to inclement weather, then this safety zone will be enforced July 5; 9 p.m. to 11 p.m.

(31) Shore Acres Country Club Independence Day Fireworks; Lake Bluff, IL.

(i) *Location.* All waters of Lake Michigan, approximately one mile north

of Lake Bluff, IL, within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 42°17′59″ N, 087°50′03″ W (NAD 83).

(ii) *Enforcement date and time.* July 4; 9 p.m. to 11 p.m. If the July 4 fireworks are cancelled due to inclement weather, then this safety zone will be enforced July 5; 9 p.m. to 11 p.m.

(32) Kenosha Independence Day Fireworks; Kenosha, WI.

(i) *Location.* All waters of Lake Michigan and Kenosha Harbor within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 42°35′17″ N, 087°48′27″ W (NAD 83).

(ii) *Enforcement date and time.* July 4; 9 p.m. to 11 p.m. If the July 4 fireworks are cancelled due to inclement weather, then this safety zone will be enforced July 5; 9 p.m. to 11 p.m.

(33) Fourthfest of Greater Racine Fireworks; Racine, WI.

(i) *Location.* All waters of Lake Michigan and Racine Harbor, in the vicinity of North Beach, within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 42°44′17″ N, 087°46′42″ W (NAD 83).

(ii) *Enforcement date and time.* July 4; 9 p.m. to 11 p.m. If the July 4 fireworks are cancelled due to inclement weather, then this safety zone will be enforced July 5; 9 p.m. to 11 p.m.

(34) Sheboygan Fourth of July Celebration Fireworks; Sheboygan, WI.

(i) *Location.* All waters of Lake Michigan and Sheboygan Harbor, in the vicinity of the south pier, within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 43°44′55″ N, 087°41′51″ W (NAD 83).

(ii) *Enforcement date and time.* July 4; 9 p.m. to 11 p.m. If the July 4 fireworks are cancelled due to inclement weather, then this safety zone will be enforced July 5; 9 p.m. to 11 p.m.

(35) Manitowoc Independence Day Fireworks; Manitowoc, WI.

(i) *Location.* All waters of Lake Michigan and Manitowoc Harbor, in the vicinity of south breakwater, within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 44°05′24″ N, 087°38′45″ W (NAD 83).

(ii) *Enforcement date and time.* July 4; 9 p.m. to 11 p.m. If the July 4 fireworks are cancelled due to inclement weather, then this safety zone will be enforced July 5; 9 p.m. to 11 p.m.

(36) Sturgeon Bay Independence Day Fireworks; Sturgeon Bay, WI.

(i) *Location.* All waters of Sturgeon Bay, in the vicinity of Sunset Park, within the arc of a circle with a 1000-foot radius from the fireworks launch site located on a barge in position 44°50′37″ N, 087°23′18″ W (NAD 83).

(ii) *Enforcement date and time.* July 4; 9 p.m. to 11 p.m. If the July 4 fireworks are cancelled due to inclement weather, then this safety zone will be enforced July 5; 9 p.m. to 11 p.m.

(37) Fish Creek Independence Day Fireworks; Fish Creek, WI.

(i) *Location.* All waters of Green Bay, in the vicinity of Fish Creek Harbor, within the arc of a circle with a 1000-foot radius from the fireworks launch site located on a barge in position 45°07′52″ N, 087°14′37″ W (NAD 83).

(ii) *Enforcement date and time.* The first Saturday after July 4; 9 p.m. to 11 p.m.

(38) Celebrate Americafest Fireworks; Green Bay, WI.

(i) *Location.* All waters of the Fox River between the railroad bridge located 1.03 miles above the mouth of the Fox River and the Main Street Bridge located 1.58 miles above the mouth of the Fox River, including all waters of the turning basin east to the mouth of the East River.

(ii) *Enforcement date and time.* July 4; 9 p.m. to 11 p.m. If the July 4 fireworks are cancelled due to inclement weather, then this safety zone will be enforced July 5; 9 p.m. to 11 p.m.

(39) Marinette Fourth of July Celebration Fireworks; Marinette, WI.

(i) *Location.* All waters of the Menominee River, in the vicinity of Stephenson Island, within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 45°06′09″ N, 087°37′39″ W and all waters located between the Highway U.S. 41 bridge and the Hattie Street Dam (NAD 83).

(ii) *Enforcement date and time.* July 4; 9 p.m. to 11 p.m. If the July 4 fireworks are cancelled due to inclement weather, then this safety zone will be enforced July 5; 9 p.m. to 11 p.m.

(40) Evanston Fourth of July Fireworks; Evanston, IL.

(i) *Location.* All waters of Lake Michigan, in the vicinity of Centennial Park Beach, within the arc of a circle with a 500-foot radius from the fireworks launch site located in position 42°02′56″ N, 087°40′21″ W (NAD 83).

(ii) *Enforcement date and time.* July 4; 9 p.m. to 11 p.m. If the July 4 fireworks are cancelled due to inclement weather, then this safety zone will be enforced July 5; 9 p.m. to 11 p.m.

(41) Muskegon Summer Celebration Fireworks; Muskegon,MI.

(i) *Location.* All waters of Muskegon Lake, in the vicinity of Heritage Landing, within the arc of a circle with a 1000-foot radius from a fireworks barge located in position 43°14′00″ N, 086°15′50″ W (NAD 83).

(ii) *Enforcement date and time.* The Sunday following July 4; 9 p.m. to 11 p.m.

(iii) Impact on Special Anchorage Area regulations: Regulations for that portion of the Muskegon Lake East Special Anchorage Area, as described in 33 CFR 110.81(b), which are overlapped by this regulation, are suspended during this event. The remaining area of the Muskegon Lake East Special Anchorage Area is not impacted by this regulation and remains available for anchoring during this event.

(42) Gary Air and Water Show; Gary, IN.

(i) *Location.* All waters of Lake Michigan bounded by a line drawn from 41°37′42″ N, 087°16′38″ W; then east to 41°37′54″ N, 087°14′00″ W; then south to 41°37′30″ N, 087°13′56″ W; then west to 41°37′17″ N, 087°16′36″ W; then north returning to the point of origin (NAD 83).

(ii) *Enforcement date and time.* Friday, Saturday, and Sunday of the second weekend of July; from 10 a.m. to 9 p.m. each day.

(43) Milwaukee Air and Water Show; Milwaukee, WI.

(i) *Location.* All waters and adjacent shoreline of Lake Michigan and Bradford Beach located within a 4000-yard by 1000-yard rectangle. The rectangle will be bounded by the points beginning at points beginning at 43°02′50″ N, 087°52′36″ W; then northeast to 43°04′33″ N, 087°51′12″ W; then northwest to 43°04′40″ N, 087°51′29″ W; then southwest to 43°02′57″ N, 087°52′53″ W; the southeast returning to the point of origin (NAD 83).

(ii) *Enforcement date and time.* Thursday, Friday, Saturday, and Sunday of the first weekend of August; from 10 a.m. to 5 p.m. each day.

(44) Annual Trout Festival Fireworks; Kewaunee, WI.

(i) *Location.* All waters of Kewaunee Harbor and Lake Michigan within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 44°27′29″ N, 087°29′45″ W (NAD 83).

(ii) *Enforcement date and time.* Friday of the second complete weekend of July; 9 p.m. to 11 p.m.

(45) Michigan City Summerfest Fireworks; Michigan City, IN.

(i) *Location.* All waters of Michigan City Harbor and Lake Michigan within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 41°43′42″ N, 086°54′37″ W (NAD 83).

(ii) *Enforcement date and time.* Sunday of the first complete weekend of July; 9 p.m. to 11 p.m.

(46) Port Washington Fish Day Fireworks; Port Washington, WI.

(i) *Location.* All waters of Port Washington Harbor and Lake Michigan, in the vicinity of the WE Energies coal dock, within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 43°23′07″ N, 087°51′54″ W (NAD 83).

(ii) *Enforcement date and time.* The third Saturday of July; 9 p.m. to 11 p.m.

(47) Bay View Lions Club South Shore Frolics Fireworks; Milwaukee, WI.

(i) *Location.* All waters of Milwaukee Harbor and Lake Michigan, in the vicinity of South Shore Park, within the arc of a circle with a 500-foot radius from the fireworks launch site in position 42°59′42″ N, 087°52′52″ W (NAD 83).

(ii) *Enforcement date and time.* Friday, Saturday, and Sunday of the second or third weekend of July; 9 p.m. to 11 p.m. each day.

(48) Venetian Festival Fireworks; St. Joseph, MI.

(i) *Location.* All waters of Lake Michigan and the St. Joseph River, near the east end of the south pier, within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 42°06′48″ N, 086°29′15″ W (NAD 83).

(ii) *Enforcement date and time.* Saturday of the third complete weekend of July; 9 p.m. to 11 p.m.

(49) Joliet Waterway Daze Fireworks; Joliet, IL.

(i) *Location.* All waters of the Des Plaines River, at mile 287.5, within the arc of a circle with a 300-foot radius from the fireworks launch site located in position 41°31′15″ N, 088°05′17″ W (NAD 83).

(ii) *Enforcement date and time.* Friday and Saturday of the third complete weekend of July; 9 p.m. to 11 p.m. each day.

(50) EAA Airventure; Oshkosh, WI.

(i) *Location.* All waters of Lake Winnebago bounded by a line drawn from 43°57′30″ N, 088°30′00″ W; then south to 43°56′56″ N, 088°29′53″ W, then east to 43°56′40″ N, 088°28′40″ W; then north to 43°57′30″ N, 088°28′40″ W; then west returning to the point of origin (NAD 83).

(ii) *Enforcement date and time.* The last complete week of July, beginning Monday and ending Sunday; from 8 a.m. to 8 p.m. each day.

(51) Venetian Night Fireworks; Saugatuck, MI.

(i) *Location.* All waters of Kalamazoo Lake within the arc of a circle with a 500-foot radius from the fireworks launch site located on a barge in position 42°38′52″ N, 086°12′18″ W (NAD 83).

(ii) *Enforcement date and time.* The last Saturday of July; 9 p.m. to 11 p.m.

(52) Roma Lodge Italian Festival Fireworks; Racine, WI.

(i) *Location.* All waters of Lake Michigan and Racine Harbor within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 42°44′04″ N, 087°46′20″ W (NAD 83).

(ii) *Enforcement date and time.* Friday and Saturday of the last complete weekend of July; 9 p.m. to 11 p.m.

(53) Venetian Night Fireworks; Chicago, IL.

(i) *Location.* All waters of Monroe Harbor and all waters of Lake Michigan bounded by a line drawn from 41°53′03″ N, 087°36′36″ W; then east to 41°53′03″ N, 087°36′21″ W; then south to 41°52′27″ N, 087°36′21″ W; then west to 41°52′27″ N, 087°36′37″ W; then north returning to the point of origin (NAD 83).

(ii) *Enforcement date and time.* Saturday of the last weekend of July; 9 p.m. to 11 p.m.

(54) Port Washington Maritime Heritage Festival Fireworks; Port Washington, WI.

(i) *Location.* All waters of Port Washington Harbor and Lake Michigan, in the vicinity of the WE Energies coal dock, within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 43°23′07″ N, 087°51′54″ W (NAD 83).

(ii) *Enforcement date and time.* Saturday of the last complete weekend of July or the second weekend of August; 9 p.m. to 11 p.m.

(55) Grand Haven Coast Guard Festival Fireworks; Grand Haven, MI.

(i) *Location.* All waters of the Grand River between longitude 087°14′00″ W, near The Sag, then west to longitude 087°15′00″ W, near the west end of the south pier (NAD 83).

(ii) *Enforcement date and time.* First weekend of August; 9 p.m. to 11 p.m.

(56) Sturgeon Bay Yacht Club Evening on the Bay Fireworks; Sturgeon Bay, WI.

(i) *Location.* All waters of Sturgeon Bay, in the vicinity of the Sturgeon Bay Yacht Club, within the arc of a circle with a 500-foot radius from the fireworks launch site located on a barge in position 44°49′33″ N, 087°22′26″ W (NAD 83).

(ii) *Enforcement date and time.* The first Saturday of August; 9 p.m. to 11 p.m.

(57) Hammond Marina Venetian Night Fireworks; Hammond, IN.

(i) *Location.* All waters of Hammond Marina and Lake Michigan within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 41°41′53″ N, 087°30′43″ W (NAD 83).

(ii) *Enforcement date and time.* The first Saturday of August; 9 p.m. to 11 p.m.

(58) North Point Marina Venetian Festival Fireworks; Winthrop Harbor, IL.

(i) *Location.* All waters of Lake Michigan within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 42°28′55″ N, 087°47′56″ W (NAD 83).

(ii) *Enforcement date and time.* The second Saturday of August; 9 p.m. to 11 p.m.

(59) Waterfront Festival Fireworks; Menominee, MI.

(i) *Location.* All waters of Green Bay, in the vicinity of Menominee Marina, within the arc of a circle with a 1000-foot radius from a fireworks barge in position 45°06′17″ N, 087°35′48″ W (NAD 83).

(ii) *Enforcement date and time.* Saturday following first Thursday in August; 9 p.m. to 11 p.m.

(60) Ottawa Riverfest Fireworks; Ottawa, IL.

(i) *Location.* All waters of the Illinois River, at mile 239.7, within the arc of a circle with a 300-foot radius from the fireworks launch site located in position 41°20′29″ N, 088°51′20″ W (NAD 83).

(ii) *Enforcement date and time.* The first Sunday of August; 9 p.m. to 11 p.m.

(61) Algoma Shanty Days Fireworks; Algoma, WI.

(i) *Location.* All waters of Lake Michigan and Algoma Harbor within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 44°36′24″ N, 087°25′54″ W (NAD 83).

(ii) *Enforcement date and time.* Sunday of the second complete weekend of August; 9 p.m. to 11 p.m.

(62) New Buffalo Fireworks; New Buffalo, MI.

(i) *Location.* All waters of Lake Michigan and New Buffalo Harbor within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 41°48′09″ N, 086°44′49″ W (NAD 83).

(ii) *Enforcement date and time.* Will be enforced on either July 3rd or July 5th from; 9 p.m. to 11 p.m.

(63) Pentwater Homecoming Fireworks; Pentwater, MI.

(i) *Location.* All waters of Lake Michigan and the Pentwater Channel within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 43°46′56.5″ N, 086°26′38″ W (NAD 83).

(ii) *Enforcement date and time.* Saturday following the second Thursday of August; 9 p.m. to 11 p.m.

(64) Chicago Air and Water Show; Chicago, IL.

(i) *Location.* All waters and adjacent shoreline of Lake Michigan and Chicago Harbor bounded by a line drawn from 41°55′54'' N at the shoreline, then east to 41°55′54″ N, 087°37′12″ W, then southeast to 41°54′00″ N, 087°36′00″ W (NAD 83), then southwestward to the northeast corner of the Jardine Water Filtration Plant, then due west to the shore.

(ii) *Enforcement date and time.* The third Thursday, Friday, Saturday, and Sunday of August; from 9 a.m. to 6 p.m. each day.

(65) Downtown Milwaukee BID 21 Fireworks; Milwaukee, WI.

(i) *Location.* All waters of the Milwaukee River between the Kilbourn Avenue Bridge at 1.7 miles above the Milwaukee Pierhead Light to the State Street Bridge at 1.79 miles above the Milwaukee Pierhead Light.

(ii) *Enforcement date and time.* The third Thursday of November; 6 p.m. to 8 p.m.

(66) New Years Eve Fireworks; Chicago, IL.

(i) *Location.* All waters of Monroe Harbor and Lake Michigan within the arc of a circle with a 1000-foot radius from the fireworks launch site located on a barge in position 41°52′41″ N, 087°36′37″ W (NAD 83).

(ii) *Enforcement date and time.* December 31; 11 p.m. to January 1; 1 a.m.

(67) Cochrane Cup; Blue Island, IL.

(i) *Location.* All waters of the Calumet Saganashkee Channel from the South Halstead Street Bridge at 41°39′27″ N, 087°38′29″ W; to the Crawford Avenue Bridge at 41°39′05″ N, 087°43′08″ W; and the Little Calumet River from the Ashland Avenue Bridge at 41°39′7″ N, 087°39′38″ W; to the junction of the Calumet Saganashkee Channel at 41°39′23″ N, 087°39′00″ W (NAD 83).

(ii) *Enforcement date and time.* The first Saturday of May; 6:30 a.m. to 5 p.m.

(68) World War II Beach Invasion Re-enactment; St. Joseph, MI.

(i) *Location.* All waters of Lake Michigan in the vicinity of Tiscornia Park in St. Joseph, MI beginning at 42°06′55″N, 086°29′23″ W; then west/northwest along the north breakwater to 42°06′59″ N, 086°29′41″ W; the northwest 100 yards to 42°07′01″ N, 086°29′44″ W; then northeast 2,243 yards to 42°07′50″ N, 086°28′43″ W; the southeast to the shoreline at 42°07′39″ N, 086°28′27″ W; then southwest along the shoreline to the point of origin (NAD 83).

(ii) *Enforcement date and time.* The last Saturday of June; 8 a.m. to 2 p.m.

(69) Ephraim Fireworks; Ephraim, WI.

(i) *Location.* All waters of Eagle Harbor and Lake Michigan within the arc of a circle with a 750-foot radius from the fireworks launch site located on a barge in position 45°09′18″ N, 087°10′51″ W (NAD 83).

(ii) *Enforcement date and time.* The third Saturday of June; 9 p.m. to 11 p.m.

(70) Thunder on the Fox; Elgin, IL.

(i) *Location.* All waters of the Fox River, near Elgin, Illinois, between Owasco Avenue, located at approximate position 42°03′06″ N, 088°17′28″ W and the Kimball Street bridge, located at approximate position 42°02′31″ N, 088°17′22″ W (NAD 83).

(ii) *Enforcement date and time.* Friday, Saturday, and Sunday of the third weekend in June; 10 a.m. to 7 p.m. each day.

(71) Olde Ellison Bay Days Fireworks Display, Ellison Bay, Wisconsin.

(i) *Location.* All waters of Lake Michigan, in the vicinity of Ellison Bay Wisconsin, within a 400 foot radius from the fireworks launch site located on a barge in position 45°15′36″ N, 087°05′03″ W (NAD 83).

(ii) *Enforcement date and time.* The fourth Saturday of June; 9 p.m. to 10 p.m.

(72) Town of Porter Fireworks Display, Porter Indiana.

(i) *Location.* All waters of Lake Michigan within the arc of a circle with a 1000 foot radius from the fireworks launch site located in position 41°39′56″ N, 087°03′57″ W (NAD 83).

(ii) *Enforcement date and time.* The first Saturday of July; 8:45 p.m. to 9:30 p.m.

(73) City of Menasha 4th of July Fireworks, Lake Winnebego, Menasha, Wisconsin.

(i) *Location.* All U.S. navigable waters of Lake Michigan and the Fox River within the arc of a circle with an 800 foot radius from the fireworks launch site at position 41°39′56″ N, 087°03′57″ W (NAD 83).

(ii) *Enforcement date and time.* July 4; 9 p.m. to 10:30 p.m.

(74) ISAF Nations Cup Grand Final Fireworks Display, Sheboygan, Wisconsin.

(i) *Location.* All waters of Lake Michigan and Sheboygan Harbor, in the vicinity of the south pier in Sheboygan Wisconsin, within a 500 foot radius from the fireworks launch site located on land in position 43°44′55″ N, 087°41′51″ W (NAD 83).

(ii) *Enforcement date and time.* September 13; 7:45 p.m. to 8:45 p.m.

(75) Magnificent Mile Fireworks Display, Chicago, Illinois.

(i) *Location.* All waters and adjacent shoreline of the Chicago River bounded by the arc of the circle with a 210 foot radius from the fireworks launch site with its center in approximate position of 41°53′21″ N, 087°37′24″ W (NAD 83).

(ii) *Enforcement date and time.* The third weekend in November; sunset to termination of display.

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

(1) *Designated representative* means any Coast Guard commissioned, warrant, or petty officer designated by the Captain of the Port, Sector Lake Michigan, to monitor a safety zone, permit entry into a zone, give legally enforceable orders to persons or vessels within a safety zone, and take other actions authorized by the Captain of the Port, Sector Lake Michigan.

(2) *Public vessel* means a vessel that is owned, chartered, or operated by the United States, or by a State or political subdivision thereof.

(c) *Regulations.*

(1) The general regulations in 33 CFR 165.23 apply.

(2) All persons and vessels must comply with the instructions of the Captain of the Port, Sector Lake Michigan, or his or her designated representative. Upon being hailed by the U.S. Coast Guard by siren, radio, flashing light or other means, the operator of a vessel shall proceed as directed.

(3) All vessels must obtain permission from the Captain of the Port, Sector Lake Michigan, or his or her designated representative to enter, move within or exit a safety zone established in this section when the safety zone is enforced. Vessels and persons granted permission to enter one of the safety zones listed in this section shall obey all lawful orders or directions of the Captain of the Port, Sector Lake Michigan, or his or her designated representative. While within a safety zone, all vessels shall operate at the minimum speed necessary to maintain a safe course.

(d) *Suspension of Enforcement.* If the Captain of the Port, Sector Lake Michigan, suspends enforcement of any of these zones earlier than listed in this section, the Captain of the Port, Sector Lake Michigan, or his or her designated representative will notify the public by suspending the respective Broadcast Notice to Mariners.

(e) *Exemption.* Public vessels, as defined in paragraph (b) of this section, are exempt from the requirements in this section.

(f) *Waiver.* For any vessel, the Captain of the Port, Sector Lake Michigan, or his or her designated representative may waive any of the requirements of this section, upon finding that operational conditions or other circumstances are such that application of this section is unnecessary or impractical for the purposes of safety or environmental safety.

Dated: March 28, 2012.

M.W. Sibley,

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

[FR Doc. 2012–8542 Filed 4–9–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2012–0178]

RIN 1625–AA00

Safety Zone; Volvo Ocean Racing Youth Regatta, Biscayne Bay, Miami, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the waters of Biscayne Bay in Miami, Florida during the Volvo Ocean Racing Youth Regatta. The event is scheduled to take place on Saturday, May 12, 2012 and Sunday, May 13, 2012. The safety zone is necessary for the safety of race participants and the general public during the event. Persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the safety zone unless authorized by the Captain of the Port Miami or a designated representative.

DATES: This rule is effective from 9 a.m. on May 12, 2012 through 4 p.m. on May 13, 2012. This rule will be enforced daily from 9 a.m. until 4 p.m. on May 12, 2012 and May 13, 2012.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2012–0178 and are available online by going to *http://www.regulations.gov,* inserting USCG–2012–0178 in the ''Keyword'' box, and then clicking ''Search.'' They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary final rule, call or email Lieutenant Jennifer S. Makowski, Sector Miami Prevention Department, Coast Guard; telephone (305) 535–8724, email *Jennifer.S.Makowski@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the Coast Guard did not receive necessary information regarding the event until February 16, 2012. As a result, the Coast Guard did not have sufficient time to publish an NPRM and to receive public comments prior to the event. Any delay in the effective date of this rule would be contrary to the public interest because immediate action is needed to minimize potential danger to race participants and the general public.

Basis and Purpose

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

The purpose of the rule is to protect Volvo Ocean Racing Youth Regatta participants and the general public from hazards associated with sailing vessels racing on the navigable waters of the United States.

Discussion of Rule

On May 12, 2012 and May 13, 2012, the Volvo Ocean Race Miami will be hosting the Volvo Ocean Race Youth Regatta in Miami, Florida. The event will consist of 16 to 36 sailing vessels racing in the Port of Miami Turning Basin. No spectator vessels are expected.

The safety zone encompasses certain navigable waters of Biscayne Bay in Miami, Florida. The safety zone will be enforced daily from 9 a.m. until 4 p.m. on May 12, 2012 and May 13, 2012. Persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the safety zone unless authorized by the Captain of the Port Miami or a designated representative. Persons and vessels desiring to enter, transit through, anchor in, or remain within the safety zone may contact the Captain of the Port Miami by telephone at (305) 535–4472, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the safety zone is granted by the Captain of the Port Miami or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Miami or a designated representative. The Coast Guard will provide notice of the safety zone by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

Regulatory Analyses

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

Regulatory Planning and Review

Executive Orders 13563, Improving Regulation and Regulatory Review, and 12866, Regulatory Planning and Review, direct agencies to assess the 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 not been designated a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, the Office of Management and Budget has not reviewed this regulation under Executive Order 12866.

The economic impact of this rule is not significant for the following reasons: (1) The safety zone will be enforced for a total of 14 hours; (2) although persons and vessels will not be able to enter,

transit through, anchor in, or remain within the safety zone without authorization from the Captain of the Port Miami or a designated representative, they may operate in the surrounding area during the enforcement periods; (3) persons and vessels may still enter, transit through, anchor in, or remain within the safety zone if authorized by the Captain of the Port Miami or a designated representative; and (4) the Coast Guard will provide advance notification of the safety zone to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to enter, transit through, anchor in, or remain within that portion of Biscayne Bay encompassed within the safety zone from 9 a.m. on May 12, 2012 through 4 p.m. on May 13, 2012. For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

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

zone that will be enforced for a total of 14 hours. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add a temporary § 165.T07–0178 to read as follows:

§ 165.T07–0178 Safety Zone; Volvo Ocean Racing Youth Regatta, Biscayne Bay, Miami, FL.

(a) *Regulated Area.* The following regulated area is a safety zone. All waters of the Atlantic Ocean in the vicinity of Miami, Florida encompassed within an imaginary line connecting the following points: Starting at Point 1 in position 25°47′12″ N, 80°11′08″ W; thence east to Point 2 in position 25°47′13″ N, 80°10′53″ W; thence south to Point 3 in position 25°46′53″ N, 80°10′53″ W; thence southwest to Point 4 in position 25°46′47″ N, 80°10′56″ W; thence west to Point 5 in position 25°46′49″ N, 80°11′07″ W; thence north to Point 6 in position 25°46′56″ N, 80°11′07″ W; thence west to Point 7 in position 25°46′56″ N, 80°11′20″ W; thence north to Point 8 in position 25°46′59″ N, 80°11′20″ W; thence east to Point 9 in position 25°46′59″ N, 80°11′07″ W; thence north back to origin. All coordinates are North American Datum 1983.

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

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

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Miami by telephone at (305) 535–4472, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port Miami or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Miami or a designated representative.

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

(d) *Effective Date and Enforcement Periods.* This rule is effective from 9 a.m. on May 12, 2012 through 4 p.m. on May 13, 2012. This rule will be enforced daily from 9 a.m. until 4 p.m. on May 12, 2012 and May 13, 2012.

Dated: March 26, 2012.

C.P. Scraba,

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

[FR Doc. 2012–8539 Filed 4–9–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2012–0146]

RIN 1625–AA87

Security Zone; 2012 Fleet Week, Port Everglades, Fort Lauderdale, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone on the waters of Port Everglades in Fort Lauderdale, Florida during 2012 Fleet Week. 2012 Fleet Week will take place from Wednesday, April 25, 2012 through Monday, April 30, 2012. The security zone will encompass the main shipping channel into Port Everglades Harbor and the Intracoastal Waterway through Port Everglades Harbor. The security zone will be enforced while U.S. Navy vessels participating in 2012 Fleet Week transit into and out of Port Everglades. The security zone is necessary to ensure the safety and security of U.S. Navy vessels, the public, and surrounding waterway from terrorist acts, sabotage or other subversive acts, accidents, or other causes of a similar nature. Entering or remaining in this security zone is prohibited unless authorized by the Captain of the Port Miami or a designated representative.

DATES: This rule is effective from 6 a.m. on April 25, 2012 through 1 p.m. on April 30, 2012. This rule will be enforced from 6 a.m. until 1 p.m. on April 25, 2012 and April 30, 2012.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2012–0146 and are available online by going to *http://www.regulations.gov,* inserting USCG–2011–0146 in the ''Keyword'' box, and then clicking ''Search.'' They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary final rule, call or email Lieutenant Jennifer S. Makowski, Sector Miami Prevention Department, Coast Guard; telephone (305) 535–8724, email *Jennifer.S.Makowski@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule. The Coast Guard did not receive necessary information regarding the event with sufficient time to publish an NPRM and to receive public comments in advance of the effective date of the security zone. Any delay in the effective date of this rule would be contrary to the public interest as immediate action is needed to protect U.S. Navy vessels, the public,

and the surrounding waterway from sabotage or other subversive acts, accidents, or other causes of a similar nature.

Basis and Purpose

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

The purpose of the rule is to protect U.S. Navy vessels, the public, and the surrounding waterways from potential terrorist acts, sabotage or other subversive acts, accidents, or other causes of a similar nature.

Discussion of Rule

On April 25, 2012, U.S. Navy vessels will be transiting into Port Everglades in Fort Lauderdale, Florida for 2012 Fleet Week. These vessels will remain in port until April 30, 2012.

33 CFR 165.2025 provides for a 500 yard regulated area of water surrounding U.S. Navy vessels that are greater than 100 feet. This naval vessel protection zone is not sufficient for 2012 Fleet Week due to: (1) The large number and types of U.S. Navy vessels participating in the event; and (2) the anticipated increase of vessel traffic during the event. The temporary security zone encompasses the main shipping channel into Port Everglades Harbor and certain waters of the Intracoastal Waterway in Fort Lauderdale, Florida. The northern boundary of the security zone is the northern extension of the turning basin at the SE. 17th Street Causeway Bridge. The eastern boundary of the security zone is the mouth of Port Everglades Harbor. The southern boundary of the security zone is near berth 29 of Port Everglades Harbor. The western boundary is the westernmost point of all the piers, slips, and turning basins of Port Everglades Harbor. The safety zone will be enforced during the transit of U.S. Navy vessels into and out of Port Everglades for 2012 Fleet Week. The security zone will be enforced from 6 a.m. until 1 p.m. on April 25, 2012 and April 30, 2012. The security zone may cease to be enforced prior to the end of the stated enforcement periods if the U.S. Navy vessels arrive in, or depart from, Port Everglades early.

Persons and vessels are prohibited from entering or remaining in the security zone unless authorized by the Captain of the Port Miami or a designated representative. Persons and vessels desiring to enter or remain in the security zone may contact the Captain of the Port Miami by telephone at (305) 535–4472, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter or remain in the security zone is granted by the Captain of the Port Miami or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Miami or a designated representative. The Coast Guard will provide notice of the security zone by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

Regulatory Analyses

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

Regulatory Planning and Review

Executive Orders 13563, Improving Regulation and Regulatory Review, and 12866, Regulatory Planning and Review, direct agencies to assess the 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 not been designated a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, the Office of Management and Budget has not reviewed this regulation under Executive Order 12866.

The economic impact of this rule is not significant for the following reasons: (1) The security zone will only be enforced for a total of 14 hours; (2) although persons and vessels will not be able to enter or remain in the security zone without authorization from the Captain of the Port Miami or a designated representative, they may operate in the surrounding area during the enforcement periods; (3) persons and vessels may still enter or remain in the security zone if authorized by the Captain of the Port Miami or a designated representative; and (4) the Coast Guard will provide advance notification of the security zone to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to enter or remain within that portion of Port Everglades Harbor encompassed within the security zone from 6 a.m. to 1 p.m. on Wednesday, April 25, 2012 and Monday, April 30, 2012. For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule involves establishing a temporary security zone that will be enforced for a total of 14 hours. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add a temporary § 165.T07–0146 to read as follows:

§ 165.T07–0146 Security Zone; 2012 Fleet Week, Port Everglades, Fort Lauderdale, FL.

(a) *Location.* The following regulated area is a security zone. All waters of Port Everglades Harbor and the Intracoastal Waterway encompassed within an imaginary line connecting the following points: Starting at Point 1 in position 26°06′03″ N, 80°07′07″ W; thence southeast to Point 2 in position 26°05′37″ N, 80°06′18″ W; thence southwest to Point 3 in position 26°04′44″ N, 80°06′52″ W; thence northwest to Point 4 in position 26°05′25″ N, 80°07′27″ W; thence north to Point 5 in position 26°05′43″ N, 80°07′27″ W; thence northeast back to origin. All coordinates are North American Datum 1983.

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

(c) *Regulations.* (1) All persons and vessels are prohibited from entering or remaining in the regulated area unless authorized by the Captain of the Port Miami or a designated representative.

(2) Persons and vessels desiring to enter or remain in the regulated area may contact the Captain of the Port Miami by telephone at (305) 535–4472, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter or remain in the regulated area is granted by the Captain of the Port Miami or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Miami or a designated representative.

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

(d) *Effective Date.* This rule is effective from 6 a.m. on April 25, 2012 until 1 p.m. on April 30, 2012. This rule will be enforced from 6 a.m. until 1 p.m. on April 25, 2012 and April 30, 2012.

Dated: March 20, 2012.

C.P. Scraba,

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

[FR Doc. 2012–8535 Filed 4–9–12; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2011–0963, FRL–9640–3]

Approval and Promulgation of Air Quality Implementation Plans; Colorado; Procedural Rules; Conflicts of Interest

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving Section 1.11 of Colorado's procedural rules as adopted by the Air Quality Control Commission (Commission) on January 16, 1998 and submitted to EPA as a State Implementation Plan (SIP) revision on November 5, 1999. Section 1.11.0 provides for specific requirements regarding the composition of the Commission and disclosure by its members of potential conflicts of interest. We are also approving the remaining portion of Colorado's January 7, 2008 submittal to meet the Infrastructure requirements of section 110(a)(2) of the Clean Air Act (CAA) for the 1997 8-hour ozone National Ambient Air Quality Standards (NAAQS), specifically the portion intended to address the requirements of section 110(a)(2)(E)(ii) of the CAA. The proposed approval appeared in the **Federal Register** on January 4, 2012 (77 FR 235). EPA has determined that the approved revisions in Colorado's submittals are consistent with the CAA. This action is being taken under section 110 of the Clean Air Act.

DATES: *Effective Date:* This final rule is effective May 10, 2012.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2011–0963. All documents in the docket are listed on the *www.regulations.gov* Web site. 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 either electronically through *www.regulations.gov* or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mark Komp, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6022, *komp.mark@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Summary of SIP Revisions
II. Response to Comments
III. Consideration of Section 110(l) of the CAA
IV. Final Action
V. Statutory and Executive Order Reviews

Definitions

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

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

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

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

(iv) The words *State* or Colorado mean the State of Colorado, unless the context indicates otherwise.

(v) The word *Commission* means the Colorado Air Quality Control Commission.

I. Summary of SIP Revisions

Colorado adopted revisions to its procedural rules on January 16, 1998 and submitted part of the revised procedural rules to EPA on November 5, 1999.[1] The revision consisted of wording changes to Section 1.11 of its procedural rules. Colorado's procedural rules govern all procedures and hearings before the Commission and certain procedures and hearings before the Air Pollution Control Division within the Colorado Department of Public Health and Environment. The revisions to the Commission's procedural rules, which were last revised in 1984, were intended to bring the Commission current with all applicable procedural requirements for their official actions. Section 1.11 addresses the requirements of section 128 of the CAA.

Separately, on January 7, 2008, Colorado provided a submittal to meet the requirements of section 110(a)(2) of the CAA for the 1997 8-hour ozone NAAQS. Under section 110(a)(1) of the CAA, within three years of EPA's promulgation of a new or revised standard, states are required to make a submittal, known as an ''infrastructure SIP,'' to meet the requirements of sections 110(a)(1) and (a)(2). Section 110(a)(1) provides the procedural and timing requirements for SIP submissions after a new or revised NAAQS is promulgated. Section 110(a)(2) lists specific elements the SIP must contain or satisfy. These infrastructure elements include requirements, such as modeling, monitoring, and emissions inventories that are designed to assure attainment and maintenance of the NAAQS. EPA approved most of the January 7, 2008 SIP revision on May 18, 2011. However, the remaining portion of section 110(a)(2)(E)(ii) is being approved in this action.

II. Response to Comments

EPA did not receive comments regarding our proposed rule for Colorado's procedural rules.

III. Consideration of Section 110(l) of the CAA

Section 110(l) of the CAA states that a SIP revision cannot be approved if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress toward attainment of the NAAQS or any other applicable requirement of the Act. The Colorado SIP revisions that are approved in this action do not interfere with attainment of the NAAQS or any other applicable requirement of the Act. The revisions do not make substantive changes that relax the stringency of the Colorado SIP; instead, the submittal of Section 1.11 of Colorado's procedural rule meets the requirement of section 128 of the CAA. Therefore, the revisions that are approved in this action satisfy section 110(l) requirements.

IV. Final Action

We are approving Section 1.11 of Colorado's procedural rule as adopted by the Commission on January 16, 1998

[1] Please refer to EPA's proposed action on January 4, 2012 (77 FR 235) for more information concerning this SIP revision.

and submitted to EPA on November 5, 1999, to meet the requirements of section 128 of the CAA. We are also approving of a portion of Colorado's January 7, 2008 submittal to meet the ''infrastructure'' requirements of section 110(a)(2) for the 1997 8-hour ozone NAAQS, specifically the portion intended to address the requirements of section 110(a)(2)(E)(ii) of the CAA.

V. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 11, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: February 14, 2012.

James B. Martin,

Regional Administrator, Region 8.

40 CFR part 52 is amended to read as follows:

PART 52—[AMENDED]

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

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

Subpart G—Colorado

■ 2. Amend § 52.320 by adding paragraph (c)(123) to read as follows:

§ 52.320 Identification of plan.

* * * * *

(c) * * *

(123) Colorado adopted revisions to its procedural rules on January 16, 1998 and submitted part of the revised procedural rules to EPA on November 5, 1999. Colorado's procedural rules govern all procedures and hearings before the Air Quality Control Commission (Commission) and certain procedures and hearings before the Air Pollution Control Division within the Colorado Department of Public Health and Environment. The revision to the Commission's procedural rules was intended to bring the Commission current with all applicable procedural requirements for their official actions. The submitted portion of the revision consisted of changes to Section 1.11.0 of the procedural rules. The section addresses requirements under section 128 of the CAA regarding the composition of the Commission and disclosure by its members of potential conflicts of interest.

(i) Incorporation by reference.

(A) Department of Public Health and Environment, Air Quality Control Commission, Procedural Rules, 5 CCR 1001–1, Section 1.11.0, *State Implementation Plan,* adopted on January 16, 1998 and effective on March 30, 1998.

(ii) [Reserved]

■ 3. Revise § 52.353 to read as follows:

§ 52.353 Section 110(a)(2) infrastructure requirements.

On January 7, 2008, James B. Martin, Executive Director of the Colorado Department of Public Health and Environment for the state of Colorado, submitted a certification letter which provides the state of Colorado's SIP provisions for meeting the requirements

of CAA Section 110(a)(1) and (2) relevant to the 1997 8-hour ozone NAAQS. The State's 1997 Ozone Infrastructure SIP is approved with respect to the requirements of the following elements of section 110(a)(2) of the CAA for the 1997 8-hour ozone NAAQS: (A), (B), (C), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M).

[FR Doc. 2012–8350 Filed 4–9–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2005–CO–0003, FRL–9616–7]

Approval and Promulgation of Air Quality Implementation Plans; Colorado; Revisions to New Source Review Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving those revisions adopted by the State of Colorado on April 16, 2004 to Regulation No. 3 (Stationary Source Permitting and Air Pollutant Emission Notice Requirements) that incorporate EPA's December 31, 2002 NSR Reforms. Colorado submitted the request for approval of these rule revisions into the State Implementation Plan (SIP) on July 11, 2005 and supplemented its request on October 25, 2005. EPA is approving only the portions of Colorado's revisions to Regulation Number 3 that relate to the prevention of significant deterioration (PSD) and non-attainment new source review (NSR) construction permit programs of the State of Colorado. Other revisions, renumberings, additions, or deletions to Regulation No. 3 made by Colorado as part of the April 16, 2004 final rulemaking are being acted on by EPA in a separate final action related to Colorado's Interstate Transport SIP (see proposed action at 76 FR 21835, April 19, 2011). Colorado has a federally approved NSR program for new and modified sources impacting attainment and non-attainment areas in the State. This action is being taken under section 110 of the Clean Air Act (CAA).

DATES: *Effective Date:* This final rule is effective May 10, 2012.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2005–CO–0003. All documents in the docket are listed on the *www.regulations.gov* Web site. 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 either electronically through *www.regulations.gov* or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Scott Jackson, Air Program, U.S. Environmental Protection Agency, Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6107, *jackson.scott@epa.gov.*

SUPPLEMENTARY INFORMATION:

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A. What revisions to the Colorado SIP does this action address?
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III. Final Action
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Definitions

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

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

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

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

(iv) The words *State* or *Colorado* mean the State of Colorado, unless the context indicates otherwise.

I. Background for This Action

On December 7, 2005 (70 FR 72744), EPA published a notice of proposed rulemaking (NPR) for the State of Colorado. The NPR proposed approval of portions of Colorado's revisions to the Stationary Source Permitting and Air Pollutant Emission Notice Requirements (Regulation No. 3) that incorporate EPA's December 31, 2002 NSR Reforms. The State of Colorado submitted the formal SIP revision on July 11, 2005 followed by a supplemental submittal on October 25, 2005. This final action updates the federally approved SIP to reflect changes made by Colorado that were reviewed and deemed approvable into the Colorado SIP (Code of Federal Regulations part 52, subpart G).

On December 31, 2002, EPA published revisions to the federal PSD and non-attainment NSR regulations. These revisions are commonly referred to as ''NSR Reform'' regulations and became effective nationally in areas not covered by a SIP on March 3, 2003. These regulatory revisions included provisions for baseline emissions determinations, actual-to-future actual methodology, plantwide applicability limits (PALs), clean units, and pollution control projects (PCPs). On November 7, 2003, EPA published a reconsideration of the NSR Reform regulations that clarified two provisions in the regulations. On June 24, 2005, the United States Court of Appeals for the District of Columbia Circuit issued its ruling on challenges to the December 2002 NSR Reform revisions. Although the Court upheld most of EPA's rules, it vacated both the Clean Unit and the Pollution Control Project provisions and remanded back to EPA the ''reasonable possibility'' standard for when a source must keep certain project related records.

Colorado's July 11, 2005 submittal and October 25, 2005 supplemental submittal request approval for its regulations to implement the NSR Reform provisions that were not vacated or remanded by the June 24, 2005, court decision.

A. What revisions to the Colorado SIP does this action address?

EPA is approving those revisions adopted by Colorado on April 16, 2004 to Regulation No. 3 (Stationary Source Permitting and Air Pollutant Emission Notice Requirements) that incorporate EPA's December 30, 2002 NSR Reforms (with the exceptions noted in the table below). EPA is also approving revisions Colorado made to Regulation No. 3 prior to the April 16, 2004 final rulemaking that incorporate the revisions EPA made to the federal NSR rules on July 21, 1992 (with the exceptions noted in the table below). These revisions are referred to as the WEPCO rule (for the Wisconsin Electric Power Company court ruling) and added definitions and provisions that have been incorporated into the April 16, 2004 version of Regulation No. 3.

In addition to incorporating the NSR Reforms into the April 16, 2004 Regulation No. 3 revision, Colorado also restructured Regulation No. 3, including adding a new Part D titled *Concerning Major Stationary Source New Source*

Review and Prevention of Significant Deterioration. The new Part D contains most of the NSR/PSD definitions, provisions, and sections that were revised or newly created by the NSR Reform rule. In addition, numerous Regulation No. 3 Part A and Part B NSR/PSD definitions, provisions, and sections not revised by the NSR Reform rule, but already approved into the SIP, have been moved into the new Part D. EPA is approving the revisions to Regulation No. 3 creating the new Part D with the exceptions noted in the table below.

The revisions adopted by Colorado on April 16, 2004 have structured Regulation No. 3 as follows: Part A now contains general provisions applicable to reporting and permitting, Part B addresses construction permits; Part C (not a part of the SIP) includes the operating permit program; and Part D deals with the Nonattainment NSR and PSD programs for major stationary sources. Minor sources will only be subject to Parts A and B; major sources (as defined for the Operating Permit program) are governed by Parts A, B and C. Major stationary sources must comply with Parts A, B, C and D. In particular, this reorganization separated the major stationary source NSR provisions from the construction permit requirements applicable to all sources.

Part A Changes. EPA is approving changes Colorado made to Part A where the NSR Reform rule added or changed specific language used in this Part (as specified in the table below). In addition, EPA is approving changes Colorado made in Part A that moved the provisions applying to major NSR to Part D (as specified in the table below). EPA is not taking action, in this document, on any other revisions, renumberings, additions, or deletions to Part A made by Colorado as part of the April 16, 2004 final rulemaking action. These other changes are being acted on by EPA in a separate final action related to Colorado's Interstate Transport SIP (see proposed action at 76 FR 21835, April 19, 2011) and are noted in the table below.

Part B Changes. EPA is approving only the NSR Reform rule conforming changes Colorado made in Part B, which moved the provisions applying to major NSR to Part D (as specified in the table below). In this document, EPA is not taking action on any other revisions, renumberings, additions, or deletions to Part B made by Colorado as part of the April 16, 2004 final rulemaking action. These other changes are being acted on by EPA in a separate final action related to Colorado's Interstate Transport SIP (see proposed action at 76 FR 21835, April 19, 2011) and are noted in the table below.

Part D Changes. Colorado created Regulation No. 3 Part D in order to make Colorado's air quality program consistent with the EPA NSR Reform rules. The references to NSR requirements in Part D include both the nonattainment NSR and PSD programs. EPA is approving the new Part D except for the specific provisions noted in the table below.

The following table specifies provisions of Regulation No. 3 that Colorado revised/renumbered or newly added in order to incorporate EPA's NSR Reform and WEPCO rules and to create a separate NSR/PSD major stationary source part (Part D). In addition, some of the provisions that were proposed for approval in the notice of proposed rulemaking that EPA published on December 7, 2005 are being acted on by EPA in a separate final action related to Colorado's Interstate Transport SIP (see proposed action at 76 FR 21835, April 19, 2011) and are noted in the table below.

Provision location in Colorado's current SIP Reg 3 (NA = not in current Colorado SIP)	Provision location in Colorado's 4/16/2004 Reg 3 revision	Provision description	EPA is incorporating all or part of revision or addition into the SIP	Equivalent provision in 40 CFR 51.165 and 40 CFR 51.166	How provision is acted on in this action (if applicable see footnote)	How provision is acted on by EPA in a separate final action related to Colorado's interstate transport SIP (see proposed action at 76 FR 21835, April 19, 2011)
A–I.B.1	D–II.A.1	Actual emissions definition.	Yes	51.166(b)(21), 51.165(a)(1)(xii).	Note the reference in this definition to "I.B.1.a" should be to "II.A.1.a." and Colorado will correct this reference in a future revision of Regulation No. 3. EPA is approving this definition. See footnote 1.	Partially Approved * * * With respect to the renumbering and the modification of the provision to the extent that the term "regulated NSR pollutant" replaces "air pollutant regulated under the Federal Act" but no other modification of the provision.
A–I.B.7	D–II.A.3	Air Quality Related Value definition.	Yes	NA	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made.
A–I.B.8	A–I.B.7	Allowable Emissions definition.	Yes	51.166(b)(16), 51.165(a)(1)(xi).	Colorado added "enforceable as a practical matter" and moved "future compliance date" phrase to this definition. EPA is approving this definition. See footnotes 1 and 2.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
A–I.B.10	D–II.A.5	Baseline Area definition.	Yes	51.166(b)(15)	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made.
A–I.B.11	D–II.A.6	Baseline Concentration definition.	Yes	51.166(b)(13)	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made.
A–I.B.12	D–II.A.8	Best Available Control Technology definition.	Yes	51.166(b)(12), 51.165(a)(1)(xl).	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made.

Provision location in Colorado's current SIP Reg 3 (NA = not in current Colorado SIP)	Provision location in Colorado's 4/16/2004 Reg 3 revision	Provision description	EPA is incorporating all or part of revision or addition into the SIP	Equivalent provision in 40 CFR 51.165 and 40 CFR 51.166	How provision is acted on in this action (if applicable see footnote)	How provision is acted on by EPA in a separate final action related to Colorado's interstate transport SIP (see proposed action at 76 FR 21835, April 19, 2011)
A–I.B.15	D–II.A.12	Complete definition (for PSD/NSR purposes).	Yes	51.166(b)(22)	Approved by interstate transport NFR. See next column. Note the reference in II.A.12.a.(vii) of this definition to ''III.G.4. of Part B'' is not in the current codified SIP.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made.
A–I.B.21	D–II.A.16	Federal Land Manager definition.	Yes	51.166(b)(24), 51.165(a)(1)(xlii).	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made.
A–I.B.31	D–II.A.19	Innovative Control Technology definition.	Yes	51.166(b)(19)	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made.
A–I.B.32	D–II.A.21	Lowest Achievable Emission Rate definition.	Yes	51.166(b)(52), 51.165(a)(1)(xiii).	EPA is approving the language change. See footnote 1.	Partially approved * * * Only approved renumbering. NSR NFR will approve the language change.
A–I.B.33	D–II.A.24	Major Source Baseline Date definition.	Yes	51.166(b)(14)(i)	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made.
A–I.B.34	D–II.A.26	Minor Source Baseline Date definition.	Yes	51.166(b)(14)(ii)	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made.
A–I.B.35.b	D–II.A.23. (except II.A.23.d(iii), (viii), (x), (xi), and (e)—see below).	Major Modification definition.	Yes, except as noted below.	51.166(b)(2), 51.165(a)(1)(v).	EPA is approving portions of D–II.23 not acted on by EPA in a separate final action related to Colorado's Interstate Transport SIP. Note that the provision in II.A.23.e that references ''section II.A.2'' should reference ''II.A.31'' and Colorado will correct this reference in a future revision of Regulation 3. See Footnotes 1 and 2.	Partially Approved * * * With respect to the renumbering and the modification of the provision to the extent that the term ''regulated NSR pollutant'' replaces ''air pollutant regulated under the Federal Act'' but no other modification of the provision. EPA is approving the renumbering of all of II.23 (except sections D–II.A.23.d.(viii), (x), and (xi)), and, in II.A.23, prior to subsection II.A.23.a, the replacement of the term ''air pollutant subject to regulation under the Federal Act or the State Act'' with the term ''regulated NSR pollutant.'' Note that the provision in II.A.23.e that references ''section II.A.2'' should reference ''II.A.31'' and Colorado will correct this reference in a future revision of Regulation 3.
N/A	D–II.A.23.d.(iii)	Use of an alternative fuel at a steam generating unit (part of Major Mod definition).	Yes	51.166(b)(2)(iii)(d), 51.165(a)(1)(v)(C)(4)(iv).	EPA is approving this definition. See footnote 1.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
N/A	D–II.A.23.d(viii)	Addition replacement or use of a PCP * * * (part of Major Modification definition).	No	51.166(b)(2)(iii)(h), 51.165(a)(1)(v)(C)(8).	EPA considers this provision withdrawn by the State. See footnote 6.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
N/A	D–II.A.23.d(x)	The installation or operation of a permanent clean coal technology demonstration project that constitutes repowering * * * (part of Major Modification definition).	Yes, as noted	51.166(b)(2)(j)	EPA is approving this definition as clarified. See footnote 3.	Not taking action * * * Because it was not a necessary prerequisite for our action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.

Provision location in Colorado's current SIP Reg 3 (NA = not in current Colorado SIP)	Provision location in Colorado's 4/16/2004 Reg 3 revision	Provision description	EPA is incorporating all or part of revision or addition into the SIP	Equivalent provision in 40 CFR 51.165 and 40 CFR 51.166	How provision is acted on in this action (if applicable see footnote)	How provision is acted on by EPA in a separate final action related to Colorado's interstate transport SIP (see proposed action at 76 FR 21835, April 19, 2011)
N/A	D–II.A.23.d(xi)	The reactivation of a very clean coal fired electric utility steam generating unit. (part of Major Modification definition).	Yes, as noted	51.166(b)(2)(k)	EPA is approving this definition as clarified. See footnote 3.	Not taking action * * * Because it was not a necessary prerequisite for our action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
N/A	D–II.A.23.e	This definition shall not apply * * * for a PAL (part of Major Mod definition).	Yes	51.166(b)(2)(iv), 51.165(a)(1)(v)(D).	EPA is approving this definition. Note that the reference in this definition should be to II.A.31 not II.A.2., and Colorado will correct this reference in a future revision of Regulation 3. See footnote 1.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
A–I.B.36	D–II.A.27. (except II.A.27.c.(iv) and II.A.27.g.(v)).	Net Emissions Increase definition.	Yes	51.166(b)(3), 51.165(a)(1)(vi).	Colorado has added additional language at II.A.27.c.(iii), and II.A.27.g.(i). EPA is approving this definition. Note that provision II.A.27.a.(i) references ''I.A.4.'' However, there is no I.A.4.and this reference will be deleted by Colorado. See footnote 1 & 2.	Partially Approved * * * With respect to the renumbering and the modification of the provision to the extent that the term ''regulated NSR pollutant'' replaces ''air pollutant regulated under the Federal Act'' but no other modification of the provision.
N/A	D–II.A.27.c.(iv)	Net emissions increase at a clean unit (part of Net Emissions Increase definition).	No	51.166(b)(3)(iii)(c), 51.165(a)(1)(vi)(C)(3).	EPA considers this provision withdrawn by the State. See footnote 6.	Not Taking Action on this part of the definition at this time.
N/A	D–II.A.27.g.(v)	Net emissions increase at a clean unit and pollution control project (part of Net Emissions Increase definition).	No	51.166(b)(3)(vi)(d), 51.165(a)(1)(vi)(E)(5).	EPA considers this provision withdrawn by the State. See footnote 6.	Not Taking Action on this part of the definition at this time.
A–I.B.44	A–I.B.35	Potential to Emit definition.	Yes	51.166(b)(4), 51.165(a)(1)(iii).	EPA is approving this definition. See footnote 2.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
A–I.B.55	D–II.A.43	Secondary Emissions definition.	Yes	51.166.(b)(18), 51.165(a)(1)(viii).	EPA is approving the language change for this definition. See footnote 1.	Partially approved * * * Only approved renumbering. NSR NFR will approve the language change.
A–I.B.57	D–II.A.44	Significant definition	No, see comment	51.166.(b)(23), 51.165(a)(1)(x).	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made. Note: our approval of the 8/1/07 submission modifies this definition.
A–I.B.58. Major Stationary Source.	D–II.A.25	Major Stationary Source definition (introductory).	Yes, except as noted below.	51.166(b)(1)(i), 51.165(a)(1)(iv).	Approved by interstate transport NFR. D–II.A.25.b was not approved.	Partially approved * * * Because the provision has only been renumbered and no substantive changes were made. D–II.A.25.b was not approved.
A–I.B.58.a	D–II.A.25.b	For the purpose of determining whether a source in a nonattainment area is subject * * * (part of Major Stationary Source definition).	Yes, as noted	51.165(a)(1)(iv)(A)(1)	EPA is approving this provision. See footnote 4.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
A–I.B.58.b	D–II.A.25.a	For the purpose of determining whether a source in an attainment or unclassifiable area (part of Major Stationary Source definition).	Yes	51.166(b)(1)(i)(a)	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made.

Provision location in Colorado's current SIP Reg 3 (NA = not in current Colorado SIP)	Provision location in Colorado's 4/16/2004 Reg 3 revision	Provision description	EPA is incorporating all or part of revision or addition into the SIP	Equivalent provision in 40 CFR 51.165 and 40 CFR 51.166	How provision is acted on in this action (if applicable see footnote)	How provision is acted on by EPA in a separate final action related to Colorado's interstate transport SIP (see proposed action at 76 FR 21835, April 19, 2011)
A–I.B.58.c	D–II.A.25.c	Major stationary source includes any physical change that would occur at a stationary source (part of Major Stationary Source definition).	Yes	51.166(b)(1)(i)(c), 51.165(a)(1)(iv)(A)(2).	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made.
A–I.B.58.d	D–II.A.25.d	A major stationary source that is major for volatile organic compounds shall be considered major * * * (part of Major Stationary Source definition).	Yes	51.166(b)(1)(ii), 51.165(a)(1)(iv)(B).	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made. Note: our approval of the 8/1/07 submission modifies this definition.
A–I.B.58.f	D–II.A.25.e	The fugitive emissions of a stationary source shall not be included * * * (part of Major Stationary Source definition).	Yes	51.166(b)(1)(iii), 51.165(a)(1)(iv)(C).	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made.
A–I.B.58.e	D–II.A.25.f	Emissions caused by indirect air pollution sources (part of Major Stationary Source definition).	Yes	NA	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made. The reference in this definition to ''I.B.22. of Part A'' is at A–I.B.58. in the current codified SIP.
A–I.B.58.g	D–II.A.25.g	A major stationary source in the Denver Metro PM_{10} * * * (part of Major Stationary Source definition).	Yes	NA	Action taken by interstate transport SIP. See next column.	Not taking action EPA is not acting on this definition in this action. This definition was not included in Colorado's October 25, 2005 submission of Regulation No. 3, and was therefore proposed for approval erroneously in EPA's December 7, 2005 proposed approval.
N/A	D–III	Permit Review Procedures.	Yes	NA	Approved by interstate transport NFR. See next column.	Fully approved.
N/A	D–III.A	Major Stationary Sources must apply for CP or OP.	Yes	NA	Approved by interstate transport NFR. See next column.	Fully approved.
B–IV.B.5	D–III.B	Process PSD applications w/in 12 months.	Yes	NA	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made.
N/A	D–IV	Public Comment Requirements.	Yes	51.166(q)	Approved by interstate transport NFR. See next column.	Fully approved.
N/A	D–IV.A	Public Notice	Yes	51.166(q)	Approved by interstate transport NFR. See next column.	Fully approved. Copied from Part B, IV.C.4. of current codified SIP. The reference in D–IV.A. to ''III.C.3. of Part B'' is at B–IV.C.3. in the current codified SIP.
B–IV.C.4.—from ''For sources subject to the provisions of section IV.D.3.'' to ''The newspaper notice''.	D–IV.A.1	Public notice of NSR and PSD permit applications.	Yes	51.166(q)(ii) and (iv)	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made.
B–IV.C.4.f	D–IV.A.2	Additionally, for permit applications (request comment on).	Yes	51.166(q)(iii)	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made.
B–IV.C.5	D–IV.A.3	Within 15 days after prepare PA.	Yes	NA	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made.
B–IV.C.6	D–IV.A.4	Hearing request for innovative control.	Yes	NA	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made.
B–IV.C.7	D–IV.A.5	Hearing request transmitted to commission.	Yes	NA	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made.

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B–IV.C.8	D–IV.A.6	Commission shall hold public comment hearing.	Yes	51.166(q)(v)	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made.
B–IV.C.9	D–IV.A.7	15 days after division makes final decision on application.	Yes	51.166(q)(viii)	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made.
B–IV.D.2	D–V	Requirements Applicable to Non-attainment Areas. (Introductory).	Yes	NA	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made.
B–IV.D.2.a	D–V.A	Major Stationary Sources.	Yes	51.165, Appx. S.IV.A	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made. The reference in D–V.A. to ''III.D.1. of Part B'' is at B–IV.D.1. in the current codified SIP.
B–IV.D.2.a.(i) through (iii)	D–V.A.1. through 3	Major Stationary Sources.	Yes	51.165, Appx. S.IV.A. Conditions 1–4.	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made.
B–IV.D.2.a.(iii)(C) 2nd par	D–V.A.3.d	With respect to offsets from outside non-attainment area.	Yes	51.165, Appx. S.IV.D	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made.
B–IV.D.2.a.(iv)	D–V.A.4	The permit application shall include an analysis of alternative sites.	Yes	51.165, Appx. S.IV.D	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made.
B–IV.D.2.a.(v)	D–V.A.5	Offsets for which emission reduction credit is taken.	Yes	51.165, Appx. S.V.A	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made.
B–IV.D.2.a.(vi)	D–V.A.6	The applicant will demonstrate that emissions from the proposed source will not adversely impact visibility.	Yes	NA	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made.
B–IV.D.2.b	D–V.A.7	Applicability of Certain Nonattainment Area Requirements.	Yes	NA	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made.
B–IV.D.2.b.(i)	D–V.A.7.a	Any major stationary source in a non-attainment area.	Yes	NA	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made.
B–IV.D.2.b.(ii)	D–V.A.7.b	The requirements of section V.A. shall apply at such time that any stationary source.	Yes	51.165(a)(5)(ii)	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made.
N/A	D–V.A.7.c	The following provisions apply to projects at existing emissions units * * * (''Reasonable possibility'' provisions in nonattainment areas) (part of Applicability of Certain Nonattainment Area Requirements).	Yes, except as noted in comment section.	51.165(a)(6)	EPA is approving this provision, with the exception of the phrases ''a Clean Unit or at,'' ''a reasonable possibility that'' and ''may result in a significant emissions increase,'' which EPA considers as withdrawn by the State. See footnote 1, 5, and 6.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
N/A	D–V.A.7.d	documents available for review upon request (part of Applicability of Certain Nonattainment Area Requirements).	Yes	51.165(a)(7)	EPA is approving this provision. See footnote 1.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
B–IV.D.2.c. (and subsections).	D–V.A.8	Exemptions from Certain Nonattainment Area Requirements.	Yes	51.165, Appx. S.IV.B	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made.

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B–IV.D.3	D–VI	Requirements Applicable to Attainment Areas. (Introductory).	Yes	NA	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made.
B–IV.D.3.a. (and subsections not listed below).	D–VI.A	Major Stationary Sources and Major Modifications.	Yes	51.166(j)	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made. The reference in D–VI.A. to ''III.D.1. of Part B'' is at B–IV.D.1. in the current codified SIP.
B–IV.D.3.a.(i)(C)	D–VI.A.1.c	For phased construction.	Yes	51.166(j)(4)	EPA is approving the language change for this definition. See footnote 1 and 2.	Partially approved * * * Only approved renumbering. NSR NFR will approve the language change.
B–IV.D.3.a.(iii)(D)	D–VI.A.3.d	In general, the continuous air monitoring data.	Yes	51.166(m)(1)(iv)	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made.
B–IV.D.3.a.(iii)(D)	D–VI.A.4	Post-construction monitoring.	Yes	51.166(m)(2)	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made. Colorado has revised this provision to make post construction monitoring at the director's discretion as allowed by 51.166(m)(2).
B–IV.D.3.b	D–VI.B	Applicability of Certain PSD Requirements.	Yes	NA	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made.
B–IV.D.3.b.(i)	D–VI.B.1	The requirements of section VI.A. do not apply.	Yes	51.166(i)(1) and (2)	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made.
B–IV.D.3.b.(ii)	D–VI.B.2	The requirements contained in sections VI.A.2. through VI.A.4.	Yes	51.166(i)(3) and (4)	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made.
B–IV.D.3.b.(iii)	D–VI.B.3. (including D–VI.B.3.b., c., and d.).	The division may exempt a proposed major stationary source or major modification from the requirements of sections VI.A.3. through VI.A.5. of this Part, with respect to monitoring for a particular pollutant if: * * *.	Yes	51.166(i)(5)	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made. Colorado has reworded D–VI.B.3. and deleted unnecessary language.
B–IV.D.3.b.(iii)(A)(1)–(12)	D–VI.B.3.a.(i)–(ix)	deleted Mercury, Beryllium, Vinyl chloride.	Yes	51.166(i)(5)(i)	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made.
B–IV.D.3.b.(iv)	D–VI.B.4	The requirements of this Part D shall apply.	Yes	51.166(i)(6)	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made.
N/A	D–VI.B.5	The following provisions apply to projects at existing emissions units (''Reasonable possibility'' provisions PSD) (part of Applicability of Certain PSD Requirements).	Yes, except as noted in comment section.	51.166(r)(6)	EPA is approving this provision, with the exception of the phrases ''a Clean Unit or at,'' ''a reasonable possibility that'' and ''may result in a significant emissions increase,'' which EPA considers as withdrawn by the State. See footnotes 1, 5, and 6.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.

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N/A	D–VI.B.6	documents available for review upon request (part of Applicability of Certain PSD Requirements).	Yes	51.166(r)(7)	EPA is approving this provision. See footnote 1.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
B–IV.D.3.b.(v)	D–VI.B.7	A stationary source or modification may apply.	Yes	51.166(i)(9)	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made.
B–IV.D.3.c	D–VI.C	Notice to EPA	Yes	51.166(p)(1)	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made.
B–IV.D.3.d	D–VI.D	Major Stationary Sources in attainment areas affecting nonattainment area.	Yes	51.165(b)	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made The reference in D–VI.D. to ''III.D.1. of Part B'' is at B–IV.D.1. in the current codified SIP.
B–IV.D.4	D–VII	Negligibly Reactive VOCs.	Yes	51.100(s)	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made.
B–V	D–VIII	Area Classifications	Yes, with the exception of D–VIII.B.	51.166(e)	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made. EPA is approving this provision with the exception of D–VIII.B.
N/A	D–VIII.B	All other areas of Colorado, * * * (part of Area Classifications).	No	NA	EPA considers this provision as withdrawn. See FR Notice of 3/25/98 (63 FR 14357).	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
B–VI	D–IX	Redesignation	Yes	51.166(e)	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made.
B–VII	D–X	Air Quality Limitations	Yes, with the exception of D–X.A.5.	51.166(c)	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made. EPA is approving this provision with the exception of D–X.A.5.
N/A	D–X.A.5	Increment Consumption Restriction (part of Air Quality Limitations).	No	NA	EPA considers this provision as withdrawn. See FR Notice of 3/25/98 (63 FR 14357).	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
B–VIII	D–XI	Exclusions from Increment Consumption.	Yes	51.166(f)	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made.
B–IX	D–XII	Innovative Control Technology.	Yes	51.166(s)	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made.
B–X	D–XIII	Federal Class I Areas	Yes	51.166(p)	Approved by interstate transport NFR. See next column.	Fully approved * * * Because the provision has only been renumbered and no substantive changes were made. The reference in D–XIII.C. to ''III.B. of Part B'' is at B–IV.B. in the current codified SIP.

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B–XI	D–XIV	Visibility	No	NA	EPA previously acted on this provision in a separate action. See FR Notice of 11/2/06 (71 FR 64466).	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
N/A	A–I.B.13	CEMS definition	Yes	51.166(b)(43), 51.165(a)(1)(xxxiv).	EPA is approving this provision. See footnote 1.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
N/A	A–I.B.14	CERMS definition	Yes	51.166(b)(46), 51.165(a)(1)(xxxiv).	EPA is approving this provision. See footnote 1.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
N/A	A–I.B.15	CPMS definition	Yes	51.166(b)(45), 51.165(a)(1)(xxxiii).	EPA is approving this provision. See footnote 1.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
N/A	A–I.B.33	Pollution Prevention definition.	Yes	51.166(b)(38), 51.165(a)(1)(xxvi).	EPA is approving this provision. See footnote 1.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
N/A	A–I.B.36	PEMS definition	Yes	51.166(b)(44), 51.165(a)(1)(xxxii).	EPA is approving this provision. See footnote 1.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
N/A	D–I.A	General Applicability (Introductory).	Yes	51.166(a)(7) (iv)(a)and (b), 51.165(a)(2)(iii)(A) and (B).	EPA is approving this provision. See footnote 1.	Only approved the language in 1.A.1.
N/A	D–I.B. (except I.B.3. and second sentence of I.B.4.).	Applicability Tests	Yes	51.166(a)(7)(iv)(c), (d), and (f), 51.165(a)(2)(ii)(C), (D), and (F).	EPA is approving this definition with the exception of I.B.3. and the second sentence of I.B.4, which EPA considers withdrawn. The reference in D–I.B.5. to ''I.B.26. of Part A'' is at A–I.B.35.c. in the current codified SIP. See footnotes 1 and 6.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice. The reference in D–I.B.5. to ''I.B.26. of Part A'' is at A–I.B.35.c. in the current codified SIP.
N/A	D–I.B.3	Emission tests at clean units (part of Applicability Tests).	No	51.166 (a)(7)(iv)(e), 51.165(a)(2)(ii)(E).	EPA considers this provision as withdrawn. See footnote 6.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
N/A	D–I.B.4. second sentence.	For example, for a project involves both an existing unit and a clean unit (part of Applicability Tests).	No	51.166(a)(7)(iv)(f) second sentence, 51.165(a)(2)(ii)(F) second sentence.	EPA considers this language as withdrawn. See footnote 6.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice. EPA is not taking action on this part of provision D–I.B.4. at this time.

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N/A	D–I.C	For any major stationary source requesting, or operating under, a Plantwide Applicability Limitation.	Yes	51.166 (a)(7)(v), 51.165(a)(2)(iii).	EPA is approving this provision. See footnote 1.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
N/A	D–I.D	An owner or operator undertaking a Pollution Control Project.	No	51.166 (a)(7)(vi), 51.165(a)(2)(iv).	EPA considers this provision as withdrawn. See footnote 6.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
N/A	D–II.A.2	Actuals PAL Definition	Yes	51.166(w)(2)(i), 51.165(f)(2)(i).	EPA is approving this provision. See footnote 1.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
N/A	D–II.A.4	Baseline Actual Emissions definition.	Yes	51.166(b)(47), 51.165(a)(1)(xxxv).	EPA is approving this provision. See footnote 1.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
N/A	D–II.A.7	Begin Actual Construction definition.	Yes	51.166(b)(11), 51.165(a)(1)(xv).	EPA is approving this provision. See footnote 1.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
N/A	D–II.A.9	Clean Coal Technology definition.	Yes	51.166(b)(33), 51.165(a)(1)(xxiii).	EPA is approving this provision. See footnote 1.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
N/A	D–II.A.10	Clean Coal Technology Demonstration Project definition.	Yes	51.166(b)(34), 51.165(a)(1)(xxiv).	EPA is approving this provision. See footnote 1.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
N/A	D–II.A.11	Clean Unit definition ..	No	51.166(b)(41), 51.165(a)(1)(xxix).	EPA considers this provision withdrawn by the State. See footnote 6.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
N/A	D–II.A.13	Construction definition	Yes	51.166(b)(8), 51.165(a)(1)(xxviii).	EPA is approving this provision. See footnote 1.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
N/A	D–II.A.14	Emissions Unit definition (for PSD/NSR purposes).		51.166(b)(7), 51.165(a)(1)(vii).	EPA is approving this provision. See footnote 1.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
N/A	D–II.A.15	Electric Utility Steam Generating Unit definition.	Yes	51.166(b)(30), 51.165(a)(1)(xx).	EPA is approving this provision. See footnote 1.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.

Provision location in Colorado's current SIP Reg 3 (NA = not in current Colorado SIP)	Provision location in Colorado's 4/16/2004 Reg 3 revision	Provision description	EPA is incorporating all or part of revision or addition into the SIP	Equivalent provision in 40 CFR 51.165 and 40 CFR 51.166	How provision is acted on in this action (if applicable see footnote)	How provision is acted on by EPA in a separate final action related to Colorado's interstate transport SIP (see proposed action at 76 FR 21835, April 19, 2011)
N/A	D–II.A.17	High Terrain definition	Yes	51.166(b)(25)	EPA is approving this provision. See footnote 1.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
N/A	D–II.A.18	Hydrocarbon Combustion Flare definition.		51.166(b)(31)(iv), 51.165(a)(1)(xv)(D).	EPA is approving this provision. See footnote 1.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
N/A	D–II.A.20	Low Terrain definition	Yes	51.166(b)(26)	EPA is approving this provision. See footnote 1.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
N/A	D–II.A.22	Major Emissions Unit definition.	Yes	51.166(w)(2)(iv), 51.165(f)(2)(iv).	EPA is approving this provision. See footnote 1.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
N/A	D–II.A.28	Nonattainment New Source Review definition.	Yes	51.165(a)(1)(xxx)	EPA is approving this provision. See footnote 1.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
N/A	D–II.A.29	PAL Effective Date definition.	Yes	51.166(w)(2)(vi), 51.165(f)(2)(vi).	EPA is approving this provision. See footnote 1.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
N/A	D–II.A.30	PAL Effective Period definition.	Yes	51.166(w)(2)(vii), 51.165(f)(2)(vii).	EPA is approving this provision. See footnote 1.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
N/A	D–II.A.31	PAL Major Modification definition.	Yes	51.166(w)(2)(viii), 51.165(f)(2)(viii).	EPA is approving this provision. See footnote 1.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
N/A	D–II.A.32	PAL Permit definition	Yes	51.166(w)(2)(ix), 51.165(f)(2)(ix).	EPA is approving this provision. See footnote 1.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
N/A	D–II.A.33	PAL Pollutant definition.	Yes	51.166(w)(2)(x), 51.165(f)(2)(x).	EPA is approving this provision. See footnote 1.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
N/A	D–II.A.34	Plantwide Applicability Limitation (PAL) definition.	Yes	51.166(w)(2)(v), 51.165(f)(2)(v).	EPA is approving this provision. See footnote 1.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.

Provision location in Colorado's current SIP Reg 3 (NA = not in current Colorado SIP)	Provision location in Colorado's 4/16/2004 Reg 3 revision	Provision description	EPA is incorporating all or part of revision or addition into the SIP	Equivalent provision in 40 CFR 51.165 and 40 CFR 51.166	How provision is acted on in this action (if applicable see footnote)	How provision is acted on by EPA in a separate final action related to Colorado's interstate transport SIP (see proposed action at 76 FR 21835, April 19, 2011)
NA	D–II.A.35	Pollution Control Project definition.	No	51.166(b)(31), 51.165(a)(1)(xxv).	EPA considers this provision withdrawn by the State. See footnote 6.	Not taking action.
N/A	D–II.A.36	Prevention of Significant Deterioration Permit definition.	Yes	51.166(b)(42), 51.165(a)(1)(xli).	EPA is approving this provision. See footnote 1.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
N/A	D–II.A.37	Project definition	Yes	51.166(b)(51), 51.165(a)(1)(xxxix).	EPA is approving this provision. See footnote 1.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
N/A	D–II.A.38	Projected Actual Emissions definition.	Yes	51.166(b)(40), 51.165(a)(1)(xxviii).	EPA is approving this provision. See footnote 1.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
N/A	D–II.A.39	Reactivation of Very Clean Coal-Fired EUSGU definition.	Yes	51.166(b)(37)	EPA is approving this provision. See footnote 1.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
N/A	D–II.A.40	Regulated NSR Pollutant definition.	No, see comment	51.166(b)(49), 51.165(a)(1)(xxxvii).	Approved by interstate transport NFR. See next column.	Fully approved.
N/A	D–II.A.41	Replacement Unit definition.	Yes	51.166(b)(32), 51.165(a)(1)(xxi).	EPA is approving this provision. See footnote 1.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
N/A	D–II.A.42	Repowering definition	Yes	51.166(b)(36)	EPA is approving this provision. See footnote 1.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
N/A	D–II.A.45	Significant Emissions Increase definition.	Yes	51.166(b)(39), 51.165(a)(1)(xxvii).	Approved by interstate transport NFR. See next column.	Fully approved.
N/A	D–II.A.46	Significant Emissions Unit definition.	Yes	51.166(w)(2)(xi), 51.165(f)(2)(xi).	EPA is approving this provision. See footnote 1.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
N/A	D–II.A.47	Small Emissions Unit definition.	Yes	51.166(w)(2)(iii), 51.165(a)(1)(iii).	EPA is approving this provision. See footnote 1.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
N/A	D–II.A.48	Temporary Clean Coal Demonstration Project definition.	Yes	51.166(b)(35), 51.165(a)(1)(xxii).	EPA is approving this provision. See footnote 1.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.

Provision location in Colorado's current SIP Reg 3 (NA = not in current Colorado SIP)	Provision location in Colorado's 4/16/2004 Reg 3 revision	Provision description	EPA is incorporating all or part of revision or addition into the SIP	Equivalent provision in 40 CFR 51.165 and 40 CFR 51.166	How provision is acted on in this action (if applicable see footnote)	How provision is acted on by EPA in a separate final action related to Colorado's interstate transport SIP (see proposed action at 76 FR 21835, April 19, 2011)
N/A	D–XV	Clean Units	No	51.166(t) and (u), 51.165(c) and (d).	EPA considers this provision withdrawn by the State. See footnote 6.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
N/A	D–XVI	Pollution Control Projects.	No	51.166(v), 51.165(e)	EPA considers this provision withdrawn by the State. See footnote 6.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec. 7, 2005 notice.
N/A	D–XVII	Plantwide Applicability Limitations.	Yes	51.166(w), 51.165(f)	EPA is approving this provision. The references in XVII.N.1.g and XVII.N.2.d. of this section to "I.B.38. of Part A" are at A–I.B.53. in the current codified SIP. Colorado has revised D–XVII.I.2. (application deadline) to 12 months prior to expiration instead of 6 months. Colorado has revised XVII.N.1. (Semi-Annual Report) to require submission of QA/QC data as requested, not as part of the semi-annual report specified in 51.166(w)(14)(i)(c). See footnote 1.	Not taking action * * * Because it was not a necessary prerequisite for the action on the 8/1/07 submittal, or provision was not proposed for approval in our Dec 7, 2005 notice. The references in XVII.N.1.g and XVII.N.2.d of this section to "I.B.38. of Part A" are at A–I.B.53. in the current codified SIP. Colorado has revised D–XVII.I.2. (application deadline) to 12 months prior to expiration instead of 6 months. Colorado has revised XVII.N.1. (Semi-Annual Report) to require submission of QA/QC data as requested, not as part of the semi annual report specified in 51.166(w)(14)(i)(c).

Footnote 1: We are approving this new rule in Regulation No. 3 because the rule is identical or consistent with the Federal New Source Review regulations found at 40 CFR 51.165 and 51.166 and contain no changes to the language that would affect the meaning of the rule.

Footnote 2: We are approving this change of an existing Regulation No. 3 rule because the rule has only been renumbered, contains nonsubstantive changes to the rule that do not affect the meaning of the rule and/or has been modified to move a definition that has already been approved into the SIP to a specific rule section in which the definition applies. This renumbered rule and all subsections within this rule supersede and replace the prior numbered rule and subsections in Colorado's federally approved SIP.

Footnote 3: Colorado has marked this part of the definition of Major Modification as underlined, meaning that the State intends it will only be effective until EPA approves the NSR Reform revisions for incorporation into the SIP. Colorado has since clarified that they intended that this provision remain as part of the definition of Major Modification as it applies to PSD sources located in attainment areas only, consistent with 40 CFR 51.166(b)(2)(j). If Colorado revises Regulation No. 3 to indicate this clarification prior to EPA taking final action, EPA is approving this addition to the definition of Major Modification into the SIP.

Footnote 4: Colorado's SIP submittal deletes the following language in D–II.A.25.b from what was previously in the definition of Major Stationary Source (at A–I.B.58.a.):

In the Denver Metro PM_{10} nonattainment area, sulfur dioxide and nitrogen oxides shall be treated as PM_{10} precursors, and any source which is major for these precursors is subject to the nonattainment new source review provisions. Additionally, a source causing or contributing to a violation of a NAAQS for any pollutant regulated under Section 110 of the Federal Act shall be considered major when it has the potential to emit 100 tons per year or more of that pollutant. The source will be considered to cause or contribute to a violation when the source exceeds the significance levels in the table under Section IV.D.3.d(ii), Part B. Such source is subject to the requirements of IV.D.3.

Colorado has revised Regulation No. 3 to add this deleted language back into the definition of Major Stationary Source. As discussed in the proposal, EPA is therefore approving this part of the definition of Major Stationary Source into the SIP.

Footnote 5: EPA discussed with the Colorado Department of Public Health and Environment (CDPHE) on how it intended to implement provisions D–V.A.7 and D–VI.B.5. without the language regarding the "reasonable possibility" that a project "may result in a significant emissions increase" included as part of these provisions. CDPHE's intent is that Colorado will implement the rule consistently with EPA's policy and guidance. Additionally, CDPHE provided a letter to EPA dated Nov 28, 2005 that stated their intent is to also "request that the Commission make any revisions to Regulation No. 3 necessary to incorporate and implement federal program revisions should it be necessary for EPA to take further action on the remand of the Code of Federal Regulations, Title 40, sections 51.165(a)(6) and 51.166(r)(6)." Therefore, consistent with the Notice of Proposed Rulemaking, EPA approves D–V.A.7.c and D–VI.B.5 with the exception of the phrases "a reasonable possibility that," "a Clean Unit or at," and "may result in a significant emissions increase." This approval is consistent with Colorado's deletion of the phrases in subsequent submittals.

Footnote 6: The Clean Unit and Pollution Control Projects provisions in the 2002 NSR Reform Rule were vacated by the United States Court of Appeals for the District of Columbia Circuit on June 24, 2005. Colorado has since removed references to these provisions in subsequent Reg. 3 submittals. As such, EPA considers these provisions effectively withdrawn by the State.

II. Response to Comments

Environment Colorado and the Rocky Mountain Office of Environmental Defense jointly commented on our December 2005 proposed action. We have carefully considered the comments, and, as part of that consideration, have obtained information from the Colorado Department of Public Health and Environment (CDPHE) in order to assist us in deciding how to address certain comments. Below we provide summaries of, and our responses to, the significant adverse comments. Nothing in them has caused us to change our action from what we proposed.

Comment No. 1: The commenters assert that "[t]he 2002 NSR Reform Rule provisions that were not vacated by the D.C. Circuit in *New York* v. *EPA* [citation omitted] allow previously-prohibited emissions-increases to occur." Comments at 4. In their main comment letter and in attached materials, the commenters argue that

Colorado's SIP revision will allow for increased air pollution, and they focus on three main aspects of Colorado's revised Regulation 3: (1) Revisions to the method of calculating baseline actual emissions for existing sources; (2) revisions to the applicability test for existing sources; and (3) the plantwide applicability limitation (PAL) provisions. The commenters assert that approval of Colorado's proposed SIP revision would violate section 110(l) of the CAA, because ''EPA cannot make a finding that revising Colorado's permit provisions so that they track the non-vacated provisions of the 2002 rule 'would not interfere with attainment or other applicable requirements.' '' Comments at 5.

EPA Response No. 1: Section 110(l) of the CAA states that ''[t]he Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of this chapter.'' 42 U.S.C. 7410(l).

EPA does not interpret section 110(l) to require a full attainment or maintenance demonstration before any changes to a SIP may be approved. Generally, a SIP revision may be approved under section 110(l) if EPA finds it will at least preserve status quo air quality. See *Kentucky Resources Council, Inc.* v. *EPA,* 467 F.3d 986 (6th Cir. 2006); *GHASP* v. *EPA,* No. 06–61030 (5th Cir. Aug. 13, 2008); *see also, e.g.,* 70 FR 53 (Jan. 3, 2005), 70 FR 28429 (May 18, 2005) (proposed and final rules, upheld in *Kentucky Resources,* which discuss EPA's interpretation of section 110(l)).

EPA has determined that Colorado's SIP revision will not ''interfere with any applicable requirement concerning attainment and reasonable further progress * * * or any other applicable requirement of [the CAA]'' in violation of section 110(l) of the CAA because, as explained below, the revision will result in effects on air quality that are neutral or beneficial. The Colorado SIP revision tracks the Federal 2002 NSR Reform Rules that were not vacated by the Court of Appeals in *New York* v. *EPA,* 413 F.3d 3, 21–31 (D.C. Cir. 2005) (per curiam). Overall, EPA expects that changes in air quality as a result of implementing Colorado's rules will be consistent with EPA's analysis of the Federal 2002 NSR Reform Rules—that the effects will be somewhere between neutral and providing modest contribution to reasonable further progress when the 2002 NSR Reform Rules are compared to the pre-Reform provisions. EPA's analysis for the environmental impacts of these three components of the 2002 NSR Reform Rules is informative of how Colorado's adoption of NSR Reform (based on the federal rules) will affect emissions. *See generally* Supplemental Analysis of the Environmental Impact of the 2002 Final NSR Improvement Rules (Nov. 21, 2002) (''Supplemental Analysis'').[1]

EPA's conclusion rests primarily on the national-scale analysis that EPA conducted in support of the 2002 NSR Reform Rules. This national analysis indicates that the non-vacated provisions of the NSR Reform Rules will have a neutral or beneficial impact. The three significant changes in the 2002 NSR Reform Rules (that were not vacated by the court) were: (1) Plantwide applicability limits (PALs); (2) the 2-in-10 baseline (also known as the ten-year lookback); and (3) the actual-to-projected actual emission test. EPA's Supplemental Analysis discussed each of these three changes individually, and addresses many of the issues raised by commenters.

The environmental impacts of NSR Reform in Colorado will not be substantially different from those discussed in the Supplemental Analysis. Furthermore, with limited exceptions discussed below, the commenters do not raise Colorado-specific arguments or provide Colorado-specific data to suggest that the results of the NSR Reform in Colorado will be substantially different from those discussed in the Supplemental Analysis. Where the commenters have relied on generic or national arguments against NSR Reform, we have relied on the analyses conducted in support of the 2002 NSR Reform rules for our response.

It is worth emphasizing that, while the comments focus exclusively on how Colorado's SIP revision may allow certain facilities to increase emissions without undergoing NSR, the NSR process does not prohibit emissions increases. Nor does it regulate facilities that simply increase their hours of operation or production rate over what has occurred in recent years, resulting in increased annual emissions. Rather, NSR regulates construction of new major sources, and of physical or operational changes at existing major sources that result in significant emissions increases, and requires the new source or modification to control its emissions using stringent technology-based standards, as well as meet other requirements. In some cases (e.g., a modification at an already well-controlled unit) the benefits of the NSR program may be small. *See* Supplemental Analysis at 5. At the same time, avoidance of an NSR permitting process does not necessarily mean that emissions increase, since facilities may be discouraged by the permitting process itself from undertaking environmentally beneficial projects. *See id.* at 5. Finally, the NSR program can lead to changes in source behavior that have environmental effects (including potentially beneficial effects) even for sources that do not get an NSR permit, and permitting data tell us little about these effects. *See id.* at 5–6.

For these reasons, focusing entirely on hypothetical emissions increases that might avoid NSR misstates the overall effect of the NSR revisions that Colorado and other states have adopted. The question is not simply whether the SIP revision would theoretically allow certain sources to make emissions-increasing changes that might be subject to NSR under the current SIP but would not be subject to NSR in the revised SIP. Rather, the question is whether the SIP revision, as a whole, would interfere with applicable CAA requirements. Since the focus of this analysis is on the SIP as a whole, and since NSR Reform is expected to lead to overall emissions reductions even though emissions at some individual sources may increase, the commenters' arguments (arguing that certain individual sources' emissions may increase) do not show that the SIP revision as a whole would interfere with applicable CAA requirements. That said, we respond in detail below to the commenters' significant adverse comments regarding specific alleged emissions increases that would avoid NSR under Colorado's SIP revision.

1. Baseline Actual Emissions.

The commenters argue that revisions to Regulation No. 3's method of calculating baseline actual emissions for existing sources will allow those sources to ''inflate'' baseline actual emissions, and thereby substantially increase emissions without undergoing NSR. Specifically, the commenters argue that (1) the rule's definition of baseline actual emissions enables facilities to choose the highest consecutive two-year period over the prior ten years, thus treating high emissions that may not have been emitted for many years as ''baseline'' emissions; (2) the regulation allows sources to select a different two-year period for each pollutant, thus creating a ''baseline'' that is higher than actual

[1] The Supplemental Analysis is available at *http://epa.gov/nsr/documents/nsr-analysis.pdf,* and has also been added to the docket for this action. It is incorporated into these responses by reference.

emissions of the facility in any actual two-year period over the last decade; and (3) the regulation calculation ''rewards'' facilities for malfunctions, upsets and unusual emissions during start-up and shut-downs by allowing facilities to inflate the baseline with those emissions. We disagree that these changes will result in substantial emissions increases, and discuss each in turn.

First, with regard to the 2-in-10 baseline, EPA concluded in the context of the NSR Reform regulation that ''the environmental impact from the change in baseline * * * will not result in any significant change in benefits derived from the NSR program.'' Supplemental Analysis at 13. As we explained in the Supplemental Analysis, the rule change will not alter the baseline at all for many sources. *See* Supplemental Analysis at 13. Furthermore, for other instances, EPA explained:

> [F]or the remaining case, where recent emissions are low compared to the past, a source cannot qualify for a significantly higher baseline emissions level if the present emissions are lower as a result of enforceable controls or other enforceable limitations that have gone into effect since that time—which is true an estimated 70 percent of the time. Indeed, such sources could face more stringent baselines under the current rule if controls are applied toward the end of the baseline period. This leaves only the case where emissions are lower as a result of decreased utilization due to decreased market demand, some kind of outage, or other circumstance. Even in this case, it is not clear that a different baseline would always result, because the source is eligible, under current rules, to request a more representative baseline than the previous two years.

Id. at 13. Additional information regarding the 2-in-10 baseline change is available in the Supplemental Analysis, Appendix F. *See also* 67 FR 80186, 80199–80200 (Dec. 31, 2002); *New York,* 413 F.3d at 21–31 (explaining why EPA's selection of ten-year lookback period is reasonable).

The commenters also provided Colorado-specific emissions data to support their hypothesis that allowing a 2-in-10 baseline calculation could lead to significant emissions increases in Colorado. EPA has evaluated this analysis and concluded that the commenters overlooked other important factors involved with the baseline calculation and oversimplified interpretation of the baseline calculation changes. The commenters also failed to present any rationale that allowing a 2-in-10 baseline calculation will, in fact, cause actual emission increases in Colorado that would not occur absent the Reform rule. Applicability of NSR is determined on a project-specific basis. Commenters have not explained why there should be reason to believe that more projects will actually occur, or that higher-emitting projects will actually occur, as a result of a 2-in-10 calculation, rather than the baseline calculation specified in pre-Reform NSR rules. Appendix F of the Supplemental Analysis provides a number of reasons why the majority of sources will not be affected by the change in baseline calculation. The following circumstances at particular sources would not result in a change in baseline: new sources and new units at existing sources, electric utility steam generating units, sources with recent high levels of emissions, and sources with recent emissions comparable to the past. The Supplemental Analysis explains that NSR Reform requires ''use of current emission limits that account for enforceable pollution control measures that have been put into place.'' Supplemental Analysis at F–4. While the commenters did remove electric utility steam generating units from their analysis, they did not evaluate the change in baseline calculation with respect to the other circumstances described above. In particular, they acknowledge that they did not evaluate other provisions of state and federal law that could limit pollution increases (comment 0020.21 in docket). In lieu of doing this evaluation for Colorado, the commenters cite an October 2003 report [2] that looked at the impact of non-NSR provisions in relation to the 2-in-10 baseline calculation in 12 states, of which Colorado was not one. EPA has previously noted that this report is ''overly simplistic and erroneous in its interpretation of NSR.'' 73 FR 76563 (Dec. 17, 2008).[3]

Furthermore, it is overly simplistic to assume that sources would be able to increase their emissions by simply relying on a higher baseline calculation that a 10-year lookback may (or may not) afford, for at least four reasons.

1. As mentioned above, there are several circumstances that the commenters overlooked, such as the existing rules' provision to select an alternate representative baseline period, and enforceable controls or other enforceable limitations, that factor into the ability to take a higher baseline by looking back 10 years as opposed to 2 years. With respect to the existing rules' provision allowing for a source to request an alternate representative baseline period, CDPHE has informed EPA that, even under its current NSR rules, it has approved at least four requests for a more representative baseline other than the most recent two years.[4] The commenters did not take this into account when calculating the hypothetical emissions increases that might occur under the 2-in-10 baseline calculation.

2. The commenters have attempted to show that a 10-year lookback can yield a higher *facility-wide* baseline, but NSR applicability is determined for a particular project affecting particular emissions units. For existing emissions units, the source would likely use the actual-to-projected-actual applicability test, which compares projected actual emissions to the baseline actual emissions *for that emissions unit.* See Regulation No. 4, Part D, section I.B.1. The project's overall NSR applicability is determined by summing this difference across all emissions units involved in the project. See id. The possibility that an emissions unit not involved in the project (i.e. not having an emissions increase from the project) might have a high baseline actual emissions is irrelevant in this context.

3. The prospect that the ten-year lookback might *allow* certain sources to use a higher baseline and therefore increase emissions (as compared to a two-year-lookback) does not mean that sources will actually do so. *See Natural Resources Defense Council* v. *Jackson,* 650 F.3d 662, 666 (7th Cir. 2011) (''The two-in-ten rule, for example, *might* allow a business to increase average emissions, but *does* it? So far, we have no answer to that question, either from actual experience in adopting states or through efforts to test a model by retrodiction.'') (emphases in original). As explained in depth in the Supplemental Analysis, EPA has concluded that any emissions increases made possible by the ten-year lookback will be balanced by emissions reductions elsewhere as part of the overall NSR Reform.

4. Any source modification that, because of the changes to the baseline calculation, would avoid major NSR would nevertheless be evaluated on a case-by-case basis under the minor source permitting program in Colorado that is in place to maintain or make

[2] Environmental Integrity Project and the Council of State Governments/Eastern Regional Conference, *Reform or Rollback? How EPA's Changes to New Source Review Could Affect Air Pollution in 12 States, October 2003.*

[3] We incorporate by reference into this response a detailed critique of this report presented in EPA's approval of Wisconsin's NSR Reform SIP revision. See 73 FR 76560, 76563–64.

[4] Based on email communication from Roland C. Hea, CDPHE Permitting Section Supervisor, to EPA Region 8 dated November 18, 2011. A copy of the email has been added to the docket for this action.

progress towards attainment of the National Ambient Air Quality Standards (NAAQS). While it is true that Colorado's minor source permitting program does not require Best Available Control Technology (BACT), in actual practice Colorado has a track record of progress towards attainment of the NAAQS given that it currently attains all NAAQS except ozone.[5] Furthermore, within the ozone nonattainment area, the minor source permitting program in Colorado requires Reasonably Available Control Technology (RACT) for stationary sources. The commenters' failure to consider this RACT requirement in their analysis of the 2-in-10 baseline calculation contributes to an unrealistically inflated hypothetical emissions increase due to the revised baseline calculation.

With respect to the fact that a facility may select a different two-year baseline period for each pollutant, NSR applicability has long been evaluated on a pollutant-by-pollutant basis, and the NSR Reform rule did not change this. Whether a modification results in a net emissions increase exceeding significance thresholds is determined on a pollutant-by-pollutant basis, and BACT (or, where appropriate, Lowest Achievable Emission Rate (LAER)) is determined on a pollutant-by-pollutant basis. Different pollutants may be generated by different equipment or production processes within a facility. When comparing emissions from different years, it is not unusual for a facility to have a higher level of one pollutant than another in a given year, and then the reverse relationship in a subsequent year. In many such cases, the reason is simply that the facility operates several different processes (e.g., associated with several different products or operations) with different emissions characteristics, and, due to variations in product cycles, the facility runs different processes or production lines more in some years than others. Moreover, the facility may use entirely different control technologies to control different pollutants. It is therefore not unreasonable to calculate a facility's emissions increase and net emissions increase for a particular pollutant with respect to the baseline actual emissions for that pollutant, even if the variability of emissions of that pollutant differs from that of another pollutant emitted at the same facility. Moreover, the commenters have not provided any specific data suggesting that allowing a facility to select its baseline period on a pollutant-by-pollutant basis, rather than requiring a facility to use a single two-year baseline period for all regulated NSR pollutants, will actually result in emissions increases in Colorado.

Finally, with respect to startup, shutdown, and malfunction, Regulation No. 3, in accordance with the federal regulation, defines ''Projected Actual Emissions'' as including ''emissions associated with startups, shutdowns, and malfunctions.'' See Regulation No. 3, Part D, Paragraph II.A.36.b.(ii). Thus, startup, shutdown, and malfunction are included in both the calculation of both baseline actual emissions and projected actual emissions. With respect to the exclusion for ''non-compliant emissions that occurred while the source was operating above any emission limitation,'' the application of this exclusion is straightforward. The calculation of baseline actual emissions cannot include periods of time when those emissions exceed an emissions limitation. Whether enforcement action has been taken is irrelevant for purposes of calculating the baseline actual emissions.

2. Revised Applicability Test

The commenters argue that the revised applicability test would allow existing sources to substantially increase emissions without undergoing NSR. Specifically, the commenters object to (1) extending the actual-to-projected-actual test to all sources, and (2) excluding emissions associated with increased demand (so long as the facility could have accommodated that growth before the modification).

We disagree that these changes will result in substantial emissions increases. The commenters provide no Colorado-specific information in support of these arguments, and consequently our response relies on the NSR Reform rulemaking record.

With regard to the actual-to-projected actual test, EPA concluded that ''the environmental impacts of the switch to the actual-to-projected actual test are likely to be environmentally beneficial. However, as with the change to the baseline, the vast majority of sources, including new sources, new units, electric utility steam generating units, and units that actually increase emissions as a result of a change, will be unaffected by this change. Thus, the overall impacts of the NSR changes are likely to be environmentally beneficial, but only to a small extent.'' Supplemental Analysis at 14, Appendix G; *see also* 67 FR 80186, 80196.

With regard to the demand growth exclusion, the commenters' arguments have been addressed in the NSR Reform rulemaking. *See* 67 FR 80186, 80202–03; *see also New York,* 413 F.3d at 31–33.

3. Plantwide Applicability Limits

The commenters argue that the PAL provisions would allow existing sources to substantially increase emissions without undergoing NSR.

We disagree that the PAL provisions will result in substantial emissions increases. The commenters provide no Colorado-specific information in support of these arguments, only a Colorado-specific example to illustrate the non-controversial statement that potential-to-emit can be larger than actual emissions. (comment 0020.18 in docket). Consequently, our response relies on the NSR Reform rulemaking record.

The Supplemental Analysis explained that ''EPA expects that the adoption of PAL provisions will result in a net environmental benefit. Our experience to date is that the emissions caps found in PAL-type permits result in real emissions reductions, as well as other benefits.'' Supplemental Analysis at 6. EPA further explained that:

> Although it is impossible to predict how many and which sources will take PALs, and what actual reductions those sources will achieve for what pollutants, we believe that, on a nationwide basis, PALs are certain to lead to tens of thousands of tons of reductions of VOC from source categories where frequent operational changes are made, where these changes are time sensitive, and where there are opportunities for economical air pollution control measures. These reductions occur because of the incentives that the PAL creates to control existing and new units in order to provide room under the cap to make necessary operational changes over the life of the PAL.

Supplemental Analysis at 7. The Supplemental Analysis, and particularly Appendix B, provides additional details regarding EPA's analysis of PALs and anticipated associated emissions decreases. *See also* 67 FR 80186, 80214–22; *New York,* 413 F.3d at 36–38.

Comment No. 2: EPA's proposed approval contravenes the CAA's General Savings Clause set forth in section 193 of the Act.

EPA Response No. 2: EPA's response to the section 193 issues raised by the commenters involves many of the same elements of the response above to the section 110(l) comments, which is also incorporated by reference here. Section 193 states (in relevant part) that ''[n]o control requirement in effect, or required to be adopted by an order, settlement agreement, or plan in effect before November 15, 1990, in any area

[5] In the case of ozone, the State has attaining data in relation to the 1997 8-hour standard and has a recently approved attainment demonstration SIP for this standard. See the response to Comment No. 3 below for more information regarding the ozone attainment status in Colorado.

which is a nonattainment area for any air pollutant may be modified after November 15, 1990, in any manner unless the modification insures equivalent or greater emission reductions of such air pollutant.'' 42 U.S.C. 7515.

Assuming for purposes of this discussion that section 193 does apply to the instant action,[6] as discussed earlier in this notice, EPA has previously determined and explained in the Supplemental Analysis that implementation of the 2002 NSR Reform Rule provisions still in effect (that is, those not vacated by the DC Circuit) are expected to have at least a neutral environmental effect. EPA has no information indicating that findings associated with EPA's Supplemental Analysis would not apply in Colorado—that is, that Colorado's SIP revisions would not have at least a neutral (and possibly a modest beneficial) environmental effect.

Therefore, even if section 193 does apply to this action, EPA does not agree with the commenters' assertions that the SIP revisions approved in this action raise a section 193 concern. EPA is simply approving Colorado's SIP revisions that adopt rules equivalent to the federal rules, and, as discussed earlier in this notice, the Supplemental Analysis that EPA developed to support adoption of the federal rules suggests that the effects of the revised rules will be at least neutral. The Colorado SIP will continue to operate with the full suite of NSR-related elements, including a comprehensive minor source program.

Comment No. 3: EPA's proposed approval will interfere with the ozone attainment demonstration (with respect to the 1997 8-hour ozone standard) for the Denver Metro area and interfere with the Early Action Compact (EAC).

EPA Response No. 3: These comments are no longer relevant since much has changed regarding the EAC and Denver's ozone attainment status between now and when the EPA first proposed approval of NSR Reform for Colorado.

Denver failed to meet the requirements of the EAC and, as of November 2007, was designated nonattainment for the 1997 8-hour ozone standard. Since that time, EPA has approved a SIP revision (76 FR 47443) for the State of Colorado that includes an attainment demonstration by November 2010 for the Denver Metro Area. Ambient air monitoring data also supports the attainment demonstration, with no ozone monitors in the Denver Metro Area showing a violation of the 1997 8-hour ozone standard using design values from 2007–2009 (82 ppb) or from 2008–2010 (78 ppb). Preliminary data from 2009–2011 also shows attainment with respect to the 1997 8-hour ozone standard.

Comment No. 4: Colorado is preparing to make substantial revisions to its Inspection & Maintenance (I/M) program that will further undermine the ozone attainment demonstration for the Denver Metro Area.

EPA Response No. 4: The comment is outside the scope of this action since EPA did not propose to take any action with respect to Colorado's I/M program. Furthermore, many aspects of the I/M program in the Denver Metro Area/North Front Range have changed since this comment was originally made. On September 25, 2006, the State of Colorado submitted a SIP submittal for the CAA section 175A(b) second 10-year carbon monoxide (CO) maintenance plans for the Denver metropolitan and Longmont areas. This SIP submittal also included revisions to Colorado's Regulation Number 11 which included the removal of the I/M program in both carbon monoxide maintenance areas. EPA approved these second 10-year maintenance plan SIP revisions on August 17, 2007 (see 72 FR 46148). However, in our August 17, 2007 action, we drew special attention to the point that the I/M program would continue in both areas for purposes of the ozone element of the SIP: ''* * * the removal of the I/M program from Denver's revised CO maintenance plan does not mean the I/M program is eliminated. The State relies on the I/M program in the Denver's 1-hour ozone maintenance plan and Denver's 8-hour ozone Early Action Compact (EAC). Therefore, the motor vehicle I/M program will remain intact in the Denver-metro area.'' (72 FR 46155, August 17, 2007). We also note that we had previously approved Fort Collins' and Greeley's revised CO maintenance plans which also involved the removal of the Basic I/M program from the SIP for both areas (see 68 FR 43316, July 22, 2003 and 70 FR 48650, August 19, 2005, respectively). Those actions effectively eliminated Basic I/M in Larimer and Weld Counties; however, we note that those basic I/M programs had only been in place for purposes of CO emission reductions.

Colorado has submitted two other SIP revisions, after our August 17, 2007 **Federal Register** action, that involve amendments to Regulation Number 11. Those revisions involve a low emitter index (LEI) of vehicles with respect to the Clean Screen element of Regulation Number 11 and to eliminate obsolete provisions for gasoline filter neck inspections and CFC (refrigerant) leak checks. The latter submittal has since been withdrawn by the State and we have not acted on the LEI submittal yet. However, we do note that since our most recent action to Federally approve revisions to Colorado's Regulation Number 11 (see 72 FR 46148, August 17, 2007), Colorado has reinstated the I/M programs in Larimer and Weld Counties for the purpose of reducing ozone precursor emissions. These I/M programs contain State-only enforceable provisions and the re-implementation of the I/M programs began on November 1, 2010. These State-only I/M expansion provisions for Larimer and Weld Counties appear in Colorado's Regulation Number 11, Motor Vehicle Emissions Inspection Program, 5 CCR 1001–13, current as State-adopted on January 20, 2011; State-effective on March 2, 2011. We note that EPA has approved an attainment demonstration of the 1997 8-hour ozone NAAQS for the Denver Metro Area/North Front Range (76 FR 47443, August 5, 2011) and this attainment demonstration included ozone precursor emission reductions from the continued implementation of Colorado's Federally-approved I/M program. Furthermore, as stated above, ambient data shows attaining monitors using design values from 2007–2009 (82 ppb) and from 2008–2010 (78 ppb). Preliminary data from 2009–2011 also shows attainment with respect to the 1997 8-hour ozone standard.

Comment No. 5: Title 1, Part C, Section 160 of the CAA states that air quality in national parks must be protected. It is contrary to this CAA section for EPA to approve a rule revision that would increase air pollution in Colorado's Class I areas. Section 110(l) is proof that such a SIP revision should not be approved.

EPA Response No. 5: EPA's response to the air quality in national parks issue raised by the commenters involves many of the same elements of the response above to the section 110(l) comments, which is also incorporated by reference here. EPA's national analysis in support of the 2002 NSR Reform Rules indicates that the non-vacated provisions of the NSR Reform Rules will have a neutral or beneficial impact.

The primary issue raised by the commenters was the impact of nitrogen deposition in Rocky Mountain National Park (RMNP) which resides fully within the boundaries of Colorado. The commenters incorporate by reference a September 1, 2004 petition to the

[6] Of course, section 193 does not apply at all outside the Denver Metropolitan Ozone Nonattainment Area.

Department of Interior (DOI) from Colorado Trout Unlimited and Environmental Defense. The petition asks DOI to ''[c]all for the EPA and the State of Colorado to fulfill their legal responsibilities to lower NO_X and Ammonia to protect human health, plants and ecosystems, and scenic vistas at Rocky Mountain National Park and to fully mitigate nitrogen deposition above the identified critical load.'' Partly in response to this petition, a Memorandum of Understanding was signed by the National Park Service, EPA, and the CDPHE to form the RMNP Initiative. The agencies agreed to pursue a more in-depth review of the issues related to nitrogen deposition in RMNP and a course of action to address them. As a result, the Initiative formulated the ''Nitrogen Deposition Reduction Contingency Plan'' which was endorsed by the Colorado Air Quality Control Commission (AQCC) on June 17, 2010. The plan includes goals for reducing nitrogen deposition incrementally over 5 year periods with contingencies in place should these goals not be reached.

In addition to the contingency measures adopted by the multi-agency plan, it is expected that current and future ozone planning in Colorado should positively impact nitrogen deposition in RMNP. Reduction in ozone precursors (e.g. NO_X) that result from the control measures adopted in Colorado's recent federally approved ozone attainment demonstration SIP will also contribute to a reduction of nitrogen deposition in RMNP.

Furthermore, Colorado is subject to the Protection of Visibility requirements at 40 CFR part 51, subpart P, including the Reasonably Attributable Visibility Impairment (RAVI) requirements, the Regional Haze requirements, and the Grand Canyon Visibility Transport Commission requirements. Each of these programs requires Colorado to achieve a variety of emissions reductions aimed at protecting visibility in national parks and other Class I areas. In particular, EPA expects that Colorado's SIP revision submission to meet the Regional Haze requirements, including both the Best Available Retrofit Technology (BART) controls and the long-term strategy for regional haze, will provide NO_X reductions that will reduce the nitrogen deposition in RMNP.

III. Final Action

EPA is approving portions of Colorado's revisions to Regulation No. 3, submitted by Colorado on July 11, 2005 and October 25, 2005, that relate to the PSD and NSR construction permits program. These revisions meet the minimum program requirements of the December 31, 2002, EPA NSR Reform rulemaking. Several of the remaining revisions made by Colorado to Regulation No. 3 as adopted on April 16, 2004 by the Colorado AQCC are being acted on by EPA in a separate final action related to Colorado's Interstate Transport SIP (see proposed action at 76 FR 21835, April 19, 2011).

IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by *June 11, 2012.* Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate

matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: December 21, 2011.

James B. Martin,

Regional Administrator, Region 8.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart G—Colorado

■ 2. Section 52.320 is amended by adding paragraph (c)(122) to read as follows:

§ 52.320 Identification of plan.

* * * * *

(c) * * *

(122) The State of Colorado submitted revisions October 25, 2005 to Colorado's 5 CCR 1001–5 Regulation Number 3, Part A and Colorado's 5 CCR 1001–5 Regulation Number 3, Part D. The October 25, 2005 submittal included language changes and renumbering of Regulation Number 3. The incorporation by reference in ((i)(A) and (i)(B) reflects the renumbered sections and language changes as of the October 25, 2005 submittal.

(i) Incorporation by reference.

(A) 5 CCR 1001–5, Regulation 3, *Stationary Source Permitting and Air Contaminant Emission Notice Requirements,* Part A, *Concerning General Provisions Applicable to Reporting and Permitting,* adopted April 16, 2004 and effective June 30, 2004:

Section I, *Applicability,* Sections I.B, *Definitions;* I.B.7, *Allowable Emissions;* I.B.13, *Continuous Emissions Monitoring System (CEMS);* I.B.14, *Continuous Emissions Rate Monitoring Systems (CERMS);* I.B.15, *Continuous Parameter Monitoring System (CPMS);* I.B.33, *Pollution Prevention;* I.B.35, *Potential to Emit;* I.B.36, *Predictive Emissions Monitoring System (PEMS);* adopted April 16, 2004 and effective June 30, 2004.

(B) 5 CCR 1001–5, Regulation 3, *Stationary Source Permitting and Air Contaminant Emission Notice Requirements,* Part D, *Concerning Major Stationary Source New Source Review and Prevention of Significant Deterioration,* adopted April 16, 2004 and effective June 30, 2004:

(*1*) Section I, *Applicability,*

(*i*) I.A., *General Applicability;* I.A.2; I.A.3;

(*ii*) I.B, *Applicability Tests;* I.B.1; I.B.2; I.B.4 (except the final sentence beginning, ''For example…''); I.B.5;

(*iii*) I.C;

(*2*) Section II, *Definitions,*

(*i*) II.A;

(*ii*) II.A; II.A.1, *Actual Emissions;* II.A.1.a (only the language that appears as plain or italicized text); II.A.1.c (only the language that appears as plain text); II.A.1.d;

(*iii*) II.A.2, *Actuals PAL;*

(*iv*) II.A.4, *Baseline Actual Emissions;*

(*v*) II.A.7, *Begin Actual Construction;*

(*vi*) II.A.9, *Clean Coal Technology;*

(*vii*) II.A.10, *Clean Coal Technology Demonstration Project;*

(*viii*) II.A.13, *Construction;*

(*ix*) II.A.14, *Emissions Unit;*

(*x*) II.A.15, *Electric Utility Steam Generating Unit;*

(*xi*) II.A.17, *High Terrain;*

(*xii*) II.A.18, *Hydrocarbon Combustion Flare;*

(*xiii*) II.A.20, *Low Terrain;*

(*xiv*) II.A.21, *Lowest Achievable Emission Rate (LAER);* II.A.21.b (only the language that appears as plain or italicized text);

(*xv*) II.A.22, *Major Emissions Unit;*

(*xvi*) II.A.23, *Major Modification* (only the language that appears as plain and italicized text); II.A.23.d.(iii); II.A.23.d(x); II.A.23.d(xi); II.A.23.e;

(*xvii*) II.A.25, *Major Stationary Source;* II.A.25.b (only the language that appears as plain or italicized text);

(*xviii*) II.A.27, *Net Emissions Increase;* II.A.27.a.(i) (only the language that appears as plain or italicized text); II.A.27.a.(ii); II.A.27.b; II.A.27.g.(iii) (only the language that appears as plain or italicized text); II.A.27.i;

(*xix*) II.A.28, *Nonattainment Major New Source Review (NSR) Program;*

(*xx*) II.A.29, *PAL Effective Date;*

(*xxi*) II.A.30, *PAL Effective Period;*

(*xxii*) II.A.31, *PAL Major Modification;*

(*xxiii*) II.A.32, *PAL Permit;*

(*xxiv*) II.A.33, *PAL Pollutant;*

(*xxv*) II.A.34, *Plantwide Applicability Limitation (PAL);*

(*xxvi*) II.A.36, *Prevention of Significant Deterioration (PSD) Permit;*

(*xxvii*) II.A.37, *Project;*

(*xxviii*) II.A.38, *Projected Actual Emissions;*

(*xxvix*) II.A.39, *Reactivation of Very Clean Coal-fired Electric Utility Steam Generating Unit;*

(*xxx*) II.A.41, *Replacement Unit;*

(*xxxi*) II.A.42, *Repowering;*

(*xxxii*) II.A.43, *Secondary Emissions;*

(*xxxiii*) II.A.46, *Significant Emissions Unit;*

(*xxxiv*) II.A.47, *Small Emissions Unit;*

(*xxxv*) II.A.48, *Temporary Clean Coal Technology Demonstration Project;*

(*3*) Section V, *Requirements Applicable to Nonattainment Areas,* V.A.7.c (except for the phrases, ''a Clean Unit or at'', ''a reasonable possibility that'', and ''may result in a significant emissions increase''); V.A.7.d;

(*4*) Section VI, *Requirements applicable to attainment and unclassifiable areas and pollutants implemented under section 110 of the Federal Act (Prevention of Significant Deterioration Program),* Sections VI.A.1.c (only the language that appears as plain or italicized text); VI.B.5 (except for the phrases, ''a Clean Unit or at'', ''a reasonable possibility that'', and ''may result in a significant emissions increase''); VI.B.6;

(*5*) Section XVII, *Actuals PALs;* adopted April 16, 2004 and effective June 30, 2004.

[FR Doc. 2012–8349 Filed 4–9–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2012–0003]

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: *Effective dates:* The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated in the table below.

ADDRESSES: The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472,

(202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov*.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community. The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. This final rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

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

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

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

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

■ 1. The authority citation for part 67 continues to read as follows:

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

§ 67.11 [Amended]

■ 2. The tables published under the authority of § 67.11 are amended as follows:

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
Gilmer County, Georgia, and Incorporated Areas **Docket No.: FEMA–B–1155**			
Cartecay River	Approximately 1.12 miles upstream of Holt Bridge Road	+1290	Unincorporated Areas of Gilmer County.
	Approximately 0.24 mile upstream of the Owltown Creek confluence.	+1519	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

Unincorporated Areas of Gilmer County

Maps are available for inspection at the Gilmer County Courthouse, 1 Broad Street, Ellijay, GA 30540.

Chisago County, Minnesota, and Incorporated Areas **Docket No.: FEMA–B–1134**			
Lake Ellen	Entire shoreline	+895	City of Chisago City.
Skogman Lake	Entire shoreline within Chisago County	+950	Unincorporated Areas of Chisago County.

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

City of Chisago City

Maps are available for inspection at City Hall, 10625 Railroad Avenue, Chisago City, MN 55013.

Unincorporated Areas of Chisago County

Maps are available for inspection at the Chisago County Government Center, 313 North Main Street, Center City, MN 55012.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
Clay County, Minnesota, and Incorporated Areas Docket No.: FEMA–B–1078			
Buffalo River	At the confluence with the Red River of the North	+883	City of Georgetown, Unincorporated Areas of Clay County.
	Just downstream of U.S. Route 10 (1st crossing)	+948	
Oakport Coulee	At the convergence with the Red River of the North	+893	Unincorporated Areas of Clay County.
	Approximately 2,500 feet downstream of Wall Street Avenue North/County Highway 22.	+896	
County Ditch No. 20 (Lower Reach).	At the convergence with the Red River of the North	+888	Unincorporated Areas of Clay County.
	At the divergence from County Ditch No. 20 (Connecting Reach/Upper Reach).	+893	
County Ditch No. 41	Approximately 5,645 feet downstream of Main Street South/County Highway 78.	+908	City of Moorhead, Unincorporated Areas of Clay County.
	At the divergence of County Ditch No. 41 Lateral No. 1	+910	
County Ditch No. 41 Lateral No. 1.	At 34th Street North	+906	City of Dilworth, Unincorporated Areas of Clay County.
	At the divergence of County Ditch No. 41	+910	
County Ditch No. 50	At 34th Street North	+905	City of Dilworth.
	Approximately 1,700 feet upstream of U.S. Route 10/Center Avenue East.	+910	
County Drain No. 51	At the confluence with the Buffalo River	+891	Unincorporated Areas of Clay County.
	Approximately 3,900 feet upstream of 90th Avenue North/County Highway 26.	+902	
Glyndon Tributary	Approximately 1,700 feet downstream of U.S. Route 10/State Street.	+916	City of Glyndon, Unincorporated Areas of Clay County.
	At 110th Street South/County Highway 71	+926	
Red River of the North	At the Norman County boundary	+879	City of Georgetown, City of Moorhead, Unincorporated Areas of Clay County.
	At the Wilkin County boundary	+919	
South Branch Buffalo River	At the confluence with the Buffalo River	+915	Unincorporated Areas of Clay County.
	Approximately 200 feet downstream of 180th Avenue South	+942	
South Branch Wild Rice River	Backwater area approximately 1,450 feet downstream of Burlington Northern & Santa Fe Railway/State Highway 32.	+1119	City of Ulen.
Stony Creek	At the confluence with South Branch Buffalo River	+924	Unincorporated Areas of Clay County.
	Approximately 100 feet upstream of the confluence with South Branch Buffalo River.	+924	
Unnamed Tributary to Whisky Creek.	At 165th Avenue South	+993	Unincorporated Areas of Clay County.
	Approximately 3,110 feet upstream of Front Street South/County Highway 52.	+1030	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

City of Dilworth
Maps are available for inspection at 21st Avenue Southeast, Dilworth, MN 56529.

City of Georgetown
Maps are available for inspection at 127 Main Street, Georgetown, MN 56546.

City of Glyndon
Maps are available for inspection at 36 3rd Street Southeast, Glyndon, MN 56547.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected

City of Moorhead
Maps are available for inspection at 500 Center Avenue, Moorhead, MN 56561.

City of Ulen
Maps are available for inspection at 201 1st Street Northwest, Ulen, MN 56585.

Unincorporated Areas of Clay County
Maps are available for inspection at 807 11th Street North, Moorhead, MN 56560.

Tioga County, New York (All Jurisdictions)
Docket No.: FEMA–B–1089

Apalachin Creek	At the confluence with the Susquehanna River	+826	Town of Owego.
	Approximately 1,729 feet upstream of Main Street	+826	
Owego Creek	At the confluence with the Susquehanna River	+813	Town of Tioga, Village of Owego.
	Approximately 3,529 feet upstream of Waverly Road/West Main Street.	+813	
Susquehanna River	Approximately 2.3 miles upstream of State Route 17	+781	Town of Barton, Town of Nichols, Town of Owego, Town of Tioga, Village of Nichols, Village of Owego.
	Approximately 2.4 miles upstream of Valley View Drive	+829	
West Branch Owego Creek	Approximately 2.86 miles upstream of West Newark Cross Road.	+1028	Town of Berkshire.
	Approximately 2.95 miles upstream of West Newark Cross Road.	+1029	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

Town of Barton
Maps are available for inspection at the Barton Town Hall, 304 State Route 17C, Waverly, NY 14892.

Town of Berkshire
Maps are available for inspection at the Town Hall, 18 Railroad Avenue, Berkshire, NY 13736.

Town of Nichols
Maps are available for inspection at the Nichols Town Hall, 54 East River Road, Nichols, NY 13812.

Town of Owego
Maps are available for inspection at the Owego Town Hall, 2354 State Route 434, Apalachin, NY 13812.

Town of Tioga
Maps are available for inspection at the Tioga Town Hall, 54 5th Avenue, Tioga Center, NY 13845.

Village of Nichols
Maps are available for inspection at the Nichols Town Hall, 54 East River Road, Nichols, NY 13812.

Village of Owego
Maps are available for inspection at the Owego Village Municipal Building, Old Jail, 178 Main Street, Owego, NY 13827.

Wagoner County, Oklahoma, and Incorporated Areas
Docket Nos.: FEMA–B–1022 and FEMA–B–1112

Adams Creek	Approximately 717 feet downstream of the confluence with School Creek.	+600	Town of Fair Oaks.
	Approximately 0.61 mile upstream of the confluence with School Creek.	+605	
Arkansas River	Approximately 6,809 feet from U.S. Route 69 upstream to the limit of detailed study.	+516	Unincorporated Areas of Wagoner County.
	Approximately 15,526 feet from U.S. Route 69 downstream to the limit of detailed study.	+523	
Arkansas River (Corp of Engineers).	Approximately 10,354 feet from State Highway 104 downstream to the limit of detailed study.	+551	Unincorporated Areas of Wagoner County.
	Limit of detailed study at Tulsa County boundary	+582	
East Coal Creek	Approximately 386 feet upstream from River Park Avenue	+561	City of Wagoner.
	Approximately 213 feet upstream of Railroad Culvert	+570	
Salt Creek	Approximately 0.60 mile downstream of 305th Avenue	+557	Town of Fair Oaks.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
Verdigris River	Approximately 365 feet upstream of 257th Avenue	+607	Town of Okay.
	Approximately 245 feet downstream of 72nd Street	+516	
	Approximately 0.45 mile upstream of 72nd Street	+516	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

Town of Fair Oaks
Maps are available for inspection at the Rogers County Commissioners Office, 219 South Missouri Street, Claremore, OK 74017.

Town of Okay
Maps are available for inspection at the Wagoner County Commissioners Office, 306 East Cherokee Street, Wagoner, OK 74107.

City of Wagoner
Maps are available for inspection at the Wagoner County Commissioners Office, 306 East Cherokee Street, Wagoner, OK 74107.

Unincorporated Areas of Wagoner County
Maps are available for inspection at the Wagoner County Commissioners Office, 306 East Cherokee Street, Wagoner, OK 74107.

Lawrence County, South Dakota, and Incorporated Areas
Docket No.: FEMA–B–1069

Hungry Hollow Gulch	Approximately 350 feet downstream of Ames Avenue	+3632	City of Spearfish.
	Approximately 645 feet upstream of Saint Joe Street	+3699	
Ice House Creek	Approximately 25 feet upstream of Grant Street	+3658	City of Spearfish.
	Approximately 50 feet upstream of State Street	+3686	
Ice House Creek Tributary A	Approximately 73 feet downstream of 8th Street	+3663	City of Spearfish.
	Approximately 150 feet downstream of State Street	+3671	
Riggs Gulch	Approximately 200 feet downstream of U.S. Route 14A	+3764	City of Spearfish.
	Approximately 920 feet upstream of Colorado Boulevard	+3843	
Spearfish Creek	Just downstream of Utah Boulevard	+3570	City of Spearfish, Unincorporated Areas of Lawrence County.
	Approximately 1,300 feet upstream of Winterville Drive	+3726	
Unnamed Tributary to Higgins Gulch.	Approximately 4,430 feet downstream of the I–90 West ramp.	+3440	City of Spearfish.
	Approximately 1,500 feet downstream of the I–90 West ramp.	+3491	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

City of Spearfish
Maps are available for inspection at 625 5th Street, Spearfish, SD 57783.

Unincorporated Areas of Lawrence County
Maps are available for inspection at 90 Sherman Street, Deadwood, SD 57732.

Sumner County, Tennessee, and Incorporated Areas
Docket No.: FEMA–B–1185

East Camp Creek	Approximately 1,110 feet downstream of U.S. Route 31	+453	City of Gallatin.
	At the downstream side of State Route 25	+486	
North Donoho Branch	At the upstream side of the railroad	+794	City of Portland.
	Approximately 0.6 mile upstream of the railroad	+794	
Sink Hole Creek	At the downstream side of Newton Lane	+475	City of Gallatin, Unincorporated Areas of Sumner County.
	Approximately 0.4 mile upstream of Airport Driveway	+571	
Sink Hole Creek Tributary	Approximately 320 feet upstream of the Sink Hole Creek confluence.	+498	City of Gallatin, Unincorporated Areas of Sumner County.
	Approximately 580 feet upstream of Airport Road	+547	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
Station Camp Creek	At the upstream side of Lower Station Camp Road	+452	City of Gallatin, City of Hendersonville, Unincorporated Areas of Sumner County.
	Approximately 0.8 mile downstream of the Strother Branch confluence.	+554	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

City of Gallatin
Maps are available for inspection at City Hall, 132 West Main Street, Gallatin, TN 37066.

City of Hendersonville
Maps are available for inspection at City Hall, Planning and Zoning, 1 Executive Park Drive, Hendersonville, TN 37075.

City of Portland
Maps are available for inspection at City Hall, 100 South Russell Street, Portland, TN 37148.

Unincorporated Areas of Sumner County
Maps are available for inspection at the Sumner County Building Department, 355 North Belvedere Drive, Room 202, Gallatin, TN 37066.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: March 22, 2012.

Sandra K. Knight,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2012–8568 Filed 4–9–12; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2012–0003]

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: *Effective date:* The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated in the table below.

ADDRESSES: The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Associate Adminstrator for Mitigation has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community. The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. This final rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

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

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

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

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

■ 1. The authority citation for part 67 continues to read as follows:

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

§ 67.11 [Amended]

■ 2. The tables published under the authority of § 67.11 are amended as follows:

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
Randolph County, Arkansas, and Incorporated Areas Docket No.: FEMA–B–1130			
Baltz Lake	Approximately 1,800 feet downstream of State Highway 115.	+278	Unincorporated Areas of Randolph County.
	Approximately 900 feet upstream of State Highway 115	+279	
Black River	Approximately 9,000 feet downstream of the confluence with Mill Creek.	+268	City of Pocahontas, Unincorporated Areas of Randolph County.
	Approximately 2,250 feet upstream of the confluence with Pettit Creek.	+269	
Mill Creek	Just upstream of Ridgecrest Road	+270	City of Pocahontas, Unincorporated Areas of Randolph County.
	Approximately 600 feet upstream of U.S. Route 62	+288	
Pettit Creek	At the confluence with the Black River	+269	City of Pocahontas, Unincorporated Areas of Randolph County.
	Approximately 1,500 feet upstream of U.S. Route 67	+269	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

City of Pocahontas
Maps are available for inspection at 410 North Marr Street, Pocahontas, AR 72455.

Unincorporated Areas of Randolph County
Maps are available for inspection at 107 West Broadway Street, Pocahontas, AR 72455.

White County, Arkansas, and Incorporated Areas Docket No.: FEMA–B–1021			
Deener Creek	Approximately 2.08 miles upstream of the Rocky Branch confluence.	+237	Unincorporated Areas of White County.
	Approximately 2.42 miles upstream of the Rocky Branch confluence.	+240	
Gum Creek Flooding Effects	Just upstream of Collins Road	+213	Unincorporated Areas of White County.
	Approximately 0.55 mile upstream of Missouri Pacific Railroad.	+228	
Little Red River	Just upstream of U.S. Route 67	+211	Unincorporated Areas of White County.
	Approximately 850 feet upstream of Davis Drive	+215	
Overflow Creek Tributary	Approximately 500 feet downstream of State Highway 367	+216	Unincorporated Areas of White County.
	Approximately 850 feet upstream of State Highway 367	+234	
Red Cut Slough	Just upstream of the Missouri Pacific Railroad	+220	City of Beebe, Unincorporated Areas of White County of Beebe.
	Approximately 1,044 feet downstream of the Red Cut Slough Tributary confluence.	+220	
Red Cut Slough Tributary	Just upstream of State Highway 367	+224	City of Beebe, Unincorporated Areas of White County.
	Just upstream of West Mississippi Street	+235	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
Red Cut Slough Tributary 2	At the Red Cut Slough confluence	+220	City of Beebe, Unincorporated Areas of White County.
	Approximately 1,050 feet downstream of West Center Street.	+230	
Red Cut Slough Tributary A	Just upstream of Missouri Pacific Railroad	+224	City of Beebe, Unincorporated Areas of White County.
	Approximately 128 feet upstream of California Street	+229	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

City of Beebe

Maps are available for inspection at 321 North Elm Street, Beebe, AR 72012.

Unincorporated Areas of White County

Maps are available for inspection at 119 West Arch Avenue, Searcy, AR 72143.

Larimer County, Colorado, and Incorporated Areas
Docket No.: FEMA–B–1179

Boxelder Creek Overflow Downstream.	Approximately 914 feet downstream of State Highway 14	+4933	Unincorporated Areas of Larimer County.
	Approximately 0.6 mile upstream of State Highway 14	+4947	
Boxelder Creek Overflow West	Approximately 235 feet downstream of I–25 Frontage Road.	+4928	Unincorporated Areas of Larimer County.
	Approximately 185 feet downstream of Mulberry Street	+4933	
Business Park Denrose	Approximately 135 feet upstream of Denrose Court	+4932	Unincorporated Areas of Larimer County.
	Approximately 360 feet upstream of Denrose Court	+4934	
Business Park Middle	Approximately 550 feet downstream of Denrose Court	+4930	Unincorporated Areas of Larimer County.
	Approximately 75 feet downstream of Denrose Court	+4931	
Business Park South	Approximately 140 feet downstream of Denrose Court	+4931	Unincorporated Areas of Larimer County.
	At the downstream side of Denrose Court	+4934	
Business Park West	Approximately 260 feet downstream of Denrose Court	+4930	Unincorporated Areas of Larimer County.
	At the upstream side of Denrose Court	+4932	
Cache La Poudre L Path	Approximately 350 feet downstream of Prospect Road	+4886	City of Fort Collins, Unincorporated Areas of Larimer County.
	Approximately 440 feet downstream of Timberline Road	+4910	
Cache La Poudre Lowflow Channel.	Approximately 450 feet downstream of County Road 9	+4882	City of Fort Collins.
	Approximately 300 feet downstream of County Road 9	+4883	
Cache La Poudre River	Approximately 800 feet downstream of County Road 9	+4883	City of Fort Collins.
	Approximately 680 feet downstream of Prospect Road	+4898	
Shields Street Divided Flow Path-Windtrail Swale (backwater effects from Spring Creek).	From the Spring Creek confluence to approximately 600 feet upstream of the Spring Creek confluence.	+5000	City of Fort Collins.
Shields Street Overflow	Approximately 190 feet downstream of Hill Pond Road	+5020	City of Fort Collins.
	Approximately 360 feet upstream of Hill Pond Road	+5024	
Spring Canyon Park Diversion	At the upstream side of Spring Canyon Park Weir	+5122	City of Fort Collins.
	Approximately 1,450 feet upstream of Spring Canyon Park Weir.	+5125	
Spring Creek	Approximately 970 feet downstream of Prospect Road	+4904	City of Fort Collins, Unincorporated Areas of Larimer County.
	Approximately 0.7 mile upstream of Spring Canyon Park Pedestrian Trail.	+5167	

* National Geodetic Vertical Datum.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected

+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

City of Fort Collins

Maps are available for inspection at the Stormwater Utilities Department, 700 Wood Street, Fort Collins, CO 80521.

Unincorporated Areas of Larimer County

Maps are available for inspection at 200 West Oak Street, Fort Collins, CO 80521.

Bradford County, Florida, and Incorporated Areas
Docket No.: FEMA–B–1115

Lake Crosby	Entire shoreline	+135	City of Starke, Unincorporated Areas of Bradford County.
Lake Rowell	Entire shoreline	+135	Unincorporated Areas of Bradford County.
Lake Sampson	Entire shoreline	+135	Unincorporated Areas of Bradford County.
Unnamed Ponding Area	North boundary: approximately 2,000 feet south of Route 100/East boundary: approximately 1,000 feet west of Southwest 75th Avenue/South boundary: Southwest 163rd Street/West boundary: approximately 1,500 feet east of Southwest 101st Avenue.	+138	Unincorporated Areas of Bradford County.

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

City of Starke

Maps are available for inspection at the City Clerk's Office, 209 North Thompson Street, Starke, FL 32091.

Unincorporated Areas of Bradford County

Maps are available for inspection at the Bradford County Building and Zoning Department, 945–F North Temple Avenue, Starke, FL 32091.

Sedgwick County, Kansas, and Incorporated Areas
Docket No.: FEMA–B–1185

Calfskin Creek	Approximately 200 feet downstream of Maize Road	+1317	City of Wichita, Unincorporated Areas of Sedgwick County.
	Approximately 1.25 miles upstream of Pawnee Road	+1339	
Dry Creek North of Calfskin Creek.	Approximately 250 feet downstream of 135th Street	+1349	City of Wichita, Unincorporated Areas of Sedgwick County.
	Approximately 0.41 mile upstream of 167th Street	+1392	
Middle Fork Calfskin Creek	At the North Fork Calfskin Creek confluence	+1326	City of Wichita, Unincorporated Areas of Sedgwick County.
	Approximately 0.56 mile upstream of 151st Street	+1407	
North Fork Calfskin Creek	Approximately 175 feet downstream of Maple Street	+1323	City of Wichita, Unincorporated Areas of Sedgwick County.
	Approximately 1.1 miles upstream of 151st Street	+1387	
Tributary to Calfskin Creek	At the Calfskin Creek confluence	+1333	City of Wichita, Unincorporated Areas of Sedgwick County.
	Approximately 450 feet upstream of Pawnee Road	+1353	
Tributary to North Fork Calfskin Creek.	Approximately 700 feet downstream of 135th Street	+1347	City of Wichita, Unincorporated Areas of Sedgwick County.
	Approximately 0.66 mile upstream of North Aksarben Street.	+1369	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
Unnamed Tributary (backwater effects from Tributary to North Fork Calfskin Creek).	From approximately 550 feet upstream of the Tributary to North Fork Calfskin Creek confluence to approximately 800 feet upstream of 13th Street.	+1362	City of Wichita, Unincorporated Areas of Sedgwick County.

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

City of Wichita

Maps are available for inspection at the Office of Storm Water Management, 455 North Main Street, 8th Floor, Wichita, KS 67202.

Unincorporated Areas of Sedgwick County

Maps are available for inspection at the Sedgwick County Code Enforcement Office, 1144 South Seneca Street, Wichita, KS 67213.

Washington County, Mississippi, and Incorporated Areas
Docket No.: FEMA–B–1159

Steele Bayou Control Structure	An area bounded by the county boundary to the south and east, State Highway 436 to the north, and West Side Lake Washington Road to the west.	+100	Unincorporated Areas of Washington County.

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

Unincorporated Areas of Washington County

Maps are available for inspection at the Washington County Courthouse, 900 Washington Avenue, Greenville, MS 38701.

Hunterdon County, New Jersey (All Jurisdictions)
Docket No.: FEMA–B–1152

Brookville Creek	At the confluence with the Delaware and Raritan Canal	+78	Borough of Stockton, Township of Delaware.
	Approximately 275 feet upstream of State Route 29 (South Main Street).	+78	
Delaware River	At the Mercer County boundary	+65	Borough of Frenchtown, Borough of Milford, Borough of Stockton, City of Lambertville, Township of Alexandria, Township of Delaware, Township of Holland, Township of Kingwood, Township of West Amwell.
	At the Warren County boundary	+159	
Little Nishisakawick Creek	At the confluence with the Delaware River	+123	Borough of Frenchtown.
	Approximately 590 feet upstream of State Route 29 (Trenton Avenue).	+123	
Milford Creek	At the confluence with the Delaware River	+134	Borough of Milford.
	Approximately 1,100 feet downstream of Bridge Road	+134	
Musconetcong River	At the confluence with the Delaware River	+159	Township of Holland.
	Approximately 1,100 feet downstream of Mountain Joy Road.	+159	
Nishisakawick Creek	At the confluence with the Delaware River	+123	Borough of Frenchtown.
	Approximately 150 feet upstream of State Route 12 (Kingwood Avenue).	+123	
Swan Creek	At the confluence with the Delaware River	+69	City of Lambertville.
	Approximately 40 feet upstream of State Route 29 (South Main Street).	+69	
Tributary No. 1 to Delaware River.	At the confluence with the Delaware River	+144	Township of Holland.
	Approximately 775 feet upstream of the railroad bridge	+144	
Wickecheoke Creek	At the confluence with the Delaware River	+84	Borough of Stockton, Township of Delaware.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
	Approximately 600 feet upstream of State Route 29	+84	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

Borough of Frenchtown
Maps are available for inspection at the Borough Hall, 29 2nd Street, Frenchtown, NJ 08825.

Borough of Milford
Maps are available for inspection at the Borough Hall, 30 Water Street, Milford, NJ 08848.

Borough of Stockton
Maps are available for inspection at the Borough Hall, 2 South Main Street, Stockton, NJ 08559.

City of Lambertville
Maps are available for inspection at City Hall, 18 York Street, Lambertville, NJ 08530.

Township of Alexandria
Maps are available for inspection at the Alexandria Township Municipal Office, 782 Frenchtown Road, Milford, NJ 08848.

Township of Delaware
Maps are available for inspection at the Delaware Township Municipal Building, 570 Rosemont-Ringoes Road, Sergeantsville, NJ 08557.

Township of Holland
Maps are available for inspection at the Holland Township Municipal Building, 61 Church Road, Milford, NJ 08848.

Township of Kingwood
Maps are available for inspection at the Kingwood Township Municipal Building, 599 Oak Grove Road and County Road 519, Frenchtown, NJ 08825.

Township of West Amwell
Maps are available for inspection at the West Amwell Township Municipal Building, 150 Rocktown-Lambertville Road, Lambertville, NJ 08530.

Dutchess County, New York (All Jurisdictions)
Docket No.: FEMA–B–1014

East Branch Wappinger Creek Reach 1.	Approximately 665 feet upstream of New York State Route 82.	+282	Town of Washington.
	Approximately 1,529 feet upstream of New York State Route 82.	+283	
Fishkill Creek	Approximately 300 feet upstream of the confluence with the Hudson River.	+7	City of Beacon, Town of Beekman, Town of East Fishkill, Town of Fishkill, Town of Union Vale, Village of Fishkill.
	Just downstream of Clubhouse Lane	+488	
Maritje Kill	Approximately 30 feet upstream of the railroad	+10	Town of Hyde Park.
	Approximately 4,230 feet upstream of Crum Elbow Road	+252	
Rhinebeck Kill	Approximately 1.07 miles upstream of State Route 9G	+165	Town of Red Hook.
	Approximately 1.08 miles upstream of State Route 9G	+165	
Saw Kill	At Linden Avenue	+183	Village of Red Hook.
	Approximately 937 feet upstream of Linden Avenue	+183	
Sprout Creek #2	Approximately 80 feet downstream of County Route 90	+565	Town of Washington.
	Just upstream of County Route 90	+566	
Stony Creek	Approximately 0.55 mile downstream of Mill Street	+75	Town of Red Hook.
	Approximately 0.59 mile downstream of Mill Street	+75	
Swamp River Reach 1	At the confluence with the Tenmile River	+362	Town of Dover.
	Approximately 600 feet above the confluence with the Tenmile River.	+365	
Swamp River Reach 2	Approximately 0.52 mile upstream of Kitchen Road	+424	Town of Dover.
	Approximately 0.59 mile upstream of Kitchen Road	+424	
Sylan Lake Outlet	At the confluence with Fishkill Creek	+293	Town of East Fishkill.
	Approximately 950 feet upstream of the confluence with Fishkill Creek.	+293	
Tenmile River	At the Fairfield/Litchfield County, Connecticut, boundary ...	+292	Town of Amenia, Town of Dover.
	Approximately 2,824 feet upstream of the railroad	+388	
Wells Brook	At the confluence with the Tenmile River	+373	Town of Dover.
	Approximately 800 feet upstream of the confluence with the Tenmile River.	+374	
Whaley Lake Stream	At the confluence with Fishkill Creek	+351	Town of Beekman

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
	Approximately 500 feet upstream of the confluence with Fishkill Creek.	+351	
Whortlekill Creek Reach 1	At the confluence with Fishkill Creek	+234	Town of East Fishkill.
	Approximately 1,800 feet upstream of the confluence with Fishkill Creek.	+234	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

City of Beacon
Maps are available for inspection at City Hall, 1 Municipal Center, Beacon, NY 12508.

Town of Amenia
Maps are available for inspection at the Town Hall, 36B Mechanic Street, Amenia, NY 12501.

Town of Beekman
Maps are available for inspection at the Beekman Town Hall, 4 Main Street, Poughquag, NY 12570.

Town of Dover
Maps are available for inspection at the Dover Town Hall, 126 East Duncan Hill Road, Dover Plains, NY 12522.

Town of East Fishkill
Maps are available for inspection at the East Fishkill Town Hall, 330 State Route 376, Hopewell Junction, NY 12533.

Town of Fishkill
Maps are available for inspection at the Town Hall, 807 State Route 52, Fishkill, NY 12524.

Town of Hyde Park
Maps are available for inspection at the Town Hall, 4383 Albany Post Road, Hyde Park, NY 12538.

Town of Red Hook
Maps are available for inspection at the Red Hook Town Hall, 7340 South Broadway, Red Hook, NY 12571.

Town of Union Vale
Maps are available for inspection at the Union Vale Town Hall, 249 Duncan Road, LaGrangeville, NY 12540.

Town of Washington
Maps are available for inspection at the Town Hall, 10 Reservoir Drive, Washington, NY 12545.

Village of Fishkill
Maps are available for inspection at the Village Hall, 1095 Main Street, Fishkill, NY 12524.

Village of Red Hook
Maps are available for inspection at the Village Hall, 7467 South Broadway, Red Hook, NY 12571.

Llano County, Texas, and Incorporated Areas
Docket No.: FEMA–B–1085

Colorado River	Just upstream of the confluence with Spring Branch Creek.	+830	City of Sunrise Beach Village, Unincorporated Areas of Llano County.
	Approximately 1.2 miles upstream of County Road 222	+1025	
Dry Creek	At the confluence with the Llano River	+858	Unincorporated Areas of Llano County.
	Just downstream of Ranch Road 3404	+860	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

City of Sunrise Beach Village
Maps are available for inspection at 124 Sunrise Drive, Sunrise Beach Village, TX 78643.

Unincorporated Areas of Llano County
Maps are available for inspection at 801 Ford Street, Llano, TX 78643.

Carbon County, Utah, and Incorporated Areas
Docket No.: FEMA–B–1158

Grassy Trail Creek	Approximately 320 feet downstream of the confluence with Northern Slope Tributary.	+6167	City of East Carbon.
	Approximately 2.12 miles upstream of the confluence with Northern Slope Tributary.	+6408	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
Northern Slope Tributary	At the confluence with Grassy Trail Creek	+6170	City of East Carbon.
	Approximately 0.53 mile upstream of the confluence with Grassy Trail Creek.	+6234	
Price River	Approximately 0.40 mile downstream of 760 North Street	+5544	City of Helper, Unincorporated Areas of Carbon County.
	Approximately 760 feet downstream of Union Pacific Railroad.	+5955	
Spring Canyon Wash	Just upstream of the confluence with the Price River	+5858	City of Helper.
	Approximately 500 feet upstream of Canyon Street	+5918	
Spring Glen Wash	At the confluence with the Price River	+5736	Unincorporated Areas of Carbon County.
	Approximately 0.52 mile upstream of 1900 West Street	+5848	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

City of East Carbon

Maps are available for inspection at City Hall, 105 West Geneva Drive, East Carbon, UT 84520.

City of Helper

Maps are available for inspection at City Hall, 73 South Main Street, Helper, UT 84526.

Unincorporated Areas of Carbon County

Maps are available for inspection at the Carbon County Planning and Zoning Department, 120 East Main Street, Price, UT 84501.

Sanpete County, Utah, and Incorporated Areas
Docket No.: FEMA–B–1069

South Creek	Approximately 320 feet east of 100 South Street	+5529	City of Manti, Unincorporated Areas of Sanpete County.
	Approximately 596 feet upstream of the Manti Creek confluence.	+5838	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

City of Manti

Maps are available for inspection at City Hall, 50 South Main Street, Manti, UT 84642.

Unincorporated Areas of Sanpete County

Maps are available for inspection at the Sanpete County Building and Zoning Office, 160 North Main Street, Manti, UT 84642.

Racine County, Wisconsin, and Incorporated Areas
Docket No.: FEMA–B–7755

Bartlett Branch	At the Pike River confluence	+680	Village of Mount Pleasant.
	Approximately 70 feet downstream of County Highway C (Spring Street).	+687	
Chicory Creek	Approximately 570 feet upstream of the Pike River confluence.	+668	Village of Mount Pleasant, Village of Sturtevant.
	At the downstream side of 105th Street	+722	
East/West Canal	At the North Cape Lateral confluence	+788	Unincorporated Areas of Racine County.
	Approximately 40 feet downstream of U.S. Route 45	+788	
Fonk's Tributary	Approximately 200 feet upstream of the Union Grove Industrial Tributary confluence.	+746	Unincorporated Areas of Racine County.
	Approximately 4,880 feet upstream of the Union Grove Industrial Tributary confluence.	+781	
Kilbourn Road Ditch	At County Line Road	+726	Village of Mount Pleasant.
	Approximately 2,400 feet downstream of I–94	+734	
Lamparek Creek	At the Pike River confluence	+660	Village of Mount Pleasant.
	At the downstream side of 105th Street	+713	
Nelson Creek	At County Line Road	+619	Village of Mount Pleasant.
	At the downstream side of Garden Drive	+642	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
North Cape Lateral	Approximately 30 feet upstream of Britton Road	+774	Unincorporated Areas of Racine County.
	Approximately 2,350 feet upstream of the East/West Canal confluence.	+789	
Pike River	At County Line Road	+657	City of Racine, Village of Mount Pleasant.
	Approximately 80 feet downstream of County Highway C (Spring Street).	+684	
Root River	At mouth at Lake Michigan	+584	City of Racine.
	Approximately 825 feet upstream of Memorial Drive	+587	
Sorenson Creek	At County Line Road	+617	City of Racine, Village of Mount Pleasant.
	Approximately 75 feet downstream of Meachem Road	+654	
Union Grove Industrial Tributary	At County Line Road	+743	Unincorporated Areas of Racine County, Village of Union Grove.
	Approximately 30 feet downstream of Durand Avenue (State Highway 11).	+771	
Unnamed Tributary No. 18 to Kilbourn Road Ditch.	Approximately 1,110 feet downstream of I–94	+733	Unincorporated Areas of Racine County, Village of Mount Pleasant.
	At the upstream side of I–94	+742	
Unnamed Tributary No. 2 to West Branch Root River Canal.	Approximately 30 feet upstream of Raymond Avenue	+705	Unincorporated Areas of Racine County.
	Approximately 3,300 feet downstream of 65th Drive	+751	
Unnamed Tributary No. 37 to Des Plaines River.	Approximately 2,675 feet downstream of 69th Street	+712	Unincorporated Areas of Racine County.
	Approximately 70 feet downstream of 69th Street	+730	
Unnamed Tributary No. 38 to Des Plaines River.	At the confluence with the Des Plaines River	+710	Unincorporated Areas of Racine County.
	Approximately 2,750 feet upstream of Durand Avenue (State Highway 11).	+762	
Unnamed Tributary No. 39 to Des Plaines River.	At the confluence with the Des Plaines River	+710	Unincorporated Areas of Racine County.
	Approximately 170 feet downstream of County Line Road	+746	
Unnamed Tributary to Unnamed Tributary No. 2 to West Branch Root River Canal.	Approximately 250 feet upstream of 65th Drive	+720	Unincorporated Areas of Racine County.
	Approximately 125 feet downstream of Colony Avenue	+746	
Waxdale Creek	At the Pike River confluence	+671	Village of Mount Pleasant, Village of Sturtevant.
	Approximately 70 feet downstream of West Road	+735	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

City of Racine

Maps are available for inspection at City Hall, 730 Washington Avenue, Racine, Wisconsin 53403.

Unincorporated Areas of Racine County

Maps are available for inspection at the Racine County Planning and Development Department, 14200 Washington Avenue, Sturtevant, Wisconsin 53177.

Village of Mount Pleasant

Maps are available for inspection at the Mount Pleasant Village Hall, 6126 Durand Avenue, Racine, Wisconsin 53406.

Village of Sturtevant

Maps are available for inspection at the Village Hall, 2801 89th Street, Sturtevant, Wisconsin 53177.

Village of Union Grove

Maps are available for inspection at the Village Hall, 925 15th Avenue, Union Grove, Wisconsin 53182.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: March 29, 2012.

Sandra K. Knight,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2012–8617 Filed 4–9–12; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2012–0003]

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: *Effective date:* The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated in the table below.

ADDRESSES: The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community. The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. This final rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

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

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

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

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

■ 1. The authority citation for part 67 continues to read as follows:

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

§ 67.11 [Amended]

■ 2. The tables published under the authority of § 67.11 are amended as follows:

State	City/town/county	Source of flooding	Location	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified
City of Mandeville, Louisiana Docket No.: FEMA–B–7799				
Louisiana	City of Mandeville	Bayou Chinchuba	At the Parc du Lac confluence	+12
			Approximately 700 feet upstream of the Parc du Lac confluence.	+12
Louisiana	City of Mandeville	Lake Pontchartrain	Entire shoreline within community	+10–15
Louisiana	City of Mandeville	Parc du Lac	At the Bayou Chinchuba confluence	+12
			Approximately 2,775 feet upstream of the Bayou Chinchuba confluence.	+12

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

State	City/town/county	Source of flooding	Location	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified

ADDRESSES

City of Mandeville

Maps are available for inspection at 3101 East Causeway Approach, Mandeville, LA 70448.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
Santa Cruz County, California, and Incorporated Areas Docket No.: FEMA–B–1178			
Salsipuedes Creek	Approximately 0.7 mile upstream of State Route 129	+45	City of Watsonville, Unincorporated Areas of Santa Cruz County.
	Approximately 1.5 miles upstream of State Route 129	+58	
Struve Slough	At the upstream side of Harkins Slough Road	+17	City of Watsonville.
	Approximately 0.4 mile upstream of Pennsylvania Drive	+58	
Watsonville Slough	Approximately 1,460 feet downstream of Harkins Slough Road.	+26	City of Watsonville.
	Approximately 1,430 feet upstream of Marin Street	+59	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

City of Watsonville

Maps are available for inspection at the Community Development Department, 250 Main Street, Watsonville, CA 95076.

Unincorporated Areas of Santa Cruz County

Maps are available for inspection at the Santa Cruz County Planning Department, 701 Ocean Street, 4th Floor, Santa Cruz, CA 95060.

Yolo County, California, and Incorporated Areas Docket No.: FEMA–B–1175			
Cache Creek	Approximately 3,200 feet downstream of County Road 102.	+54	Unincorporated Areas of Yolo County.
	Approximately 1.4 miles downstream of County Road 94B	+94	
Cache Creek Left Bank Overflow.	Approximately 1.9 miles east of the intersection of County Road 103 and County Road 20.	+40	Unincorporated Areas of Yolo County.
	Approximately 3,200 feet downstream of County Road 120.	+54	
Cache Creek Right Bank Overflow.	Approximately 1.1 miles east of the intersection of County Road 24 and County Road 102.	+37	City of Woodland, Unincorporated Areas of Yolo County.
	Approximately 1,500 feet north of the intersection of County Road 96B and County Road 19B.	+93	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

City of Woodland

Maps are available for inspection at the Community Development Department, 520 Court Street, Woodland, CA 95695.

Unincorporated Areas of Yolo County

Maps are available for inspection at the Yolo County Department of Planning and Public Works, 292 West Beamer Street, Woodland, CA 95695.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
Collier County, Florida, and Incorporated Areas **Docket No.: FEMA–B–1151**			
Gulf of Mexico	At Monroe County	+6	City of Everglades City, City of Marco Island, City of Naples, Unincorporated Areas of Collier County.
	At Lee County	+16	
Shallow Flooding	An area bounded by the Lee County boundary to the north, Immokalee Road to the south, Little Hickory Bay to the west, and I–75 to the east.	+9–14	Unincorporated Areas of Collier County.
Shallow Flooding	An area bounded by I–75 to the north, 112th Street to the south, Collier Road to the west, and Patterson Road to the east.	+12	Unincorporated Areas of Collier County.
Shallow Flooding	An area bounded by the Lee County boundary to the north, County Road 858 to the south, Everglades Road to the west, and County Road 858 to the east.	+16–39	Seminole Tribe of Florida, Unincorporated Areas of Collier County.
Shallow Flooding	An area bounded by County Road 858 to the north, I–75 to the south, Everglades Road to the west, and State Route 29 to the east.	+11–21	Unincorporated Areas of Collier County.
Shallow Flooding	An area bounded by Bluebill/Immokalee Road to the north, Vanderbilt Beach Road to the south, Vanderbilt Road to the west, and I–75 to the east.	+9–13	Unincorporated Areas of Collier County.
Shallow Flooding	An area bounded by Vanderbilt Beach Road to the north, Pine Ridge Road to the south, Tamiami Trail to the west, and I–75 to the east.	+9–18	Unincorporated Areas of Collier County.
Shallow Flooding	An area bounded by Pine Ridge Road to the north, Radio Road to the south, Tamiami Trail to the east, and I–75 and Collier Road to the west.	+8–18	City of Naples, Unincorporated Areas of Collier County.
Shallow Flooding	An area bounded by Radio Road to the north, Tamiami Trail to the south, Tamiami Trail to the west, and Collier Road to the east.	+8–12	Unincorporated Areas of Collier County.
Shallow Flooding	An area bounded by the Lee County boundary to the north, Immokalee Road to the south, I–75 to the east, and Quarry Road to the west.	+10–14	Unincorporated Areas of Collier County.
Shallow Flooding	An area bounded by Immokalee Road to the north, I–75 to the south, I–75 to the east, and Collier Road to the west.	+10–15	Unincorporated Areas of Collier County.
Shallow Flooding	An area bounded by the Lee County boundary to the north, Immokalee Road and Randall Road to the south, Quarry Road and the Lee County boundary to the west, and Everglades Road to the east.	+12–30	Unincorporated Areas of Collier County.
Shallow Flooding	An area bounded by Immokalee Road and Randall Road to the north, Blackburn Road to the south, I–75 to the west, and Everglades Road to the east.	+11–15	Unincorporated Areas of Collier County.

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

City of Everglades City
Maps are available for inspection at 102 Broadway Avenue, Everglades City, FL 34139.

City of Marco Island
Maps are available for inspection at 50 Bald Eagle Drive, Marco Island, FL 34145.

City of Naples
Maps are available for inspection at 735 8th Street South, Naples, FL 34102.

Seminole Tribe of Florida
Maps are available for inspection at 6300 Stirling Road, Hollywood, FL 33024.

Unincorporated Areas of Collier County
Maps are available for inspection at 3301 East Tamiami Trail, Building F, 1st Floor, Naples, FL 34112.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
Vermilion County, Illinois, and Incorporated Areas Docket No.: FEMA–B–1140			
East Branch Lick Creek	Approximately 650 feet upstream of U.S. Route 136	+613	City of Danville, Unincorporated Areas of Vermilion County.
	Approximately 350 feet downstream of Lynch Road	+644	
North Fork Vermilion River	Approximately 940 feet downstream of Williams Street/ Hungry Hollow Road.	+543	Unincorporated Areas of Vermilion County.
	Approximately 0.75 mile upstream of the water treatment plant dam.	+549	
Stoney Creek	Just upstream of Winter Avenue	+612	Unincorporated Areas of Vermilion County.
	Approximately 0.5 mile upstream of Winter Avenue	+615	
Vermilion River	Approximately 0.75 mile downstream of I–74	+533	Unincorporated Areas of Vermilion County.
	Approximately 0.85 mile upstream of the railroad crossing upstream of the confluence of the North Fork Vermilion River and parallel to H Avenue.	+542	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

City of Danville
Maps are available for inspection at City Hall, 17 West Main Street, Danville, IL 61832.

Unincorporated Areas of Vermilion County
Maps are available for inspection at the Vermilion County Courthouse, 6 North Vermilion Street, Danville, IL 61832.

Cerro Gordo County, Iowa, and Incorporated Areas Docket No.: FEMA–B–1138			
Chelsea Creek	At the confluence with Willow Creek	+1118	City of Mason City.
	Just downstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	+1134	
Clear Creek	At the confluence with Willow Creek	+1180	City of Clear Lake.
	Just downstream of 40th Street	+1192	
Clear Lake	Entire shoreline	+1228	City of Clear Lake, City of Ventura, Unincorporated Areas of Cerro Gordo County.
Willow Creek	Just upstream of State Road 122	+1158	City of Clear Lake, City of Mason City, Unincorporated Areas of Cerro Gordo County.
	Approximately 850 feet upstream of I–35	+1195	
Winnebago River	Approximately 0.4 mile upstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	+1061	City of Mason City, Unincorporated Areas of Cerro Gordo County.
	Approximately 1.6 miles upstream of 13th Street	+1092	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

City of Clear Lake
Maps are available for inspection at 15 North 6th Street, Clear Lake, IA 50428.

City of Mason City
Maps are available for inspection at 10 1st Street Northwest, Mason City, IA 50401.

City of Ventura
Maps are available for inspection at 101 Sena Street, Ventura, IA 50482.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
Unincorporated Areas of Cerro Gordo County			
Maps are available for inspection at 220 North Washington Avenue, Mason City, IA 50401.			
Chariton County, Missouri, and Incorporated Areas **Docket No.: FEMA–B–1175**			
Batts Creek (backwater effects from Missouri River).	From the Doxies Creek confluence to approximately 550 feet upstream of Batts Creek Road.	+631	Unincorporated Areas of Chariton County.
Brush Creek (backwater effects from Missouri River).	From the Salt Creek confluence to approximately 675 feet downstream of Utz Road.	+648	Unincorporated Areas of Chariton County.
Chariton River (backwater effects from Missouri River).	From approximately 1.3 miles upstream of State Highway VV to approximately 225 feet downstream of U.S. Route 24.	+637	Unincorporated Areas of Chariton County.
Doxies Creek (backwater effects from Missouri River).	From approximately 300 feet downstream of Doxie Avenue to the Howard County boundary.	+631	Unincorporated Areas of Chariton County.
Grand River (backwater effects from Missouri River).	At the Missouri River confluence	+645	City of Brunswick, Unincorporated Areas of Chariton County.
	At the downstream side of ATSF Railroad Bridge	+651	
Grand River Tributary (backwater effects from Missouri River).	From approximately 1,450 feet downstream of Grand River Road to approximately 150 feet upstream of Grand River Road.	+649	Unincorporated Areas of Chariton County.
Little Chariton River (backwater effects from Missouri River).	From approximately 0.65 mile downstream of French Road to the downstream side of Chapel Hill Road.	+632	Unincorporated Areas of Chariton County.
Missouri River	At the Howard County boundary	+626	City of Brunswick, Unincorporated Areas of Chariton County, Village of Dalton.
	At the Carroll County boundary	+645	
Mussel Fork (backwater effects from Missouri River).	From the Chariton River confluence to approximately 375 feet downstream of Jackson Street.	+637	City of Keytesville, Unincorporated Areas of Chariton County.
Palmer Creek (backwater effects from Missouri River).	From the Lake Creek confluence to approximately 1,375 feet upstream of Lewis Clark Road.	+644	Unincorporated Areas of Chariton County.
Puzzle Creek (backwater effects from Missouri River).	From the Chariton River confluence to the upstream side of State Highway KK.	+637	Unincorporated Areas of Chariton County.
Salt Creek (backwater effects from Missouri River).	From approximately 1.0 mile downstream of Ohio Road to approximately 825 feet downstream of State Highway M.	+649	Unincorporated Areas of Chariton County.
Young Creek (backwater effects from Missouri River).	From approximately 1,950 feet downstream of Rockford Hills Avenue to approximately 1,550 feet upstream of Rockford Hills Avenue.	+636	Unincorporated Areas of Chariton County.
Young Creek Tributary 7 (backwater effects from Missouri River).	From the Young Creek confluence to approximately 1,250 feet upstream of Asbury Road.	+636	Unincorporated Areas of Chariton County.

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

City of Brunswick
Maps are available for inspection at City Hall, 115 East Broadway, Brunswick, MO 65236.

City of Keytesville
Maps are available for inspection at City Hall, 404 West Bridge Street, Keytesville, MO 65261.

Unincorporated Areas of Chariton County
Maps are available for inspection at the Chariton County Courthouse, 306 South Cherry Street, Keytesville, MO 65261.

Village of Dalton
Maps are available for inspection at the Chariton County Courthouse, 306 South Cherry Street, Keytesville, MO 65261.

Mercer County, Ohio, and Incorporated Areas **Docket No.: FEMA–B–1171**			
Beaver Creek (Lower)	Approximately 1,400 feet downstream of Meyer Road	+861	City of Celina.
	At the downstream side of the Grand Lake Dam	+861	
Beaver Creek (Upper)	Approximately 850 feet downstream of State Route 219	+873	Unincorporated Areas of Mercer County, Village of Montezuma.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
	At the downstream side of Casselia Montezuma Road	+876	
Grand Lake Saint Mary's	Entire shoreline within community	+872	City of Celina.
Saint Mary's River	At the Van Wert County boundary	+797	Unincorporated Areas of Mercer County, Village of Mendon, Village of Rockford.
	At the Auglaize Bounty boundary	+814	
Wabash River	Approximately 0.72 mile downstream of State Route 49	+922	Unincorporated Areas of Mercer County, Village of Fort Recovery.
	Approximately 0.88 mile upstream of North 1st Street	+928	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

City of Celina
Maps are available for inspection at City Hall, 426 West Market Street, Celina, OH 45822.

Unincorporated Areas of Mercer County
Maps are available for inspection at the Mercer County Central Service Building, 220 West Livingston Street, Room A201, Celina, OH 45822.

Village of Fort Recovery
Maps are available for inspection at the Village Hall, 201 South Main Street, Fort Recovery, OH 45846.

Village of Mendon
Maps are available for inspection at the Village Hall, 102 South Main Street, Mendon, OH 45862.

Village of Montezuma
Maps are available for inspection at the Village Hall, 69 West Main Street, Montezuma, OH 45866.

Village of Rockford
Maps are available for inspection at the Village Hall, 151 East Columbia Street, Rockford, OH 45882.

Brazos County, Texas, and Incorporated Areas
Docket No.: FEMA–B–1085

Bee Creek Tributary B	Approximately 1,700 feet downstream of Christine Lane	+286	City of College Station.
	Just downstream of Southwest Parkway	+292	
Lick Creek	Approximately 1,000 feet downstream of Mission Hills Drive.	+216	City of College Station.
	Approximately 1.0 mile upstream of William D. Fitch Parkway.	+253	
South Fork of Turkey Creek	At the confluence with Turkey Creek	+262	City of Bryan.
	Approximately 650 feet downstream of FM 2818	+282	
Turkey Creek	Approximately 2 miles downstream from Jones Road	+226	City of Bryan, Unincorporated Areas of Brazos County.
	Just downstream of FM 1688	+333	
Turkey Creek Tributary B	At the confluence with Turkey Creek	+250	City of Bryan.
	Approximately 0.6 mile upstream of the confluence with Turkey Creek Tributary B1.	+292	
Turkey Creek Tributary B1	At the confluence with Turkey Creek Tributary B	+268	City of Bryan.
	Approximately 0.5 mile upstream of the confluence with Turkey Creek Tributary B.	+290	
Turkey Creek Tributary C	At the confluence with Turkey Creek	+240	City of Bryan.
	Approximately 0.5 mile upstream of Villa Maria Road	+260	
Turkey Creek Tributary D	At the confluence with Turkey Creek	+239	City of Bryan.
	Just downstream of Traditions Drive	+273	
Turkey Creek Tributary D1	At the confluence with Turkey Creek Tributary D	+252	City of Bryan.
	Approximately 1,950 feet upstream of the confluence with Turkey Creek Tributary D.	+276	
Unnamed Tributary to Bee Creek Tributary B.	At the confluence with Bee Creek Tributary B	+291	City of College Station.
	Approximately 613 feet upstream of the confluence with Bee Creek Tributary B.	+293	
Unnamed Tributary to White Creek.	Approximately 573 feet upstream of the confluence with Unnamed Tributary to White Creek Tributary 3.	+277	City of College Station.
	Approximately 1,800 feet downstream of the confluence with White Creek Tributary 1.	+302	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
Unnamed Tributary to White Creek Tributary 1.	At the confluence with Unnamed Tributary to White Creek	+289	City of College Station.
	Approximately 1,180 feet upstream of the confluence with Unnamed Tributary to White Creek.	+300	
Unnamed Tributary to White Creek Tributary 2.	At the confluence with Unnamed Tributary to White Creek	+295	City of College Station.
	Approximately 600 feet upstream of FM 2818	+308	
Unnamed Tributary to White Creek Tributary 3.	At the confluence with Unnamed Tributary to White Creek	+300	City of College Station.
	Approximately 280 feet upstream of the confluence with Unnamed Tributary to White Creek.	+303	
Wickson Creek Tributary 23	At the confluence with Wickson Creek	+267	Unincorporated Areas of Brazos County.
	Approximately 284 feet downstream of Old Reliance Road	+268	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

City of Bryan
Maps are available for inspection at the Engineering Services Department, 300 South Texas Avenue, 1st Floor, Bryan, TX 77803.

City of College Station
Maps are available for inspection at the Development Engineering Division, 1101 Texas Avenue, College Station, TX 77842.

Unincorporated Areas of Brazos County
Maps are available for inspection at Brazos County Road and Bridge Department, 2617 Highway 21 West, Bryan, TX 77803.

Prince George County, Virginia, and Incorporated Areas
Docket No.: FEMA–B–1185

Harrison Creek	Approximately 0.39 mile downstream of Puddledock Road	+11	Unincorporated Areas of Prince George County.
	Approximately 1,405 feet upstream of Puddledock Road ..	+29	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

Unincorporated Areas of Prince George County
Maps are available for inspection at the Prince George County Planning Department, 6602 Courts Drive, Prince George, VA 23875.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: March 29, 2012.

Sandra K. Knight,
Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2012–8612 Filed 4–9–12; 8:45 am]
BILLING CODE 9110–12–P

Proposed Rules

Federal Register
Vol. 77, No. 69
Tuesday, April 10, 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 AGRICULTURE

Agricultural Marketing Service

7 CFR Part 966

[Doc. No. AMS–FV–11–0080; FV11–966–1 PR]

Tomatoes Grown in Florida; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate established for the Florida Tomato Committee (Committee) for the 2011–12 and subsequent fiscal periods from $0.0275 to $0.037 per 25-pound carton of tomatoes handled. The Committee locally administers the marketing order which regulates the handling of tomatoes grown in Florida. Assessments upon tomato handlers are used by the Committee to fund reasonable and necessary expenses of the program. The fiscal period begins August 1 and ends July 31. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by April 25, 2012.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order and Agreement Division, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or Internet: *http://www.regulations.gov.* Comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov.* All comments submitted in response to this rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the Internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Doris Jamieson, Marketing Specialist, or Christian D. Nissen, Regional Manager, Southeast Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Programs, AMS, USDA; Telephone: (863) 324–3375, Fax: (863) 325–8793, or Email: *Doris.Jamieson@ams.usda.gov* or *Christian.Nissen@ams.usda.gov.*

Small businesses may request information on complying with this regulation by contacting Laurel May, Marketing Order and Agreement Division, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Laurel.May@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 125 and Order No. 966, both as amended (7 CFR part 966), regulating the handling of tomatoes grown in Florida, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, Florida tomato handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as proposed herein would be applicable to all assessable tomatoes beginning on August 1, 2011, and continue until amended, suspended, or terminated.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule would increase the assessment rate established for the Committee for the 2011–12 and subsequent fiscal periods from $0.0275 to $0.037 per 25-pound carton of tomatoes.

The Florida tomato marketing order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers of Florida tomatoes. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2009–10 and subsequent fiscal periods, the Committee recommended, and USDA approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on August 23, 2011, and unanimously recommended 2011–12 expenditures of $1,496,452 and an assessment rate of $0.037 per 25-pound carton of tomatoes. In comparison, last year's budgeted expenditures were $1,496,971. The assessment rate of $0.037 is $0.0095 higher than the rate currently in effect.

The Committee estimates the 2011–2012 crop to be approximately 35 million 25-pound cartons, down from the 45 million cartons estimated for last year. At the current assessment rate, assessment income would equal only $962,500, an amount insufficient to cover the Committee's anticipated expenditures. Therefore, the Committee voted to increase the assessment rate in

order to generate sufficient funds to meet Committee expenses.

The major expenditures recommended by the Committee for the 2011–12 year include $575,000 for education and promotion, $436,372 for salaries, $250,000 for research, and $64,000 for office space. Budgeted expenses for these items in 2010–11 were $535,500, $436,372, $250,000, and $62,283, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of Florida tomatoes. Tomato shipments for the year are estimated at 35 million 25-pound cartons which should provide $1,295,000 in assessment income. Income derived from handler assessments, along with interest income, USDA Market Access Program (MAP) funds, and funds from the Committee's authorized reserve, would be adequate to cover budgeted expenses. Funds in the reserve (approximately $200,000) would be kept within the maximum permitted by the order of not to exceed one fiscal period's expenses as stated in § 966.44.

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate would be in effect for an indefinite period, the Committee would continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 2011–12 budget and those for subsequent fiscal periods would be reviewed and, as appropriate, approved by USDA.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 100 producers of tomatoes in the production area and approximately 80 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $7,000,000 (13 CFR 121.201).

Based on industry and Committee data, the average annual price for fresh Florida tomatoes during the 2010–11 season was approximately $13.88 per 25-pound container, and total fresh shipments for the 2010–11 season were 36,100,637 25-pound cartons of tomatoes. Committee data indicates that approximately 21 percent of the handlers handle 90 percent of the total volume shipped. Based on the average price, about 80 percent of handlers could be considered small businesses under SBA's definition. In addition, based on production data, grower prices as reported by the National Agricultural Statistics Service, and the total number of Florida tomato growers, the average annual grower revenue is below $750,000. Thus, the majority of handlers and producers of Florida tomatoes may be classified as small entities.

This rule would increase the assessment rate established for the Committee and collected from handlers for the 2011–12 and subsequent fiscal periods from $0.0275 to $0.037 per 25-pound carton of tomatoes. The Committee unanimously recommended 2011–12 expenditures of $1,496,452 and an assessment rate of $0.037 per 25-pound carton of tomatoes. The proposed assessment rate of $0.037 is $0.0095 higher than the 2010–11 rate. The quantity of assessable tomatoes for the 2011–12 season is estimated at 35 million cartons. Thus, the $0.037 rate should provide $1,295,000 in assessment income. Income derived from handler assessments, along with interest income, MAP funds, and funds from the Committee's authorized reserve fund, would be adequate to meet this year's expenses.

The major expenditures recommended by the Committee for the 2011–12 year include $575,000 for Education and Promotion, $436,372 for salaries, $250,000 for research, and $64,000 for office space. Budgeted expenses for these items in 2010–11 were $535,500, $436,372, $250,000, and $62,283, respectively.

The Committee estimates the 2011–2012 crop to be approximately 35 million 25-pound cartons, down from the 45 million cartons estimated for last year. At the current assessment rate, assessment income would equal only $962,500, an amount insufficient to cover the Committee's anticipated expenditures. Therefore, the Committee voted to increase the assessment rate in order to generate sufficient funds to meet Committee expenses.

The Committee reviewed and unanimously recommended 2011–12 expenditures of $1,496,452. Prior to arriving at this budget, the Committee considered information from various sources, such as the Committee's Executive Subcommittee, Finance Subcommittee, and Education and Promotion Subcommittee. Alternative expenditure levels were discussed by these groups, based upon the relative value of various education and promotion projects to the tomato industry. The assessment rate of $0.037 per 25-pound carton of assessable tomatoes was then determined by dividing the total recommended budget by the quantity of assessable tomatoes, estimated at 35 million 25-pound cartons for the 2011–12 year. The increased assessment rate should provide $1,295,000 in assessment income. This is approximately $201,452 below the anticipated expenses, which the Committee determined to be acceptable.

A review of historical information and preliminary information pertaining to the upcoming crop year indicates that the grower price for the 2011–12 season could range between $32.80 and $4.83 per 25-pound carton of tomatoes. Therefore, the estimated assessment revenue for the 2011–12 crop year as a percentage of total grower revenue could range between .1 and .8 percent.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the Florida tomato industry and all interested persons were invited to attend the

meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the August 23, 2011, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory and informational impacts of this action on small businesses.

In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0178 Vegetable and Specialty Crops. No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large Florida tomato handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: www.ams.usda.gov/MarketingOrdersSmallBusinessGuide. Any questions about the compliance guide should be sent to Laurel May at the previously-mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 15-day comment period is provided to allow interested persons to respond to this proposed rule. Fifteen days is deemed appropriate because: (1) The 2011–12 fiscal period began on August 1, 2011, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable tomatoes handled during such fiscal period; (2) the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; and (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 966

Marketing agreements, Reporting and recordkeeping requirements, Tomatoes.

For the reasons set forth in the preamble, 7 CFR part 966 is proposed to be amended as follows:

PART 966—TOMATOES GROWN IN FLORIDA

1. The authority citation for 7 CFR part 966 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 966.234 is revised to read as follows:

§ 966.234 Assessment rate.

On and after August 1, 2011, an assessment rate of $0.037 per 25-pound carton is established for Florida tomatoes.

Dated: April 4, 2012.

Robert C. Keeney,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2012–8532 Filed 4–9–12; 8:45 am]

BILLING CODE 3410–02–P

FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Regulation Y; Docket No. R–1405]

RIN 7100–AD64

Definition of ''Predominantly Engaged in Financial Activities''

AGENCY: Board of Governors of the Federal Reserve System (Board).

ACTION: Supplemental notice of proposed rulemaking and request for comment.

SUMMARY: On February 11, 2011, the Board published a notice of proposed rulemaking (''February 2011 NPR'') that would amend Regulation Y to establish the criteria for determining whether a company is ''predominantly engaged in financial activities'' and define the terms ''significant nonbank financial company'' and ''significant bank holding company'' for purposes of Title I of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the ''Dodd-Frank Act'' or ''Act''). Based on comments received, the Board believes that clarification is needed regarding the scope of activities that would be considered to be financial activities under that proposal. Accordingly, this notice supplements the February 2011 NPR amending specific portions of the regulation for clarity.

DATES: Comments should be received on or before May 25, 2012.

FOR FURTHER INFORMATION CONTACT: Laurie S. Schaffer, Associate General Counsel, (202) 452–2272, Paige E. Pidano, Senior Attorney, (202) 452–2803 or Christine E. Graham, Senior Attorney, (202) 452–3005, Legal Division; Mark Van Der Weide, Senior Associate Director, (202) 452–2263, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551. Users of Telecommunication Device for Deaf (TDD) only, call (202) 263–4869.

SUPPLEMENTARY INFORMATION:

I. Background

This Notice of Proposed Rulemaking (''NPR'') amends the February 2011 NPR and invites public comment on the definition of activities that are financial solely for purposes of determining whether a company qualifies as a nonbank financial company under Title I of the Dodd-Frank Act.[1]

The Dodd-Frank Act established the Council, which, among other authorities and duties, may require that a ''nonbank financial company'' become subject to supervision by the Board and prudential standards if the Council determines that the material financial distress of the company, or the nature, scope, size, scale, concentration, interconnectedness, or mix of the company's activities, could pose a threat to the financial stability of the United States.[2] Nonbank financial companies that are designated by the Council under section 113 of the Dodd-Frank Act are referred to as ''nonbank financial companies supervised by the Board.''[3]

Title I of the Dodd-Frank Act defines a ''nonbank financial company'' to include both a U.S. nonbank financial company and a foreign nonbank financial company. The statute, in turn, defines a ''U.S. nonbank financial company'' as a company (other than a bank holding company and certain other specified types of entities) that is (i) incorporated or organized under the laws of the United States or any State; and (ii) *predominantly engaged in financial activities.*[4] A ''foreign nonbank

[1] The NPR refers to these activities as ''activities that are financial in nature under Title I.''

[2] *See* section 113 of the Dodd-Frank Act; 12 U.S.C. 5323.

[3] *See id.*

[4] *See* section 102(a)(4)(B) of the Dodd-Frank Act (emphasis added); 12 U.S.C. 5311(a)(4)(B) (emphasis added). Besides bank holding companies,

financial company'' is defined as a company (other than a bank holding company or foreign bank or company that is, or is treated as, a bank holding company) that is (i) incorporated or organized outside the United States; and (ii) *predominantly engaged in financial activities.*[5]

For purposes of Title I of the Dodd-Frank Act, a company is considered to be ''predominantly engaged'' in financial activities if *either*

(i) The annual gross revenues derived by the company and all of its subsidiaries from activities that are financial in nature (as defined in section 4(k) of the Bank Holding Company Act), and, if applicable, from the ownership or control of an insured depository institution, represents 85 percent or more of the consolidated annual gross revenues of the company; *or*

(ii) The consolidated assets of the company and all of its subsidiaries related to activities that are financial in nature (as defined in section 4(k) of the Bank Holding Company Act), and, if applicable, related to the ownership or control of an insured depository institution, represents 85 percent or more of the consolidated assets of the company.[6]

The Dodd-Frank Act requires the Board to establish the requirements for determining whether a company is ''predominantly engaged in financial activities.'' [7] In accordance with this requirement, the Board requested comment on the February 2011 NPR that, among other things, set forth the requirements for determining if a company is ''predominantly engaged in financial activities'' under Title I of the Act.[8] The public comment period on the proposed rule closed on March 30, 2011.

In light of comments received on the February 2011 NPR, the Board is amending that NPR to clarify the activities that are financial for purposes of Title I.

II. Overview of Comments

The Board received 23 comments on the February 2011 NPR. The comments received by the Board relating to the definition of activities that are financial for purposes of Title I raised questions as to whether the conduct of certain financial activities—in particular, investment activities—that did not comply with the conditions applicable to bank holding companies engaging in such activities should be considered to be financial activities for purposes of Title I. The Board intends to provide a complete discussion of the comments submitted in response to the February 2011 NPR after considering the comments received on this second proposal.

The Board has considered the comments it received regarding the definition of activities that are financial in nature for purposes of Title I, as well as the language and legislative intent and history of the Dodd-Frank Act and the Bank Holding Company Act (''BHC Act''), as amended by the Gramm-Leach-Bliley Act (''GLB Act''). Based on these considerations, the Board is proposing to amend the February 2011 NPR to clarify that, consistent with the purpose of Title I any activity referenced in section 4(k) will be considered to be a financial activity without regard to conditions that were imposed on bank holding companies that do not define the activity itself.[9] To provide clarity, the Board further is issuing as an appendix to the NPR a list of the activities that would be considered to be financial activities as of April 2, 2012, including conditions necessary to the definition of the activity as a financial activity, for purposes of determining whether a company is predominantly engaged in financial activities.

The Board is proposing this approach for several reasons. First, section 4(k) of the BHC Act and Regulation Y, which is incorporated by reference, contain broad lists of financial activities and impose conditions on bank holding companies conducting those activities. Many of these conditions were imposed so that a bank holding company, which, by definition, controls a bank, could engage in the activities without threatening the safety and soundness of its subsidiary depository institution and are distinct from the definition of the activity itself. Other conditions were required to comply with another provision of law, such as the Glass-Steagall Act.

Defining financial activities for purposes of Title I to include all of the conditions imposed on the conduct of the activities by bank holding companies likely would enable some companies that are predominantly engaged in financial activities to avoid consideration for designation by the Council simply by choosing not to abide by conditions that were imposed by the Board on bank holding companies to ensure the safe and sound conduct of the activity or compliance with other legal restrictions unrelated to whether the activity is a financial activity. For example, some commenters suggested that a firm that organizes, sponsors, and manages an open-end investment company (including a mutual fund or money market mutual fund) should not be considered to be engaged in a financial activity if the firm owns or controls more than a given percentage of the fund because a financial holding company may not own or control more than that amount of the fund.

This proposal is consistent with the purpose and legislative history of Title I, which demonstrate that Congress believed that the statutory definition of a ''nonbank financial company'' would make eligible for Council designation companies that were not bank holding companies but that engaged in a broad range of financial activities.[10] A reading of Title I that limited the scope of companies considered to be

the statute specifically provides that the term ''U.S. nonbank financial company'' does not include (i) a Farm Credit System institution chartered and subject to the Farm Credit Act of 1971 (12 U.S.C. 2001 *et seq.*), (ii) a national securities exchange (or parent thereof), clearing agency (or parent thereof, unless the parent is a bank holding company), security-based swap execution facility, or security-based swap data repository that in each case is registered with the SEC, or (iii) a board of trade designated as a contract market (or parent thereof), or a derivatives clearing organization (or parent thereof, unless the parent is a bank holding company), swap execution facility or a swap data repository that in each case is registered with the CFTC.

[5] *See* section 102(a)(4)(A) of the Dodd-Frank Act (emphasis added); 12 U.S.C. 5311(a)(4)(A) (emphasis added). A foreign bank, or foreign company controlling a foreign bank, is treated as a bank holding company for purposes of the BHC Act if the foreign bank has a branch, agency, or commercial lending company subsidiary in the United States and does not control a U.S. bank.

[6] See section 102(a)(6) of the Dodd-Frank Act; 12 U.S.C. 5311(a)(6).

[7] Section 102(b) of the Dodd-Frank Act 12 U.S.C. 5311(b).

[8] 76 FR 7731 (February 11, 2011). The February 2011 NPR also proposed definitions of the terms ''significant nonbank financial company'' and ''significant bank holding company,'' as required by the Dodd-Frank Act. *See* sections 102(a)(7) and (b) of the Dodd-Frank Act; 12 U.S.C. 5311(a)(7) and (b).

[9] As noted below, conditions that do not define the activity itself include those conditions that were imposed to ensure that the activity is conducted in a safe and sound manner, to prevent a financial holding company from controlling a commercial firm, or to comply with another provision of law.

[10] *See* remarks by Senator Cardin at 156 Cong. Rec. S5873, July 15, 2010, in which he indicates that mutual funds and their advisers would be eligible for designation by the Council (stating that 115 of the Dodd-Frank Act would ''ensure that mutual funds and their advisers are not inadvertently subjected to unworkable standards in the unlikely event the Financial Stability Oversight Council designates [mutual funds] as systemically risky.''); *See also* remarks by Senator Kerry at 156 Cong. Rec. S5902–5903, July 15, 2010, in which he indicates that although mutual funds and their advisers would be eligible for designation by the Council, regulation by the Board may not be appropriate for such companies because they do not pose a risk to United States financial stability (stating that ''there are large companies providing financial services that are in fact traditionally low-risk businesses, such as mutual funds and mutual fund advisers'' and that Congress did ''not envision nonbank financial companies that pose little risk to the stability of the financial system,'' such as ''mutual funds and mutual fund advisers,'' to be supervised by the Federal Reserve.'').

''predominantly engaged in financial activities'' to only those companies that conduct such activities in compliance with the conditions applicable to bank holding companies would severely undermine the purpose of Title I and the authority granted by Congress to the Council to protect U.S. financial stability by taking certain actions to ensure such stability, such as the authority to subject to prudential standards financial firms that compete in financial markets and could threaten financial stability.[11]

Second, section 167(a) of the Dodd-Frank Act supports the view that Congress intended that companies could be eligible for designation by the Council regardless of whether these companies complied with the non-definitional conditions applied to bank holding companies in the implementation of section 4(k).[12] Section 167(a) provides that a nonbank financial company supervised by the Board ''* * * shall not be required to conform its activities to the *requirements* of section 4 of the BHC Act.'' [13]

This section demonstrates that Congress recognized that nonbank financial companies do not conduct their activities in compliance with the requirements applicable to bank holding companies. It would be illogical to conclude that a company would be *eligible* for Council designation *only* if it conducted its financial activities in conformance with the requirements imposed on bank holding companies' conduct of financial activities set forth in section 4(k), but would not be required to conform its financial activities to the conditions imposed on bank holding companies by section 4(k) *after being designated* by the Council for Board supervision.

Third, the Council's anti-evasion authority appears to demonstrate Congress's intent to broadly define ''nonbank financial companies'' to capture firms predominantly engaged in the type of financial activities authorized by section 4(k). A nonbank company could slightly alter the manner in which it conducts a financial activity so that the activity does not comply with one of the non-definitional conditions that governs the conduct of the activity by a bank holding company to reduce the company's financial revenues and assets for purposes of the asset and revenue tests set forth in section 102(a)(6). The nonbank company could thereby avoid qualifying as a nonbank financial company and thus be ineligible for consideration by the Council for designation under section 113. Section 113(c) of the Dodd-Frank Act gives the Council the authority to subject the financial activities of *any* company to supervision by the Board if the Council determines, either on its own or pursuant to a recommendation by the Board, that: (i) The company is organized and operates in such a manner to evade application of Title I of the Dodd-Frank Act; and (ii) material financial distress related to, or the nature, scope, size, scale, concentration, interconnectedness, or mix of, the company's financial activities would pose a threat to the financial stability of the United States.[14] Companies that are engaged in activities that are financial in nature, but that alter the manner in which they conduct those activities for purposes of evading designation by the Council under section 113 and supervision by the Board may be subject to designation by the Council under the special anti-evasion authority in section 113(c).

III. Overview of Proposed Rule

Activities as Defined in Section 4(k)

The proposal would revise section 225.301(d)(1) of the NPR to provide that any activity described in section 4(k) of the BHC Act will be considered financial in nature under Title I regardless of conformance with the conditions applicable to bank holding companies conducting such activity that do not define the financial activity itself.

The proposed appendix would enumerate the activities that will be considered financial in nature as of April 2, 2012. These activities are identical to those in section 4(k) that are permissible for financial holding companies as of such date, but do not include the conditions imposed on the conduct of the activity by a bank holding company that do not describe the financial activity. These financial activities include those activities that were permitted by regulation or order as ''closely related to banking'' under the BHC Act, permitted as ''usual in connection with banking abroad,'' under the International Banking Act, and those that were authorized for financial holding companies by the GLB Act in 1999.

In order to distinguish between conditions that are definitional from those that are imposed for other reasons, the Board considered its prior authorizations of permissible financial activities for bank holding companies. For instance, the Board reviewed its 1997 revisions to section 225.28 of Regulation Y that describes activities that are ''closely related to banking,'' in which the Board removed several of the conditions imposed on bank holding companies conducting these activities. In this release, the Board distinguished between the activities that were ''necessary to establish the definition of the permitted activity'' and those that were imposed for other purposes, such as ''to prevent circumvention of another statute, such as the Glass-Steagall Act.'' [15] The 1997 rulemaking is an example of the Board's use of its longstanding authority to define the parameters of permissible nonbanking activities for bank holding companies and impose conditions on the conduct of such activities by bank holding companies, and the Board's practice of distinguishing between the activities themselves and the conditions imposed on the conduct of those activities.

The GLB Act authorized certain financial activities and repealed many of the conditions imposed on bank holding companies under section 225.28 for bank holding companies that qualify as financial holding companies. To the extent that an activity was originally authorized by the GLB Act, the Board has reviewed the legislative history of that Act to identify the conditions defining that activity. For instance, the legislative history related to Congress's authorization of ''underwriting, merchant, and investment banking activities'' distinguishes between the activities themselves and certain conditions imposed on the conduct of these activities by a financial holding company that do not define the activities, such as the requirement that a financial holding company have a securities or insurance affiliate.[16]

[11] Committee on Banking, Housing, and Urban Affairs Report, S. Rep. No. 111–176, April 15 2010, page 3, *citing* Testimony of Timothy Geithner, Secretary of the Treasury, to the Banking Committee, June 18, 2009.

[12] *See* 12 U.S.C. 5367.

[13] *Id.*

[14] 12 U.S.C. 5323(c).

[15] *See* 62 FR 9290, 9305 (February 28, 1997). The Board stated that the revisions made by the 1997 release were necessary to remove conditions that ''[were] outmoded, [were] superseded by Board order, or [did] not apply to insured depository institutions conducting those same activities,'' and the conditions it retained in section 225.28 were ''necessary to establish the definition of the permitted activity or to prevent circumvention of another statute, such as the Glass-Steagall Act.'' The Board further noted that its ''removal of [such] restrictions from the regulation does not affect the Board's determination that'' these activities are ''so closely related to banking as to be a proper incident thereto'' and thus permissible for bank holding companies.

[16] *See* Conf. Rep. 106–434, 154 (November 2, 1999). (''The authorization of merchant banking

Because section 4(k) references financial activities that were authorized by the Board under various authorities at different points in time, certain of these financial activities overlap with, or are wholly subsumed by, other financial activities permissible for financial holding companies. For purposes of the proposal, the Board has maintained the complete list of financial activities authorized under section 4(k), including the overlapping and redundant activities. Generally, the Board seeks comment on whether overlapping or redundant financial activities should be combined or removed, as appropriate, solely for purposes of determining whether a nonbank company is predominantly engaged in financial activities, in order to simplify the proposed appendix.

It is possible that the Board may modify, interpret, or authorize activities under section 4(k) of the BHC Act in the future. Thus, the proposed revision to section 225.301(d)(1) would clarify that neither the rule nor the appendix would affect the authority of the Board under any other provision of law or regulation to modify these activities or to provide interpretations of section 4(k) in the future, which may affect those activities that are financial in nature under Title I.

The following discussion describes the activities enumerated in the proposed appendix and identifies the conditions imposed by section 4(k) of the BHC Act and the Board's implementing regulations that are not reflected in the proposed appendix because they do not define the essential nature of the activity.

• *Lending, exchanging, transferring, investing for others, or safeguarding money and securities*

The activities of lending, exchanging, transferring, investing for others, or safeguarding money and securities were authorized as permissible for financial holding companies by the GLB Act.[17]

• *Insurance activities*

A broad range of insurance activities, including insuring, guaranteeing, or indemnifying against loss, harm, damage, illness, disability, or death, or providing and issuing annuities, and acting as principal, agent, or broker for purposes of the foregoing, in any State, were authorized as permissible for financial holding companies by the GLB Act.[18]

• *Financial, investment, and economic advisory services*

The activities of providing investment, financial, or economic advisory services were authorized as permissible for financial holding companies by the GLB Act.[19]

• *Securitizing*

The activity of issuing or selling instruments representing interests in pools of assets was authorized as permissible for financial holding companies by the GLB Act.[20] The GLB Act also imposed the condition that the assets being securitized must be permissible for a bank to hold directly. This condition appears to address both safety and soundness matters and restrictions imposed by other provisions of law unrelated to the financial nature of the activity, and is not reflected in the proposed appendix.

• *Underwriting, dealing, and market making*

The activities of underwriting, dealing in, and making a market in securities were authorized as permissible for financial holding companies by the GLB Act.[21]

• *Extending credit and servicing loans*

The activities of making, acquiring, brokering, or servicing loans or other extensions of credit (including factoring, issuing letters of credit and accepting drafts) for the company's account or for the account of others were authorized by the Board as activities that are closely related to banking and thus permissible for bank holding companies.[22] The Board requests comment on whether these lending activities are included in the broad authorization of lending under section 4(k)(4)(A) and need not be separately reflected in the appendix.

• *Activities related to extending credit*

Activities usual in connection with making, acquiring, brokering, or servicing loans or other extensions of credit were determined to be permissible by the Board for bank holding companies as activities that are closely related to banking.[23] These activities include performing appraisals of real estate and personal property (including securities), acting as an intermediary for commercial or industrial real estate financing, providing check guarantee services, providing collection agency services, providing credit bureau services, engaging in asset management, servicing, and collection activities, acquiring debt in default, and providing real estate settlement services.[24] The proposed appendix reflects these activities without the conditions imposed on the conduct of these activities by a bank holding company that do not describe the financial activities themselves.

For instance, under the Board's regulations, a bank holding company may not have an interest in, participate in managing or developing, or promote or sponsor the development of the property for which it is arranging commercial real estate equity financing. The proposed appendix does not reflect these conditions because they are not essential to the activity of arranging commercial real estate equity financing.[25] Similarly, under the Board's regulations, bank holding companies conducting asset management activities may engage in these activities only if the company does not also engage in real property management or real estate brokerage. The proposed appendix does not reflect that condition because, for purposes of determining whether a company is predominantly engaged in financial activities, the restriction could be read to exclude any asset management activity from being treated as financial if the company also engaged in any real estate brokerage or property management activities. While neither real estate brokerage nor real estate management is a permissible financial activity for financial holding companies, nor are such activities considered to be financial for purposes of Title I, a company may engage in these activities and still be predominantly engaged in financial activities so long as these activities comprise no more than fifteen percent of the company's activities.

With respect to acquiring debt in default, under the Board's regulations, a bank holding company acquiring debt in default must divest impermissible assets securing debt in default within a certain time period, stand only in the position of a creditor and not purchase equity of obligors of debt in default, and not

activities as provided in new section 4(k)(4)(H) of the BHCA is designed to recognize the essential role *that these activities* play in modern finance and permits an FHC that has a securities affiliate or an affiliate of an insurance company engaged in underwriting life, accident and health, or property and casualty insurance, or providing and issuing annuities, *to conduct such activities.''*) (emphasis added).

[17] 12 U.S.C. 1843(k)(4)(A).

[18] 12 U.S.C. 1843(k)(4)(B).

[19] 12 U.S.C. 1843(k)(4)(C).

[20] 12 U.S.C. 1843(k)(4)(D).

[21] 12 U.S.C. 1843(k)(4)(E).

[22] 12 U.S.C. 1843(k)(4)(F); 12 CFR 225.28(b)(1).

[23] 12 U.S.C. 1843(k)(4)(F); 12 CFR 225.28(b)(2).

[24] *Id.*

[25] Neither real estate brokerage nor real estate management is an activity that is financial in nature. *See* 12 U.S.C. 1843 note; Public Law 111–8, sec. 624 (Mar. 11, 2009).

acquire debt in default secured by shares of a bank or bank holding company. The proposed appendix does not reflect these conditions because they do not appear to be part of the essential nature of the activity of acquiring debt in default. The conditions requiring the bank holding company to divest impermissible assets and stand only in the position of a creditor and not purchase equity of obligors are intended to prevent the bank holding company from owning assets prohibited by the BHC Act or other provisions of law and are not related to the activity of acquiring debt in default. Similarly, the condition requiring that the debt not be secured by shares of a bank or bank holding company was imposed to prevent the bank holding company from circumventing the BHC Act's requirement that a bank holding company obtain approval from the Board before acquiring control of another bank or bank holding company.

• *Leasing*

Leasing personal or real property, and acting as an agent, broker, or adviser for personal or real property was determined to be closely related to banking by the Board.[26]

• *Operating nonbank depository institutions*

The activities of owning, controlling, and operating nonbank depository institutions, including industrial banks, Morris Plan banks, industrial loan companies and thrifts, was determined to be closely related to banking by the Board.[27] While the Board's regulations require that a target thrift be engaged only in deposit-taking activities and activities permissible for bank holding companies, the proposed appendix does not include these conditions because they are not essential elements of the activity of owning a nonbank depository institution.

• *Trust company functions*

The activities performed by a trust company were determined to be closely related to banking by the Board.[28] The Board requests comment on whether trust company functions are incorporated in the broad authorization provided under section 4(k)(4)(A) to engage in lending, exchanging, transferring, investing for others, and safeguarding financial assets and need not be separately reflected in the appendix.

• *Financial and investment advisory activities*

The activities of acting as an investment or financial advisor to any person were determined to be closely related to banking by the Board.[29] These activities have been defined to include, without limitation, serving as a registered investment adviser to a registered investment company, including sponsoring, organizing, and managing a closed-end investment company; furnishing general economic information and advice, general economic statistical forecasting services, and industry studies; providing advice in connection with mergers, acquisitions, divestitures, investments, joint ventures, leveraged buyouts, recapitalizations, capital structurings, financing transactions and similar transactions; and conducting financial feasibility studies; providing information, statistical forecasting, and advice with respect to any transaction in foreign exchange, swaps, and similar transactions, commodities, and any forward contract, option, future, option on a future, and similar instruments; providing educational courses and instructional materials to consumers on individual financial management matters; and providing tax-planning and tax-preparation services to any person.[30] The Board requests comment on whether these financial and investment advisory activities are incorporated in the broad authorization provided by section 4(k)(4)(C) of the BHC Act to provide financial, investment, and economic advisory services and need not be separately reflected in the appendix.

• *Agency transactional services*

Agency transactional services, including providing securities brokerage services, acting as a riskless principal, providing private placement services, and acting as a futures commission merchant, were determined to be closely related to banking by the Board.[31] Conditions that were imposed on bank holding companies conducting these activities in order to prevent circumvention of the Glass-Steagall Act or for safety and soundness reasons are not reflected in the proposed appendix.

For instance, bank holding companies providing securities brokerage services under this authority are limited to buying and selling securities solely as agent for the account of customers and not conducting securities underwriting or dealing activities, those providing private placement services under this authority cannot purchase or repurchase for their own account the securities being placed or hold in inventory unsold portions of issues of those securities, and those acting as riskless principal under this authority are subject to conditions with respect to bank-ineligible securities. These conditions were intended to prevent a bank holding company from using securities brokerage or riskless principal authority to engage in activities that were impermissible under the Glass-Steagall Act.[32]

In order to act as a futures commission merchant, a bank holding company must conduct the activity through a separately incorporated subsidiary, the contract must be traded on an exchange, and the parent bank holding company cannot guarantee that subsidiary's liabilities. The proposed appendix does not reflect these conditions, as they were imposed for safety and soundness reasons to limit the bank holding company's exposure to contingent obligations under the loss sharing rules of exchange clearinghouses in order to preserve the holding company's ability to serve as a source of strength to its insured depository institutions.[33]

In order to provide agent transactional services to customers on certain commodity derivatives transactions, the derivative must relate to a commodity that is traded on an exchange (regardless of whether the contract being traded is traded on an exchange). The proposed appendix does not reflect this limitation because it appears to have been imposed for safety and soundness reasons and does not describe the underlying activity of providing transactional services on commodity derivatives transactions. The Board requests comment on whether the agency transactional services discussed above are included in the broad authorization provided under section 4(k)(5) to engage in arranging, effecting, or facilitating financial transactions for the account of third parties and need not be separately reflected in the appendix.

• *Investment transactions as principal*

Engaging in investment transactions as principal, including underwriting and dealing in government obligations and money market instruments and investing and trading as principal in foreign exchange and derivatives, and buying and selling bullion, are activities that were determined to be closely

[26] 12 U.S.C. 1843(k)(4)(F); 12 CFR 225.28(b)(3).
[27] 12 U.S.C. 1843(k)(4)(F); 12 CFR 225.28(b)(4).
[28] 12 U.S.C. 1843(k)(4)(F); 12 CFR 225.28(b)(5).
[29] 12 U.S.C. 1843(k)(4)(F); 12 CFR 225.28(b)(6).
[30] *Id.*
[31] 12 U.S.C. 1843(k)(4)(F); 12 CFR 225.28(b)(7).
[32] 62 FR 9290, 9308.
[33] *Id.* at 9309.

related to banking by the Board.[34] Under the Board's regulations, bank holding companies engaged in underwriting and dealing in government obligations and money market instruments are subject to the same conditions imposed on member banks engaged in these activities. The proposed appendix does not reflect these conditions because they were intended to prevent circumvention of the Glass-Steagall Act. In addition, under the Board's regulations, bank holding companies engaged in derivatives transactions are subject to certain conditions, including that the derivative contract itself cannot be a bank-ineligible security and either that the asset underlying the contract be a bank permissible asset or that the contract contain protections against physical settlement. The proposed appendix does not include these conditions imposed on derivatives activities because these conditions appear to have been imposed to prevent circumvention of the Glass-Steagall Act's limitations on underwriting and dealing activities and for safety and soundness reasons.

The Board requests comment on whether the activity of underwriting and dealing in government obligations and money market instruments is included in the broad authorization provided under section 4(k)(4)(E) to engage in underwriting, dealing in, or making a market in securities and need not be separately reflected in the appendix.

• *Management Consulting and Counseling Activities*

Providing management consulting services on any matter to unaffiliated depository institutions and on any financial, economic, accounting, or audit matter to any other company was determined to be closely related to banking by the Board.[35] Under the Board's regulations, bank holding companies engaged in management consulting activities may not own more than 5 percent of the client institution or have a management interlock. The proposed appendix does not reflect this condition because it was intended to ensure that a bank holding company does not exercise control over a client company through a management consulting contract and to prevent conflicts of interest.[36] The Board requests comment on whether the activity of management consulting is subsumed by the broader authority to engage in management consulting services that was determined to be usual in connection with banking abroad and need not be separately reflected in the appendix.

Providing employee benefits consulting services was determined to be closely related to banking by the Board[37] and is included in the proposed appendix. Providing career counseling services also was determined to be closely related to banking by the Board,[38] subject to the conditions that the services are provided to a financial organization, to individuals who are seeking employment at a financial institution, or to individuals currently employed in or who are seeking positions in the finance, accounting, and audit departments of any company. These conditions appear to be essential to this activity's being considered financial and thus are included in the definition of the financial activity in the proposed appendix.

• *Courier Services and Printing and Selling MICR-Encoded Items*

Providing courier services for certain instruments and audit and accounting media was determined to be closely related to banking by the Board.[39] Printing and selling MICR-encoded items was determined to be closely related to banking by the Board.[40] These activities are included in the proposed appendix.

• *Insurance Agency and Underwriting*

Activities related to the provision of credit insurance and insurance in small towns were determined to be closely related to banking by the Board.[41] The Board requests comment on whether these insurance activities are included in the broad authorization of insurance activities provided under section 4(k)(4)(B) of the BHC Act and thus need not be separately reflected in the appendix.

• *Community Development Activities*

Making debt and equity investments in corporations or projects that are designed primarily to promote community welfare, and providing advisory and related services for such programs, was determined to be closely related to banking by the Board.[42] This activity is included in the proposed appendix.

• *Money Orders, Savings Bonds, and Traveller's Checks*

The issuance and sale of money orders and traveller's checks, and the issuance of savings bonds, was determined to be closely related to banking by the Board and is included in the proposed appendix.[43]

• *Data Processing*

Providing data processing services and related activities with respect to financial, banking, or economic data was determined to be closely related to banking by the Board.[44] Under the Board's regulations, a bank holding company's data processing activities must comply with the condition that the hardware provided in connection with these services is offered only in conjunction with software related to the processing, storage, and transmission of financial, banking, or economic data, and where the general purpose hardware does not constitute more than 30 percent of the cost of any packaged offering. The proposed appendix does not include these conditions because they do not define the activity of financial data processing.

• *Mutual Fund Advisory Services*

Providing administrative and other services to mutual funds was determined be closely related to banking by the Board[45] and is included in the proposed appendix.

• *Owning Shares of a Securities Exchange*

Owning shares of a securities exchange was determined to be closely related to banking by the Board[46] and is included in the proposed appendix.

• *Certification Services*

Acting as a certification authority for digital signatures and authenticating the identity of persons conducting financial and nonfinancial transactions was determined to be closely related to banking by the Board[47] and is included in the proposed appendix.

• *Providing Employment Histories*

Providing employment histories to third parties for use in making credit decisions and to depository institutions and their affiliates for use in the ordinary course of business was

[34] 12 U.S.C. 1843(k)(4)(F); 12 CFR 225.28(b)(8).
[35] 12 U.S.C. 1843(k)(4)(F); 12 CFR 225.28(b)(9)(i).
[36] 62 FR 9290, 9312.
[37] 12 U.S.C. 1843(k)(4)(F); 12 CFR 225.28(b)(9)(ii).
[38] 12 U.S.C. 1843(k)(4)(F); 12 CFR 225.28(b)(9)(iii).
[39] 12 U.S.C. 1843(k)(4)(F); 12 CFR 225.28(b)(10)(i).
[40] 12 U.S.C. 1843(k)(4)(F); 12 CFR 225.28(b)(10)(ii).
[41] 12 U.S.C. 1843(k)(4)(F); 12 CFR 225.28(b)(11).
[42] 12 U.S.C. 1843(k)(4)(F); 12 CFR 225.28(b)(12).
[43] 12 U.S.C. 1843(k)(4)(F); 12 CFR 225.28(b)(13).
[44] 12 U.S.C. 1843(k)(4)(F); 12 CFR 225.28(b)(14).
[45] 12 U.S.C. 1843(k)(4)(F); 12 CFR 225.86(a)(2)(i).
[46] 12 U.S.C. 1843(k)(4)(F); 12 CFR 225.86(a)(2)(ii).
[47] 12 U.S.C. 1843(k)(4)(F); 12 CFR 225.86(a)(2)(iii).

determined to be closely related to banking by the Board [48] and is included in the proposed appendix.

• *Check-Cashing and Wire-Transmission Services*

Providing check-cashing and wire-transmission services was determined to be closely related to banking by the Board [49] and is included in the proposed appendix.

• *Postage, Vehicle Registration, Public Transportation Services*

Providing notary-public services, selling postage stamps and postage-paid envelopes, providing vehicle registration services, and selling public-transportation tickets and tokens in connection with offering banking services was determined to be closely related to banking by the Board [50] and is included in the proposed appendix.

• *Real Estate Title Abstracting*

Engaging in real estate title abstracting was determined to be closely related to banking by the Board [51] and is included in the proposed appendix.

• *Management Consulting Services*

Providing management consulting services was determined to be usual in connection with the transaction of banking or other financial operations abroad.[52] Under the Board's regulations, bank holding companies are prohibited from controlling the person to which the services are provided. The proposed appendix does not reflect this condition because it appears to have been intended to ensure that a bank holding company does not exercise control over a client company through a management consulting contract and to prevent conflicts of interest.

• *Travel Agency*

Operating a travel agency in connection with financial services was determined to be usual in connection with the transaction of banking or other financial operations abroad [53] and is included in the proposed appendix.

• *Mutual Fund Activities*

Organizing, sponsoring, and managing a mutual fund was determined to be usual in connection with the transaction of banking or other financial operations abroad.[54] Under the Board's regulations, bank holding companies are prohibited from exerting managerial control over the companies in which the fund invests and must reduce their ownership to less than 25 percent of the equity of the fund within one year of sponsoring the fund. The proposed appendix does not reflect these conditions because they were imposed to prevent circumvention of the investment restrictions in the BHC Act.

• *Merchant Banking*

Section 4(k)(4)(H) of the BHC Act authorizes financial holding companies to acquire ''shares, assets or ownership interests,'' including debt or equity securities, in a company engaged in any activity not authorized under section 4 ''as part of a bona fide underwriting or merchant or investment banking activity, including investment activities engaged in for the purpose of appreciation and ultimate resale or disposition of the investment,'' subject to the following conditions: (i) The shares may not be acquired or held by a depository institution; (ii) the shares must be acquired and held by a securities affiliate or an affiliate thereof, or in the case of a financial holding company that has an insurance company affiliate, the shares must be acquired and held by an affiliate that provides investment advice to an insurance company and is registered pursuant to the Investment Advisers Act of 1940, or an affiliate thereof, as part of a bona fide underwriting or merchant or investment banking activity, including investment activities engaged in for the purpose of appreciation and ultimate resale or disposition of the investment; (iii) the shares must be held for a period of time to enable the sale or disposition on a reasonable basis consistent with the financial viability of the company's underwriting, merchant, or investment banking activities; and (iv) during the period the shares are held, the bank holding company may not routinely manage or operate the company except as may be necessary to obtain a reasonable return on investment upon resale or disposition.[55]

The proposed appendix reflects those conditions that appear to define the essential nature of the activities of underwriting, merchant, or investment banking activities, and omits those that do not.

First, the condition requiring that the shares be held for a period of time to enable their sale or disposition on a reasonable basis consistent with the financial viability of the company's underwriting, merchant, or investment banking activities appears to be an essential element of a bona fide underwriting, merchant, or investment banking activity. Thus, this condition is reflected in the proposed appendix. Companies engaging in bona fide underwriting, merchant, or investment banking activities do not invest in investee companies for the purpose of engaging in the activity in which the investee company is engaged, but instead invest with the intent to sell such instruments at some later point in time at which a profit is expected to be realized. The length of time that the shares are held will vary by investment.[56]

For example, certain companies, such as private equity firms, that are engaged in bona fide underwriting, merchant, or investment banking activities typically invest in firms that the private equity firm believes will increase in value over time and can be resold at a profit. The holding period for an investment will vary based on the investee company, and in some cases the private equity firm may hold the shares for several years. A firm such as a hedge fund or a mutual fund invests in firms with the expectation to sell those instruments at a future date in order to realize profits consistent with its particular investment strategy. The holding period for an investment by a hedge fund or a mutual fund will depend on the length of time necessary to recognize gains consistent with the fund's investment strategy.

The prohibition on routinely managing an investee company in which it has purchased shares, other than for purposes of recognizing a reasonable return, appears to be an essential element of bona fide underwriting, merchant, or investment banking activities. Thus, this prohibition is reflected in the proposed appendix. As previously discussed, companies engaging in these activities purchase shares of investee companies to recognize an ultimate profit, rather than to engage in the underlying activity in which the investee company engages as its primary business activity. Routinely managing the companies, other than for the goal of recognizing a reasonable return, would be inconsistent with the underlying nature of the activities. Therefore, in order for an activity to qualify as a bona fide

[48] 12 U.S.C. 1843(k)(4)(F); 12 CFR 225.86(a)(2)(iv).

[49] 12 U.S.C. 1843(k)(4)(F); 12 CFR 225.86(a)(2)(v).

[50] 12 U.S.C. 1843(k)(4)(F); 12 CFR 225.86(a)(2)(vi).

[51] 12 U.S.C. 1843(k)(4)(F); 12 CFR 225.86(a)(2)(vii).

[52] 12 U.S.C. 1843(k)(4)(G); 12 CFR 225.86(b)(1).

[53] 12 U.S.C. 1843(k)(4)(G); 12 CFR 225.86(b)(2).

[54] 12 U.S.C. 1843(k)(4)(G); 12 CFR 225.86(b)(3).

[55] 12 U.S.C. 1843(k)(4)(H).

[56] The Board and the Secretary of the Treasury jointly implemented regulations interpreting the holding period for merchant banking investments by financial holding companies. This regulatory interpretation is separate from the activity of merchant banking set forth in section 4(k)(4)(H) of the BHC Act and would not apply for determining whether an activity is a financial activity for purposes of Title I. *See* 12 CFR 225.172 and 12 CFR 1500.3, respectively.

underwriting, merchant, or investment banking activity, a nonbank company must comply with this restriction.[57]

By contrast, the condition requiring that shares acquired as part of a bona fide underwriting or merchant or investment banking activity not be acquired or held by a depository institution is not an essential element of such activities, and thus is not reflected in the proposed appendix. This restriction was imposed because banks are restricted from investing in certain types of companies by statute and regulation.[58] Similarly, the condition in section 4(k) requiring a financial holding company engaging in underwriting or merchant or investment banking activities to either have (i) a securities affiliate, or (ii) in the case of a financial holding company that has an insurance company affiliate, an affiliate that provides investment advice to an insurance company and is registered pursuant to the Investment Advisers Act of 1940, does not appear to be an essential element of these activities because the condition does not require that the activity be conducted through the securities affiliate or investment adviser affiliate of the financial holding company. The condition was designed to ensure that only those financial holding companies with experience engaging in underwriting, merchant, or investment banking activities conducted such activities. The Board proposes to define the activities of underwriting, merchant, and investment banking to include only the conditions that appear to be essential elements of the activities themselves, as discussed above.[59]

In addition, the proposed appendix does not reflect the provision of section 4(k)(4)(H) that the investment be in company engaged in any activity not authorized under section 4 of the BHC Act because this provision does not affect the scope of activities that are financial activities for purposes of Title I. An investment in a company solely engaged in activities permissible under section 4 would otherwise be treated as a financial activity.

Section 4(k)(4)(I) of the BHC Act similarly authorizes financial holding companies to acquire ''shares, assets or ownership interests,'' including debt or equity securities, of a company or other entity engaged in any activity not authorized by section 4(k) if (i) the shares, assets, or ownership interests are not acquired or held by a depository institution or a subsidiary of a depository institution; (ii) such shares, assets, or ownership interests are acquired and held by an insurance company that is predominantly engaged in underwriting life, accident and health, or property and casualty insurance (other than credit-related insurance) or providing and issuing annuities; (iii) such shares, assets, or ownership interests represent an investment made in the ordinary course of business of such insurance company in accordance with relevant State law governing such investments; and (iv) during the period such shares, assets, or ownership interests are held, the bank holding company does not routinely manage or operate such company except as may be necessary or required to obtain a reasonable return on investment.

The condition requiring that shares, assets, or ownership interests not be acquired or held by a depository institution does not appear to be an essential element of the investment activities authorized by section 4(k)(4)(I), and thus is not reflected in the proposed appendix. This restriction was imposed because banks are restricted from investing in certain types of companies by statute and regulation.[60] Each of the other conditions imposed on the conduct of the activity by a bank holding company appears to be an essential element of the activity of investing in connection with engaging in insurance activities. The Board proposes to define the investment activities authorized by section 4(k)(4)(I) to include only the conditions that appear to be essential elements of these activities, as discussed above.

• *Lending, Safeguarding, Exchanging, and Investing for Others With Respect to Financial Assets Other Than Money and Securities*

The GLB Act authorizes the activities of lending, exchanging, transferring, investing for others, or safeguarding financial assets other than money or securities; providing any device or other instrumentality for transferring money or other financial assets; and arranging, effecting, or facilitating financial transactions for the account of third parties for financial holding companies.[61] The statute requires the Board to define these activities as financial in nature and the extent to which such activities are financial in nature or incidental thereto. The Board and the Secretary of the Treasury issued a joint interim rule authorizing such activities as permissible for financial holding companies.[62] These activities are included in the proposed appendix.

Implications for Bank Holding Companies

The Board is proposing to define the activities listed in the proposed appendix as financial *solely* for purposes of Title I of the Dodd-Frank Act. The proposed appendix is not intended to amend section 4(k) of the BHC Act for purposes of defining those activities that are permissible for financial holding companies or the manner in which bank holding companies and financial holding companies are permitted to conduct those activities. The Board notes that it does not have the authority to unilaterally expand the list of permissible financial activities under section 4(k) as it applies to financial holding companies without first consulting with the Secretary of the Treasury.[63] In making its determination, the Board also must take into account four factors: (1) The purposes of the GLB Act and BHC Act; (2) the changes or reasonably expected changes in the marketplace in which financial holding companies compete; (3) the changes or reasonably expected changes in technology for delivering financial services; and (4) whether the proposed activity is necessary or appropriate to allow a financial holding company to compete effectively with companies seeking to provide financial services in the United States, efficiently deliver financial information and services through technological means, and offer customers any available or emerging technological means for using financial services or for the document imaging of data.[64] Additionally, Congress clearly did not intend to expand the list of permissible financial activities for bank holding companies in enacting the Dodd-Frank Act. In fact, Congress

[57] The Board and the Secretary of the Treasury jointly implemented regulations interpreting the limitation on routine management and operation for merchant banking investments by financial holding companies. This regulatory interpretation is separate from the activity of merchant banking set forth in section 4(k)(4)(H) of the BHC Act and would not apply for determining whether an activity is a financial activity for purposes of Title I. *See* 12 CFR 225.171 and 12 CFR 1500.2 *et seq.,* respectively.

[58] *See, e.g.,* 12 U.S.C. 24, (Seventh); 12 U.S.C. 24, (Eleventh); 12 CFR 1.

[59] Similarly, the Council has indicated its belief that nonbank companies such as hedge funds, private equity firms, and mutual funds will be eligible for designation. The Council noted in its second notice of proposed rulemaking that it will consider whether to establish an additional set of metrics or thresholds tailored to evaluate hedge funds and private equity firms and their advisers for potential designation under section 113. *See* 76 FR 64264, 64269 (October 18, 2011).

[60] *See, e.g.,* 12 U.S.C. 24, (Seventh); 12 U.S.C. 24, (Eleventh), 12 CFR 1.

[61] 12 U.S.C. 1843(k)(5).

[62] *See* 66 FR 257 (January 3, 2001).

[63] 12 U.S.C. 1843(k)(2).

[64] 12 U.S.C. 1843(k)(3).

demonstrated a clear intent to restrict the conduct of financial activities by bank holding companies and other companies affiliated with depository institutions, as evidenced by the new restrictions imposed by section 619 of the Act (the ''Volcker Rule'') on certain financial activities, such as securities underwriting and dealing, conducted by bank holding companies and other depository institution affiliates.[65]

IV. Administrative Law Matters

A. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3506; 5 CFR 1320 Appendix A.1), the Board reviewed this NPR under the authority delegated to the Board by the Office of Management and Budget (''OMB'').

As noted in the Supplementary Information, the Board published the February 2011 NPR to amend the sections of Regulation Y that establish the criteria for determining whether a company is ''predominantly engaged in financial activities'' and define the terms ''significant nonbank financial company'' and ''significant bank holding company'' for purposes of Title I of the Dodd-Frank Act. The comment period for the February 2011 NPR closed on March 30, 2011; the Board received 23 comment letters. Based on comments received, the Board believes that clarification is needed regarding the scope of activities that would be considered to be financial activities under that proposal.

Although this NPR supplements the February 2011 NPR by amending specific portions of the regulation for clarity, it does not affect the collections of information that are proposed by the February 2011 NPR that are found in 12 CFR 225.301(f). This NPR proposes no new collections nor makes any revisions to the collections that were proposed under the February 2011 NPR.

The Board may not conduct or sponsor, and an organization is not required to respond to, this information collection unless it displays a currently valid OMB control number. The OMB control number will be assigned once the rulemaking has been finalized.

B. Regulatory Flexibility Act

In accordance with Section 3(a) of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. (''RFA''), the Board is publishing an initial regulatory flexibility analysis with this rulemaking. The RFA requires an agency either to provide an initial regulatory flexibility analysis with a proposed rule for which a general notice of proposed rulemaking is required or to certify that the proposed rule will not have a significant economic impact on a substantial number of small entities.

As noted in the Supplementary Information, the Board published the February 2011 NPR to amend the sections of Regulation Y that establish the criteria for determining whether a company is ''predominantly engaged in financial activities'' and define the terms ''significant nonbank financial company'' and ''significant bank holding company'' for purposes of Title I of the Dodd-Frank Act. The comment period for the February 2011 NPR closed on March 30, 2011; the Board received 23 comment letters. Based on comments received, the Board believes that clarification is needed regarding the scope of activities that would be considered to be financial activities under that proposal. Although this NPR supplements the February 2011 NPR by amending specific portions of that proposal for clarity, it does not affect the Board's initial regulatory flexibility analysis with respect to the February 2011 NPR. A final regulatory flexibility analysis will be conducted after consideration of comments received during the public comment period.

List of Subjects in 12 CFR Part 225

Administrative practice and procedure, Banks, banking, Holding companies, Reporting and recordkeeping requirements, Securities.

Authority and Issuance

For the reasons stated in the preamble, the Board proposes to further amend Regulation Y, 12 CFR part 225, as proposed to be amended at 76 FR 7731 (February 11, 2011), as follows:

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (REGULATION Y)

1. The authority citation for part 225 is revised to read as follows:

Authority: 12 U.S.C. 1844(b), 3106 and 3108, 1817(j)(13), 1818(b)), 1831i, 1972, Pub. L. 98–181, title IX, and 5311(a)(6) and (b).

2. In § 225.301 which was proposed to be added on February 11, 2011 at 76 FR 7731, is further amended by revising paragraph (d)(1) as follows:

§ 225.301 Nonbank companies ''predominantly engaged'' in financial activities.

* * * * *

(d) *Activities that are financial in nature.*

(1) In general. Any activity described in section 4(k) of the BHC Act, regardless of conformance with the conditions applicable to financial holding companies conducting such activity that do not define the financial activity, shall be considered financial in nature for purposes of this section. These activities as of April 2, 2012 are set forth in the appendix. Nothing in this part limits the authority of the Board under any other provision of law or regulation to modify the activities it has determined to be financial in nature or to provide interpretations of section 4(k) of the BHC Act.

* * * * *

3. Add Appendix A to Subpart N to read as follows:

Appendix A to Subpart N—Financial Activities for Purposes of Title I

(1) Lending, exchanging, transferring, investing for others, or safeguarding money and securities.

(2) Insuring, guaranteeing, or indemnifying against loss, harm, damage, illness, disability, or death, or providing and issuing annuities, and acting as principal, agent, or broker for purposes of the foregoing, in any state.

(3) Providing financial, investment, or economic advisory services, including advising an investment company (as defined in section 3 of the Investment Company Act of 1940).

(4) Issuing or selling instruments representing interests in pools of assets.

(5) Underwriting, dealing in, or making a market in securities.

(6) Extending credit and servicing loans. Making, acquiring, brokering, or servicing loans or other extensions of credit (including factoring, issuing letters of credit and accepting drafts) for the company's account or for the account of others.

(7) Activities related to extending credit. Any activity usual in connection with making, acquiring, brokering or servicing loans or other extensions of credit, including the following activities:

(i) Real estate and personal property appraising. Performing appraisals of real estate and tangible and intangible personal property, including securities.

(ii) Arranging commercial real estate equity financing. Acting as intermediary for the financing of commercial or industrial income-producing real estate by arranging for the transfer of the title, control, and risk of such a real estate project to one or more investors.

(iii) Check-guaranty services. Authorizing a subscribing merchant to accept personal checks tendered by the merchant's customers in payment for goods and services, and purchasing from the merchant validly authorized checks that are subsequently dishonored.

(iv) Collection agency services. Collecting overdue accounts receivable, either retail or commercial.

(v) Credit bureau services. Maintaining information related to the credit history of consumers and providing the information to a credit grantor who is considering a

[65] *See* 12 U.S.C. 1851.

borrower's application for credit or who has extended credit to the borrower.

(vi) Asset management, servicing, and collection activities. Engaging under contract with a third party in asset management, servicing, and collection [1] of assets of a type that an insured depository institution may originate and own.

(vii) Acquiring debt in default. Acquiring debt that is in default at the time of acquisition.

(viii) Real estate settlement servicing. Providing real estate settlement services.[2]

(8) Leasing personal or real property. Leasing personal or real property or acting as agent, broker, or adviser in leasing such property if:

(i) The lease is on a nonoperating basis; [3]

(ii) The initial term of the lease is at least 90 days; and

(iii) In the case of leases involving real property:

(A) At the inception of the initial lease, the effect of the transaction will yield a return that will compensate the lessor for not less than the lessor's full investment in the property plus the estimated total cost of financing the property over the term of the lease from rental payments, estimated tax benefits, and the estimated residual value of the property at the expiration of the initial lease; and

(B) The estimated residual value of property for purposes of paragraph (b)(3)(iii)(A) of this section shall not exceed 25 percent of the acquisition cost of the property to the lessor.

(9) Operating nonbank depository institutions.

(i) Industrial banking. Owning, controlling, or operating an industrial bank, Morris Plan bank, or industrial loan company that is not a bank for purposes of the BHC Act.

(ii) Operating savings associations. Owning, controlling, or operating a savings association.

(10) Trust company functions. Performing functions or activities that may be performed by a trust company (including activities of a fiduciary, agency, or custodial nature), in the manner authorized by federal or state law that is not a bank for purposes of section 2(c) of the Bank Holding Company Act.

(11) Financial and investment advisory activities. Acting as investment or financial advisor to any person, including (without, in any way, limiting the foregoing):

(i) Serving as investment adviser (as defined in section 2(a)(20) of the Investment Company Act of 1940, 15 U.S.C. 80a–2(a)(20)), to an investment company registered under that act, including sponsoring, organizing, and managing a closed-end investment company;

(ii) Furnishing general economic information and advice, general economic statistical forecasting services, and industry studies;

(iii) Providing advice in connection with mergers, acquisitions, divestitures, investments, joint ventures, leveraged buyouts, recapitalizations, capital structurings, financing transactions and similar transactions, and conducting financial feasibility studies; [4]

(iv) Providing information, statistical forecasting, and advice with respect to any transaction in foreign exchange, swaps, and similar transactions, commodities, and any forward contract, option, future, option on a future, and similar instruments;

(v) Providing educational courses, and instructional materials to consumers on individual financial management matters; and

(vi) Providing tax-planning and tax-preparation services to any person.

(12) Agency transactional services for customer investments.

(i) Securities brokerage. Providing securities brokerage services (including securities clearing and/or securities execution services on an exchange), whether alone or in combination with investment advisory services, and incidental activities (including related securities credit activities and custodial services).

(ii) Riskless principal transactions. Buying and selling in the secondary market all types of securities on the order of customers as a ''riskless principal'' to the extent of engaging in a transaction in which the company, after receiving an order to buy (or sell) a security from a customer, purchases (or sells) the security for its own account to offset a contemporaneous sale to (or purchase from) the customer.

(iii) Private placement services. Acting as agent for the private placement of securities in accordance with the requirements of the Securities Act of 1933 (1933 Act) and the rules of the Securities and Exchange Commission.

(iv) Futures commission merchant. Acting as a futures commission merchant (FCM) for unaffiliated persons in the execution, clearance, or execution and clearance of any futures contract and option on a futures contract.

(v) Other transactional services. Providing to customers as agent transactional services with respect to swaps and similar transactions, any transaction described in paragraph (b)(8) of this section, any transaction that is permissible for a state member bank, and any other transaction involving a forward contract, option, futures, option on a futures or similar contract (whether traded on an exchange or not).

(13) Investment transactions as principal.

(i) Underwriting and dealing in government obligations and money market instruments. Underwriting and dealing in obligations of the United States, general obligations of states and their political subdivisions, and other obligations that state member banks of the Federal Reserve System may be authorized to underwrite and deal in under 12 U.S.C. 24 and 335, including banker's acceptances and certificates of deposit.

(ii) Investing and trading activities. Engaging as principal in:

(A) Foreign exchange;

(B) Forward contracts, options, futures, options on futures, swaps, and similar contracts, whether traded on exchanges or not, based on any rate, price, financial asset (including gold, silver, platinum, palladium, copper, or any other metal), nonfinancial asset, or group of assets.

(C) Forward contracts, options, futures, options on futures, swaps, and similar contracts, whether traded on exchanges or not, based on an index of a rate, a price, or the value of any financial asset, nonfinancial asset, or group of assets.

(ii) Buying and selling bullion, and related activities. Buying, selling and storing bars, rounds, bullion, and coins of gold, silver, platinum, palladium, copper, and any other metal for the company's own account and the account of others, and providing incidental services such as arranging for storage, safe custody, assaying, and shipment.

(14) Management consulting and counseling activities

(i) Management consulting. (A) Providing management consulting advice: [5]

(*1*) On any matter to unaffiliated depository institutions, including commercial banks, savings and loan associations, savings banks, credit unions, industrial banks, Morris Plan banks, cooperative banks, industrial loan companies, trust companies, and branches or agencies of foreign banks;

(*2*) On any financial, economic, accounting, or audit matter to any other company.

(ii) Employee benefits consulting services. Providing consulting services to employee benefit, compensation and insurance plans, including designing plans, assisting in the implementation of plans, providing administrative services to plans, and developing employee communication programs for plans.

(iii) Career counseling services. Providing career counseling services to:

[1] Asset management services include acting as agent in the liquidation or sale of loans and collateral for loans, including real estate and other assets acquired through foreclosure or in satisfaction of debts previously contracted.

[2] For purposes of this section, real estate settlement services do not include providing title insurance as principal, agent, or broker.

[3] The requirement that the lease be on a nonoperating basis means that the company may not, directly or indirectly, engage in operating, servicing, maintaining, or repairing leased property during the lease term. For purposes of the leasing of automobiles, the requirement that the lease be on a nonoperating basis means that the company may not, directly or indirectly: (1) Provide servicing, repair, or maintenance of the leased vehicle during the lease term; (2) purchase parts and accessories in bulk or for an individual vehicle after the lessee has taken delivery of the vehicle; (3) provide the loan of an automobile during servicing of the leased vehicle; (4) purchase insurance for the lessee; or (5) provide for the renewal of the vehicle's license merely as a service to the lessee where the lessee could renew the license without authorization from the lessor. The company may arrange for a third party to provide these services or products.

[4] Feasibility studies do not include assisting management with the planning or marketing for a given project or providing general operational or management advice.

[5] In performing this activity, companies are not authorized to perform tasks or operations or provide services to client institutions either on a daily or continuing basis, except as necessary to instruct the client institution on how to perform such services for itself. See also the Board's interpretation of bank management consulting advice (12 CFR 225.131).

(A) A financial organization[6] and individuals currently employed by, or recently displaced from, a financial organization;

(B) Individuals who are seeking employment at a financial organization; and

(C) Individuals who are currently employed in or who seek positions in the finance, accounting, and audit departments of any company.

(15) Support services.

(i) Courier services. Providing courier services for:

(A) Checks, commercial papers, documents, and written instruments (excluding currency or bearer-type negotiable instruments) that are exchanged among banks and financial institutions; and

(B) Audit and accounting media of a banking or financial nature and other business records and documents used in processing such media.[7]

(ii) Printing and selling MICR-encoded items. Printing and selling checks and related documents, including corporate image checks, cash tickets, voucher checks, deposit slips, savings withdrawal packages, and other forms that require Magnetic Ink Character Recognition (MICR) encoding.

(16) Insurance agency and underwriting.

(i) Credit insurance. Acting as principal, agent, or broker for insurance (including home mortgage redemption insurance) that is:

(A) Directly related to an extension of credit by the company or any of its subsidiaries; and

(B) Limited to ensuring the repayment of the outstanding balance due on the extension of credit[8] in the event of the death, disability, or involuntary unemployment of the debtor.

(ii) Finance company subsidiary. Acting as agent or broker for insurance directly related to an extension of credit by a finance company[9] that is a subsidiary of a company, if:

(A) The insurance is limited to ensuring repayment of the outstanding balance on such extension of credit in the event of loss or damage to any property used as collateral for the extension of credit; and

(B) The extension of credit is not more than $10,000, or $25,000 if it is to finance the purchase of a residential manufactured home[10] and the credit is secured by the home; and

(C) The applicant commits to notify borrowers in writing that:

(*1*) They are not required to purchase such insurance from the applicant;

(*2*) Such insurance does not insure any interest of the borrower in the collateral; and

(*3*) The applicant will accept more comprehensive property insurance in place of such single-interest insurance.

(iii) Insurance in small towns. Engaging in any insurance agency activity in a place where the company or a subsidiary has a lending office and that:

(A) Has a population not exceeding 5,000 (as shown in the preceding decennial census); or

(B) Has inadequate insurance agency facilities, as determined by the Board, after notice and opportunity for hearing.

(iv) Insurance-agency activities conducted on May 1, 1982. Engaging in any specific insurance-agency activity[11] if the company, or subsidiary conducting the specific activity, conducted such activity on May 1, 1982, or received Board approval to conduct such activity on or before May 1, 1982.[12] A company or subsidiary engaging in a specific insurance agency activity under this clause may:

(A) Engage in such specific insurance agency activity only at locations:

(*1*) In the state in which the company has its principal place of business (as defined in 12 U.S.C. 1842(d));

(*2*) In any state or states immediately adjacent to such state; and

(*3*) In any state in which the specific insurance-agency activity was conducted (or was approved to be conducted) by such company or subsidiary thereof or by any other subsidiary of such company on May 1, 1982; and

(B) Provide other insurance coverages that may become available after May 1, 1982, so long as those coverages insure against the types of risks as (or are otherwise functionally equivalent to) coverages sold or approved to be sold on May 1, 1982, by the company or subsidiary.

(v) Supervision of retail insurance agents. Supervising on behalf of insurance underwriters the activities of retail insurance agents who sell:

(A) Fidelity insurance and property and casualty insurance on the real and personal property used in the operations of the company or its subsidiaries; and

(B) Group insurance that protects the employees of the company or its subsidiaries.

(vi) Small companies. Engaging in any insurance-agency activity if the company has total consolidated assets of $50 million or less. A company performing insurance-agency activities under this paragraph may not engage in the sale of life insurance or annuities except as provided in paragraphs (b)(11)(i) and (iii) of this appendix, and it may not continue to engage in insurance-agency activities pursuant to this provision more than 90 days after the end of the quarterly reporting period in which total assets of the holding company and its subsidiaries exceed $50 million.

(vii) Insurance-agency activities conducted before 1971. Engaging in any insurance-agency activity performed at any location in the United States directly or indirectly by a company that was engaged in insurance-agency activities prior to January 1, 1971, as a consequence of approval by the Board prior to January 1, 1971.

(17) Community development activities.

(i) Financing and investment activities. Making equity and debt investments in corporations or projects designed primarily to promote community welfare, such as the economic rehabilitation and development of low-income areas by providing housing, services, or jobs for residents.

(ii) Advisory activities. Providing advisory and related services for programs designed primarily to promote community welfare.

(18) Money orders, savings bonds, and traveler's checks. The issuance and sale at retail of money orders and similar consumer-type payment instruments; the sale of U.S. savings bonds; and the issuance and sale of traveler's checks.

(19) Data processing. Providing data processing, data storage and data transmission services, facilities (including data processing, data storage and data transmission hardware, software, documentation, or operating personnel), databases, advice, and access to such services, facilities, or databases by any technological means, if the data to be processed, stored or furnished are financial, banking or economic.

(20) Providing administrative and other services to mutual funds.

(21) Owning shares of a securities exchange.

(22) Acting as a certification authority for digital signatures and authenticating the identity of persons conducting financial and nonfinancial transactions.

(23) Providing employment histories to third parties for use in making credit decisions and to depository institutions and their affiliates for use in the ordinary course of business.

(24) Check cashing and wire transmission services.

(25) In connection with offering banking services, providing notary public services, selling postage stamps and postage-paid envelopes, providing vehicle registration services, and selling public transportation tickets and tokens.

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[6] Financial organization refers to insured depository institution holding companies and their subsidiaries, other than nonbanking affiliates of diversified savings and loan holding companies that engage in activities not permissible under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1842(c)(8)).

[7] See also the Board's interpretation on courier activities (12 CFR 225.129), which sets forth conditions for company entry into the activity.

[8] Extension of credit includes direct loans to borrowers, loans purchased from other lenders, and leases of real or personal property so long as the leases are nonoperating and full-payout leases that meet the requirements of paragraph (b)(3) of this section.

[9] Finance company includes all non-deposit-taking financial institutions that engage in a significant degree of consumer lending (excluding lending secured by first mortgages) and all financial institutions specifically defined by individual states as finance companies and that engage in a significant degree of consumer lending.

[10] These limitations increase at the end of each calendar year, beginning with 1982, by the percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics.

[11] Nothing contained in this provision shall preclude a company subsidiary that is authorized to engage in a specific insurance-agency activity under this clause from continuing to engage in the particular activity after merger with an affiliate, if the merger is for legitimate business purposes and prior notice has been provided to the Board.

[12] For the purposes of this paragraph, activities engaged in on May 1, 1982, include activities carried on subsequently as the result of an application to engage in such activities pending before the Board on May 1, 1982, and approved subsequently by the Board or as the result of the acquisition by such company pursuant to a binding written contract entered into on or before May 1, 1982, of another company engaged in such activities at the time of the acquisition.

(26) Real estate title abstracting.

(27) Providing management consulting services, including to any person with respect to nonfinancial matters, so long as the management consulting services are advisory.

(28) Operating a travel agency in connection with financial services.

(29) Organizing, sponsoring, and managing a mutual fund.

(30) Directly, or indirectly acquiring or controlling, whether as principal, on behalf of 1 or more entities, or otherwise, shares, assets, or ownership interests (including debt or equity securities, partnership interests, trust certificates, or other instruments representing ownership) of a company or other entity, whether or not constituting control of such company or entity, if:

(i) Such shares, assets, or ownership interests are acquired and held as part of a bona fide underwriting or merchant or investment banking activity, including investment activities engaged in for the purpose of appreciation and ultimate resale or disposition of the investment;

(ii) Such shares, assets, or ownership interests are held for a period of time to enable the sale or disposition thereof on a reasonable basis consistent with the financial viability of the activities described in paragraph (30)(i) of this appendix; and

(iii) During the period such shares, assets, or ownership interests are held, the company does not routinely manage or operate such company or entity except as may be necessary or required to obtain a reasonable return on investment upon resale or disposition.

(31) Directly or indirectly acquiring or controlling, whether as principal, on behalf of 1 or more entities, or otherwise, shares, assets, or ownership interests (including debt or equity securities, partnership interests, trust certificates or other instruments representing ownership) of a company or other entity, whether or not constituting control of such company or entity if—

(i) Such shares, assets, or ownership interests are acquired and held by an insurance company that is predominantly engaged in underwriting life, accident and health, or property and casualty insurance (other than credit-related insurance) or providing and issuing annuities;

(ii) Such shares, assets, or ownership interests represent an investment made in the ordinary course of business of such insurance company in accordance with relevant State law governing such investments; and

(iii) During the period such shares, assets, or ownership interests are held, the company does not routinely manage or operate such company except as may be necessary or required to obtain a reasonable return on investment.

(32) Lending, exchanging, transferring, investing for others, or safeguarding financial assets other than money or securities.

(33) Providing any device or other instrumentality for transferring money or other financial assets.

(34) Arranging, effecting, or facilitating financial transactions for the account of third parties.

By order of the Board of Governors of the Federal Reserve System, April 2, 2012.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2012–8515 Filed 4–9–12; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2011–0621; Airspace Docket No. 11–ASO–28]

Proposed Amendment of Class D and E Airspace; Blountville, TN, and Revocation of Class E Airspace; Tri-City, TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class D and Class E surface airspace at Blountville, TN, and remove Class E airspace at Tri-City, TN, as new Standard Instrument Approach Procedures have been developed at Tri-Cities Regional Airport. This action would enhance the safety and airspace management of Instrument Flight Rules (IFR) operations for SIAPs at the airport. This action would also update the geographic coordinates, airport name, and airspace designation.

DATES: Comments must be received on or before May 25, 2012. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA, Order 7400.9 and publication of conforming amendments.

ADDRESSES: Send comments on this rule to: U. S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001; Telephone: 1–800–647–5527; Fax: 202–493–2251. You must identify the Docket Number FAA–2011–0621; Airspace Docket No. 11–ASO–28, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on this rule by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2011–0621; Airspace Docket No. 11–ASO–28) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2011–0621; Airspace Docket No. 11–ASO–28.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded from and comments submitted through *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, room 210, 1701 Columbia Avenue, College Park, Georgia 30337.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory circular No. 11–2A, Notice of Proposed Rulemaking distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to amend Class D airspace, Class E surface airspace, and Class E airspace extending upward from 700 feet above the surface to support new standard instrument approach procedures developed at Tri-Cities Regional Airport, Blountville, TN. The Tri-City, TN, Class E airspace designated as an extension would be removed. Airspace reconfiguration is necessary for the continued safety and management of IFR operations at the airport. The airport formerly called Tri-City Regional Airport would be changed to Tri-Cities Regional Airport, TN/VA; the airport designation would be changed from Tri-City, TN, to Blountville, TN, and the geographic coordinates would be adjusted to coincide with the FAAs aeronautical database.

Class D and E airspace designations are published in Paragraph 5000, 6002, 6004, and 6005, respectively of FAA order 7400.9V, dated August 9, 2011, and effective September 15, 2011, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document will be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (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); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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. This proposed rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This proposed regulation is within the scope of that authority as it would amend Class D and E airspace and remove Class E airspace at Tri-City Regional Airport, Blountville, TN.

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9V, Airspace Designations and Reporting Points, dated August 15, 2011, and effective September 15, 2011, is amended as follows:

Paragraph 5000 Class D airspace.

* * * * *

ASO TN D Blountville, TN [Amended]

Tri-Cities Regional Airport, TN/VA
(Lat. 36°28′31″ N., long. 82°24′27″ W.)

That airspace extending upward from the surface to and including 4,000 feet MSL within a 6.8-mile radius of Tri-Cities Regional Airport.

This Class D airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

Paragraph 6002 Class E airspace designated as surface areas.

* * * * *

ASO TN E2 Blountville, TN [Amended]

Tri-Cities Regional Airport, TN/VA
(Lat. 36°28′31″ N., long. 82°24′27″ W.)

That airspace extending upward from the surface to and including 4,000 feet MSL within a 6.8-mile radius of Tri-Cities Regional Airport. This Class E airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

Paragraph 6004 Class E airspace designated as an extension to a class d surface area.

* * * * *

ASO TN E4 Tri-City, TN [Removed]

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ASO TN E5 Blountville, TN [Amended]

Tri-Cities Regional Airport, TN/VA
(Lat. 36°28′31″ N., long. 82°24′27″ W.)
Abingdon, Virginia Highlands Airport, VA
(Lat. 36°41′14″ N., long. 82°02′00″ W.)
Rogersville, Hawkins County Airport, TN
(Lat. 36°27′27″ N., long. 82°53′06″ W.)

That airspace extending upward from 700 feet above the surface within a 9.3-mile radius of Tri-Cities Regional Airport and within 4-miles west and 8-miles east of the 223° bearing from the airport extending from the 9.3-mile radius to 23 miles southwest of the airport, and within 2-miles either side of the 43° bearing from the airport extending from the 9.3-mile radius to 14.5 miles northeast of the airport, and within a 17-mile radius of Virginia Highlands Airport and within a 7-mile radius of Hawkins County Airport, and within 7 miles each side of Runway 07/25 centerline, extending from the 7-mile radius to 12 miles east of Hawkins County Airport.

Issued in College Park, Georgia, on March 30, 2012.

Barry A. Knight,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2012–8552 Filed 4–9–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2011–1334; Airspace Docket No. 11–ASO–43]

Proposed Amendment of Class E Airspace; Augusta, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E Airspace in Augusta, GA. The Bushe Non-Directional Beacon (NDB) and the Burke County NDB have been decommissioned and new Standard Instrument Approach Procedures have been developed at Augusta Regional Airport at Bush Field, and Burke County Airport, Waynesboro, GA, respectively. Airspace reconfiguration is necessary for the continued safety and management of instrument flight rules (IFR) operations within the Augusta, GA, airspace area. This action also would update the geographic coordinates of Burke County Airport.

DATES: 0901 UTC. Comments must be received on or before May 25, 2012.

ADDRESSES: Send comments on this rule to: U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001; Telephone: 1–800–647–5527; Fax: 202–493–2251. You must identify the Docket Number FAA–2011–1334; Airspace Docket No. 11–ASO–43, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on this rule by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2011–1334; Airspace Docket No. 11–ASO–43) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2011–1334; Airspace Docket No. 11–ASO–43.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded from and comments submitted through *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, room 350, 1701 Columbia Avenue, College Park, Georgia 30337.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory circular No. 11–2A, Notice of Proposed Rulemaking distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to amend Class E airspace extending upward from 700 feet above the surface in the Augusta, GA area. Airspace reconfiguration is necessary due to the decommissioning of the Bushe NDB at Augusta Regional at Busch Field Airport, and the Burke County NDB at Burke County Airport, Waynesboro, GA, thereby cancelling the NDB approaches. This action would ensure the continued safety and management of IFR operations within the Augusta, GA airspace area. The geographic coordinates for Burke County Airport also would be adjusted to coincide with the FAAs aeronautical database.

Class E airspace designations are published in Paragraph 6005 of FAA order 7400.9V, dated August 9, 2011, and effective September 15, 2011, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (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); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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. This proposed rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This proposed regulation is within the scope of that authority as it would amend Class E airspace in the Augusta, GA area.

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9V, Airspace Designations and Reporting Points, dated August 9, 2011, effective September 15, 2011, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ASO GA E5 Augusta, GA

Augusta Regional At Bush Field Airport, GA
(Lat. 33°22′12″ N., long. 81°57′52″ W.)
Emory NDB
(Lat. 33°27′46″ N., long. 81°59′49″ W.)
Daniel Field
(Lat. 33°27′59″ N., long. 82°02′22″ W.)
Burke County Airport, GA
(Lat. 32°02′29″ N., long. 82°00′10″ W.)
Millen Airport
(Lat. 32°53′37″ N., long. 81°57′55″ W.)
Millen NDB
(Lat. 32°53′41″ N., long. 81°58′01″ W.)

That airspace extending upward from 700 feet above the surface within an 8.6-mile radius of Augusta Regional at Bush Field Airport, and within 3.2 miles either side of the 168° bearing from the airport extending from the 8.6-mile radius to 12.5 miles south of the airport, and within a 7-mile radius of Daniel Field Airport, and within 8 miles west and 4 miles east of the 349° bearing from the Emory NDB extending from the 7-mile radius to 16 miles north of the Emory NDB, and within a 6.6-mile radius of Burke County Airport, and within a 7.3-mile radius of the Millen Airport and within 4 miles east and 8 miles west of the 357° bearing from the Millen NDB extending from the 7.3-mile radius to 16 miles north of the airport.

Issued in College Park, Georgia, on March 30, 2012.

Barry A. Knight,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2012–8555 Filed 4–9–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2012–0240; Airspace Docket No. 12–ASO–15]

Proposed Amendment of Class E Airspace; Tallahassee, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E Airspace in the Tallahassee, FL area. Tallahassee Commercial Airport has been abandoned and controlled airspace is no longer needed. Airspace reconfiguration is necessary for the continued safety and management of instrument flight rules (IFR) operations within the Tallahassee, FL airspace area.

DATES: 0901 UTC. Comments must be received on or before May 25, 2012.

ADDRESSES: Send comments on this rule to: U. S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001; Telephone: 1–800–647–5527; Fax: 202–493–2251. You must identify the Docket Number FAA–2012–0240; Airspace Docket No. 12–ASO–15, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on this rule by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2012–0240; Airspace Docket No. 12–ASO–15) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2012–0240; Airspace Docket No. 12–ASO–15.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded from and comments submitted through *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, room 350, 1701 Columbia Avenue, College Park, Georgia 30337.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory circular No. 11–2A, Notice of Proposed Rulemaking distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to amend Class E airspace extending upward from 700 feet above the surface in the Tallahassee, FL area. Tallahassee Commercial Airport has been abandoned making it necessary to remove controlled airspace serving the airport. Airspace reconfiguration is

necessary for the continued safety and management of IFR operations within the Tallahassee, FL, airspace area.

Class E airspace designations are published in Paragraph 6005 of FAA order 7400.9V, dated August 9, 2011, and effective September 15, 2011, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (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); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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. This proposed rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This proposed regulation is within the scope of that authority as it would amend Class E airspace in the Tallahassee, FL, area.

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9V, Airspace Designations and Reporting Points, dated August 9, 2011, effective September 15, 2011, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ASO FL E5 Tallahassee, FL [Amended]

Tallahassee Regional Airport
(Lat. 30°23′48″ N., long. 84°21′02″ W.)
Quincy Municipal Airport
(Lat. 30°35′53″ N., long. 84°33′27″ W.)

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the Tallahassee Regional Airport and within a 6.3-mile radius of Quincy Municipal Airport.

Issued in College Park, Georgia, on March 30, 2012.

Barry A. Knight,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2012–8559 Filed 4–9–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2011–1333; Airspace Docket No. 11–AWP–19]

Proposed Establishment of Class E Airspace; Eureka, NV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace at Eureka, NV. Controlled airspace is necessary to accommodate aircraft using a new Area Navigation (RNAV) Global Positioning System (GPS) standard instrument approach procedures at Eureka Airport, Eureka, NV. The FAA is proposing this action to enhance the safety and management of aircraft operations at the airport.

DATES: Comments must be received on or before May 25, 2012.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–9826. You must identify FAA Docket No. FAA–2011–1333; Airspace Docket No. 11–AWP–19, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Eldon Taylor, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4537.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA 2011–1333 and Airspace Docket No. 11–AWP–19) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2011–1333 and Airspace Docket No. 11–AWP–19''. The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned

with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 1601 Lind Avenue SW., Renton, WA 98057.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) Part 71 by establishing Class E airspace extending upward from 700 feet above the surface at Eureka Airport, Eureka, NV. Controlled airspace is necessary to accommodate aircraft using the new RNAV (GPS) standard instrument approach procedures at Eureka Airport. This action would enhance the safety and management of aircraft operations at the airport.

Class E airspace designations are published in paragraph 6005, of FAA Order 7400.9V, dated August 9, 2011, and effective September 15, 2011, which is incorporated by reference in 14 CFR Part 71.1. The Class E airspace designation listed in this document will be published subsequently in this Order.

The FAA has determined this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation; (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); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified this proposed rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority for the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish controlled airspace at Eureka Airport, Eureka, NV.

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR Part 71.1 of the Federal Aviation Administration Order 7400.9V, Airspace Designations and Reporting Points, dated August 9, 2011, and effective September 15, 2011 is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AWP NV E5 Eureka, NV [New]

Eureka Airport, NV
(Lat. 39°36′14″ N., long. 116°00′13″ W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of the Eureka Airport; and within 1.5 miles either side of the 011° bearing of the airport extending from the 6.6-mile radius to 10 miles north of Eureka airport; that airspace extending upward from 1,200 feet above the surface within an area bounded by lat. 40°35′00″ N., long. 115°57′00″ W.; to lat. 40°30′00″ N., long. 115°39′00″ W.; to lat. 40°07′00″ N., long. 115°26′00″ W.; to lat. 39°58′00″ N., long. 115°51′00″ W.; to lat. 39°30′00″ N., long. 115°51′00″ W.; to lat. 39°19′00″ N., long. 115°47′00″ W.; to lat. 39°18′00″ N., long. 115°36′00″ W.; to lat. 39°20′00″ N., long. 115°14′00″ W.; to lat. 39°08′00″ N., long. 115°10′00″ W.; to lat. 39°06′00″ N., long. 115°57′00″ W.; to lat. 39°16′00″ N., long. 116°05′00″ W.; to lat. 39°22′00″ N., long. 116°12′00″ W.; to lat. 39°43′00″ N., long. 116°08′00″ W.; to lat. 40°08′00″ N., long. 116°02′00″ W., thence to the point of beginning.

Issued in Seattle, Washington, on April 2, 2012.

John Warner,

Manager, Operations Support Group, Western Service Center

[FR Doc. 2012–8554 Filed 4–9–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2011–1457; Airspace Docket No. 11–ASO–47]

Proposed Revocation of Class D Airspace; Andalusia, AL and Proposed Amendment of Class E Airspace; Fort Rucker, AL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to remove Class D Airspace at Andalusia, AL, as the Air Traffic Control Tower at South Alabama Regional Airport at Bill Benton Field has closed, and amend Class E Airspace at Fort Rucker, AL, by recognizing the airport's name change to South Alabama Regional Airport at Bill Benton Field. This action also would update the geographic coordinates of the two listed Class E airports.

DATES: Comments must be received on or before May 25, 2012. The Director of

the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA, Order 7400.9 and publication of conforming amendments.

ADDRESSES: Send comments on this rule to: U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001; Telephone: 1–800–647–5527; Fax: 202–493–2251. You must identify the Docket Number FAA–2011–1457; Airspace Docket No. 11–ASO–47, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on this rule by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2011–1457; Airspace Docket No. 11–ASO–47) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2011–1457; Airspace Docket No. 11–ASO–47.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded from and comments submitted through *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, room 350, 1701 Columbia Avenue, College Park, Georgia 30337.

Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory circular No. 11–2A, Notice of Proposed Rulemaking distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to remove Class D airspace at Andalusia, AL, due to the closing of the air traffic control tower at South Alabama Regional Airport at Bill Benton Field (formerly Andalusia-Opp Airport.) This action also amends Class E airspace to recognize the name change from Andalusia-Opp Airport to South Alabama Regional Airport at Bill Benton Field, and adjust the geographic coordinates of the above airport, Cairns AAF, Ft Rucker, AL and Florala Municipal, AL.

Class D and E airspace designations are published in Paragraph 5000 and 6005 respectively of FAA Order 7400.9V, dated August 9, 2011, and effective September 15, 2011, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document will be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (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); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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. This proposed rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This proposed regulation is within the scope of that authority as it would remove Class D airspace at Andalusia, AL, and amend Class E airspace at Fort Rucker, AL.

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9V, Airspace Designations and Reporting Points,

dated August 9, 2011, effective September 15, 2011, is amended as follows:

Paragraph 5000 Class D airspace.

* * * * *

ASO AL D Andalusia, AL [Removed]

Paragraph 6005 Class E airspace.

* * * * *

ASO AL E5 Fort Rucker, AL [Amended]

Fort Rucker, Cairns AAF, AL
(Lat. 31°16′33″ N., long. 85°42′48″ W.)
South Alabama Regional Airport at Bill Benton Field, Andalusia, AL
(Lat. 31°18′30″ N., long. 86°23′32″ W.)
Florala Municipal Airport, AL
(Lat. 31°02′33″ N., long. 86°18′42″ W.)

That airspace extending upward from 700 feet or more above the surface within the area bounded by a line beginning at lat. 31°38′01″ N., long. 86°23′30″ W.; to lat. 31°45′01″ N., long. 85°38′00″ W.; to lat. 31°17′01″ N., long. 85°26′00″ W.; thence to lat. 31°04′01″ N., long. 85°52′00″ W.; to lat. 31°03′02″ N., long. 86°11′04″ W.; to and clockwise along the arc of a 6.5-mile radius circle of Florala Municipal Airport to lat. 31°02′14″ N., long. 86°26′10″ W.; thence to the point of beginning and within a 7-mile radius of South Alabama Regional Airport at Bill Benton Field.

Issued in College Park, Georgia, on March 30, 2012.

Barry A. Knight,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2012–8560 Filed 4–9–12; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2011–0719; FRL–9658–1]

Approval, Disapproval and Promulgation of Air Quality Implementation Plan; Utah; Maintenance Plan for the 1-Hour Ozone Standard for Salt Lake and Davis Counties

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to partially approve and partially disapprove State Implementation Plan (SIP) revisions submitted by the Governor of Utah on February 22, 1999. These revisions updated the State of Utah's maintenance plan for the 1-hour ozone standard for Salt Lake County and Davis County. As part of this action, EPA is also addressing certain actions it took in 2003 concerning such maintenance plan. This action is being taken under section 110 of the Clean Air Act (CAA).

DATES: Written comments must be received at the address below on or before May 10, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2011–0719, by one of the following methods:

- *www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Email: ostendorf.jody@epa.gov.*
- *Fax:* (303) 312–6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).
- *Mail:* Carl Daly, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop St., Denver, Colorado 80202–1129.
- *Hand Delivery:* Carl Daly, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop St., Denver, Colorado 80202–1129. Such deliveries are only accepted Monday through Friday, 8 a.m. to 4:30 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R08–OAR–2011–0719. 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 additional instructions on submitting comments, go to Section I. General Information of the **SUPPLEMENTARY INFORMATION** section of this document.

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.gov* or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop St., Denver, Colorado 80202–1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jody Ostendorf, Air Program, Mailcode 8P–AR, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop St., Denver, Colorado 80202–1129, (303) 312–7814, *ostendorf.jody@epa.gov.*

SUPPLEMENTARY INFORMATION: Information is organized as follows:

Table of Contents

I. General Information
II. Background of State Submittal
III. EPA's Analysis of the Revisions to the Maintenance Plan for the 1-Hour Ozone Standard for Salt Lake County and Davis County
IV. Proposed Action
V. Statutory and Executive Order Reviews

Definitions

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

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

(ii) The initials *ACT* mean or refer to Alternative Control Guidance Document.

(iii) The initials *CO* mean or refer to carbon monoxide.

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

(v) The initials *NAAQS* mean or refer to national ambient air quality standards.

(vi) The initials *RACT* mean or refer to reasonably available control technology.

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

(viii) The words *State* or *Utah* mean the State of Utah, unless the context indicates otherwise.

I. General Information

A. 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:

a. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

b. 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.

c. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

d. Describe any assumptions and provide any technical information and/or data that you used.

e. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

f. Provide specific examples to illustrate your concerns, and suggest alternatives.

g. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

h. Make sure to submit your comments by the comment period deadline identified.

II. Background of State Submittal

Under the CAA enacted in 1970, EPA established national ambient air quality standards (NAAQS) for certain pervasive air pollutants, such as photochemical oxidant, carbon monoxide (CO), and particulate matter. The NAAQS represent concentration levels below which public health and welfare are protected. The 1970 Act also required states to adopt and submit SIPs to implement, maintain, and enforce the NAAQS.

SIP revisions are required from time-to-time to account for new or amended NAAQS or to meet other changed circumstances. The CAA was significantly amended in 1977, and under the 1977 Amendments, EPA promulgated attainment status designations for all areas of the country with respect to the NAAQS.

The CAA requires EPA to periodically review and revise the NAAQS, and in 1979, EPA established a new NAAQS of 0.12 ppm for ozone, averaged over 1 hour. This new NAAQS replaced the oxidant standard of 0.08 ppm. See 44 FR 8202 (February 8, 1979). Areas designated nonattainment for oxidant were considered to be nonattainment for ozone as well. The CAA requires that states submit revised SIPs to address new or revised NAAQS. Part D of CAA Title I requires special measures for areas designated nonattainment. In 1984, EPA approved Utah's SIP for the 1-hour ozone standard for the Salt Lake County and Davis County nonattainment area (49 FR 32575).

Congress significantly amended the CAA again in 1990. Under the 1990 Amendments, each area of the country that was designated nonattainment for the 1-hour ozone NAAQS, including Salt Lake County and Davis County, was classified by operation of law as marginal, moderate, serious, severe, or extreme nonattainment depending on the severity of the area's air quality problem. The ozone nonattainment designation for Salt Lake County and Davis County continued by operation of law according to section 107(d)(1)(C)(i) of the CAA, as amended in 1990. Furthermore, the area was classified by operation of law as moderate for ozone under CAA section 181(a)(1).

Under CAA section 175A, states may request redesignation of a nonattainment area to attainment if monitoring data showed that the area has met the NAAQS and certain other requirements. On July 18, 1995, both Salt Lake and Davis Counties were found to be attaining the 1-hour ozone standard (60 FR 36723). On July 17, 1997, EPA approved the State's request to redesignate Salt Lake and Davis County to attainment for the 1-hour ozone standard. As part of that action, EPA approved the State's 1-hour ozone maintenance plan (62 FR 38213).

On July 18, 1997, EPA promulgated an 8-hour ozone NAAQS (62 FR 38894). This standard was intended to replace the 1-hour ozone standard.

On February 22, 1999, partially in response to EPA's promulgation of the 8-hour ozone NAAQS, but for other purposes as well, Utah submitted six revisions to its approved 1-hour maintenance plan. These revisions consisted of the following: (1) Changes to the nitrogen oxides (NO_X) Reasonably Available Control Technology (RACT) provisions; (2) clarification of the transportation conformity provisions; (3) removal of budgets for sources other than on-road mobile sources; (4) changes to the trigger for contingency measures; (5) removal of the commitment to develop an annual inventory for point sources; and (6) removal of references to CO in various sections of the maintenance plan. EPA did not act on the revisions at the time, in part because of a 1999 legal challenge to the 1997 8-hour ozone NAAQS.

On December 31, 2002, Utah submitted what it characterized as non-substantive changes to the 1-hour ozone maintenance plan. The primary purpose of the changes was to revise cross-references in the 1-hour maintenance plan to Utah air rules whose numbering Utah had changed. EPA approved these changes in 2003 (68 FR 37744, June 25, 2003). Subsequently, EPA discovered that in the June 25, 2003 action it had inadvertently incorporated by reference certain changes to the contingency measures provision in the 1-hour ozone maintenance plan that were substantive in nature and had not been previously approved—i.e., the proposed changes to the contingency measures that Utah had submitted on February 22, 1999. On October 15, 2003, EPA issued a technical correction to delete the changes to the contingency measures provision from the approved SIP (68 FR 59327).

We have since discovered that Utah's December 31, 2002 submittal included other revisions from its February 22, 1999 submittal that were substantive in nature. These revisions included the (1) changes to the NO_X RACT provisions, (2) removal of the commitment to develop an annual inventory for point sources, and (3) removal of references to CO in some sections of the maintenance plan. Because we were not aware that we had inadvertently approved these revisions in 2003, we did not issue a technical correction to reverse our approval. As we explain more fully below, in this action we are proposing to ratify our 2003 inadvertent approval of these revisions.

On April 30, 2004, EPA designated areas of the country for the 1997 8-hour ozone standard (69 FR 23857). EPA

designated all areas in Utah, including Salt Lake County and Davis County, as unclassifiable/attainment for the 1997 8-hour ozone NAAQS (69 FR 23940).

Also, on April 30, 2004, EPA revoked the pre-existing 1-hour NAAQS (69 FR 23951, 23996; 40 CFR 50.9(b)). As part of this rulemaking, EPA also established certain requirements to prevent backsliding in those areas that were designated as nonattainment for the 1-hour ozone standard at the time of designation for the 8-hour ozone standard, or that were redesignated to ''attainment'' but subject to a maintenance plan, as is the case for Salt Lake County and Davis County. These requirements are codified at 40 CFR 51.905.

In the case of Utah, one of these requirements was to submit a maintenance plan for the 1997 8-hour ozone standard. Also, the rule clarifies that revisions to pre-existing 1-hour ozone maintenance plans must be approved by EPA and must meet the requirements of CAA sections 110(l) and 193. It also clarifies that EPA will not approve certain changes to the 1-hour ozone maintenance plan until a state in Utah's position has submitted and EPA has approved the maintenance plan for the 1997 8-hour ozone standard. We have not approved a maintenance plan for the 1997 8-hour ozone standard for Salt Lake County or Davis County.

On March 22, 2007, the Governor of Utah submitted a maintenance plan for the 1997 8-hour ozone standard for Salt Lake County and Davis County, and associated rule revisions. EPA is not taking action on that submittal at this time.[1] Rather, EPA is only acting on the revisions to the maintenance plan submitted on February 22, 1999.

III. EPA's Analysis of the Revisions to the Maintenance Plan for the 1-Hour Ozone Standard for Salt Lake County and Davis County

The State's February 22, 1999 submittal included six revisions to the 1-hour ozone maintenance plan. As noted above, the State's December 31, 2002 submittal included some of the same revisions, and we inadvertently approved some of those revisions. We describe the various revisions and our analysis of them in the following paragraphs.

A. Section IX.D.2.b(4)(a), ''NO_X RACT''

The State's 1999 submittal proposed to remove from the maintenance plan a commitment to address new ''Alternative Control Guidance Documents (ACTs)'' for NO_X issued by EPA. That commitment read as follows:

> As the EPA publishes ACT documents containing new determinations of what constitutes RACT for various source categories of NO_X located within nonattainment areas for ozone, the State will either make a negative declaration for that source category in Salt Lake and Davis Counties, or will revise the Air Conservation Rules to reflect such determinations. This documentation will then be submitted to EPA for approval as a specific SIP revision according to the schedule included in the final guidance. In the absence of such an implementation schedule the State will act as expeditiously as practicable.

As noted, we inadvertently approved the removal of this commitment and accompanying introductory language in our 2003 action, in which we only intended to approve non-substantive changes to numbering and cross-references.

In this action, we are proposing to ratify our 2003 approval for the following reasons. First, when we approved the maintenance plan in 1997, we simultaneously approved Utah's NO_X RACT exemption request for major stationary sources in the 1-hour ozone nonattainment area, except to the extent the SIP already included specific NO_X RACT requirements (62 FR 28403, May 23, 1997; 62 FR 38213, July 17, 1997). The basis for our approval was that ambient air quality monitoring data showed that the area met the 1-hour ozone standard of 0.12 ppm without additional RACT measures. Thus, if the maintenance plan had omitted the commitment regarding future NO_X ACTs, we would have approved it; the commitment was not required or necessary, and the purpose of Utah's revision to the maintenance plan was to align the plan with the NO_X RACT exemption request. In light of our approval of that exemption request, the removal of the commitment in the maintenance plan is reasonable, since it is not needed to ensure maintenance of the 1-hour ozone NAAQS.

Second, ACTs do not determine what constitutes RACT; instead they evaluate a range of potential control options. EPA has updated only two NO_X ACTs since we approved the maintenance plan in 1997—one for cement manufacturing and one for internal combustion engines—and we do not read those updates as being ''new determinations of what constitutes RACT.'' In other words, we conclude that the commitment has not been triggered, even if there are sources in the maintenance area for which the updated ACTs would be relevant. We also conclude that the commitment will not be triggered in the future because EPA does not determine RACT in ACTs. Thus, we conclude that the removal of the commitment from the maintenance plan will not interfere with attainment of any NAAQS or any other applicable requirement of the CAA. See CAA section 110(l).

B. Section IX.D.2.f(3), ''Safety Margin,'' and Table 9, ''Safety Margin''

The State's 1999 submittal proposed to modify the maintenance plan's language regarding the use of any safety margin for transportation conformity determinations and to add new Table 9, which specifies the safety margin available for various years. For a maintenance plan, our regulations define safety margin as the amount by which the total projected emissions from all sources of a given pollutant are less than the total emissions that would satisfy the maintenance requirement. 40 CFR 93.101. The existing language in Utah's 1-hour ozone maintenance plan uses the term ''emissions credit'' rather than ''safety margin.'' Also, the existing language doesn't identify the available safety margin. The revised language uses the term ''safety margin,'' which is consistent with EPA's regulations, and indicates that the safety margin is defined in Table 9 of the maintenance plan. Our regulations require that the safety margin be explicitly quantified in the SIP before it may be used for conformity purposes. 40 CFR 93.124. The revised language also clarifies and strengthens the procedures for use of the safety margin for transportation or general conformity determinations. Use of all or a portion of the safety margin for general conformity purposes would require EPA approval of a SIP revision. Also, the Utah Board would need to approve the use of any part of the safety margin for either transportation or general conformity purposes. We find that the revisions to Section IX.D.2.f(3) and the addition of Table 9 are consistent with our conformity regulations and will not interfere with maintenance of the 1-hour ozone standard, attainment or maintenance of any other NAAQS, or any other CAA requirement.

C. Section IX.D.2.f, Table 8

The State's 1999 submittal proposed to remove from Table 8 of the maintenance plan the budgets for sources other than on-road mobile sources. The previously approved maintenance plan contains budgets for area sources, non-road mobile sources, and point sources, in addition to the

[1] The area violated the 1997 8-hour ozone standard based on monitored data for 2005–2007. Thus, we have suggested that Utah withdraw and revise its maintenance plan for the 1997 8-hour ozone standard.

budgets for on-road mobile sources. These budgets are specified for years 1994 through 2006, 2007 (the end of the maintenance period), 2015, and 2020. The 2007 budgets are identical to the inventory values used to demonstrate maintenance in 2007. Under our general conformity regulations, these 2007 inventory values for sources other than on-road mobile sources are defined as budgets for general conformity regardless of whether they are explicitly stated in the maintenance plan. We also note that the 2007 budgets are more stringent than the 2015 and 2020 budgets (except for two instances in which the differences are very slight). Thus, we find that the removal of the 2015 and 2020 budgets for sources other than on-road mobile sources will make it more difficult to show general conformity. In this sense, removal of such budgets will make the SIP more stringent. In addition, we have confirmed with the State that the State has never allowed reliance on such budgets for a general conformity showing. Finally, such budgets are not needed to ensure ongoing maintenance of the 1-hour ozone NAAQS; nor will their removal from the maintenance plan interfere with the attainment or maintenance of other NAAQS or compliance with other CAA requirements. Thus, we are proposing to approve the removal from the maintenance plan of the budgets for area, on-road mobile, and point sources.

D. Section IX.D.2.h(2), ''Determination of Contingency Action Level''

The State's 1999 submittal proposed to change the maintenance plan's trigger for contingency measures. Instead of a defined trigger, the revised plan would allow the State to consider several factors in deciding whether contingency measures should be implemented to attain or maintain the 8-hour ozone standard. The revision would also redefine the contingency trigger date to be the date the State determines that one or more contingency measures should be implemented. EPA is proposing to disapprove these changes.

Our consistent interpretation has been that contingency measures in a maintenance plan must include a pre-defined trigger, such as a violation of the standard. In the maintenance plan, the State must commit to implement one or more contingency measures within a set period after the violation. The revised SIP does not include a pre-defined trigger, and, thus, we are proposing to disapprove the State's revisions to Section IX.D.2.h(2) of the maintenance plan.[2]

While 40 CFR 51.905(e) discusses modifications that may be implemented upon revocation of the 1-hour standard, including removal of the obligation to implement contingency measures upon a violation of the 1-hour NAAQS, the modifications only apply to areas with an approved maintenance plan for the 8-hour ozone standard. The State does not have an approved 8-hour ozone maintenance plan.

E. Section IX.D.2.j(1), ''Tracking System for Verification of Emission Inventory''

The State's 1999 submittal proposed to remove the maintenance plan's reference to an annual inventory for point sources. Specifically, section IX.D.2.j(1)(b) of the previously approved maintenance plan includes the State's commitment to develop an annual inventory for point sources in the area. A separate section of the previously approved maintenance plan—section IX.D.2.j(1)(a)—includes a commitment to update the inventory for all source categories every three years. The State's 1999 submittal did not propose to change this latter commitment.

As noted, in our 2003 action we inadvertently approved the removal of the State's commitment to develop an annual inventory for point sources. In that 2003 action, we only intended to approve non-substantive changes to numbering and cross-references. In this action, we are proposing to ratify our 2003 approval of the State's removal of the commitment to develop an annual inventory for point sources. Approval is warranted because such an inventory is not needed to ensure maintenance of the 1-hour ozone NAAQS. Nor will removal of the commitment to submit an annual inventory for point sources interfere with attainment or maintenance of any other NAAQS or compliance with any other CAA requirement. The maintenance plan retains the requirement that the State update its inventory of all source categories every three years. This is consistent with EPA's regulatory requirements for inventories, and we find that a three-year frequency is adequate to track emissions relevant to the maintenance plan.

F. Various Sections

The State's 1999 submittal proposed to remove all references to CO because CO is not a significant contributor to ozone formation. These references occur in a variety of locations in the 1-hour ozone maintenance plan. For example, the maintenance plan includes inventories for CO, transportation conformity budgets for CO, budgets for CO for sources other than on-road mobile sources, and references to inspection and maintenance provisions for CO.

As noted, we inadvertently approved the removal of some of these references to CO in our 2003 action, in which we only intended to approve non-substantive changes to numbering and cross-references. In this action, we are proposing to ratify our 2003 approval of the State's removal of some of the references to CO and to also approve the State's removal of all other references to CO in the 1-hour ozone maintenance plan.

First, we agree with the State that CO is not a significant contributor to ozone formation. Thus, there is no need for CO measures to ensure maintenance of the 1-hour ozone standard or any other ozone standard. Second, the removal of the CO measures in the 1-hour ozone maintenance plan will not interfere with attainment or maintenance of any other NAAQS or compliance with any other CAA requirement. In particular, there are no CO nonattainment areas in Utah. Within Salt Lake and Davis Counties, the only maintenance area for CO is Salt Lake City. It has its own maintenance plan, with its own motor vehicle emissions budgets and CO measures. In addition, recent monitored ambient CO values for Salt Lake City and other areas in Utah are well below the level of the CO NAAQS.

Thus, the removal of CO measures in the 1-hour ozone maintenance plan is consistent with continued maintenance of the 1-hour ozone NAAQS and with CAA section 110(l).

G. Miscellaneous

As noted above, we previously approved revisions to the 1-hour ozone maintenance plan that the State submitted on December 31, 2002, a date that post-dates the date of the revisions we are proposing to act on today. In particular, in our June 25, 2003 action on the December 31, 2002 submittal, we approved Utah's updating of references in the 1-hour ozone maintenance plan to Utah air rules whose numbering Utah had changed after it submitted revisions to the 1-hour ozone maintenance plan in 1999. See 68 FR 37744. We are proposing to retain the updated references to Utah air rules as we approved them in our June 25, 2003 action. We are not proposing to replace these updated references with the older references contained in the 1-hour

[2] We note that one of the potential contingency measures (stage two vapor recovery) has not been approved by EPA as a stand-alone SIP measure; however it is part of the maintenance plan.

ozone maintenance plan that Utah submitted in 1999.

IV. Proposed Action

For the reasons described above, we are proposing the following actions concerning Utah's revisions to the 1-hour ozone maintenance plan for Salt Lake and Davis Counties that Utah submitted on February 22, 1999:[3]

- We are proposing to ratify our 2003 approval of Utah's revisions to Section IX.D.2.b(4)(a), ''NO_X RACT.''
- We are proposing to approve Utah's revisions to Section IX.D.2.f(3), ''Safety Margin,'' and Utah's addition of Table 9, ''Safety Margin.''
- We are proposing to approve Utah's revisions to Section IX.D.2.f, Table 8.
- We are proposing to disapprove Utah's revisions to Section IX.D.2.h(2), ''Determination of Contingency Action Level.''
- We are proposing to ratify our 2003 approval of Utah's revisions to subsection IX.D.2.j(1)(b) of Section IX.D.2.j(1), ''Tracking System for Verification of Emission Inventory.''
- We are proposing to ratify our 2003 approval of Utah's removal of some references to CO in the plan and to approve Utah's removal of all other references to CO in the plan.

EPA is soliciting public comments on its proposed rulemaking as discussed in this document. EPA will consider these comments before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to EPA as discussed in this notice.

V. Statutory and Executive Order Reviews

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

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

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

List of Subjects in 40 CFR Part 52

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

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

Dated: March 28, 2012.

James B. Martin,

Regional Administrator, Region 8.

[FR Doc. 2012–8565 Filed 4–9–12; 8:45 am]

BILLING CODE 6560–50–P

[3] All section and table references are to sections and tables in the 1-hour ozone maintenance plan for Salt Lake and Davis Counties.

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2011–0002; Internal Agency Docket Nos. FEMA–B–7749 and FEMA–B–7775]

Proposed Flood Elevation Determinations; Correction

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule; correction.

SUMMARY: On December 6, 2007, and on May 8, 2008, FEMA published in the **Federal Register** proposed rules that contained erroneous tables affecting Washington County, Oregon, and Incorporated Areas. This notice provides corrections to those tables, to be used in lieu of the information published at 72 FR 68769 and 73 FR 26060. The table provided in this notice represents the flooding sources, location of referenced elevations, effective and modified elevations, and communities affected for Washington County, Oregon, and Incorporated Areas. Specifically, it addresses the following flooding sources: Beal Creek, Beaverton Creek, Bethany Creek, Bronson Creek, Butternut Creek, Cedar Creek, Cedar Mill Creek, Cedar Mill Creek—North Overflow, Cedar Mill Creek—South Overflow, Cedar Mill Creek—Upper North Overflow, Celebrity Creek, Chicken Creek, Chicken Creek—West Tributary, Council Creek, Dairy Creek, Dawson Creek, Deer Creek, Erickson Creek, Fanno Creek, Glencoe Swale, Golf Creek, Gordon Creek, Hall Creek, Hall Creek—106th Tributary, Hall Creek South Fork, Hedges Creek, Holcomb Creek, McKay Creek, North Fork Hall Creek, North Johnson Creek, North Johnson Creek—East Tributary, North Johnson Creek—North Tributary, Rock Creek North, Rock Creek South, South Johnson Creek, Storey Creek, Storey Creek—East Tributary, Storey Creek—Middle Tributary, Tualatin River, Tualatin River—Golf Overflow, Tualatin River—LaFollett Overflow, Tualatin River Overflow to Nyberg Slough, Turner Creek, Waible Creek, Waible Creek—North Tributary, Waible Creek—South Tributary, West Fork Dairy Creek, and Willow Creek.

DATES: Comments are to be submitted on or before July 9, 2012.

ADDRESSES: You may submit comments, identified by Docket Nos. FEMA–B–7749 and FEMA–B–7775, to Luis Rodriguez, Chief, Engineering

Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064 or (email) *Luis.Rodriguez3@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064 or (email) *Luis.Rodriguez3@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) publishes proposed determinations of Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs for communities participating in the National Flood Insurance Program (NFIP), in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are minimum requirements. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in those buildings.

Corrections

In the proposed rule published at 72 FR 68769, in the December 6, 2007, issue of the **Federal Register**, FEMA published a table under the authority of 44 CFR 67.4. The table, entitled ''Washington County, Oregon, and Incorporated Areas,'' addressed the flooding sources Beal Creek, Beaverton Creek, Bethany Creek, Bronson Creek, Butternut Creek, Cedar Creek, Cedar Mill Creek, Cedar Mill Creek—North Overflow, Cedar Mill Creek—South Overflow, Cedar Mill Creek—Upper North Overflow, Celebrity Creek, Chicken Creek, Chicken Creek—West Tributary, Council Creek, Dairy Creek, Dawson Creek, Deer Creek, Erickson Creek, Glencoe Swale, Golf Creek, Gordon Creek, Hall Center Creek, Hall Creek, Hall Creek—106th Tributary, Hall Creek—South Fork, Hedges Creek, Holcomb Creek, McKay Creek, North Johnson Creek, North Johnson Creek—East Tributary, North Johnson Creek—North Tributary, Rock Creek North, Rock Creek South, South Johnson Creek, Storey Creek, Storey Creek—East Tributary, Storey Creek—Middle Tributary, Tualatin River, Tualatin River Overflow to Nyberg Slough, Turner Creek, Waible Gulch, Waible Gulch—North Tributary, Waible Gulch—South Tributary, and Willow Creek. In the proposed rule published at 73 FR 26060, in the May 8, 2008, issue of the **Federal Register**, FEMA published a table under the authority of 44 CFR 67.4. The table, entitled ''Washington County, Oregon, and Incorporated Areas'' addressed the flooding sources Dairy Creek and West Fork Dairy Creek. Both tables contained inaccurate information as to the location of referenced elevation, effective and modified elevation in feet, and/or communities affected for those flooding sources. In addition, they did not include the following flooding sources: Fanno Creek, Tualatin River—Golf Overflow, and Tualatin River—LaFollett Overflow. In this notice, FEMA is publishing a table containing the accurate information, to address these prior errors. The information provided below should be used in lieu of that previously published for Washington County, Oregon, and Incorporated Areas.

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Washington County, Oregon, and Incorporated Areas				
Beal Creek	Approximately 750 feet upstream of State Highway 47	None	+170	City of Forest Grove, Unincorporated Areas of Washington County.
	Approximately 765 feet upstream of Main Street	None	+172	
Beaverton Creek	At the upstream side of Southwest 197th Avenue	+158	+160	City of Beaverton, City of Hillsboro, Unincorporated Areas of Washington County.
	Approximately 870 feet upstream of Southwest Laurelwood Avenue.	None	+267	
Bethany Creek	Approximately 0.21 mile downstream of Northwest 185th Avenue.	+173	+174	Unincorporated Areas of Washington County.
	Approximately 0.58 mile upstream of Northwest West Union Road.	None	+188	
Bronson Creek	Approximately 65 feet downstream of Northwest Anzalone Drive.	+155	+158	City of Beaverton, City of Hillsboro, Unincorporated Areas of Washington County.
	Approximately 1.0 mile upstream of Northwest West Union Road.	+236	+238	
Butternut Creek	Approximately 940 feet downstream of Southwest 209th Avenue.	+164	+165	Unincorporated Areas of Washington County.
	Approximately 80 feet upstream of Southwest Farmington Road.	+199	+200	

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Cedar Creek	Approximately 0.4 mile downstream of Southwest Edy Road.	+144	+145	City of Sherwood, Unincorporated Areas of Washington County.
	Approximately 560 feet upstream of Southwest Sunset Boulevard.	None	+176	
Cedar Mill Creek	Approximately 0.6 mile downstream of Portland & Western Railroad.	+172	+171	City of Beaverton, Unincorporated Areas of Washington County.
	Approximately 90 feet upstream of Northwest 113th Avenue.	None	+300	
Cedar Mill Creek—North Overflow.	At the Cedar Mill Creek confluence	None	+207	City of Beaverton, Unincorporated Areas of Washington County.
	Approximately 250 feet upstream of Southwest 131st Avenue.	None	+213	
Cedar Mill Creek—South Overflow.	At the Cedar Mill Creek confluence	None	+195	City of Beaverton, Unincorporated Areas of Washington County.
	At the upstream side of Southwest Evergreen Street	None	+205	
Cedar Mill Creek—Upper North Overflow.	At the Cedar Mill Creek-North Overflow confluence	None	+212	City of Beaverton, Unincorporated Areas of Washington County.
	Approximately 550 feet upstream of the Cedar Mill Creek—North Overflow confluence.	None	+214	
Celebrity Creek	At the Butternut Creek confluence	None	+176	Unincorporated Areas of Washington County.
	Approximately 65 feet downstream of Southwest Farmington Road.	None	+212	
Chicken Creek	Approximately 0.8 mile downstream of Southwest Roy Rogers Road.	None	+135	City of Sherwood, Unincorporated Areas of Washington County.
	At the upstream side of Southwest Edy Road	None	+157	
Chicken Creek—West Tributary.	At the upstream side of Southwest Elwert Road	None	+151	Unincorporated Areas of Washington County.
	Approximately 0.3 mile upstream of Southwest Elwert Road.	None	+156	
Council Creek	Approximately 0.25 mile downstream of Northwest Hobbs Road.	+155	+156	Unincorporated Areas of Washington County.
	Approximately 0.39 mile downstream of Beal Road	+167	+166	
Dairy Creek	At the Tualatin River confluence	+151	+152	City of Hillsboro, Unincorporated Areas of Washington County.
	Approximately 125 feet upstream of Northwest Susbauer Road.	+158	+159	
Dawson Creek	Approximately 317 feet upstream of Northwest Brookwood Avenue.	+150	+151	City of Hillsboro, Unincorporated Areas of Washington County.
	Approximately 0.3 mile upstream of Northwest Shute Road.	None	+184	
Deer Creek	Approximately 475 feet downstream of Northwest Kahneeta drive.	None	+176	Unincorporated Areas of Washington County.
	Approximately 90 feet upstream of Northwest 174th Avenue.	None	+202	
Erickson Creek	Approximately 211 feet upstream of Southwest 144th Avenue.	+174	+175	City of Beaverton.
	Approximately 322 feet upstream of Southwest 10th Street.	+202	+203	
Fanno Creek	At the Tualatin River confluence	+129	+131	City of Durham, City of Tigard.
	Approximately 0.3 mile downstream of Southwest Durham Road.	+130	+131	
Glencoe Swale	Approximately 980 feet upstream of the McKay Creek confluence.	+154	+156	City of Hillsboro, Unincorporated Areas of Washington County.
	Approximately 0.5 mile upstream of Northwest Sewell Road.	None	+201	

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Golf Creek	Approximately 390 feet upstream of the Hall Creek confluence.	None	+198	City of Beaverton, Unincorporated Areas of Washington County.
	Approximately 625 feet upstream of 97th Avenue	None	+223	
Gordon Creek	Approximately 275 feet upstream of Southwest River Road.	None	+146	City of Hillsboro, Unincorporated Areas of Washington County.
	Approximately 0.25 mile upstream of Southwest 229th Avenue.	None	+196	
Hall Creek	Approximately 175 feet downstream of the North Fork Hall Creek confluence.	+179	+181	City of Beaverton, Unincorporated Areas of Washington County.
	At the downstream side of Southwest 87th Avenue	None	+256	
Hall Creek—106th Tributary	At the Hall Creek confluence	None	+191	City of Beaverton, Unincorporated Areas of Washington County.
	Approximately 600 feet upstream of Southwest 106th Avenue.	None	+245	
Hall Creek South Fork	Approximately 750 feet downstream of Southwest 96th Avenue.	None	+213	City of Beaverton, Unincorporated Areas of Washington County.
	Approximately 150 feet upstream of Southwest 86th Avenue.	None	+260	
Hedges Creek	At the downstream side of Southwest Boones Ferry Road.	None	+129	City of Tualatin, Unincorporated Areas of Washington County.
	Approximately 0.75 mile upstream of Southwest Teton Avenue.	None	+142	
Holcomb Creek	Approximately 500 feet upstream of the Rock Creek North confluence.	None	+178	Unincorporated Areas of Washington County.
	Approximately 0.15 mile upstream of Northwest Plastics Drive.	None	+211	
McKay Creek	At the Dairy Creek confluence	+154	+156	City of Hillsboro, Unincorporated Areas of Washington County.
	At the upstream side of Northwest Union Road	+175	+174	
North Fork Hall Creek	At the Hall Creek confluence	+179	+181	City of Beaverton, Unincorporated Areas of Washington County.
	Approximately 0.4 mile upstream of Center Street	+181	+183	
North Johnson Creek	At the Cedar Mill Creek confluence	+188	+187	City of Beaverton, Unincorporated Areas of Washington County.
	Approximately 0.4 mile upstream of the North Johnson Creek—East Tributary confluence.	None	+307	
North Johnson Creek—East Tributary.	At the North Johnson Creek confluence	None	+249	Unincorporated Areas of Washington County.
	Approximately 0.4 mile upstream of the North Johnson Creek confluence.	None	+327	
North Johnson Creek—North Tributary.	Approximately 0.24 mile downstream of Northwest 114th Avenue.	None	+212	City of Beaverton, Unincorporated Areas of Washington County.
	Approximately 0.22 mile upstream of Northwest 112th Avenue.	None	+343	
Rock Creek North	Approximately 0.47 mile downstream of Northwest Union Road.	+172	+174	Unincorporated Areas of Washington County.
	Approximately 0.75 mile upstream of Old Cornelius Pass Road.	None	+247	
Rock Creek South	Approximately 750 feet downstream of Southwest Pacific Highway.	+133	+134	City of Sherwood, Unincorporated Areas of Washington County.
	Approximately 0.32 mile upstream of Portland & Western Railroad.	+140	+139	
South Johnson Creek	Approximately 800 feet downstream of Southwest Hart Road.	+199	+205	City of Beaverton, Unincorporated Areas of Washington County.

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
	Approximately 160 feet upstream of Southwest Hart Road.	None	+219	
Storey Creek	Approximately 200 feet upstream of the Waible Creek confluence.	None	+164	Unincorporated Areas of Washington County.
	Approximately 0.80 mile upstream of the Storey Creek—Middle Tributary confluence.	None	+197	
Storey Creek—East Tributary	At the Storey Creek confluence	None	+173	Unincorporated Areas of Washington County.
	Approximately 0.35 mile upstream of Northwest Sunset Highway.	None	+188	
Storey Creek—Middle Tributary.	Approximately 870 feet upstream of the Storey Creek confluence.	None	+180	Unincorporated Areas of Washington County.
	At the upstream side of Northwest West Union Road	None	+196	
Tualatin River	Approximately 490 feet downstream of the Tualatin River Overflow to Nyberg Slough confluence.	+125	+126	City of Durham, City of King City, City of Tigard, City of Tualatin, Unincorporated Areas of Washington County.
	Approximately 0.3 mile upstream of Southwest Roy Rogers Road.	+134	+135	
Tualatin River	Approximately 1.6 miles downstream of Southwest Golf Course Road.	+154	+153	City of Cornelius, City of Hillsboro, Unincorporated Areas of Washington County.
	Approximately 0.3 mile downstream of the Gales Creek confluence.	+167	+168	
Tualatin River—Golf Overflow.	Approximately 150 feet downstream of Southwest Golf Course Road.	+155	+156	City of Forest Grove, Unincorporated Areas of Washington County.
	Approximately 1.0 mile upstream of Southwest Golf Course Road.	+160	+162	
Tualatin River—LaFollett Overflow.	Approximately 0.3 mile upstream of Southwest Golf Course Road.	+156	+157	Unincorporated Areas of Washington County.
	At the downstream side of Southwest LaFollett Road	+157	+160	
Tualatin River Overflow to Nyberg Slough.	At the Tualatin River confluence	+125	+126	City of Tualatin.
	Approximately 300 feet downstream of the divergence from the Tualatin River.	+127	+129	
Turner Creek	Approximately 450 feet downstream of Southeast 32nd Avenue.	None	+147	City of Hillsboro.
	Approximately 0.5 mile upstream of East Main Street	None	+168	
Waible Creek	Approximately 0.25 mile upstream of the McKay Creek confluence.	None	+160	Unincorporated Areas of Washington County.
	Approximately 0.25 mile upstream of the Waible Creek—North Tributary confluence.	None	+196	
Waible Creek—North Tributary.	At the Waible Creek confluence	None	+192	City of Hillsboro, Unincorporated Areas of Washington County.
	At the upstream side of Northwest West Union Road	None	+207	
Waible Creek—South Tributary.	At the Waible Creek confluence	None	+179	City of Hillsboro, Unincorporated Areas of Washington County.
	Approximately 90 feet upstream of Northwest Jacobson Road.	None	+211	
West Fork Dairy Creek	Approximately 0.8 mile upstream of Northwest Wilson River Highway.	None	+195	City of Banks.
	Approximately 0.72 mile downstream of Northwest Banks Road.	None	+196	
Willow Creek	Approximately 400 feet upstream of the Beaverton Creek confluence.	+161	+162	City of Beaverton, City of Hillsboro, Unincorporated Areas of Washington County.
	At the upstream side of Northwest 141st Place	None	+239	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	

** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472.

ADDRESSES

City of Banks

Maps are available for inspection at City Hall, Planning Department, 100 South Main Street, Banks, OR 97106.

City of Beaverton

Maps are available for inspection at City Hall, Community Development Department, 4755 Southwest Griffith Drive, Beaverton, OR 97005.

City of Cornelius

Maps are available for inspection at the Development and Operations Building, Planning Department, 1300 South Kodiak Circle, Cornelius, OR 97113.

City of Durham

Maps are available for inspection at City Hall, 17160 Southwest Upper Boones Ferry Road, Durham, OR 97224.

City of Forest Grove

Maps are available for inspection at City Hall, Planning Department, 1924 Council Street, Forest Grove, OR 97116.

City of Hillsboro

Maps are available for inspection at City Hall, Planning Department, 150 East Main Street, Hillsboro, OR 97123.

City of King City

Maps are available for inspection at City Hall, 15300 Southwest 116th Avenue, King City, OR 97224.

City of Tigard

Maps are available for inspection at City Hall, Planning Department, 13125 Southwest Hall Boulevard, Tigard, OR 97223.

City of Tualatin

Maps are available for inspection at City Hall, Building and Planning Department, 18880 Southwest Martinazzi Avenue, Tualatin, OR 97062.

City of Sherwood

Maps are available for inspection at City Hall, Engineering Department, 22560 Southwest Pine Street, Sherwood, OR 97140.

Unincorporated Areas of Washington County

Maps are available for inspection at the Washington County Public Services Building, Land Use and Transportation Department, 155 North 1st Avenue, Suite 350, Hillsboro, OR 97124.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: March 29, 2012.

Sandra K. Knight,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2012–8603 Filed 4–9–12; 8:45 am]

BILLING CODE 9110–12–P

Notices

Federal Register

Vol. 77, No. 69

Tuesday, April 10, 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

Forest Service

Boundary Establishment for the Allegheny National Wild and Scenic River, Allegheny National Forest, Warren, Forest, and Venango Counties, PA

AGENCY: Forest Service, USDA.

ACTION: Notice of availability.

SUMMARY: In accordance with Section 3(b) of the Wild and Scenic Rivers Act, the USDA Forest Service, Washington Office, is transmitting the final boundary of the Allegheny National Wild and Scenic River to Congress.

FOR FURTHER INFORMATION CONTACT: Information may be obtained by contacting Operations Staff Officer Jim Seyler, Allegheny National Forest, 4 Farm Colony Drive, Warren, PA or phone (814) 728–6239.

SUPPLEMENTARY INFORMATION: The Allegheny Wild and Scenic River boundary is available for review at the following offices: USDA Forest Service, Wilderness & Wild and Scenic Rivers, 1400 Independence Avenue SW., Washington, DC 20024; Allegheny National Forest, 4 Farm Colony Drive, Warren, PA 16365. A detailed legal description is available upon request.

The Allegheny Wild and Scenic Rivers Act (Pub. L. 102–271) of April 20, 1992, designated the Allegheny River, Pennsylvania, as a Wild and Scenic River, to be administered by the Secretary of Agriculture. As specified by law, the boundary will not be effective until ninety days after Congress receives the transmittal.

Dated: April 3, 2012.

Erin Connelly,

Forest Supervisor.

[FR Doc. 2012–8451 Filed 4–9–12; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Forest Service

Lake Tahoe Basin Management Unit and Tahoe National Forest, CA; Calpeco 625 and 650 Electrical Line Upgrade Project EIS/EIS/EIR

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare a joint environmental impact statement/report.

SUMMARY: Notice is hereby given that the USDA Forest Service (USFS), Lake Tahoe Basin Management Unit (LTBMU), together with the Tahoe Regional Planning Agency (TRPA), and the California Public Utilities Commission (CPUC) will prepare a joint Environmental Impact Statement (EIS), EIS, and Environmental Impact Report (EIR) (EIS/EIS/EIR; the nature of this type of document is described further below) to disclose the impacts associated with the following proposed action: California Pacific Electric Company (Calpeco) is proposing to upgrade their existing 625 and 650 60 kV transmission lines to 120 kV in order to maintain a safe and reliable electrical transmission system for the north Lake Tahoe area, while accommodating currently-expected normal growth in the area. The 650 line upgrade would involve rebuilding an approximately 10-mile section of transmission line from Truckee substation to the Kings Beach Diesel Generation Station. The majority of this line would be replaced within its current alignment. The 625 line upgrade would include approximately 15 miles of line from the Kings Beach Switching Station to the Tahoe City Substation. A significant portion of the existing 625 Line would be realigned to a location that parallels Mount Watson Road (also called Fiberboard Highway), an existing National Forest System road. The USFS LTBMU is the lead federal agency for the preparation of this EIS in compliance with National Environmental Policy Act (NEPA) and all other applicable laws, executive orders, regulations, and direction; the TRPA is the lead agency for preparation of an EIS in compliance with TRPA's Compact and Code of Ordinances and all other applicable laws and regulations; and the CPUC is the lead State of California agency for preparation of an EIR in compliance with the California Environmental Quality Act (CEQA) and all other applicable laws and regulations (hence the document's designation as an EIS/EIS/EIR). All three agencies have determined that an EIS/EIS/EIR is needed in order to effectively analyze the proposal and evaluate impacts. In addition, the U.S. Army Corps of Engineers (USACE), as a federal cooperating agency, will be responsible for the scope and content of the NEPA portion of the environmental document as it pertains to lands within the jurisdictional boundaries of the agency for the project. The USFS, Tahoe National Forest will be responsible for the scope and content of the NEPA portion of the environmental document as it pertains to lands within the jurisdictional boundaries of that agency (outside of the LTBMU).

The project is scheduled to be completed in three phases, with initial construction beginning as early as 2013 and the final phase planned for completion in 2019.

DATES: Comments concerning the scope of the analysis must be received by May 10, 2012. The draft EIS/EIS/EIR is expected in January 2013 and the final EIS/EIS/EIR is expected in July 2013.

ADDRESSES: Send written comments to Calpeco 625 and 650 Electrical Line Upgrade Project, Tahoe Regional Planning Agency, P.O. Box 5310, Stateline, NV 89449, Attention: Wendy Jepson. Comments may also be sent via email to *wjepson@trpa.org,* or via facsimile to 775–588–4527.

FOR FURTHER INFORMATION CONTACT: Robert Rodman, Lands Officer, at 530–543–2613 or email *rrodmanjr@fs.fed.us.* Additional project information, including maps, is available on the LTBMU web site at *http://www.fs.usda.gov/projects/ltbmu/landmanagement/projects* under Calpeco 625 and 650 Electrical Line Upgrade Project.

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 Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: On January 1, 2011, Calpeco purchased the California electric service territory from Sierra Pacific Power Company. The physical boundaries of the service territory include the California Lake

Tahoe Basin and extend north to Portola and Loyalton and south to Walker in Mono County. The service territory includes the north Lake Tahoe electric transmission and distribution system.

The existing north Lake Tahoe transmission system is a loop comprised of a series of 60 kV and 120 kV transmission lines running from Truckee to Squaw Valley to Tahoe City to Kings Beach and then back to Truckee. The following lines comprise this loop:

- One 60 kV transmission line (609 Line) and one 120 kV transmission line (132 Line) from Truckee to Squaw Valley
- One 60 kV transmission line from Tahoe City to Squaw Valley (629 Line)
- One 60 kV transmission line from Kings Beach to Tahoe City (625 Line)
- One 60 kV transmission line from Truckee to Kings Beach (650 Line)

Electrical demand in the area served by Calpeco's north Lake Tahoe system is the greatest during the winter months, and typically peaks during the week between Christmas and the New Year holidays as a result of electric heating and ski resort loads. During power outages in the north Lake Tahoe area additional, or back-up power is provided by the Kings Beach Diesel Generation Station, which is capable of providing 11 MVA (mega volt-amperes [1]) of additional capacity. It is currently the only source of the system's ability to maintain the current maximum system loads while experiencing an outage on any one of the four legs of the system (single-contingency reliability).

Purpose and Need for Action

The north Lake Tahoe electric system must be able to supply the maximum load at adequate voltage levels and without overloading the system components (''normal capacity''.) Even though the system will not incur maximum load levels at all times, it must be capable of supplying peak loads whenever they occur. The non-coincident peak levels are the maximum loads incurred for this particular area. Industry-accepted criteria also require the system to supply peak loads with any one component out of service. This situation is referred to as ''reliable capacity'' and is why non-coincident peak levels are used to determine capacity needs.

Calpeco is proposing the 625 and 650 Electrical Line Upgrade Project for the purpose of maintaining a safe and reliable transmission system for the north Lake Tahoe area, while accommodating currently-expected normal growth in the area. Presently, the north Lake Tahoe transmission system does not have adequate single-contingency reliability, meaning, if one of several critical lines is lost as a result of an intense storm event, fire, or downed trees, a severe and sustained power outage could occur in the system service area. Currently, the 625 Line experiences the most outages in the north Lake Tahoe transmission system due to snow loading and downed trees. Single-contingency reliability can be achieved by upgrading the 625 Line and the 650 Line to 120 kV conductors and insulators to allow greater capacity in each line. If one of the critical lines is lost, adequate capacity would be available in the remaining lines to continue providing service to the system. Utilizing steel poles to replace the existing wood poles would enhance the reliability of the lines because they are more resistant to damage, including from wildfire. Increasing the reliability and resilience of the north Lake Tahoe system would reduce the need to activate the Kings Beach Diesel Generation Station. Due to limited total annual operating hours imposed by the facility's permit to operate issued by the Placer County Air Pollution Control District, the preferred use of the Kings Beach Diesel Generation Station is to reserve the operating hours for multiple-contingency events (outages on multiple legs of the system).

Additionally, significant portions of the 625 Line alignment have no established roads allowing ready access to the polesa and conductor (*i.e.,* cable that carries the electricity). As a result, it is a challenge to repair and maintain much of the 625 Line, especially in the winter when heavy snow can further complicate access.

Proposed Action

The proposed action consists primarily of an upgrade of the 625 and 650 Lines and associated substations to 120 kV to allow the entire transmission loop to operate at 120 kV, allowing for a total capacity of 114 MVA. However, there are supporting elements to this primary activity. The six primary components of the proposed project are described below, followed by additional information on further elements of project implementation.

Primary Project Components

1. Removal and Reconstruction of the Existing 625 Line

As part of the upgrade to 120 kV for the north Lake Tahoe system, Calpeco is proposing to reconductor (i.e., old electrical line is replaced with new line) and reroute the 625 Line with the objective that the new conductor (i.e., wire along the towers) can accommodate 120 kV capacity and to align more closely with the existing roadways in the Project area. The removal of the existing 625 Line would involve approximately 15 miles of conductor and 341 wooden poles. The new 120 kV 625 Line would consist of 300 steel poles and 16 miles of new 397.5 thousand circular mil (MCM [2]) all aluminum (AA [3]) conductor within a new 40-foot-wide permanent right-of-way. An approximately 10-mile portion would generally parallel Mount Watson Road, a National Forest System road also known as the Fiberboard Highway. This change is intended to increase access for construction and maintenance activities.

2. Rebuild of the Existing 650 Line

Approximately 10 miles of existing 650 Line would be rebuilt in its existing right-of-way and alignment. This section would consist of approximately 225 steel poles and 21 span-guy poles (these poles allow guy wires to span objects such as roads and water features). Poles would generally be placed 10 feet from the existing poles (which would be removed, as would occur for all project elements where poles are replaced), but in some areas new poles could be further from the existing poles to best support the system design. The 650 Line would be reconductored with 397.5 MCM AA conductor to allow transmission at a 120 kV capacity. Although the new conductor would be installed, it would not be operated at 120 kV levels until all elements of the system are completed.

[1] A volt-ampere (VA) is a unit used to express the power in an electrical circuit and is very similar to a watt.

[2] MCM stands for ''thousand circular mil'', a unit of measurement used to express large conductor sizes. The acronym Kcmil is also frequently used. The first ''M'' in MCM stands for the Roman numeral for 1,000, the ''C'' stands for ''circular'', and the second ''M'' stands for ''mil''. A mil is a unit of measurement equal to 0.001 inches (*i.e.,* one one-thousandth of an inch). MCM or Kcmil is an area measurement and expresses the area of a cross section of a cable (not a linear diameter or radius measurement). 1 MCM = 0.5067 square millimeters. Therefore, the 397.5 MCM AA conductor used for the proposed project has a cross sectional area of 201.4 square millimeters. The diameter of this conductor is approximately 0.72 inch.

[3] The term ''all aluminum conductor'' indicates that the wire/cable carrying electricity in the conductor is made entirely of aluminum, as opposed to copper or some other material.

3. Realignment of 650 Line Segments

Two minor segments of the 650 Line would be removed; the segment originating at the Truckee Substation and the segment that currently connects the Brockway Substation with the Kings Beach Switching Station (which would be rebuilt as the Kings Beach Substation). Existing co-located telecommunications and/or cable lines at the Truckee Substation would be transferred to the new poles. At the Kings Beach/Brockway Substations the existing poles with telecommunications/cable lines would be left in place and poles would be topped (the extra height that accommodated the 60 kV line would no longer be needed).

4. Rebuild of the Northstar Tap Into a Fold

A ''fold'' allows for electrical service to be maintained at a substation in the event of an interruption in service on either side of the transmission line feeding it. The existing 60kV Northstar Tap would be rebuilt into a line fold tying into the existing terminals. This activity would require replacement of approximately 14 wood poles with steel poles and approximately 0.5 miles of 397.5 MCM AA conductor to allow for the line tap reconfiguration to a fold.

5. Rebuild a 1.6 Mile Section of the Existing 132 Line

The 132 Line is an existing 120 kV line that extends from Truckee to Squaw Valley. In the town of Truckee, approximately 32 poles would be replaced and the line would be reconfigured to allow a double-circuit configuration with the 650 Line and allow operation at 120 kV. The new steel poles would generally be placed 10 feet from the current wood pole locations.

6. Upgrade, Modification, and/or Decommissioning of Six Substations and/or Switching Stations

The Northstar Substation and the Squaw Valley Substation, and the North Truckee Switching Station would be modified to accommodate the new 120 kV loop system. The Tahoe City Substation would be reconstructed to operate at 120 kV. The Kings Beach Switching Station would be rebuilt into a 120 kV substation, which would become the Kings Beach Substation. Additionally, the Brockway Substation would be decommissioned, equipment removed, and the land reclaimed. The future use of this land is unknown at this time. All substation and switching station improvements would take place within parcels owned by Calpeco, and except for the Kings Beach Substation, all work would occur within the existing fence lines of the facilities.

Other Project Components

Conductor

In most areas where reconductoring is proposed, the new conductor (i.e., electrical transmission cable) would be of the same type as the existing conductor; specifically, 397.5 MCM AA conductor. Therefore, the new conductor would have the same appearance as the existing conductor. An approximately 8.8-mile section of the 650 line between Kings Beach and Martis Valley currently has aluminum core steel reinforced (ACSR) conductor. However, the new 397.5 MCM AA conductor installed as part of the project would not look appreciably different from the existing ACSR conductor.

Transmission Poles

Calpeco would remove approximately 610 wood poles and replace them with approximately 569 new steel poles. The new poles along the 650 Line and 132 Line would generally be located within approximately 10 feet of the locations of existing wooden poles. However, some poles may be situated farther than 10 feet from the existing poles in order to maximize the efficiency of pole placement and to avoid sensitive resources or geological impediments. Some poles along the Northstar Fold would be relocated south of the existing Northstar Tap at a distance of 50 feet.

The new steel poles would be approximately 7 to 12 feet taller than the existing wooden poles, which are approximately 52 feet above ground level. On average, pole spacing would be 300 feet apart. In areas where poles need additional stability, guy wires may be connected to the poles. Diameter of the poles would vary between 15 inches to 19 inches at the base for poles buried in the ground, and 3 feet to 6 feet at the base for self-supporting poles that would be mounted on concrete foundations. For the most part, telecommunication/cable lines that are currently co-located on the existing wooden poles would be relocated onto the new poles.

Right of Way Requirements

To accommodate construction, temporary right-of-ways would be required for the new 625 Line, 650 Line, Northstar Fold, and 132 Line. The total temporary right-of-way needed would be approximately 221 acres. Calpeco would negotiate with landowners for temporary rights-of-way.

Calpeco currently holds easements from the USFS, USACE, Placer County, and various public and private landowners whose properties are crossed by the existing 625 Line, 650 Line, 132 Line, and Northstar Fold. The existing easements are on average 30 feet wide, but would need to be expanded to 40 feet for the 625 Line and 650 Line for operation and maintenance purposes. Calpeco would negotiate with the existing landowners in order to obtain a permanent easement of 40 feet for the new 625 Line and 650 Line. No land acquisition would be needed for the substation and switching station facilities because all new facilities would remain on existing Calpeco-owned parcels.

Construction

Project construction would require access, staging areas, temporary workspace, and involve various construction methods to install new poles and string and tension new conductor.

Staging Areas

Up to seven staging areas, ranging from 0.2 acre to 3.4 acres, would be required. The proposed staging areas are generally located in areas with pre-existing soil disturbance; however, some would require grading and vegetation removal. All locations would be fenced. Staging areas would be placed in the Joerger Road area near Truckee; Northstar Golf Course near SR 267; Kings Beach north of the Kings Beach Switching Station; Sawmill Flats accessed from Mount Watson Road; the Former Batch Plant accessed from Mount Watson Road; Fiberboard Highway accessed from Mount Watson Road; and Tahoe City accessed from Jackpine Street. Tree clearing would be required at the Kings Beach, Former Batch Plant, and Fiberboard Highway sites. The Tahoe City and the Joerger Road sites would also be used for helicopter landing areas.

Temporary Work Areas

Transmission line construction would require numerous work areas for pole work, stringing sites, and crossing structures (wood poles with netting placed over utilities and roadways for protection during cable pulling). An estimated total of approximately 426 acres of temporary disturbance for work areas would be required including roughly 910 work areas for pole installation, 20 work areas for crossing structures, and 78 work areas for stringing sites. Each pole work area would require approximately 0.25 to 0.5 acre, each crossing structure work area would require approximately 0.25 acre,

and each stringing site would require a partial 300-foot diameter circle.

Grading and vegetation clearing would be required at most sites. Work areas would typically be accessed by truck using existing roads or new spur roads and the transmission line right of way; however in areas were terrain limits access, use of all-terrain vehicles or approach on foot may be required. Construction at the Tahoe City Substation would require a temporary work area outside of the substation fence line on a USFS-managed parcel.

Access and Spur Roads

Approximately six new spur roads ranging between 40 feet and 1,790 feet in length would be required for access from existing roads to the transmission lines' right of way. Access roads requiring improvement would be graded level and would generally be 12 feet to 25 feet wide.

Helicopter Access

Calpeco is proposing to remove the existing 625 Line by helicopter if overland access is not feasible. Helicopters would also be used to deliver and remove construction material from areas with rugged terrain or environmentally sensitive areas. Helicopter landing areas have been proposed at the Joeger Road Staging Area and Kings Beach Staging Area.

Phasing and Schedule

The proposed action would be constructed in three phases as follows:

Phase 1: 650 Line Rebuild

Phase 1 includes rebuilding/reconductoring the 650 Line, 132/650 Line Double-Circuit, and upgrading the structures and conductor to 120 kV capacity from Truckee to North Star, and North Star to Kings Beach. Phase 1 also involves rebuilding the existing 60 kV Northstar tap into a line fold tying into the existing terminals, and the installation of a transfer trip on the 609 Line and the installation of capacitor banks at the Tahoe City Substation to address the immediate issue of low-voltage conditions. This phase is the most critical for system reliability and construction of elements of this phase could begin as early as fall of 2013 with the improvements completed and in operation in 2014.

Phase 2: Upgrade the 650 Line Terminations to 120 kV Operation

The purpose of Phase 2 is to enable the upgraded 650 Line to operate at 120 kV. Phase 2 includes improvements to the North Truckee, Northstar and Kings Beach substations. This phase would also include the decommissioning of the Brockway Substation with a re-routing of the 14.4 kV distribution feeders to the Kings Beach Substation. Construction of this phase is planned for completion in 2016.

Phase 3: 625 Line Reconductor and Relocation

Phase 3 involves the rebuild of the 625 Line and improvements to complete the 120 kV loop. Phase 3 includes improvements to the Tahoe City, Kings Beach, and Squaw Valley substation. Completion of Phase 3 would allow for the entire loop to operate at 120 kV, including the 629 Line between Truckee and Tahoe City that had previously been upgraded with 120 kV facilities. Construction of this phase is planned to begin in 2016 with completion and operation planned for 2019.

Possible Alternatives

The EIS/EIS/EIR will evaluate alternatives at an equal level of detail. The alternatives likely to be evaluated generally include: (1) A No Action Alternative; (2) the Proposed Action; (3) the Proposed Action, but rebuilding the 625 line in its current location with a 40-foot access road; and (4) the Proposed Action, but use of a double-circuit line for the 625 and 650 Lines east of SR 267. Additional alternatives may be identified that address significant issues brought forward by agencies or the public during the scoping process.

Lead and Cooperating Agencies

The USFS LTBMU, TRPA, and CPUC will be joint lead agencies in accordance with 40 CFR 1505.1(b) and are responsible for the preparation of the EIS/EIS/EIR. The USACE will be a cooperating agency responsible for ensuring compliance with the scope and content of the NEPA portion of the joint EIS/EIS/EIR as it pertains to lands within the jurisdictional boundaries of the agency.

Responsible Official

The USFS responsible officials for the preparation of the EIS/EIS/EIR are Nancy Gibson, Forest Supervisor, Lake Tahoe Basin Management Unit, and Tom Quinn, Forest Supervisor, Tahoe National Forest.

Nature of Decision To Be Made

The Forest Supervisor for the LTBMU and the Forest Supervisor for the Tahoe National Forest will decide whether to approve the proposed action, an alternative to the proposed action, or take no action to allow the upgrade of the Calpeco 625 and 650 transmission lines and any related facilities on National Forest System lands managed by the USFS within their respective jurisdictions. Once the decision is made, the USFS will publish a record of decision to disclose the rationale for project approval, approval of an alternative, or denial of approval.

Permits or Licenses Required

- USFS Special Use Authorization and compliance with Section 7 of the Endangered Species Act and Section 106 of the National Historic Preservation Act
- USACE Section 404 of the Clean Water Act, Individual or Nationwide Permit
- TRPA Project Permit
- CPUC Permit to Construct
- California Department of Fish and Game
- Section 1602 Streambed Alteration Agreement and
- Section 2081 Incidental Take Permit
- California Department of Forestry and Fire Protection, Timber Harvest Plan (for trees removed during project construction)
- California State Water Resources Control Board
- Water Quality Order No. 99–08—National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges associated with construction activity
- Water Quality Order No. 2003–0003—Statewide General Waste Discharge Requirements for discharges to land with a low threat to water quality.
- Lahontan Regional Water Quality Control Board,
- Section 401 Water Quality Certification,
- Board Order No. R6T–2007–0008—Waiver of Waste Discharge Requirements Related to Timber Harvest and Vegetation Management Activities,
- Board Order No. R6T–2005–2007—Waste Discharge Requirements and NPDES General Permit No. CAG616002
- Board Order No. R6T–2008–0023—Renewed Waste Discharge Requirements and NPDES General Permit for Limited Threat Discharges to Surface Waters
- California Department of Transportation Encroachment Permit
- Placer County and Nevada County Special Use Permits/Modification to Existing Special Use Permit
- Placer County Air Pollution Control District Permit to Construct and Permit to Operate
- Northern Sierra Air Quality Management District Permit to Construct and Permit to Operate

- Town of Truckee Encroachment Permit

Scoping Process

This notice of intent initiates the scoping process, which guides the development of the environmental impact statement. Two public scoping meetings will be conducted to provide federal, state, and local agencies, and individuals and organizations with the opportunity to learn more about the proposed action and to express oral comments about the content of the EIS/EIS/EIR, in addition to this opportunity to submit written comments. The scoping meetings will be held at the following times and locations:

Meeting on April 17, 2012 beginning at 6 p.m. at the North Tahoe Event Center, 8318 North Lake Boulevard, Kings Beach, CA 96143

Meeting on April 19, 2012 beginning at 6 p.m. at the Truckee Ranger District offices, 10811 Stockrest Springs Road, Truckee, CA 96161

It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the EIS/EIR/EIR. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions.

Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered, however.

Dated: April 3, 2012.

Nancy J. Gibson,

Forest Supervisor, Lake Tahoe Basin Management Unit.

Dated: March 30, 2012.

Tom Quinn,

Forest Supervisor, Tahoe National Forest.

[FR Doc. 2012–8579 Filed 4–9–12; 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 that had been scheduled to meet on April 12, 2012 from 9 a.m. to 3 p.m. at the Washington State Parks office, 270 9th Street NE., East Wenatchee, WA has been replaced with an open public meeting. During this public meeting information will be shared about the Forest Service Chief's 10-Year Stewardship Challenge, Yakima River Basin Integrated Water Resource Management Plan, Holden Mine Remediation progress, and an update on the Forest Plan Revision. This meeting is 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: April 3, 2012.

Clinton Kyhl,

Designated Federal Official, Okanogan-Wenatchee National Forest.

[FR Doc. 2012–8596 Filed 4–9–12; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

U.S. Census Bureau

Proposed Information Collection; Comment Request; Current Population Survey (CPS) School Enrollment Supplement

AGENCY: U.S. Census Bureau.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: To ensure consideration, written comments must be submitted on or before June 11, 2012.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *jjessup@doc.gov*)

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Karen Woods, U.S. Census Bureau, DSD/CPS HQ–7H110F, Washington, DC 20233–8400, (301) 763–3806.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau plans to request clearance for the collection of data concerning the School Enrollment Supplement to be conducted in conjunction with the October 2012 CPS. Title 13, United States Code, Section 182, and Title 29, United States Code, Sections 1–9, authorize the collection of the CPS information. The Census Bureau and the Bureau of Labor Statistics (BLS) sponsor the basic annual school enrollment questions, which have been collected annually in the CPS for 50 years.

This survey provides information on public/private elementary school, secondary school, and college enrollment, and on characteristics of private school students and their families, which is used for tracking historical trends, policy planning, and support.

This survey is the only source of national data on the age distribution and family characteristics of college students and the only source of demographic data on preprimary school enrollment. As part of the federal government's efforts to collect data and provide timely information to local governments for policymaking decisions, the survey provides national trends in enrollment and progress in school.

II. Method of Collection

The school enrollment information will be collected by both personal visit and telephone interviews in conjunction with the regular October CPS interviewing. All interviews are conducted using computer-assisted interviewing.

III. Data

OMB Control Number: 0607–0464.

Form Number: There are no forms. We conduct all interviews on computers.

Type of Review: Regular submission.

Affected Public: Households.

Estimated Number of Respondents: 59,000.

Estimated Time per Response: 3.0 minutes.

Estimated Total Annual Burden Hours: 2,950.

Estimated Total Annual Cost: The only cost to the respondents is that of their time.

Respondents Obligation: Voluntary.

Legal Authority: Title 13 U.S.C. Section 182, and Title 29, U.S.C., Sections 1–9.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information

is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 4, 2012.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2012–8511 Filed 4–9–12; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 28–2012]

Foreign-Trade Zone 18—San Jose, CA Application for Reorganization Under Alternative Site Framework

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the City of San Jose, grantee of FTZ 18, requesting authority to reorganize the zone under the alternative site framework (ASF) adopted by the Board (74 FR 1170, 1/12/2009 (correction 74 FR 3987, 1/22/2009); 75 FR 71069–71070, 11/22/2010). The ASF is an option for grantees for the establishment or reorganization of general-purpose zones and can permit significantly greater flexibility in the designation of new ''usage-driven'' FTZ sites for operators/users located within a grantee's ''service area'' in the context of the Board's standard 2,000-acre activation limit for a general-purpose zone project. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on April 4, 2012.

FTZ 18 was approved by the Board on November 27, 1974 (Board Order 103, 39 FR 42031, 12/04/1974), reorganized on October 13, 1983 (Board Order 228, 48 FR 48486, 10/19/1983, and relocated on April 3, 1985 (Board Order 293, 50 FR 15206, 04/17/1985).

The current zone project includes the following site: *Site 1* (7.5 acres)—2055 South Street South, Suite A, San Jose.

The grantee's proposed service area under the ASF would be the City of San Jose, California, as described in the application. If approved, the grantee would be able to serve sites throughout the service area based on companies' needs for FTZ designation. The proposed service area is within the San Jose U.S. Customs and Border Protection port of entry.

The applicant is requesting authority to reorganize its existing zone project to include its existing site as a ''magnet'' site. No usage-driven sites are being requested at this time. Because the ASF only pertains to establishing or reorganizing a general-purpose zone, the application would have no impact on FTZ 18's authorized subzones.

In accordance with the Board's regulations, Christopher Kemp of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is June 11, 2012. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to June 25, 2012.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the Board's Web site, which is accessible via *www.trade.gov/ftz.* For further information, contact Christopher Kemp at *Christopher.Kemp@trade.gov* or (202) 482–0862.

Dated: April 4, 2012.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2012–8619 Filed 4–9–12; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–811]

Ammonium Nitrate From Russia: Correction to Notice of Opportunity To Request Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

FOR FURTHER INFORMATION CONTACT: Brenda E. Waters, AD/CVD Operations, Customs Unit, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4735.

SUPPLEMENTARY INFORMATION: On April 2, 2012, the Department of Commerce (''Department'') published its opportunity to request administrative review of the antidumping duty orders and inadvertently omitted Ammonium Nitrate from Russia, POR 5/2/2011–3/31/2012. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review,* 77 FR 63 (April 2, 2012). This notice serves as a correction to include the Ammonium Nitrate from Russia administrative review in the referenced notice.

Dated: April 4, 2012.

Gary Taverman,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2012–8621 Filed 4–9–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–836]

Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On January 13, 2012, the Department of Commerce published the preliminary results of the administrative review of the antidumping duty order on certain cut-to-length carbon-quality steel plate products from the Republic of Korea. The review covers one manufacturer/exporter. The period of review is February 1, 2010, through

January 31, 2011. The final margin is listed below in the ''Final Results of the Review'' section of this notice.

DATES: *Effective Date:* April 10, 2012.

FOR FURTHER INFORMATION CONTACT: Yang Jin Chun, AD/CVD Operations Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–5760.

SUPPLEMENTARY INFORMATION:

Background

On January 13, 2012, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on certain cut-to-length carbon-quality steel plate products (CTL plate) from the Republic of Korea (Korea).[1]

We invited interested parties to comment on the *Preliminary Results.* On February 13, 2012, we received a case brief from Dongkuk Steel Mill Co., Ltd. (DSM). On February 21, 2012, we received a rebuttal brief from Nucor Corporation.

Scope of the Order

The products covered by the antidumping duty order are certain hot-rolled carbon-quality steel: (1) Universal mill plates (*i.e.,* flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, and of a nominal or actual thickness of not less than 4 mm, which are cut-to length (not in coils) and without patterns in relief), of iron or non-alloy quality steel; and (2) flat-rolled products, hot-rolled, of a nominal or actual thickness of 4.75 mm or more and of a width which exceeds 150 mm and measures at least twice the thickness, and which are cut-to-length (not in coils). Steel products included in the scope of the order are of rectangular, square, circular, or other shape and of rectangular or non-rectangular cross section where such non-rectangular cross-section is achieved subsequent to the rolling process (*i.e.,* products which have been ''worked after rolling'')—for example, products which have been beveled or rounded at the edges. Steel products that meet the noted physical characteristics that are painted, varnished, or coated with plastic or other non-metallic substances are included within the scope. Also, specifically included in the scope of the order are high strength, low alloy (HSLA) steels. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. Steel products included in the scope, regardless of Harmonized Tariff Schedule of the United States (HTSUS) definitions, are products in which: (1) Iron predominates, by weight, over each of the other contained elements, (2) the carbon content is two percent or less, by weight, and (3) none of the elements listed below is equal to or exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or 1.50 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.41 percent of titanium, or 0.15 percent of vanadium, or 0.15 percent zirconium. All products that meet the written physical description, and in which the chemistry quantities do not equal or exceed any one of the levels listed above, are within the scope of the order unless otherwise specifically excluded. The following products are specifically excluded from the order: (1) Products clad, plated, or coated with metal, whether or not painted, varnished or coated with plastic or other non-metallic substances; (2) SAE grades (formerly AISI grades) of series 2300 and above; (3) products made to ASTM A710 and A736 or their proprietary equivalents; (4) abrasion-resistant steels (*i.e.,* USS AR 400, USS AR 500); (5) products made to ASTM A202, A225, A514 grade S, A517 grade S, or their proprietary equivalents; (6) ball bearing steels; (7) tool steels; and (8) silicon manganese steel or silicon electric steel.

Imports of CTL plate are currently classified in the HTSUS under subheadings 7208.40.30.30, 7208.40.30.60, 7208.51.00.30, 7208.51.00.45, 7208.51.00.60, 7208.52.00.00, 7208.53.00.00, 7208.90.00.00, 7210.70.30.00, 7210.90.90.00, 7211.13.00.00, 7211.14.00.30, 7211.14.00.45, 7211.90.00.00, 7212.40.10.00, 7212.40.50.00, 7212.50.00.00, 7225.40.30.50, 7225.40.70.00, 7225.50.60.00, 7225.99.00.90, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. The HTSUS subheadings are provided for convenience and customs purposes. The written description of the merchandise covered by the order is dispositive.

Analysis of the Comments Received

The issue raised in DSM's case brief is addressed in the ''Issues and Decision Memorandum'' (Decision Memo) from Acting Deputy Assistant Secretary Gary Taverman to Assistant Secretary Paul Piquado dated concurrently with this notice, which is hereby adopted by this notice. The sole issue which DSM has raised and to which we have responded is related to zeroing. The Decision Memo is a public document and is on file electronically *via* Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). Access to IA ACCESS is available in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Decision Memo can be accessed directly on the Import Administration Web site at *http://ia.ita.doc.gov/frn/index.html.* The signed Decision Memo and the electronic versions of the Decision Memo are identical in content.

Final Results of the Review

As a result of this review, we determine that the weighted-average dumping margin for DSM is 1.64 percent for the period February 1, 2010, through January 31, 2011.

The Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we calculated an importer-specific assessment rate for the final results of review. We divided the total dumping margins for the reviewed sales by the total entered value of those reviewed sales for the importer. We will instruct CBP to assess the importer-specific rate uniformly, as appropriate, on all entries of subject merchandise made by the relevant importer during the period of review. *See* 19 CFR 351.212(b).

The Department clarified its ''automatic assessment'' regulation on May 6, 2003. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003) (*Assessment of Antidumping Duties*). This clarification will apply to entries of subject merchandise during the period of review produced by DSM for which DSM did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries of the DSM-produced merchandise at the all-others rate if there is no rate for the

[1] *See Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review,* 77 FR 2032 (January 13, 2012) (*Preliminary Results*).

intermediate company(ies) involved in the transaction. *See Assessment of Antidumping Duties* for a full discussion of this clarification.

The Department will issue instructions to CBP 15 days after the publication of the final results of review.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of CTL plate from Korea entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(2)(C) of the Tariff Act of 1930, as amended (the Act): (1) The cash deposit rate for DSM will be the 1.64 percent; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value investigation but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) if neither the exporter nor the manufacturer has its own rate, the cash deposit rate will be 0.98 percent,[2] the all-others rate established in the less-than-fair-value investigation, adjusted for the export-subsidy rate in the companion countervailing duty investigation. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importer

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Notification Regarding Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO as explained in the APO itself. *See* 19 CFR 351.305(a)(3). Timely written notification of the destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

These final results of administrative review are issued and published in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.221(b)(5).

Dated: April 4, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2012–8604 Filed 4–9–12; 8:45 am]

BILLING CODE 3510–DS–P

[2] *See Preliminary* Results, 77 FR at 2036, and *Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Final Results of Antidumping Duty Administrative Review,* 74 FR 19046, 19048 (April 27, 2009).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–848]

Freshwater Crawfish Tail Meat From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Rescission of Review in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On October 7, 2011, the Department of Commerce published the preliminary results of the administrative review of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China (PRC). The review covers five exporters. The period of review is September 1, 2009, through August 31, 2010.

Based on our analysis of the comments received, we have made changes in the margin calculations for one company. Therefore, the final results differ from the preliminary results. The final weighted-average dumping margins for the reviewed firms are listed below in the section entitled ''Final Results of the Review.''

DATES: *Effective Date:* April 10, 2012.

FOR FURTHER INFORMATION CONTACT: Dmitry Vladimirov or Minoo Hatten, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0665 or (202) 482–1690, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 7, 2011, the Department of Commerce (the Department) published *Freshwater Crawfish Tail Meat From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Intent To Rescind Review in Part,* 76 FR 62349 (October 7, 2011) (*Preliminary Results*),[1] in the **Federal Register**. The administrative review covers Xiping Opeck Food Co., Ltd. (Xiping Opeck), Shanghai Ocean Flavor International Trading Co., Ltd. (Shanghai Ocean Flavor), China Kingdom (Beijing) Import & Export Co., Ltd. (China Kingdom), Xuzhou Jinjiang Foodstuffs Co., Ltd. (Xuzhou Jinjiang), and Nanjing Gemsen International Co., Ltd. (Nanjing Gemsen).

On January 25, 2012, we published *Freshwater Crawfish Tail Meat from the People's Republic of China: Extension of Time Limit for Final Results of Antidumping Duty Administrative Review,* 77 FR 3730 (January 25, 2012), in which we extended fully the deadline for the final results to April 4, 2012.

On February 13, 2012, we determined a rate for Xiping Opeck, the sole mandatory respondent in this review, on the basis of adverse facts available (AFA). *See* memorandum to Paul Piquado, Assistant Secretary for Import Administration, entitled ''Freshwater Crawfish Tail Meat from the People's Republic of China—Post-Preliminary Analysis Memorandum—The Use of Adverse Facts Available,'' dated February 13, 2012 (AFA Memo). We invited interested parties to comment on the *Preliminary Results* and the AFA Memo.

We received case and rebuttal briefs from Xiping Opeck and the petitioner, the Crawfish Processors Alliance. No interested party requested a hearing.

The Department has conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The product covered by the antidumping duty order is freshwater crawfish tail meat, in all its forms (whether washed or with fat on, whether purged or un-purged), grades, and sizes; whether frozen, fresh, or chilled; and regardless of how it is packed, preserved, or prepared. Excluded from the scope of the order are live crawfish and other whole crawfish,

[1] In publishing the *Preliminary Results,* the **Federal Register** distorted the title of the notice; the **Federal Register** thereafter published the correct title of the notice in 76 FR 65497 (October 21, 2011).

whether boiled, frozen, fresh, or chilled. Also excluded are saltwater crawfish of any type, and parts thereof.

Freshwater crawfish tail meat is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers 1605.40.10.10 and 1605.40.10.90, which are the HTSUS numbers for prepared foodstuffs, indicating peeled crawfish tail meat and other, as introduced by U.S. Customs and Border Protection (CBP) in 2000, and HTSUS numbers 0306.19.00.10 and 0306.29.00.00, which are reserved for fish and crustaceans in general. The HTSUS subheadings are provided for convenience and customs purposes only. The written description of the scope of the order is dispositive.

Rescission of Administrative Review in Part

In the *Preliminary Results,* we preliminarily found that Shanghai Ocean Flavor, Xuzhou Jinjiang, and Nanjing Gemsen had no shipments of subject merchandise during the period of review and we stated our intent to rescind the administrative review with respect to these companies. *See Preliminary Results,* 76 FR at 62350. We have received no comments concerning our intent to rescind this administrative review in part. We continue to find that Shanghai Ocean Flavor, Xuzhou Jinjiang, and Nanjing Gemsen had no shipments of freshwater crawfish tail meat from the PRC during the period of review. In accordance with 19 CFR 351.213(d)(3), we are rescinding the review of Shanghai Ocean Flavor, Xuzhou Jinjiang, and Nanjing Gemsen.

Adverse Facts Available

In the *Preliminary Results,* we stated that the record evidence suggests a lack of commercial soundness in the transactions reported by Xiping Opeck in this review and that another entity (hereinafter, Company A) [2] plays a role in the pricing associated with the entries of subject merchandise in this review. *See Preliminary Results,* 76 FR at 62350. For a detailed discussion on this issue, *see* the memorandum entitled ''Freshwater Crawfish Tail Meat from the People's Republic of China—Evaluation of an Allegation of Middleman Dumping and Nature of Transactions Pertaining to the Entries Under Review,'' dated September 30, 2011. In the *Preliminary Results,* we also stated that further inquiry on this issue is necessary. *See Preliminary Results,* 76 FR at 62350. Consequently, on October 3, 2011, we issued a non-market economy questionnaire to Company A. Company A did not answer the non-market economy questionnaire, arguing that it was not required to submit a response. *See* AFA Memo at 2. We determined that Company A significantly impeded the proceeding because it did not provide any of the information which we determined to be critical and necessary for the completion of an administrative review of the entries and sales made by Xiping Opeck. *See* AFA Memo at 3. We found it necessary, pursuant to sections 776(a)(1), (2)(A) and (C) of the Act, to use facts otherwise available to calculate the dumping margin for Xiping Opeck in this review. *See* AFA Memo at 4. Because Company A did not cooperate to the best of its ability in this review, in relying on facts otherwise available, we found that pursuant to section 776(b) of the Act an adverse inference is warranted in determining a dumping margin for Xiping Opeck in this review. *See* AFA Memo at 4. In determining the AFA rate for Xiping Opeck in this review, we relied on primary information on the record. Using this information, we calculated an AFA rate of 70.12 percent for Xiping Opeck in this review. *See* AFA Memo at 4.

After our consideration of the comments on this issue, for the final results of this review, we continue to find that the use of AFA is warranted for Xiping Opeck in this review pursuant to sections 776(a) (1), (2)(A) and (C) and 776(b) of the Act.

Non-Market-Economy Country Status

In the *Preliminary Results,* we treated the PRC as a non-market-economy (NME) country. *See Preliminary Results,* 76 FR at 62350. No interested party commented on our designation of the PRC as an NME country. Therefore, for the final results of review, we have continued to treat the PRC as an NME country in accordance with section 773(c) of the Act.

Separate Rates

In proceedings involving NME countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

In the *Preliminary Results,* we found that Xiping Opeck and China Kingdom demonstrated their eligibility for separate-rate status. *See Preliminary Results,* 76 FR at 62351–62352. We received no comments from interested parties regarding the separate-rate status of these companies. Therefore, in these final results of review, we continue to find that the evidence placed on the record of this review by Xiping Opeck and China Kingdom demonstrates an absence of government control, both in law and in fact, with respect to these companies' exports of the subject merchandise. Thus, we have determined that Xiping Opeck and China Kingdom are eligible to receive a separate rate.

Separate Rate for a Non-Selected Company

China Kingdom is the only exporter of crawfish tail meat from the PRC that demonstrated its eligibility for a separate rate which was not selected for individual examination in this review. The statute and the Department's regulations do not address the establishment of a rate to be applied to individual companies not selected for examination when the Department limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, we have looked to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for respondents we did not examine in an administrative review. Section 735(c)(5)(A) of the Act articulates a preference that we are not to calculate an all-others rate using any zero or *de minimis* margins or any margins based entirely on facts available. Accordingly, the Department's usual practice has been to average the margins for the selected companies, excluding margins that are zero, *de minimis,* or based entirely on facts available.[3] Section 735(c)(5)(B) of the Act also provides that, where all margins are zero, *de minimis,* or based entirely on facts available, we may use ''any reasonable method'' for assigning the rate to non-selected respondents, including ''averaging the estimated weighted-average dumping margins determined for the exporters and producers individually investigated.''

In previous cases, the Department has determined that a ''reasonable method'' to use when, as here, the rate of the respondent selected for individual

[2] We are withholding the identity of Company A because Xiping Opeck's U.S. customer claimed business-proprietary treatment of this information.

[3] *See Ball Bearings and Parts Thereof From France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Rescission of Reviews in Part,* 73 FR 52823, 52824 (September 11, 2008), and accompanying Issues and Decision (I&D) Memorandum at Comment 16.

examination is based entirely on facts available is to apply to those companies not selected for individual examination (but eligible for a separate rate in NME cases) the average of the most recently determined rates that are not zero, *de minimis,* or based entirely on facts available (which may be from a prior administrative review or a new shipper review).[4] If any such non-selected company had its own calculated rate that is contemporaneous with or more recent than such prior determined rates, however, the Department has applied such individual rate to the non-selected company in the review in question, including when that rate is zero or *de minimis.*[5] In this case, there is only one non-selected company under review that is eligible for a separate rate and this company received its own calculated rate that is contemporaneous with or more recent than the most recent rates determined for other companies that are not zero, *de minimis,* or based entirely on facts available. Accordingly, we have concluded that in this case a reasonable method for determining the rate for the non-selected company, China Kingdom, is to apply its most recent individually calculated rate. Pursuant to this method, we have assigned a rate of 18.87 percent to China Kingdom, its calculated rate in the previous administrative review.[6] In assigning this separate rate, we did not impute the actions of any other companies to the behavior of the company not individually examined but based this determination on record evidence that may be deemed reasonably reflective of the potential dumping margin for the non-individually examined company, China Kingdom, in this administrative review.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the I&D Memorandum which is hereby adopted by this notice. A list of the issues raised is attached to this notice as an appendix. The I&D Memorandum is a public document and is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). Access to IA ACCESS is available in the Central Records Unit (CRU), room 7046 of the main Department of Commerce building. In addition, a complete version of the I&D Memorandum can be accessed directly on the internet at *http://www.trade.gov/ia/.* The signed I&D Memorandum and the electronic versions of the I&D Memorandum are identical in content.

Changes Since the Preliminary Results

We determined the margin for Xiping Opeck based on AFA.

Final Results of the Review

As a result of the administrative review, we determine that the following percentage weighted-average dumping margins exist for the period September 1, 2009, through August 31, 2010:

Company	Margin (percent)
Xiping Opeck Food Co., Ltd.	70.12
China Kingdom (Beijing) Import & Export Co., Ltd.	18.87

Assessment

For Xiping Opeck and China Kingdom, we will instruct CBP to apply the rates listed above to all entries of subject merchandise exported respectively by these companies. We intend to issue assessment instructions to CBP 15 days after the date of publication of the final results of review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of these final results of this review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date as provided by section 751(a)(2)(C) of the Act: (1) For subject merchandise exported by Xiping Opeck and China Kingdom, the cash deposit rate will be the rate established in this final results of review, as listed above, for each exporter; (2) for previously reviewed or investigated companies not listed above that have separate rates, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) for all other PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be PRC-wide rate of 223.01 percent; (4) for all non-PRC exporters of subject merchandise the cash deposit rate will be the rate applicable to the PRC entity that supplied that exporter. These deposit requirements shall remain in effect until further notice.

Notifications

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of the destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: April 4, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix

1. Determination that Company A is an Interested Party
2. Application of Adverse Facts Available

[4] *See Certain Frozen Warmwater Shrimp From the People's Republic of China: Preliminary Results and Preliminary Partial Rescission of Fifth Antidumping Duty Administrative Review,* 76 FR 8338, 8342 (February 14, 2011) (unchanged in *Administrative Review of Certain Frozen Warmwater Shrimp From the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review,* 76 FR 51940 (August 19, 2011)); *see also Administrative Review of Certain Frozen Warmwater Shrimp From the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review,* 75 FR 49460, 49463 (August 13, 2010), and *Amanda Foods (Vietnam) Ltd.* v. *United States,* 774 F. Supp. 2d 1286 (CIT April 14, 2011).

[5] *See Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Notice of Preliminary Results of the New Shipper Review and Fourth Antidumping Duty Administrative Review and Partial Rescission of the Fourth Administrative Review,* 73 FR 52015 (September 8, 2008), *Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results of the Antidumping Duty Administrative Review and New Shipper Reviews,* 74 FR 11349 (March 17, 2009) (changing rate for non-selected respondents because the final calculated rate for the selected respondent was above *de minimis*) (unchanged in *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Amended Final Results of the Fourth Antidumping Duty Administrative Review,* 74 FR 17816 (April 17, 2009)); *see also Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review,* 74 FR 47191, 47195 (September 15, 2009), and accompanying I&D Memorandum at Comment 16.

[6] *See Freshwater Crawfish Tail Meat From the People's Republic of China: Final Results of Antidumping Duty Administrative and New-Shipper Reviews,* 75 FR 79337 (December 20, 2010).

3. Selection of Adverse Facts Available Rate

[FR Doc. 2012–8601 Filed 4–9–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–836]

Glycine From the People's Republic of China: Preliminary Partial Affirmative Determination of Circumvention of the Antidumping Duty Order and Initiation of Scope Inquiry

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: We preliminarily determine that glycine processed by Salvi Chemical Industries Limited (Salvi) and AICO Laboratories India Ltd. (AICO) and exported to the United States from India is circumventing the antidumping duty order on glycine from the People's Republic of China (China), as provided in section 781(b) of the Tariff Act of 1930, as amended (the Act).[1] With respect to Paras Intermediates Pvt. Ltd. (Paras), we preliminarily find that Paras is not circumventing the *Order* because it is producing glycine from raw materials of Indian origin and exporting such merchandise to the United States.

DATES: *Effective Date:* April 10, 2012.

FOR FURTHER INFORMATION CONTACT: David Cordell, Dena Crossland, or Angelica Mendoza, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0408, (202) 482–3362, or (202) 482–3019, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce (the Department) issued the antidumping duty order on glycine from China in 1995. *See Order.* The Department conducted a less-than-fair value investigation on glycine from India in 2007 through 2008, covering the period of investigation of January 1 through December 31, 2006, where we found that certain Chinese glycine further processed in India did not change the country of origin of such glycine.[2]

On December 18, 2009, GEO Specialty Chemicals, Inc. and Chattem Chemicals, Inc., domestic interested parties, requested that the Department initiate an anti-circumvention inquiry, pursuant to section 781(b) of the Act and 19 CFR 351.225(h), to determine whether U.S. imports of glycine exported by AICO and Paras, and made from Chinese-origin glycine, are circumventing the *Order.*[3] In their request, domestic interested parties allege that AICO and Paras are circumventing the *Order* through completion and assembly in India of the same class or kind of merchandise that is subject to the *Order* and by labeling the merchandise as Indian origin. *Id.*

On January 15, 2010, the Department requested that domestic interested parties resubmit legible copies of AICO's financial statements and of the Port Import Export Reporting Service (PIERS) report regarding AICO's shipments to the United States, which they provided in their original Anti-Circumvention Allegation at Exhibits A and B, respectively. The legible copies of the requested documents were submitted by the domestic interested parties on January 22, 2010.[4] On February 22, 2010, the Department requested additional information from the domestic interested parties in the form of a supplemental questionnaire.

On August 19, 2010, the domestic interested parties submitted additional information to supplement their December 18, 2009 Anti-Circumvention Allegation and included another allegation against a third company, Salvi, and its exporter/affiliate, Nutracare International. As part of their supplemental submission and allegation against Salvi, domestic interested parties included a market survey from a foreign market researcher, at Exhibit 12 of its submission.[5] In their August 19, 2010 supplemental circumvention allegation, the domestic interested parties alleged that all three Indian companies, *i.e.,* AICO, Paras and Salvi, are importing technical-grade glycine from companies in China, processing and/or repackaging the Chinese-origin glycine, and then exporting the finished product to the United States, marked as Indian-origin glycine. *Id.*

On September 23, 2010, the Department conducted a telephone interview with the foreign market researcher to corroborate the information in the market survey that the domestic interested parties submitted on August 19, 2010.[6] On October 6, 2010, the domestic interested parties amended their request for the initiation of an anti-circumvention inquiry with respect to AICO, citing the Telephone Interview Memo.[7] Therein, the domestic interested parties alleged that, based on the telephone interview, AICO is both repackaging and refining glycine of Chinese origin. *Id.*

On October 22, 2010, based on sufficient record evidence, the Department initiated an anti-circumvention inquiry on imports of glycine produced and/or exported by AICO, Paras, and Salvi.[8] In the *Initiation Notice,* the Department explicitly stated that ''{t}hese anticircumvention inquiries pertain solely to Paras, Salvi, and AICO.'' *Id.* at 66356. The Department further stated that ''{i}f, within sufficient time, the Department receives a formal request from an interested party regarding potential anti-circumvention of the *PRC Glycine Order* by other Indian companies, we will consider conducting additional inquiries concurrently.'' *Id.*

As discussed below in the ''Questionnaires'' section, from December 2010 through October 2011, AICO, Paras, and Salvi responded to the Department's initial and supplemental questionnaires.

On October 3, 2011, the domestic interested parties submitted comments, in which they requested that the Department preliminarily determine that all glycine exported from India is within the scope of the *Order* unless U.S. importers certify that the product

[1] *See Antidumping Duty Order: Glycine From the People's Republic of China,* 60 FR 16116 (March 29, 1995) (*Order*).

[2] *See Notice of Final Determination of Sales at Less Than Fair Value: Glycine from India,* 73 FR 16640 (March 28, 2008) (*Indian Investigation*) and accompanying Issues and Decision Memorandum at Comment 5. We note that this investigation did not result in an antidumping duty order because the International Trade Commission made a final negative injury determination. *See Glycine From India; Determination,* 73 FR 26413 (May 9, 2008); Glycine From India Investigation No. 731–TA–1111 (Final) Publication 3997 (United States International Trade Commission May 2008).

[3] *See* Domestic Interested Parties' request for an anti-circumvention inquiry entitled ''Antidumping Duty Order on Glycine from the People's Republic of China—Circumvention of Antidumping Duty Order,'' dated December 18, 2009 (Anti-Circumvention Allegation).

[4] *See* Letter from the domestic interested parties to the Department, dated January 22, 2010.

[5] *See* Letter from domestic interested parties to the Department, entitled ''Antidumping Duty Order on Glycine from the People's Republic of China—Supplement to Domestic Industry's Request for Circumvention Inquiry,'' dated August 19, 2010.

[6] *See* the Memorandum to the File, entitled ''Antidumping Circumvention Inquiry: Telephone Interview with the Foreign Market Researcher,'' dated October 5, 2010 (Telephone Interview Memo).

[7] *See* Letter from domestic interested parties, entitled ''Antidumping Duty Order on Glycine from the People's Republic of China (PRC): Antidumping Circumvention Inquiry—Amendment to Domestic Industry's Circumvention Allegation based on Department's Memorandum to File,'' dated October 6, 2010, at 2 (Amendment Letter).

[8] *See Glycine From the People's Republic of China: Initiation of Antidumping Anticircumvention Inquiry,* 75 FR 66352 (October 28, 2010) (*Initiation Notice*).

they are importing from India is: (1) Not Chinese-origin or processed from Chinese-origin glycine, and (2) is Indian in origin. On October 3, 2011, Paras submitted a response to the domestic interested parties' request to include Paras in any remedy that the Department may apply, arguing that it should not be subject to any remedy because it is not circumventing the *Order*.[9]

On November 23, 2011, the domestic interested parties submitted additional comments, in which they asked the Department to, based on record evidence, affirmatively determine that glycine shipments from India to the United States of the named respondents, including their affiliates and third-party business partners, have circumvented the *Order.* The domestic interested parties also requested the Department to require a U.S. importer certification scheme for all imports of Indian glycine, with the exception of imports from Salvi, AICO, and their related entities, for which the domestic interested parties requested the Department apply the current China-wide dumping rate of 155.89 percent.

On November 28, 2011, Paras submitted comments rebutting the domestic interested parties' request for a circumvention finding with respect to Paras, to which the domestic interested parties submitted a response on November 29, 2011. Paras submitted a rebuttal to the domestic interested parties' response on November 30, 2011, reiterating their request with respect to Paras, and also arguing against an importer-based certification for circumvention findings with respect to further processing in a third country.

On December 5, 2011, AICO and Avid Organics Pvt. Ltd. (Avid)[10] both responded to the domestic interested parties' November 23, 2011, comments. On December 16, 2011, the domestic interested parties responded to AICO's December 5, 2011, comments and on January 12, 2012, the domestic interested parties submitted comments responding to Avid Organics' December 5, 2011 comments.

On December 15, 2011, the Department notified parties that the deadlines for the preliminary and final determinations were March 30, 2012, and July 30, 2012, respectively.[11]

On February 2, 2012, Department officials met with counsel for the domestic interested parties concerning the alleged circumvention of the *Order* and the appropriate remedy.[12] On February, 3, 2012, the domestic interested parties filed materials from the February 2, 2012, meeting on the record of the proceeding. On February 7, 2012, Paras submitted comments in response to the domestic interested parties' submission of February 3, 2012.

On February 10, 2012, the domestic interested parties submitted comments on the need for a country-wide remedy in this case, and on February 14, 2012, Paras submitted its response to those comments.

Questionnaires

On November 12, 2010, the Department issued questionnaires to AICO, Paras, and Salvi, requesting sales and production information with respect to the period January 1, 2005, to December 31, 2010, to which AICO, Paras, and Salvi responded in December 2010. Between February and October 2011, the Department issued supplemental questionnaires to AICO, Paras, and/or Salvi, to which timely responses were received.

Period of Inquiry

The inquiry period covers six years (*i.e.,* 2005 through 2010), which includes the period covered by the *Indian Investigation.*[13] In this case, the Department decided to use a broad period in order to better understand the glycine markets and how they operate.

Scope of the Antidumping Duty Order

The product covered by the antidumping duty order is glycine, which is a free-flowing crystalline material, like salt or sugar. Glycine is produced at varying levels of purity and is used as a sweetener/taste enhancer, a buffering agent, reabsorbable amino acid, chemical intermediate, and a metal complexing agent. This order covers glycine of all purity levels. Glycine is currently classified under subheading 2922.49.4020 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under the order is dispositive.

In a separate scope ruling, the Department determined that D(-) Phenylglycine Ethyl Dane Salt is outside the scope of the order. *See Notice of Scope Rulings and Anticircumvention Inquiries,* 62 FR 62288 (November 21, 1997).

Scope of the Anti-Circumvention Inquiry

The product covered by this inquiry is glycine, as described in the ''Scope of the Antidumping Duty Order'' section, above, which is exported from India, but processed using Chinese-origin inputs (*e.g.,* technical-grade glycine). This inquiry covers glycine produced by AICO, Paras, and Salvi. Salvi and Paras have stated on the record that they also self-produce glycine from Indian-origin inputs. The focus of this proceeding is to determine whether the glycine is: (1) Manufactured in China; (2) processed by AICO, Paras, or Salvi in India; and (3) then exported to the United States as Indian-origin glycine that constitutes circumvention of the *Order* under section 781(b) of the Act.

Statutory Provisions Regarding Circumvention

Section 781(b) of the Act provides that the Department may find circumvention of an antidumping duty order when merchandise of the same class or kind of merchandise that is subject to the order is completed or assembled in a foreign country other than the country to which the order applies. In conducting anti-circumvention inquiries under section 781(b) of the Act, the Department relies upon the following criteria: (A) Merchandise imported into the United States is of the same class or kind as any merchandise produced in a foreign country that is subject to an antidumping duty order; (B) before importation into the United States, such

[9] The domestic interested parties submitted further comments on the issue of its proposed remedy, with respect to Paras, on October 17, 2011, and November 4, 2011. Paras subsequently rebutted these comments on October 28, 2011, and November 8, 2011.

[10] Avid, an Indian producer and exporter of glycine to the United States, entered a notice of appearance on December 7, 2011, in response to the domestic interested parties' October 3, 2011, and November 23, 2011, comments alleging that Avid was affiliated with AICO.

[11] Section 781(f) of the Act states that the Department shall, to the maximum extent practicable, make determinations under section 781 of the Act within 300 days from the date of the initiation of an antidumping circumvention inquiry. *See also* 19 CFR 351.225(f)(5). The Department deadline's for the preliminary and final determinations were initially October 17, 2011, and February 14, 2012, respectively. *See* Letter to the Interested Parties from Richard Weible, Office Director, entitled ''Anti-Circumvention Inquiry of the Anti-Dumping Order on Glycine from the People's Republic of China: Extension of Final Determination,'' dated April 25, 2011. On October 11, 2011, the Department notified parties that the new deadline for the preliminary determination was December 16, 2011. *See* Letter to the Interested Parties from Richard Weible, Office Director, entitled ''Anti-Circumvention Inquiry of the Anti-Dumping Order on Glycine from the People's Republic of China: Extension of Preliminary Determination,'' dated October 11, 2011.

[12] *See* Memorandum to File, entitled ''*Ex Parte* meeting with Petitioners and Petitioner Counsel,'' dated February 2, 2012.

[13] The domestic interested parties did not specify an inquiry period in their December 18, 2009, anti-circumvention inquiry request.

imported merchandise is completed or assembled in another foreign country from merchandise which is subject to the order or produced in the foreign country that is subject to the order; (C) the process of assembly or completion in the foreign country referred to in (B) is minor or insignificant; (D) the value of the merchandise produced in the foreign country to which the antidumping duty order applies is a significant portion of the total value of the merchandise exported to the United States; and (E) the administering authority determines that action is appropriate to prevent evasion of such order.

Section 781(b)(2) of the Act provides the criteria for determining whether the process of assembly or completion is minor or insignificant. These criteria are: (a) The level of investment in the foreign country; (b) the level of research and development (R&D) in the foreign country; (c) the nature of the production process in the foreign country; (d) the extent of the production facilities in the foreign country; and (e) whether the value of the processing performed in the foreign country represents a small proportion of the value of the merchandise imported into the United States.

The Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103–316, vol. 1 at 893 (1994), provides some guidance with respect to these criteria. It explains that no single factor listed in section 781(b)(2) of the Act will be controlling and that the Department will evaluate each of the factors as they exist in the foreign country depending on the particular circumvention scenario. *Id.;* 19 CFR 351.225(h). Therefore, none of the factors listed under section 781(b)(2) of the Act are dispositive as they vary from case to case, depending on the particular circumstances unique to each circumvention inquiry.

Section 781(b)(3) of the Act further provides that, in determining whether to include merchandise assembled or completed in a foreign country in an antidumping duty order, the Department shall consider: (A) The pattern of trade, including sourcing patterns; (B) whether the manufacturer or exporter of the merchandise described in section 781(b)(1)(B) of the Act is affiliated with the person who uses the merchandise described in section 781(b)(1)(B) of the Act to assemble or complete in the foreign country the merchandise that is subsequently imported into the United States; and (C) whether imports into the foreign country of the merchandise described in section 781(b)(1)(B) of the Act have increased after the initiation of the investigation which resulted in the issuance of such order.

Statutory Analysis

A discussion of the record evidence pertaining to each company and the Department's analyses are in the following analysis memoranda: (1) ''Preliminary Analysis Memorandum for the Circumvention Inquiry of the Antidumping Duty Order on Glycine from the People's Republic of China (China), for the Producer known as AICO Laboratories India Ltd. '' from Christian Marsh, Deputy Assistant Secretary, for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary, for Import Administration, dated March 30, 2012 (AICO Preliminary Analysis Memorandum); (2) ''Preliminary Analysis Memorandum for the Circumvention Inquiry of the Antidumping Duty Order on Glycine from the People's Republic of China (China), for the Producer known as Paras Intermediates Pvt. Ltd. (Paras) from Christian Marsh, Deputy Assistant Secretary, for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary, for Import Administration,'' dated March 30, 2012 (Paras Preliminary Analysis Memorandum); and (3) ''Preliminary Analysis Memorandum for the Circumvention Inquiry of the Antidumping Duty Order on Glycine from the People's Republic of China (China), for the Producer known as Salvi Chemicals (Salvi)'' from Christian Marsh, Deputy Assistant Secretary, for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary, for Import Administration,'' dated March 30, 2012 (Salvi Preliminary Analysis Memorandum). Parties can find public versions of these analysis memoranda on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACESS). Access to IA ACCESS is available in the Central Records Unit, room 7046, of the main Department of Commerce building. The signed analysis memoranda and the electronic versions of the analysis memoranda are identical in content.

Preliminary Determinations

With respect to AICO, the Department finds it necessary to rely on facts available, as AICO failed to provide necessary information in its questionnaire responses upon which the Department could rely and, thereby impeded this inquiry. Further, as discussed in detail the AICO Preliminary Analysis Memorandum, we find that AICO possessed the necessary information but failed to provide it, thus, it did not act to the best of its ability to comply with our requests for information. Therefore, we find it appropriate in this inquiry to apply facts available with an adverse inference as AICO failed to cooperate by not acting to the best of its ability in providing the necessary information. Accordingly, we preliminarily find, as facts otherwise available with an adverse inference pursuant to sections 776(a) and (b) of the Act, that AICO is circumventing the *Order* because it has withheld information by not fully responding to our requests for information and, when it has responded, provided ambiguous or contradictory responses, thereby impeding this proceeding. *See* sections 776(a)(2)(A) and (C) of the Act. Specifically, the record lacks information necessary to complete a proper analysis with respect to AICO. In addition and contrary to AICO's claim, we find that there is no record evidence that AICO self produces glycine from Indian raw materials. Consequently, because AICO has not fully complied with the Department's request for information, we find that it failed to cooperate to the best of its ability, and, therefore, that an adverse inference is warranted pursuant to section 776(b) of the Act. Accordingly, as an adverse inference the Department preliminarily finds that all glycine produced by AICO, regardless of exporter or U.S. importer, should be included within the scope of the *Order.* For a complete discussion of the Department's analysis, *see* AICO Preliminary Analysis Memorandum.

With respect to Salvi, for the reasons discussed in the Salvi Preliminary Analysis Memorandum, we preliminarily find that Salvi has circumvented the *Order* pursuant to section 781(b) of the Act. Specifically, pursuant to sections 781(b)(1)(A) and (B) of the Act, we find that the merchandise sold to the United States is within the same class or kind of merchandise that is subject to the *Order* and was assembled or completed in a third country. Additionally, pursuant to sections 781(b)(1)(C) and 781(b)(2) of the Act, we find that the processing of the Chinese-origin glycine into the glycine sold by Salvi is minor and insignificant. Furthermore, in accordance with section 781(b)(1)(D) of the Act, we find that the value of the merchandise produced in China is a significant portion of the total value of the merchandise exported to the United States. We also find that, in accordance with section 781(b)(1)(E) of the Act,

action is appropriate to prevent evasion of the *Order* by Salvi. Moreover, we find that record evidence pertaining to the factors outlined in section 781(b)(3) of the Act support a finding of circumvention of the *Order.* For a complete discussion of the Department's analysis, *see* Salvi Preliminary Analysis Memorandum.

With respect to Paras, the Department preliminarily determines that Paras is not circumventing the *Order.* Although it has admitted to exporting processed Chinese-origin glycine in the past, the Department is satisfied that Paras understood that the processing it carried out was deemed by the Department in the original less-than-fair-value investigation as not substantial enough to transform the product into Indian origin. Also, once Paras became aware that such processing did not change the product into an Indian product, as a result of the less-than-fair-value investigation, it took steps to ensure that it would not continue to export Chinese-origin glycine to the United State. The record reflects that for approximately the past four years, Paras has only sold and/or exported to the United States glycine that it produced only from Indian raw materials. For a complete discussion of the Department's analysis, *see* Paras Preliminary Analysis Memorandum.

Scope Inquiry Initiation

The Department has previously determined that the type of processing described by Salvi does not change the country of origin of glycine and therefore the glycine remains within the scope of the *Order.* Specifically, in a 2002 scope ruling, the Department concluded that processing Chinese-glycine into refined glycine in a third country does not substantially transform the glycine and therefore does not change the country of origin or take such glycine out of the *Order.*[14]

In addition, in the Department's less-than-fair-value investigation of glycine from India, the Department determined that the further processing of imported Chinese-origin technical grade glycine to U.S. Pharmaceutical (USP) grade glycine in India did not substantially transform the glycine in India and, thus, the glycine remained Chinese in origin.[15] It is important to note that although the investigation of glycine from India did not go to order because of a negative injury determination by the U.S. International Trade Commission (the Commission) the Department's decision with respect to the transformation of Chinese-origin glycine in India remains relevant.[16] Notwithstanding, the Department recognizes that its scope determination in the original investigation was company- and fact-specific. As a result of the comments made by the parties in the instant proceeding with respect to substantial transformation and country of origin, and, as a result of our affirmative circumvention findings in light of prior scope determinations, we find that a broader scope inquiry in this case is warranted. Therefore, we are initiating a scope inquiry of Chinese-origin glycine processed into a purer grade glycine in India, pursuant to 19 CFR 351.225(b), and invite interested parties to submit comments and supporting factual information regarding glycine exported from India and the scope of the *Order.* In accordance with 19 CFR 351.225(f)(iii), interested parties may submit comments within 20 days of the publication of this notice. Additionally, interested parties may file rebuttals to written comments, limited to issues raised in such comments, no later than 10 days after the date on which the comments are due.

Suspension of Liquidation

As stated above, the Department has made a preliminary affirmative finding of circumvention of the *Order* by both AICO and Salvi. In accordance with 19 CFR 351.225(l)(2), the Department will direct U.S. Customs and Border Protection (CBP) to suspend liquidation and require a cash deposit of estimated duties at the applicable rate on all unliquidated entries of glycine produced by AICO or Salvi, regardless of exporter or U.S. importer, that were entered, or withdrawn from warehouse, for consumption on or after October 22, 2010, the date of initiation of the anti-circumvention inquiry. We will require a cash deposit of estimated duties on all entries of glycine produced and/or exported by AICO and Salvi, at the China-wide rate of 155.89 percent, unless AICO or Salvi can demonstrate to CBP that the Chinese glycine, which was processed by AICO or Salvi, was supplied by a Chinese manufacturer with its own rate. In that instance, the cash deposit rate will be the rate of the Chinese glycine manufacturer that has its own rate. In light of our preliminary determination that Paras is not circumventing the *Order,* the Department will not instruct CBP to suspend liquidation of any unliquidated entries of glycine produced by Paras for purposes of this preliminary determination.

As stated above, in its October 3, 2011, submission, the domestic interested parties recommended that the Department determine that all Indian glycine is within the scope of the *Order* unless U.S. importers certify that the product they are importing is: (1) Not Chinese origin or processed from Chinese-origin glycine, and (2) is Indian in origin. Based on (i) our findings that not all Indian companies are circumventing the *Order,* (ii) the fact that our analysis only focused on three companies as requested by the domestic interested parties, (iii) record evidence indicating that certification may have unintended effects in this particular case, and (iv) lack of evidence on the record demonstrating that circumvention is occurring more broadly, we preliminarily find that a certification requirement is not supported by the record. We invite parties to comment on a country-wide exporter or importer certification process for glycine exported from India, and how such a certification program might be implemented.

Notification to the U.S. International Trade Commission

The Department, consistent with section 781(e) of the Act and 19 CFR 351.225(f)(7)(i)(B), will notify the U.S. International Trade Commission (ITC) of this preliminary determination to include merchandise subject to this inquiry (*i.e.,* glycine) within the *Order.* The ITC may request consultations concerning the Department's proposed inclusion of the subject merchandise. *See* section 781(e)(2) of the Act. Upon the request of the ITC, the administering authority shall consult with the ITC and any such consultation shall be completed within 15 days after the date of the request. *Id.* If, after consultations, the ITC believes that a significant injury issue is presented by the proposed inclusion, it will have 60 days to provide written advice to the Department. *See* section 781(e)(3) of the Act.

Public Comment

Interested parties are invited to comment on the preliminary results and

[14] *See* Memorandum from Barbara E. Tillman to Joseph A. Spetrini, Deputy Assistant Secretary for Import Administration, Final Scope Ruling; Antidumping Duty Order on Glycine from the People's Republic of China (A–570- 836); (Watson Industries Inc.), dated May 3, 2002; placed on the record by domestic interested parties in their December 18, 2009, submission at Exhibit D.

[15] *See Notice of Final Determination of Sales at Less Than Fair Value: Glycine from India,* 73 FR 16640 (March 28, 2008), and accompanying Issues and Decision Memorandum at Comment 5.

[16] *See Glycine From India; Determination,* 73 FR 26413 (May 9, 2008); Glycine From India Investigation No. 731–TA–1111 (Final) Publication 3997 (United States International Trade Commission) May 2008.

may submit case briefs and/or written comments within 20 days of the publication of this notice. *See* 19 CFR 351.225(f)(3). Interested parties may file rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, no later than 10 days after the date on which the case briefs are due. *Id.* Interested parties may request a hearing within 20 days of the publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief and may make rebuttal presentations only on arguments included in that party's rebuttal brief. Interested parties will be notified by the Department of the location and time of any hearing, if one is requested.

Final Determination

The final determination with respect to this circumvention inquiry, including the results of the Department's analysis of any written comments, will be issued no later than July 30, 2012, unless extended. *See* section 781(f) of the Act and 19 CFR 351.302(b).

This preliminary partial affirmative circumvention determination is published in accordance with section 781(b) of the Act and 19 CFR 351.225.

Dated: March 30, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2012–8597 Filed 4–9–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–890]

Wooden Bedroom Furniture From the People's Republic of China: Final Rescission of Antidumping Duty New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On January 10, 2012, the Department of Commerce (the ''Department'') published the preliminary rescission of the new shipper review (''NSR'') of wooden bedroom furniture (''WBF'') from the People's Republic of China (''PRC'') covering the period of review (''POR'') January 1, 2011, through June 30, 2011.[1] After analyzing the comments submitted by parties with respect to Marvin Furniture (Shanghai) Co., Ltd. (''Marvin Furniture''), the Department continues to find that Marvin Furniture failed to satisfy the requirements for an NSR. Therefore, the Department is rescinding Marvin Furniture's NSR.

DATES: *Effective Date:* April 10, 2012.

FOR FURTHER INFORMATION CONTACT: Patrick O'Connor, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0989.

SUPPLEMENTARY INFORMATION:

Background

On January 10, 2012, the Department published the *Preliminary Rescission* of this NSR.[2] On February 9, 2012, we received case briefs and a request for a hearing from Marvin Furniture. On February 16, 2012, the Department rejected Marvin Furniture's case brief because it contained untimely factual information. The Department informed Marvin Furniture that it could re-file its case brief by February 17, 2012, after removing the untimely factual information in the brief. On February 17, 2012, Marvin Furniture re-filed its case brief after removing the information at issue but protested the finding that its case brief contained untimely factual information. On February 17, 2012, we received rebuttal briefs from the American Furniture Manufacturers Committee for Legal Trade and Vaughan-Basset Furniture Company, Inc. (collectively, ''Petitioners''). On March 7, 2012, the Department held a closed hearing.

Analysis of the Comments Received

All issues raised in the case and rebuttal briefs submitted by parties in this review are addressed in the memorandum from Gary Taverman, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, ''Issues and Decision Memorandum for the Final Rescission of the New Shipper Review of Wooden Bedroom Furniture from the People's Republic of China for Marvin Furniture (Shanghai) Co., Ltd.'' (''I&D Memorandum''), which is dated concurrently with this notice and which is hereby adopted by this notice. The issue which parties raised, and to which we respond, in the I&D Memorandum is whether to rescind the NSR for Marvin Furniture. The I&D Memorandum is a public document and is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Services System (''IA ACCESS''). Access to IA ACCESS is available in the Central Records Unit of the main Commerce Building, Room 7046. In addition, a complete version of the I&D Memorandum is accessible on the Department's web site at *http://www.trade.gov/ia/*. The paper copy and electronic versions of the I&D Memorandum are identical in content.

Scope of the Order

The product covered by the order is wooden bedroom furniture. Wooden bedroom furniture is generally, but not exclusively, designed, manufactured, and offered for sale in coordinated groups, or bedrooms, in which all of the individual pieces are of approximately the same style and approximately the same material and/or finish. The subject merchandise is made substantially of wood products, including both solid wood and also engineered wood products made from wood particles, fibers, or other wooden materials such as plywood, strand board, particle board, and fiberboard, with or without wood veneers, wood overlays, or laminates, with or without non-wood components or trim such as metal, marble, leather, glass, plastic, or other resins, and whether or not assembled, completed, or finished.

The subject merchandise includes the following items: (1) Wooden beds such as loft beds, bunk beds, and other beds; (2) wooden headboards for beds (whether stand-alone or attached to side rails), wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds; (3) night tables, night stands, dressers, commodes, bureaus, mule chests, gentlemen's chests, bachelor's chests, lingerie chests, wardrobes, vanities, chessers, chifforobes, and wardrobe-type cabinets; (4) dressers with framed glass mirrors that are attached to, incorporated in, sit on, or hang over the dresser; (5) chests-

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[1] *See Wooden Bedroom Furniture From the People's Republic of China: Preliminary Rescission of Antidumping Duty New Shipper Review,* 77 FR 1456 (January 10, 2012) (''*Preliminary Rescission*'').

[2] *See Preliminary Rescission.*

on-chests,[3] highboys,[4] lowboys,[5] chests of drawers,[6] chests,[7] door chests,[8] chiffoniers,[9] hutches,[10] and armoires;[11] (6) desks, computer stands, filing cabinets, book cases, or writing tables that are attached to or incorporated in the subject merchandise; and (7) other bedroom furniture consistent with the above list.

The scope of the order excludes the following items: (1) Seats, chairs, benches, couches, sofas, sofa beds, stools, and other seating furniture; (2) mattresses, mattress supports (including box springs), infant cribs, water beds, and futon frames; (3) office furniture, such as desks, stand-up desks, computer cabinets, filing cabinets, credenzas, and bookcases; (4) dining room or kitchen furniture such as dining tables, chairs, servers, sideboards, buffets, corner cabinets, china cabinets, and china hutches; (5) other non-bedroom furniture, such as television cabinets, cocktail tables, end tables, occasional tables, wall systems, book cases, and entertainment systems; (6) bedroom furniture made primarily of wicker, cane, osier, bamboo or rattan; (7) side rails for beds made of metal if sold separately from the headboard and footboard; (8) bedroom furniture in which bentwood parts predominate;[12] (9) jewelry armories;[13] (10) cheval mirrors;[14] (11) certain metal parts;[15] (12) mirrors that do not attach to, incorporate in, sit on, or hang over a dresser if they are not designed and marketed to be sold in conjunction with a dresser as part of a dresser-mirror set; (13) upholstered beds[16] and (14) toy boxes.[17]

Imports of subject merchandise are classified under subheadings 9403.50.9042 and 9403.50.9045 of the U.S. Harmonized Tariff Schedule (''HTSUS'') as ''wooden * * * beds'' and under subheading 9403.50.9080 of the HTSUS as ''other * * * wooden furniture of a kind used in the bedroom.'' In addition, wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds may also be entered under subheading 9403.50.9042 or 9403.50.9045 of the HTSUS as ''parts of wood.'' Subject merchandise may also be entered under subheadings 9403.50.9041, 9403.60.8081, 9403.20.0018, or 9403.90.8041.[18] Further, framed glass mirrors may be entered under subheading 7009.92.1000 or 7009.92.5000 of the HTSUS as ''glass mirrors * * * framed.'' The order covers all wooden bedroom furniture meeting the above description, regardless of tariff classification. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Final Rescission of the Antidumping New Shipper Review of Marvin Furniture

In the *Preliminary Rescission,* the Department determined to rescind the NSR of Marvin Furniture because Marvin Furniture's subject merchandise was entered into the United States for consumption prior to the POR and it did not report this fact to the Department in its request for an NSR. The Department continues to find that Marvin Furniture's request for an NSR does not meet the requirements for an NSR under 19 CFR 351.214(b)(2)(iv)(A) and (B). Specifically, Marvin Furniture's request for an NSR did not contain

[3] A chest-on-chest is typically a tall chest-of-drawers in two or more sections (or appearing to be in two or more sections), with one or two sections mounted (or appearing to be mounted) on a slightly larger chest; also known as a tallboy.

[4] A highboy is typically a tall chest of drawers usually composed of a base and a top section with drawers, and supported on four legs or a small chest (often 15 inches or more in height).

[5] A lowboy is typically a short chest of drawers, not more than four feet high, normally set on short legs.

[6] A chest of drawers is typically a case containing drawers for storing clothing.

[7] A chest is typically a case piece taller than it is wide featuring a series of drawers and with or without one or more doors for storing clothing. The piece can either include drawers or be designed as a large box incorporating a lid.

[8] A door chest is typically a chest with hinged doors to store clothing, whether or not containing drawers. The piece may also include shelves for televisions and other entertainment electronics.

[9] A chiffonier is typically a tall and narrow chest of drawers normally used for storing undergarments and lingerie, often with mirror(s) attached.

[10] A hutch is typically an open case of furniture with shelves that typically sits on another piece of furniture and provides storage for clothes.

[11] An armoire is typically a tall cabinet or wardrobe (typically 50 inches or taller), with doors, and with one or more drawers (either exterior below or above the doors or interior behind the doors), shelves, and/or garment rods or other apparatus for storing clothes. Bedroom armoires may also be used to hold television receivers and/or other audio-visual entertainment systems.

[12] As used herein, bentwood means solid wood made pliable. Bentwood is wood that is brought to a curved shape by bending it while made pliable with moist heat or other agency and then set by cooling or drying. *See* U.S. Customs and Border Protection's (''CBP's) Headquarters Ruling Letter 043859, dated May 17, 1976.

[13] Any armoire, cabinet or other accent item for the purpose of storing jewelry, not to exceed 24 inches in width, 18 inches in depth, and 49 inches in height, including a minimum of 5 lined drawers lined with felt or felt-like material, at least one side door (whether or not the door is lined with felt or felt-like material), with necklace hangers, and a flip-top lid with inset mirror. *See* Issues and Decision Memorandum from Laurel LaCivita to Laurie Parkhill, Office Director, concerning ''Jewelry Armoires and Cheval Mirrors in the Antidumping Duty Investigation of Wooden Bedroom Furniture from the People's Republic of China,'' dated August 31, 2004. *See also Wooden Bedroom Furniture From the People's Republic of China: Final Changed Circumstances Review, and Determination To Revoke Order in Part,* 71 FR 38621 (July 7, 2006).

[14] Cheval mirrors are any framed, tiltable mirror with a height in excess of 50 inches that is mounted on a floor-standing, hinged base. Additionally, the scope of the order excludes combination cheval mirror/jewelry cabinets. The excluded merchandise is an integrated piece consisting of a cheval mirror, *i.e.,* a framed tiltable mirror with a height in excess of 50 inches, mounted on a floor-standing, hinged base, the cheval mirror serving as a door to a cabinet back that is integral to the structure of the mirror and which constitutes a jewelry cabinet line with fabric, having necklace and bracelet hooks, mountings for rings and shelves, with or without a working lock and key to secure the contents of the jewelry cabinet back to the cheval mirror, and no drawers anywhere on the integrated piece. The fully assembled piece must be at least 50 inches in height, 14.5 inches in width, and 3 inches in depth. *See Wooden Bedroom Furniture From the People's Republic of China: Final Changed Circumstances Review and Determination To Revoke Order in Part,* 72 FR 948 (January 9, 2007).

[15] Metal furniture parts and unfinished furniture parts made of wood products (as defined above) that are not otherwise specifically named in this scope (*i.e.,* wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds) and that do not possess the essential character of wooden bedroom furniture in an unassembled, incomplete, or unfinished form. Such parts are usually classified under HTSUS subheadings 9403.90.7005, 9403.90.7010, or 9403.90.7080.

[16] Upholstered beds that are completely upholstered, *i.e.,* containing filling material and completely covered in sewn genuine leather, synthetic leather, or natural or synthetic decorative fabric. To be excluded, the entire bed (headboards, footboards, and side rails) must be upholstered except for bed feet, which may be of wood, metal, or any other material and which are no more than nine inches in height from the floor. *See Wooden Bedroom Furniture from the People's Republic of China: Final Results of Changed Circumstances Review and Determination to Revoke Order in Part,* 72 FR 7013 (February 14, 2007).

[17] To be excluded the toy box must: (1) Be wider than it is tall; (2) have dimensions within 16 inches to 27 inches in height, 15 inches to 18 inches in depth, and 21 inches to 30 inches in width; (3) have a hinged lid that encompasses the entire top of the box; (4) not incorporate any doors or drawers; (5) have slow-closing safety hinges; (6) have air vents; (7) have no locking mechanism; and (8) comply with American Society for Testing and Materials (ASTM) standard F963–03. Toy boxes are boxes generally designed for the purpose of storing children's items such as toys, books, and playthings. *See Wooden Bedroom Furniture from the People's Republic of China: Final Results of Changed Circumstances Review and Determination to Revoke Order in Part,* 74 FR 8506 (February 25, 2009). Further, as determined in the scope ruling memorandum ''Wooden Bedroom Furniture from the People's Republic of China: Scope Ruling on a White Toy Box,'' dated July 6, 2009, the dimensional ranges used to identify the toy boxes that are excluded from the wooden bedroom furniture order apply to the box itself rather than the lid.

[18] On October 27, 2011, CBP provided notification that HTSUS number 9403.90.8041 should be added to the scope of the order, as certain articles under this number may fall within the scope. *See* Memorandum from Patrick O'Connor to the File, ''Request for Customs and Border Protection to Update AD/CVD Module for Wooden Bedroom Furniture from the People's Republic of China,'' dated January 4, 2012.

documentation establishing the date on which its subject merchandise was first entered into the United States for consumption and the volume of that first entry. For further discussion of this issue, *see* the I&D Memorandum.

Assessment Rates

Because the Department is rescinding Marvin Furniture's NSR, the assessment rate to which Marvin Furniture's shipments will be subject will not be affected by this review. The assessment rate, however, could change because the Department is currently conducting an administrative review of the antidumping duty order on WBF from the PRC covering the period of January 1, 2011, through December 31, 2011.[19] Effective upon publication of this notice, the Department will instruct CBP to continue to suspend entries during the period January 1, 2011, through December 31, 2011, of subject merchandise exported by Marvin Furniture until CBP receives instructions relating to the administrative review of the WBF order covering the period January 1, 2011, through December 31, 2011.

Cash Deposit Requirements

Effective upon publication of this notice of final rescission of the NSR of Marvin Furniture, the Department will instruct CBP to discontinue the option of posting a bond or security in lieu of a cash deposit for entries of subject merchandise exported by Marvin Furniture. Cash deposits will continue to be required for exports of subject merchandise by Marvin Furniture entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice at the PRC-wide rate, 216.01 percent.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

[19] *See Wooden Bedroom Furniture from the People's Republic of China: Initiation of Administrative Review,* 77 FR 12235 (February 29, 2012).

Return or Destruction of Proprietary Information

This notice serves as a reminder to parties subject to the administrative protective order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under the APO in accordance with 19 CFR 351.305(a)(3) which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with sections 751(a)(2)(B) and 777(i) of the Tariff Act of 1930, as amended and 19 CFR 351.214(f).

Dated: April 3, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2012–8599 Filed 4–9–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 120224144–2069–01]

Announcing DRAFT Revisions to Federal Information Processing Standard (FIPS) 186–3, Digital Signature Standard (DSS), and Request for Comments

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice and Request for Comments.

SUMMARY: The National Institute of Standards and Technology (NIST) requests comments on revisions to Federal Information Processing Standard (FIPS) 186–3, Digital Signature Standard, which was approved in January 2009. The proposed revisions are available at *http://csrc.nist.gov/publications/PubsDrafts.html.*

DATES: Comments must be received on or before May 25, 2012.

ADDRESSES: Written comments may be sent to: Chief, Computer Security Division, Information Technology Laboratory, Attention: Draft Change Notice FIPS 186–3, 100 Bureau Drive, Mail Stop 8930, National Institute of Standards and Technology, Gaithersburg, MD 20899–8930. Electronic comments may be sent to: *fips_186–3_change_notice@nist.gov,* with ''186–3 Change Notice'' in the subject line.

FOR FURTHER INFORMATION CONTACT: Elaine Barker, Computer Security Division, National Institute of Standards and Technology, Gaithersburg, MD 20899–8930, phone: 301–975–2911, email *elaine.barker@nist.gov.*

SUPPLEMENTARY INFORMATION: FIPS 186, first published in 1994, specified a digital signature algorithm (DSA) to generate and verify digital signatures. Later revisions (FIPS 186–1, FIPS 186–2, and FIPS 186–3, adopted in 1998, 1999 and 2009, respectively) adopted two additional algorithms: The Elliptic Curve Digital Signature Algorithm (ECDSA) and the RSA digital signature algorithm.

NIST is seeking public comment on proposed revisions to FIPS 186–3. This proposed revision:

- Clarifies terms used within the FIPS;
- Allows the use of any random bit/number generator that is approved for use in FIPS–140-validated modules;
- Reduces restrictions on the retention and use of prime number generation seeds for generating RSA key pairs;
- Corrects statements in FIPS 186–3 regarding the generation of the integer k, which is used as a secret number in the generation of DSA and ECDSA digital signatures;
- Corrects a typographical error in the processing steps of secret number generation for ECDSA;
- Corrects the wording of the criteria for generating RSA key pairs; and
- Aligns the specification for the use of a salt with RSASSA–PSS digital signatures scheme with Public Key Cryptography Standard (PKCS) #1.

Authority: In accordance with the Information Technology Management Reform Act of 1996 (Pub. L. 104–106) and the Federal Information Security Management Act of 2002 (FISMA) (Pub. L. 107–347), the Secretary of Commerce is authorized to approve Federal Information Processing Standards (FIPS). NIST activities to develop computer security standards to protect Federal sensitive (unclassified) information systems are undertaken pursuant to specific responsibilities assigned to NIST by section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3), as amended by section 303 of FISMA.

E.O. 12866: This notice has been determined not to be significant for the purposes of E.O. 12866.

Dated: March 30, 2012.

Willie E. May,

Associate Director for Laboratory Programs.

[FR Doc. 2012–8573 Filed 4–9–12; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XB094

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Sturgeon Research in the Gulf of Mexico

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; receipt of application for letter of authorization; request for comments and information.

SUMMARY: NMFS has received a request from the U.S. Fish and Wildlife Service (USFWS) for authorization to take small numbers of marine mammals incidental to conducting sturgeon research in the Gulf of Mexico, over the course of 5 years from the date of issuance. Pursuant to regulations implementing the Marine Mammal Protection Act (MMPA), NMFS is announcing receipt of USFWS's request for the development and implementation of regulations governing the incidental taking of marine mammals and inviting information, suggestions, and comments on USFWS's application and request.

DATES: Comments and information must be received no later than May 10, 2012.

ADDRESSES: Comments on the application should be addressed to Tammy Adams, Acting Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225. The mailbox address for providing email comments is *ITP.Laws@noaa.gov.* Comments sent via email, including all attachments, must not exceed a 10-megabyte file size.

FOR FURTHER INFORMATION CONTACT: Ben Laws, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Availability

A copy of USFWS's application may be obtained by writing to the address specified above (see **ADDRESSES**), telephoning the contact listed above (see **FOR FURTHER INFORMATION CONTACT**), or visiting the internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications.*

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) if certain findings are made and regulations are issued or, if the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings may be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for certain subsistence uses, and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such taking are set forth.

NMFS has defined 'negligible impact' in 50 CFR 216.103 as ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.'' Except with respect to certain activities not pertinent here, the MMPA defines 'harassment' as: ''any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].''

Summary of Request

On January 27, 2012, NMFS received a complete application from USFWS requesting authorization for take of four species of marine mammals incidental to sturgeon research conducted by and in collaboration with USFWS. The requested regulations would be valid for 5 years from the date of issuance. As a result of this research, it is possible that marine mammals may be entangled in gill nets, resulting in injury, serious injury, or mortality. Because the specified activities have the potential to take marine mammals present within the action area, USFWS requests authorization to take bottlenose dolphins (*Tursiops truncatus*), Atlantic spotted dolphins (*Stenella frontalis*), pantropical spotted dolphins (*S. attenuata*), and striped dolphins (*S. coeruleoalba*).

Specified Activities

The USFWS is working with NMFS, the U.S. Geological Survey, and other partners on several wide-ranging projects across inshore waters of the Gulf of Mexico in designated critical habitat areas for the Gulf sturgeon (*Acipenser oxyrinchus desotoi*). The Gulf sturgeon was listed in 1991 as threatened under the Endangered Species Act. Sturgeon research projects include: (1) A Natural Resource Damage Assessment (NRDA) project entitled ''Mississippi Canyon 252 Assessment Plan for the Collection of Data to Determine Potential Exposure and Injuries of Threatened Gulf Sturgeon''; (2) an annual summer and fall census; and (3) fine-scale movement and habitat assessment within and nearby Choctawhatchee Bay, FL. Sampling locations will occur in Florida, Mississippi, and Louisiana, throughout the Pearl, Pascagoula, Escambia, Yellow, Blackwater, Choctawhatchee, Apalachicola, and Suwannee rivers and their associated bays near the river mouths.

These research projects involve the use of gill nets to capture sturgeon in order to assess physical condition, implant telemetry transmitters, and collect census information, among other objectives. The USFWS recorded two deaths of bottlenose dolphins in 2011 as a result of entanglement and subsequent asphyxiation in gill nets deployed for sturgeon research—the only two records of interactions with marine mammals in 26 years of USFWS survey effort. Since that incident, USFWS has begun implementing avoidance measures designed in consultation with NMFS. Although entanglement of marine mammals in gill nets deployed for sturgeon research is extremely rare, and the likelihood of such an event is further reduced by the use of avoidance measures, the possibility remains that USFWS could incidentally take marine mammals in the course of conducting future sturgeon research.

A more detailed description of the sturgeon research conducted by USFWS may be found in USFWS' application, which is available at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm.*

Information Solicited

Interested persons may submit information, suggestions, and comments concerning USFWS's request (see **ADDRESSES**). All information, suggestions, and comments related to USFWS's request and NMFS' potential

development and implementation of regulations governing the incidental taking of marine mammals by USFWS will be considered by NMFS in developing, if appropriate, regulations governing the issuance of letters of authorization.

Dated: April 4, 2012.

Helen M. Golde,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2012–8602 Filed 4–9–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA967

Whaling Provisions; Aboriginal Subsistence Whaling Quotas

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; notification of quota for bowhead whales.

SUMMARY: NMFS notifies the public of the aboriginal subsistence whaling quota for bowhead whales that it has assigned to the Alaska Eskimo Whaling Commission (AEWC), and of limitations on the use of the quota deriving from regulations adopted at the 59th Annual Meeting of the International Whaling Commission (IWC). For 2012, the quota is 75 bowhead whales struck. This quota and other applicable limitations govern the harvest of bowhead whales by members of the AEWC.

DATES: Effective April 10, 2012.

ADDRESSES: Office of International Affairs, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Melissa Andersen, (301) 427–8385.

SUPPLEMENTARY INFORMATION: Aboriginal subsistence whaling in the United States is governed by the Whaling Convention Act (16 U.S.C. 916 *et seq.*). Regulations that implement the Act, found at 50 CFR 230.6, require the Secretary of Commerce (Secretary) to publish, at least annually, aboriginal subsistence whaling quotas and any other limitations on aboriginal subsistence whaling deriving from regulations of the IWC.

At the 59th Annual Meeting of the IWC, the Commission set catch limits for aboriginal subsistence use of bowhead whales from the Bering-Chukchi-Beaufort Seas stock. The bowhead catch limits were based on a joint request by the United States and the Russian Federation, accompanied by documentation concerning the needs of two Native groups: Alaska Eskimos and Chukotka Natives in the Russian Far East.

The IWC set a 5-year block quota of 280 bowhead whales landed. For each of the years 2008 through 2012, the number of bowhead whales struck may not exceed 67, except that any unused portion of a strike quota from any prior year, including 15 unused strikes from the 2003 through 2007 quota, may be carried forward. No more than 15 strikes may be added to the strike quota for any one year. At the end of the 2011 harvest, there were 15 unused strikes available for carry-forward, so the combined strike quota set by the IWC for 2012 is 82 (67 + 15).

An arrangement between the United States and the Russian Federation ensures that the total quota of bowhead whales landed and struck in 2012 will not exceed the limits set by the IWC. Under this arrangement, the Russian natives may use no more than seven strikes, and the Alaska Eskimos may use no more than 75 strikes.

Through its cooperative agreement with the AEWC, NOAA has assigned 75 strikes to the Alaska Eskimos. The AEWC will in turn allocate these strikes among the 11 villages whose cultural and subsistence needs have been documented, and will ensure that its hunters use no more than 75 strikes.

Other Limitations

The IWC regulations, as well as the NOAA regulation at 50 CFR 230.4(c), forbid the taking of calves or any whale accompanied by a calf.

NOAA regulations (at 50 CFR 230.4) contain a number of other prohibitions relating to aboriginal subsistence whaling, some of which are summarized here:

- Only licensed whaling captains or crew under the control of those captains may engage in whaling.
- Captains and crew must follow the provisions of the relevant cooperative agreement between NOAA and a Native American whaling organization.
- The aboriginal hunters must have adequate crew, supplies, and equipment to engage in an efficient operation.
- Crew may not receive money for participating in the hunt.
- No person may sell or offer for sale whale products from whales taken in the hunt, except for authentic articles of Native American handicrafts.
- Captains may not continue to whale after the relevant quota is taken, after the season has been closed, or if their licenses have been suspended. They may not engage in whaling in a wasteful manner.

Dated: April 5, 2012.

Rebecca J. Lent,

Director, Office of International Affairs, National Marine Fisheries Service.

[FR Doc. 2012–8611 Filed 4–9–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF EDUCATION

Notice of Submission for OMB Review; Federal Student Aid; Comprehensive Transition Programs (CTP) for Students With Intellectual Disabilities Expenditure Report

SUMMARY: The Higher Education Opportunity Act, Public Law 110–315, added provisions for the Higher Education Act, as amended in section 750 and 766 that enable eligible students with intellectual disabilities to receive Federal Pell Grant, Supplemental Educational Opportunity Grant, and Federal Work Study funds if they are enrolled in an approved program. The CTP Expenditure Report is the tool for reporting the use of these specific funds.

DATES: Interested persons are invited to submit comments on or before May 10, 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. 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 04770. 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.

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 Acting 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. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Comprehensive Transition Programs for Students with Intellectual Disabilities Expenditure Report.

OMB Control Number: Pending.

Type of Review: New.

Total Estimated Number of Annual Responses: 10.

Total Estimated Number of Annual Burden Hours: 20.

Dated: April 5, 2012.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2012–8574 Filed 4–9–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Submission for OMB Review; Office of Innovation and Improvement; Transition to Teaching Evaluation

SUMMARY: The Transition to Teaching (TTT) grant program provides five-year grants to eligible applicants to develop and implement a comprehensive approach to recruit, select, prepare, place, certify, support, and retain mid-career professionals, including highly qualified paraprofessionals, and recent college graduates.

DATES: Interested persons are invited to submit comments on or before May 10, 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. 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 04794. 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.

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. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Transition to Teaching Evaluation.

OMB Control Number: 1855–0018.

Type of Review: Extension.

Total Estimated Number of Annual Responses: 42.

Total Estimated Number of Annual Burden Hours: 42.

Abstract: This is a request for approval to collect information from TTT grantees that will be used to describe the extent to which local education agencies that received TTT grant funds have met the goals relating to teacher recruitment and retention described in their application. TTT grantees are funded for a period of five years. Currently, grantees are required by statute to submit an interim project evaluation to the U.S. Department of Education (ED) at the end of the third project year and a final project evaluation at the project's end. In turn, the TTT program is required to prepare and submit to the Secretary and to Congress interim and final program evaluations containing the results of these grantee project evaluation reports. An analysis of these reports has provided some data on grantee activities, prior to the usage of the TTT survey, missing or incomplete data made it difficult to aggregate data across grantees in order to accurately describe to Congress the extent of program implementation. This data collection allows ED to gather data on a common set of indicators across grantees in order to describe and improve program inplementation with the end goal of improving program performance.

Dated: April 4, 2012.

Darrin A. King,

Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2012–8576 Filed 4–9–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Submission for OMB Review; Federal Student Aid; Teacher Cancellation Low Income Directory

SUMMARY: The Teacher Cancellation Low Income (TCLI) Directory is the online data repository of elementary and secondary schools and educational service agencies that serve low-income families. State and Territory agencies report these schools to the TCLI Directory.

DATES: Interested persons are invited to submit comments on or before May 10, 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. 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 04769. 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.

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 Acting 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. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Teacher Cancellation Low Income Directory.

OMB Control Number: 1845–0077.

Type of Review: Extension.

Total Estimated Number of Annual Responses: 114.

Total Estimated Number of Annual Burden Hours: 6,840.

Abstract: Institutions of higher education, as well as the U.S. Department of Education, use the TCLI Directory to assist students in determining if the schools they may teach at upon completing their degrees meet the qualifications for receiving the loan cancellations or receiving the TEACH Grant as grant funds. The purpose of the TCLI Directory is to provide a single location for the public to find the list of schools and educational service agencies that are reported. By teaching at one of these schools, recipients of Federal Perkins Loans and Direct Loans may qualify for loan cancellation as provided under Title I of the Elementary and Secondary Education Act of 1965. Additionally teaching at one of these schools is a requirement for the TEACH Grant program.

Dated: April 5, 2012.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2012–8575 Filed 4–9–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Elementary and Secondary School Counseling Programs

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

Overview Information: Elementary and Secondary School Counseling Programs Notice inviting applications for new awards for fiscal year (FY) 2012.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.215E.

DATES: *Applications Available:* April 10, 2012.

Deadline for Transmittal of Applications: May 25, 2012.

Deadline for Intergovernmental Review: July 24, 2012.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the Elementary and Secondary School Counseling Programs is to support efforts by local educational agencies (LEAs) to establish or expand elementary school and secondary school counseling programs.

Priorities: This notice contains two absolute and three competitive preference priorities. The absolute priorities are from section 5421 of the Elementary and Secondary Education Act of 1965, as amended (ESEA) (20 U.S.C. 7245) and from the notice of Supplemental Priorities for Discretionary Grant Programs, published in the Federal Register on December 15, 2010 (75 FR 78485), and corrected on May 12, 2011 (76 FR 27637) (the ''Supplemental Priorities''). The competitive preference priorities are from the Supplemental Priorities and the notice of final priority published in the **Federal Register** on December 16, 2011 (76 FR 78250).

Absolute Priorities: For FY 2012 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, these priorities are absolute priorities. Under 34 CFR 75.105(c)(3) we consider only applications that meet these priorities.

These priorities are:

Absolute Priority 1: Establish or expand counseling programs in elementary schools, secondary schools, or both.

Absolute Priority 2: Enabling More Data-Based Decision-Making.

Projects that are designed to collect (or obtain), analyze, and use high-quality and timely data, including data on program participant outcomes, in accordance with privacy requirements (as defined in this notice), in the following priority area: improving instructional practices, policies, and student outcomes in elementary or secondary schools.

Competitive Preference Priorities: For FY 2012 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i), we award up to an additional 5 points to an application, depending on how well the application meets one of the following three priorities. Applicants may address more than one of the competitive preference priorities; however, the Department will review and award points under only one of the priorities. Therefore, an applicant must identify in its application the competitive preference priority under which it is seeking points. An applicant must identify in the abstract section of its application the priority it wishes the Department to consider for purposes of earning competitive preference priority points.

Note: The Department will not review or award points under any competitive preference priority for an application that (1) fails to clearly identify in the abstract the competitive preference priority the applicant wishes the Department to consider for purposes of earning competitive preference priority points, or (2) identifies more than one competitive preference priority the applicant wishes the Department to consider for purposes of earning competitive preference priority points.

These priorities are:

Competitive Preference Priority 1: Projects Serving Students Residing on Indian Lands.

Under this priority, we give priority to applications for projects that are

proposed by any eligible entity serving students residing on ''Indian lands'' as that term is defined by section 8013 of the ESEA (20 U.S.C. 7713(7)). The eligible entity must be the only applicant or the lead applicant in a consortium of eligible entities.

Competitive Preference Priority 2: Turning Around Persistently Lowest-Achieving Schools.

Under this priority, we give priority to applications for projects providing services to students enrolled in persistently lowest-achieving schools (as defined in this notice).

Note: For the purposes of this priority, the Department considers schools that are identified as Tier I or Tier II schools under the School Improvement Grants Program (see 75 FR 66363) as part of a State's approved FY 2009 or FY 2010 application to be persistently lowest-achieving schools. A list of these Tier I and Tier II schools can be found on the Department's Web site at *www2.ed.gov/programs/sif/index.html.*

Competitive Preference Priority 3: Support for Military Families.

Under this priority, we give priority to applications for projects that are designed to address the needs of military-connected students (as defined in this notice).

Definitions: The following definitions are from 34 CFR part 77 and the Supplemental Priorities and apply to this competition. Additional definitions applicable to this program are found in the authorizing statute for this program at 20 U.S.C. 7245 and in the program regulations in 34 CFR part 77, and they will be included in the application package.

Elementary school means a day or residential school that provides elementary education, as determined under State law.

Secondary school means a day or residential school that provides secondary education, as determined under State law. In the absence of State law, the Secretary may determine, with respect to that State, whether the term includes education beyond the twelfth grade.

Military-connected student means (a) a child participating in an early learning program, a student in preschool through grade 12, or a student enrolled in postsecondary education or training who has a parent or guardian on active duty in the uniformed services (as defined by 37 U.S.C. 101, in the Army, Navy, Air Force, Marine Corps, Coast Guard, National Guard, or the reserve component of any of the aforementioned services) or (b) a student who is a veteran of the uniformed services, who is on active duty, or who is the spouse of an active-duty service member.

Persistently lowest-achieving schools means, as determined by the State: (i) Any Title I school in improvement, corrective action, or restructuring that (a) is among the lowest-achieving five percent of Title I schools in improvement, corrective action, or restructuring or the lowest-achieving five Title I schools in improvement, corrective action, or restructuring in the State, whichever number of schools is greater; or (b) is a high school that has had a graduation rate as defined in 34 CFR 200.19(b) that is less than 60 percent over a number of years; and (ii) any secondary school that is eligible for, but does not receive, Title I funds that: (a) Is among the lowest-achieving five percent of secondary schools or the lowest-achieving five secondary schools in the State that are eligible for, but do not receive, Title I funds, whichever number of schools is greater; or (b) is a high school that has had a graduation rate as defined in 34 CFR 200.19(b) that is less than 60 percent over a number of years.

To identify the persistently lowest achieving schools, a State must take into account both: (i) The academic achievement of the ''all students'' group in a school in terms of proficiency on the State's assessments under section 1111(b)(3) of the ESEA in reading/language arts and mathematics combined; and (ii) the school's lack of progress on those assessments over a number of years in the ''all students'' group.

Privacy requirements means the requirements of the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g, and its implementing regulations in 34 CFR part 99, the Privacy Act, 5 U.S.C. 552a, as well as all applicable Federal, State and local requirements regarding privacy.

Program Authority: 20 U.S.C. 7245.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82, 84, 85, 97, 98, and 99. (b) The regulations in 34 CFR part 299. (c) The notice of final eligibility requirements for the Office of Safe and Drug-Free Schools discretionary grant programs published in the **Federal Register** on December 4, 2006 (71 FR 70369). (d) The notice of final priority for the Office of Safe and Healthy Students discretionary grant programs published in the **Federal Register** on December 16, 2011 (76 FR 78250). (e) The Supplemental Priorities.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $21,305,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards later in FY 2012 and in subsequent years from the list of unfunded applicants from this competition.

Estimated Range of Awards: $250,000–$400,000.

Estimated Average Size of Awards: $350,000.

Maximum Award: We will reject any application that proposes a budget exceeding $400,000 for a single budget period of 12 months.

Note: Section 5421(a)(5) of the ESEA limits the amount of a grant under this program in any one year to a maximum of $400,000.

Estimated Number of Awards: 61.

Note: Section 5421(g)(1) of the ESEA requires that for any fiscal year in which the amount of funds made available by the Secretary for this program equals or exceeds $40,000,000, the Secretary shall award not less than $40,000,000 to enable LEAs to establish or expand counseling programs in elementary schools. Under this notice, applicants may propose projects that establish or expand counseling programs in elementary schools, secondary schools, or both.

Note: We will use the highest grade level an applicant proposes to serve under its grant, along with the information obtained by examining the applicant State's law that defines what grade levels constitute an elementary school in the State, to determine if the application will be considered for funding from amounts available for elementary school counseling programs only, from amounts available for elementary or secondary school counseling programs, or both.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months. Budgets should be developed for each year of funding requested up to 36 months.

III. Eligibility Information

1. *Eligible Applicants:* (a) LEAs, including charter schools that are considered LEAs under State law.

(b) LEAs that currently have an active grant under the Elementary and Secondary School Counseling Programs are not eligible to apply for an award in this competition. For the purpose of this eligibility requirement, a grant is considered active until the end of the grant's project or funding period, including any extensions of those periods that extend the grantee's authority to obligate funds.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Supplement-Not-Supplant:* This program has supplement-not-supplant funding requirements. Section 5421(b)(2)(G) of the ESEA requires applicants under this program to assure that program funds will be used to supplement, and not supplant, any other Federal, State, or local funds used for providing school-based counseling and mental health services to students.

IV. Application and Submission Information

1. *Address To Request Application Package:* You can obtain an application package via the Internet or from the Education Publications Center (ED Pubs). To obtain a copy via the Internet, use the following address: *www.ed.gov/programs/elseccounseling/applicant.html.* To obtain a copy from ED Pubs, write, fax, or call the following: ED Pubs, U.S. Department of Education, P.O. Box 22207 Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. Fax: (703) 605–6794. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify this program or competition as follows: CFDA number 84.215E.

Individuals with disabilities can obtain a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the program contact person listed under Accessible Format in section VII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program.

Page Limit: The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit the application narrative to no more than 25 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, the page limit does apply to all of the application narrative section [Part III].

Our reviewers will not read any pages of your application that exceed the page limit.

3. *Submission Dates and Times:*

Applications Available: April 10, 2012.

Deadline for Transmittal of Applications: May 25, 2012.

Applications for grants under this program must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 7. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII in this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice. Deadline for Intergovernmental Review: July 24, 2012.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

5. *Funding Restrictions:* Section 5421(d) of the ESEA requires that no more than four percent of a grant award may be used for administrative costs to carry out the project. We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section in this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and Central Contractor Registry:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the Central Contractor Registry (CCR), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active CCR registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number can be created within one business day.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow two to five weeks for your TIN to become active. The CCR registration process may take five or more business days to complete. If you are currently registered with the CCR, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your CCR registration on an annual basis. This may take three or more business days to complete.

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/applicants/get_registered.jsp.*

7. *Other Submission Requirements:* Applications for grants under this program must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. Electronic Submission of Applications

Applications for grants under the Elementary and Secondary School Counseling Program, CFDA number 84.215E, must be submitted electronically using the Governmentwide Grants.gov Apply site

at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the Elementary and Secondary School Counseling Programs at *www.Grants.gov.* You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.215, not 84.215E).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this program to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *www.G5.gov.*
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).
- We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the Grants.gov system; *and*
- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked

no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Lisa Harrison, U.S. Department of Education, 550 12th Street SW., Room 10070, Potomac Center Plaza (PCP), Washington, DC 20202–6450. Fax: (202) 245–7166 or Loretta McDaniel, U.S. Department of Education, 550 12th Street SW., Room 10080, Potomac Center Plaza (PCP), Washington, DC 20202–6450. Fax: (202) 245–7166.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. Submission of Paper Applications by Mail

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.215E), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. Submission of Paper Applications by Hand Delivery

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.215E), 550 12th Street SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are from 34 CFR 75.210 of EDGAR and are listed in the application package.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

Additional factors we consider in selecting an application for an award are from section 5421(a)(3) of the ESEA, which requires an equitable geographic distribution among the regions of the United States and among LEAs located in urban, rural, and suburban areas.

3. *Special Conditions:* Under 34 CFR 74.14 and 80.12, the Secretary may impose special conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 34 CFR parts 74 or 80, as applicable; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notice (GAN). We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section in this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section in this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html*.

4. *Performance Measures:* The Department has established the following Government Performance and Results Act of 1993 (GPRA) performance measures for the Elementary and Secondary School Counseling Programs:

(1) the percentage of grantees closing the gap between their student/mental health professional ratios and the student/mental health professional ratios recommended by the statute; and (2) the average number of referrals per grant site for disciplinary reasons in schools participating in the program.

These measures constitute the Department's indicators of success for this program. Consequently, we advise an applicant for a grant under this program to give careful consideration to these measures in conceptualizing the approach and evaluation for the applicant's proposed project. Each grantee will be required to provide, in its annual performance and final reports, data about the grantee's progress against these measures.

5. *Continuation Awards:* In making a continuation award, the Secretary may consider, under 34 CFR 75.253, the extent to which a grantee has made ''substantial progress toward meeting the objectives in its approved application.'' This consideration includes the review of a grantee's progress in meeting the targets and projected outcomes in its approved application, and whether the grantee has expended funds in a manner that is consistent with its approved application and budget. In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contacts

FOR FURTHER INFORMATION CONTACT: Lisa Harrison, U.S. Department of Education, 550 12th Street SW., room 10070, Potomac Center Plaza (PCP), Washington, DC 20202–6450. Telephone: 202–245–7873 or by email: *Lisa.Harrison@ed.gov* or Loretta McDaniel, U.S. Department of Education, 550 12th Street, SW., room 10080, Potomac Center Plaza (PCP), Washington, DC 20202–6450. Telephone: 202–245–7870 or by email: *Loretta.McDaniel@ed.gov*.

If you use a TDD or TTY, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an alternative format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII in this notice.

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 the 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: April 5, 2012.

Michael Yudin,

Acting Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2012–8616 Filed 4–9–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Proposed Priorities; Disability and Rehabilitation Research Projects and Centers Program

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

Overview Information:

CFDA Number: 84.133E–1 and 84.133E–3.

Proposed Priorities—National Institute on Disability and Rehabilitation Research (NIDRR)—Disability and Rehabilitation Research Projects and Centers Program—Rehabilitation Engineering Research Centers (RERCs).

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services proposes two priorities for the Disability and Rehabilitation Research Projects and Centers Program administered by NIDRR. Specifically, this notice proposes two priorities for RERCs: Recreational Technologies and Exercise Physiology Benefiting Individuals with Disabilities (Proposed Priority (1) and Rehabilitation Robotics (Proposed Priority (2)). The Assistant Secretary may use one or more of these priorities for competitions in fiscal year (FY) 2012 and later years. We take this action to focus research attention on areas of national need. We intend to use these priorities to improve rehabilitation services and outcomes for individuals with disabilities.

DATES: We must receive your comments on or before May 10, 2012.

ADDRESSES: Address all comments about this notice to Marlene Spencer, U.S. Department of Education, 400 Maryland Avenue SW., room 5133, Potomac Center Plaza (PCP), Washington, DC 20202–2700.

If you prefer to send your comments by email, use the following address: *Marlene.Spencer@ed.gov.* You must include the term ''Proposed Priorities for RERCs'' and the priority title in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: Marlene Spencer. Telephone: (202) 245–7532 or by email: *Marlene.Spencer@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: This notice of proposed priorities is in concert with NIDRR's currently approved Long-Range Plan (Plan). The Plan, which was published in the **Federal Register** on February 15, 2006 (71 FR 8165), can be accessed on the Internet at the following site: *www.ed.gov/about/offices/list/osers/nidrr/policy.html.*

Through the implementation of the Plan, NIDRR seeks to: (1) Improve the quality and utility of disability and rehabilitation research; (2) foster an exchange of expertise, information, and training to facilitate the advancement of knowledge and understanding of the unique needs of traditionally underserved populations; (3) determine best strategies and programs to improve rehabilitation outcomes for underserved populations; (4) identify research gaps; (5) identify mechanisms of integrating research and practice; and (6) disseminate findings.

This notice proposes two priorities that NIDRR intends to use for RERC competitions in FY 2012 and possibly later years. However, nothing precludes NIDRR from publishing additional priorities, if needed. Furthermore, NIDRR is under no obligation to make awards for these priorities. The decision to make an award will be based on the quality of applications received and available funding.

Invitation to Comment: We invite you to submit comments regarding this notice. To ensure that your comments have maximum effect in developing the

notice of final priorities, we urge you to identify clearly the specific proposed priority that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from these proposed priorities. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this notice in room 5140, 550 12th Street, SW., PCP, Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

Purpose of Program: The purpose of the Disability and Rehabilitation Research Projects and Centers Program is to plan and conduct research, demonstration projects, training, and related activities, including international activities; to develop methods, procedures, and rehabilitation technology that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities; and to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (Rehabilitation Act).

Rehabilitation Engineering Research Centers Program (RERCs)

The purpose of NIDRR's RERCs, which are funded through the Disability and Rehabilitation Research Projects and Centers Program, is to improve the effectiveness of services authorized under the Rehabilitation Act. It does so by conducting advanced engineering research, developing and evaluating innovative technologies, facilitating service delivery system changes, stimulating the production and distribution of new technologies and equipment in the private sector, and providing training opportunities. RERCs seek to solve rehabilitation problems and remove environmental barriers to improvements in employment, community living and participation, and health and function outcomes of individuals with disabilities.

The general requirements for RERCs are set out in subpart D of 34 part 350 (What Rehabilitation Engineering Research Centers Does the Secretary Assist?).

Additional information on the RERC program can be found at: *www.ed.gov/rschstat/research/pubs/index.html.*

Program Authority: 29 U.S.C. 762(g) and 764(b)(3).

Applicable Program Regulations: 34 CFR part 350.

Proposed Priorities

This notice contains two proposed priorities. *Proposed Priority 1—Recreational Technologies and Exercise Physiology Benefiting Individuals with Disabilities.*

Background

Individuals with disabilities engage in physical activity, or movement that enhances health, far less often than individuals without disabilities, despite the consistent evidence indicating the benefits of regular physical activity for their health and well-being (Institute of Medicine, 2007). Environmental barriers, such as inaccessible facilities, equipment, and recreational programs, continue to limit participation in physical and recreational activities among individuals with disabilities. Another factor impeding more engagement in physical activity among this population is limited knowledge about safe and appropriate levels of exercise. New knowledge in this area could be used to guide clinicians, other practitioners, and individuals with disabilities as they make decisions about optimal levels of participation in physical and recreational activities.

While modifications to recreational facilities and equipment, such as the addition of swing-away seats to allow use from a wheelchair or the addition of braille instructions for the equipment, are becoming more common, these modifications are not universally available. Inaccessibility of recreational equipment and environments remains a primary barrier to participation in physical activities (Kailes, 2011). In addition to modifying existing facilities and equipment, there are novel recreational technologies that need to be tested for use by individuals with disabilities. For example, virtual reality (VR) and body movement tracking video-game technologies offer an emerging and highly promising method for promoting, monitoring, and supporting greater participation in physical activity by individuals with disabilities.

For those individuals with disabilities who do engage in physical activity, there is little evidence about the amount of physical activity and energy expenditure required to promote health and function and prevent secondary conditions (Rimmer, Chen, McCubbin, Drum, Peterson, 2010). The development of new methods and techniques or adaptation of existing technologies that can estimate the intensity and frequency of physical activity (e.g., pedometers, accelerometers, and data-logging technologies) could be an effective means of promoting health and function for specific disability populations (Hiremath & Ding, 2011).

For these reasons, NIDRR seeks to fund research and development activities that will facilitate equitable access to, and safe use of, recreational equipment, facilities, and recreational programs, and that will increase physical health and reduce secondary conditions associated with disability and sedentary lifestyle.

References

Hiremath SV, Ding D. (2011). Regression equations for RT3 activity monitors to estimate energy expenditure in manual wheelchair users. Conference Proceedings IEEE Engineering in Medicine and Biology Society. Aug; 2011:7348–51.

Institute of Medicine. (2007). Adequacy of Evidence for Physical Activity Guidelines Development: Workshop summary. Washington, DC: The National Academies Press.

Kailes, J.I. (2011). Using a fitness center does not have to be an exercise in frustration: Tips for people with mobility and visual disabilities. Retrieved January 25, 2012, from *http://www.ncpad.org/programming/fact_sheet.php?sheet=812&view=all&print=yes.*

Rimmer, J.H., Chen, M.D., McCubbin, J.A., Drum, C., Peterson, J. (2010). Exercise intervention research on persons with disabilities: What we know and where we need to go. American Journal of Physical Medicine & Rehabilitation. 89(3): 249–63.

Rimmer, J.H., Hsieh, K., Graham, B.C., Gerber, B.S., Gray-Stanley, J.A. (2010). Barrier removal in increasing physical activity levels in obese African American women with disabilities. Journal of Womens Health. 19(10): 1869–76.

Proposed Priority 2—Rehabilitation Robotics

Background

Individuals working in the field of rehabilitation robotics develop robotic systems that assist persons who have a disability that affects object manipulation, mobility, and cognitive functions, or that provide therapy for persons seeking to improve physical functions (Van der Loos & Reinkensmeyer, 2008). Advances in assistance and therapy robotics can be used to improve outcomes of individuals with disabilities in one or more major life domains identified in NIDRR's currently approved Long Range Plan, published in the **Federal Register** on February 15, 2006 (71 FR 8165): health and function, community living and participation, and employment.

Assistance robots generally fall into three categories: Those that provide assistance with object manipulation, mobility, or cognition. Examples of assistance robots include manipulator arms, wheelchairs with semi-autonomous navigation assistance, and cognitive aids that, for example, respond to sound, light, and contact to facilitate social interaction with children with autism and elderly adults with dementia (Van der Loos & Reinkensmeyer, 2008). There are a number of challenges associated with the design and widespread use of assistance robots for individuals with disabilities. For example, assistance robots typically need to be personalized to meet the specific needs, circumstances, and functional abilities of the individuals with disabilities using them. This need for individualization places practical limits on the design, marketing, and widespread distribution of these technological solutions. Another challenge is ensuring the safety of individuals who use assistance robots, while maintaining the assistance robots' autonomy and optimal utility to the user (Van der Loos & Reinkensmeyer, 2008).

Although current assistance robots show promise in providing individuals with disabilities greater independence and more choice in rehabilitation therapies, new advances in rehabilitation robotics are needed to optimize their value and utility. For example, robotic manipulator arms can be enhanced to increase the speed and strength of the arm, while monitoring and adjusting the strength of the end component of the robotic arm, known as the end effector or end of arm tool (EOAT). With this enhancement, the manipulated objects are not crushed by the EOAT. Also, electric powered wheelchairs could adopt technologies from mobile robots in order to provide more intuitive operation with less user vigilance and strain. This could include integrated sensors for natural obstacle detection and avoidance, docking or securing the wheelchair to a floor, and navigation assistance. In addition, there is a need for more research and development on robotic assistance aids for children and adults with cognitive impairments.

Therapy robots generally aid in rehabilitation therapies for both the upper and lower extremities of individuals with a neurological disability, such as a stroke or spinal cord injury. Therapy robots can provide therapy over long periods of time, make precise measurements of therapeutic physical interventions to a degree not easily matched in other types of therapies, and provide exercises that a physical therapist cannot (Emken & Reinkensmeyer, 2005; Patton, Phillips-Stoykov, Stojakovich, Mussa-Ivaldi, 2006).

Currently, therapy robots are found only in large medical and rehabilitation centers. There is a need to simplify, downsize, and develop home- and community-based robotic systems to allow safe, low-cost access to such therapy outside of large rehabilitation centers. Therapy robots can help extend the therapist's clinical capacity into the community clinic and the home while allowing greater access to rehabilitation services for individuals with disabilities. For example, therapy robots could be linked to telerehabilitation portals to allow therapists to work remotely with patients in home and community-clinic settings (McCue, Fairman, Pramuka, 2010).

The technology for robotics has made great advances in the last decade. Motors are now lighter and more powerful. Sensors are better and less expensive and batteries are greatly improved. These factors should help to facilitate the continuing growth of rehabilitation robotics, especially for wearable or lighter-weight robots. Accordingly, NIDRR seeks to fund an RERC that evaluates the efficacy of rehabilitation robotics and researches and develops innovative technologies and techniques to improve the current state of the science and usability of rehabilitation robotics for individuals with disabilities.

References

Emken, J. & Reinkensmeyer, D. (2005). Robot-enhanced motor learning: Accelerating internal model formation during locomotion by transient dynamic amplification, IEEE Transactions on Neural Systems and Rehabilitation Engineering, 99, 1–7.

McCue M, Fairman A, Pramuka M. (2010). Enhancing quality of life through telerehabilitation. Physical Medicine and Rehabilitation Clinics of North America, 21(1): 195–205.

Patton, J.L., Phillips-Stoykov, M.E., Stojakovich, M., Mussa-Ivaldi, F.A. (2006). Evaluation of robotic training forces that either enhance or reduce error in chronic hemiparetic stroke survivors. Experimental Brain Research, 168, 368–383.

Van der Loos, M. & Reinkensmeyer, D.J. (2008). Rehabilitation and Health Care Robotics. In: Springer Handbook of Robotics. Siciliano, Bruno; Khatib, Oussama (Eds.)

Proposed Priorities

The Assistant Secretary for Special Education and Rehabilitative Services proposes the following priorities for the establishment of (a) a Rehabilitation Engineering Research Center (RERC) on Recreational Technologies and Exercise Physiology Benefiting Individuals with Disabilities; and (b) an RERC on Rehabilitation Robotics. Within its designated priority research area, each RERC will focus on innovative technological solutions, new knowledge, and concepts that will improve the lives of individuals with disabilities.

(a) RERC on Recreational Technologies and Exercise Physiology Benefiting Individuals With Disabilities (Proposed Priority 1)

Under this priority, the RERC must research, develop, and evaluate innovative technologies and strategies that will enhance recreational and physical activity opportunities for individuals with disabilities. The RERC must research, develop, or adapt technologies to capture, monitor, and analyze energy expenditure levels in individuals with disabilities as they perform different recreational and physical activities, so that clinicians, researchers and individuals with disabilities can better estimate the intensity and frequency of physical activity required to promote health and function within specific disability populations. In addition, the RERC must facilitate access to, and use of, recreational and physical activity equipment, facilities, and recreational programs, that improve physical health and reduce debilitating secondary conditions associated with disability and sedentary lifestyle through such means as collaboration and communication with relevant stakeholders, technical assistance, and technology transfer, in addition to research and the development and testing of innovations.

(b) RERC on Rehabilitation Robotics (Proposed Priority 2)

Under this priority, the RERC must research, develop, and evaluate innovative technologies and strategies for the safe use of, and expanded access to, rehabilitation robotics by individuals with disabilities. This RERC must engage in research and development activities in the areas of both assistance and therapy robots for use by individuals with disabilities. The RERC must generate new knowledge and products that can improve the usability and utility of assistance robots so that they are more efficient and effective facilitators of independence and community participation. The RERC must also generate new knowledge and products that expand the use of therapy robots beyond large rehabilitation centers and into more community and home-based settings.

Requirements Applicable to Both Proposed Priorities

Under each priority, the RERC must be designed to contribute to the following outcomes:

(1) Increased technical and scientific knowledge relevant to its designated priority research area. The RERC must contribute to this outcome by conducting high-quality, rigorous research and development projects.

(2) Increased innovation in technologies, products, environments, performance guidelines, and monitoring and assessment tools applicable to its designated priority research area. The RERC must contribute to this outcome through the development and testing of these innovations.

(3) Improved research capacity in its designated priority research area. The RERC must contribute to this outcome by collaborating with the relevant industry, professional associations, institutions of higher education, health care providers, or educators, as appropriate.

(4) Improved usability and accessibility of products and environments in the RERC's designated priority research area. The RERC must contribute to this outcome by emphasizing the principles of universal design in its product research and development. For purposes of this section, the term ''universal design'' refers to the design of products and environments to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design.

(5) Improved awareness and understanding of cutting-edge developments in technologies within its designated priority research area. The RERC must contribute to this outcome by identifying and communicating with relevant stakeholders, including NIDRR, individuals with disabilities, their representatives, disability organizations, service providers, professional journals, manufacturers, and other interested parties regarding trends and evolving product concepts related to its designated priority research area.

(6) Increased impact of research in the designated priority research area. The RERC must contribute to this outcome by providing technical assistance to relevant public and private organizations, individuals with disabilities, employers, and schools on policies, guidelines, and standards related to its designated priority research area.

(7) Increased transfer of RERC-developed technologies to the marketplace. The RERC must contribute to this outcome by developing and implementing a plan for ensuring that all technologies developed by the RERC are made available to the public. The technology transfer plan must be developed in the first year of the project period in consultation with the NIDRR-funded Disability Rehabilitation Research Project, Center on Knowledge Translation for Technology Transfer.

In addition, under each priority, the RERC must—

- Have the capability to design, build, and test prototype devices and assist in the technology transfer and knowledge translation of successful solutions to relevant production and service delivery settings;
- Evaluate the efficacy and safety of its new products, instrumentation, or assistive devices;
- Provide as part of its proposal, and then implement, a plan that describes how it will include, as appropriate, individuals with disabilities or their representatives in all phases of its activities, including research, development, training, dissemination, and evaluation;
- Provide as part of its proposal, and then implement, in consultation with the NIDRR-funded National Center for the Dissemination of Disability Research, a plan to disseminate its research results to individuals with disabilities, their representatives, disability organizations, service providers, professional journals, manufacturers, and other interested parties;
- Conduct a state-of-the-science conference on its designated priority research area in the fourth year of the project period, and publish a comprehensive report on the final outcomes of the conference in the fifth year of the project period; and
- Coordinate research projects of mutual interest with relevant NIDRR-funded projects, as identified through consultation with the NIDRR project officer.

Types of Priorities

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final Priorities: We will announce the final priorities in a notice in the **Federal Register**. We will determine the final priorities after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use these priorities, we invite applications through a notice in the **Federal Register**.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or

adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or Tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement 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 stated in the Executive order.

This proposed regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only on a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are taking this regulatory action only on a reasoned determination that its benefits justify its costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this proposed priority is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action would not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits of this regulatory action. The potential costs associated with this regulatory action are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

The benefits of the Disability and Rehabilitation Research Projects and Centers Programs have been well established over the years in that similar projects have been completed successfully. These proposed priorities will generate new knowledge through research and development. Another benefit of these proposed priorities is that the establishment of new RERCs will improve the lives of individuals with disabilities. The new RERCs will generate, disseminate, and promote the use of new information that will improve the options for individuals with disabilities to fully participate in their communities.

Intergovernmental Review: This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue SW., room 5075, PCP, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a TDD, call the FRS, toll free, at 1–800–877–8339.

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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: April 5, 2012.

Alexa Posny,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2012–8614 Filed 4–9–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13287–004]

New York City Department of Environmental Protection; Notice of Application Accepted for filing And Soliciting Motions To Intervene and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Major project, existing dam.

b. *Project No.:* 13287–004.

c. *Date filed:* February 29, 2012.

d. *Applicant:* New York City Department of Environmental Protection.

e. *Name of Project:* Cannonsville Hydroelectric Project.

f. *Location:* On the West Branch of the Delaware River, near the Township of Deposit, Delaware County, New York. The project does not occupy any federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 USC 791 (a)–825(r).

h. *Applicant Contact:* Anthony J. Fiore, Chief of Staff—Operations, New York City Department of Environmental Protection, 59–17 Junction Blvd., Flushing, NY 11373–5108, (718) 595–6529 or *afiore@dep.nyc.gov.*

i. *FERC Contact:* John Mudre, (202) 502–8902 or *john.mudre@ferc.gov.*

j. Deadline for filing motions to intervene and protests: 60 days from the issuance date of this notice.

All documents may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters,

without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedures require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted for filing, but is not ready for environmental analysis at this time.

l. *Project facilities would include:* (1) An existing 2,800-foot-long, 45-foot-wide earthen embankment dam with a crest elevation of 1,175.0 feet above mean sea level; (2) an existing 800-foot-long stone masonry spillway; (3) an existing 12-mile-long, 4,670-acre impoundment (Cannonsville Reservoir); (4) four proposed penstocks branching from an existing 12-foot-diameter intake; (5) a proposed 168-foot-long by 54-foot-wide powerhouse containing four horizontal shaft Francis generating units; (6) a proposed tailrace occupying approximately one acre; (7) a proposed transmission system consisting of a 150-foot-long underground and 1,200-foot-long overhead 12.47-kilovolt (kV) line, a substation, and a 460-foot-long overhead 46-kV line; and (8) appurtenant facilities. The project would have a total installed capacity of 14.08 megawatts and would generate approximately 42,281 megawatt-hours of electricity annually.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified intervention deadline date, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified intervention deadline date. Applications for preliminary permits will not be accepted in response to this notice.

A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit a development application. A notice of intent must be served on the applicant(s) named in this public notice.

Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All filings must: (1) Bear in all capital letters the title ''PROTEST'' or ''MOTION TO INTERVENE,'' ''NOTICE OF INTENT TO FILE COMPETING APPLICATION,'' or ''COMPETING APPLICATION;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

Dated: April 2, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–8529 Filed 4–9–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC12–90–000.

Applicants: Duke Energy Ohio, Inc., Cinergy Corp., Duke Energy Retail Sales, LLC, Duke Energy Commercial Enterprises, Inc., Duke Energy Hanging Rock II, LLC, Duke Energy Lee II, LLC, Duke Energy Fayette II, LLC, Duke Energy Washington II, LLC, Duke Energy Commercial Asset Management, CinCap V LLC, Duke Energy Piketon, LLC, NewCo, LLC, Duke Energy Miami Fort, LLC, Duke Energy Beckjord, LLC, Duke Energy Stuart, LLC, Duke Energy Killen, LLC, Duke Energy Conesville, LLC, Duke Energy Zimmer, LLC, Duke Energy Dick's Creek, LLC.

Description: Application for Authorization for Disposition of Jurisdictional Facilities under Section 203 of the Federal Power Act of Cinergy Corp., et al.

Filed Date: 4/2/12.

Accession Number: 20120402–5213.

Comments Due: 5 p.m. ET 4/23/12.

Docket Numbers: EC12–91–000.

Applicants: San Diego Gas & Electric Company, Citizens Sunrise Transmission LLC.

Description: Application of SDG&E and CST Regarding Power Transfer Capability Lease and Request for Expedited Action.

Filed Date: 4/2/12.

Accession Number: 20120402–5310.

Comments Due: 5 p.m. ET 4/23/12.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER12–760–002.

Applicants: California Independent System Operator Corporation.

Description: 2012–04–02 Penalty Payment Allocation Compliance to be effective 3/5/2012.

Filed Date: 4/2/12.

Accession Number: 20120402–5291.

Comments Due: 5 p.m. ET 4/23/12.

Docket Numbers: ER12–1170–000.

Applicants: Imperial Valley Solar Company (IVSC) 1, LLC.

Description: Amendment to Initial Market-Based Rate Application of

Imperial Valley Solar Company (IVSC) 1, LLC.

Filed Date: 04/03/2012.

Accession Number: 20120403–5153.

Comment Date: 5 p.m. ET 4/24/12.

Docket Numbers: ER12–1419–000.

Applicants: Linden VFT, LLC.

Description: Petition for Approval of Settlement Agreements, Request for Limited Waiver of Schedule 16 of PJM Interconnection L.L.C.'s Open Access Transmission Tariff and Request for Shortened Comment Period and Expedited Review of Linden VFT, LLC.

Filed Date: 3/30/12.

Accession Number: 20120330–5489.

Comments Due: 5 p.m. ET 4/10/12.

Docket Numbers: ER12–1420–000.

Applicants: Diamond State Generation Partners, LLC.

Description: Motion of Diamond State Generation Partners, LLC for Waiver of Tariff Provision and for Expedited Consideration.

Filed Date: 3/30/12.

Accession Number: 20120330–5490.

Comments Due: 5 p.m. ET 4/13/12

Docket Numbers: ER12–1425–000.

Applicants: Southwest Power Pool, Inc.

Description: 2065R1 Westar Energy, Inc. NITSA NOA to be effective 3/1/2012..

Filed Date: 4/2/12

Accession Number: 20120402–5232.

Comments Due: 5 p.m. ET 4/23/12.

Docket Numbers: ER12–1426–000.

Applicants: Southwest Power Pool, Inc.

Description: 2390 Westar Energy, Inc. NITSA NOA to be effective 3/1/2012.

Filed Date: 4/2/12.

Accession Number: 20120402–5235.

Comments Due: 5 p.m. ET 4/23/12.

Docket Numbers: ER12–1427–000.

Applicants: Kansas City Power & Light Company.

Description: Revised KCP&L Rate Schedule 130 to be effective 6/1/2012.

Filed Date: 4/2/12.

Accession Number: 20120402–5244.

Comments Due: 5 p.m. ET 4/23/12.

Docket Numbers: ER12–1428–000.

Applicants: Entergy Arkansas, Inc.

Description: OATT RTMO Amendments—Sch 7 and Att H to be effective 6/1/2012.

Filed Date: 4/2/12.

Accession Number: 20120402–5253.

Comments Due: 5 p.m. ET 4/23/12

Docket Numbers: ER12–1429–000.

Applicants: El Paso Electric Company.

Description: Rate Schedule No. 110 Unexecuted Conforming LGIA with Mescalero Ridge to be effective 6/1/2012.

Filed Date: 4/2/12.

Accession Number: 20120402–5259.

Comments Due: 5 p.m. ET 4/23/12.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES12–16–000.

Applicants: Southern Indiana Gas and Electric Company.

Description: Amended Application of Southern Indiana Gas and Electric Company, Inc.

Filed Date: 04/03/2012.

Accession Number: 20120403–5176.

Comment Date: 5 p.m. ET 4/13/12.

Take notice that the Commission received the following open access transmission tariff filings:

Docket Numbers: OA12–3–000.

Applicants: New York Independent System Operator, Inc.

Description: Annual Compliance Report of New York Independent System Operator, Inc. Regarding Unreserved Use and Late Study Penalties.

Filed Date: 4/2/12.

Accession Number: 20120402–5320.

Comments Due: 5 p.m. ET 4/23/12.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 3, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–8567 Filed 4–9–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC12–89–000

Applicants: Twin Cities Power, LLC.

Description: Twin Cities Power, LLC requests authorization under Section 203 of the Federal Power Act and Request for Expedited Consideration.

Filed Date: 3/30/12.

Accession Number: 20120330–5493.

Comments Due: 5 p.m. ET 4/20/12.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG12–53–000.

Applicants: Eagle Point Power Generation LLC.

Description: Notice of Self-Certification as an Exempt Wholesale Generator of Eagle Point Power Generation LLC.

Filed Date: 4/2/12.

Accession Number: 20120402–5143.

Comments Due: 5 p.m. ET 4/23/12.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2579–001.

Applicants: NorthPoint Energy Solutions Inc.

Description: Notice of Non-Material Change in Status of NorthPoint Energy Solutions, Inc.

Filed Date: 3/30/12.

Accession Number: 20120330–5478.

Comments Due: 5 p.m. ET 4/20/12.

Docket Numbers: ER11–4326–001; *ER11–3069–002; ER11–3545–001; ER11–3141–002; ER11–3098–002.*

Applicants: Viridian Energy NY LLC, Viridian Energy, Inc., Viridian Energy MD LLC, Viridian Energy PA, LLC, Cincinnati Bell Energy LLC.

Description: Supplement to the notice of non-material change in status of Viridian Energy MD LLC, et al.

Filed Date: 03/23/2012.

Accession Number: 20120323–5150.

Comment Date: 5 p.m. ET 4/13/12.

Docket Numbers: ER11–4479–002.

Applicants: Endure Energy, L.L.C.

Description: Endure Energy, L.L.C., submits its Notification of Change in Status.

Filed Date: 3/30/12.

Accession Number: 20120330–5491.

Comments Due: 5 p.m. ET 4/20/12.

Docket Numbers: ER12–1413–000.

Applicants: PSEG New Haven LLC.

Description: PSEG New Haven LLC Market Based Rate Tariff to be effective 4/6/2012.

Filed Date: 3/30/12.

Accession Number: 20120330–5399.

Comments Due: 5 p.m. ET 4/20/12.

Docket Numbers: ER12–1414–000.

Applicants: Black Hills Power, Inc.

Description: BH Power, Inc., JOATT Replacement Sections to be effective 9/30/2010.

Filed Date: 3/30/12.
Accession Number: 20120330–5404.
Comments Due: 5 p.m. ET 4/20/12.

Docket Numbers: ER12–1415–000.
Applicants: Southwest Power Pool, Inc.
Description: 2403 Sunflower-ITC Interconnection Agreement to be effective 6/1/2012.
Filed Date: 3/30/12.
Accession Number: 20120330–5420.
Comments Due: 5 p.m. ET 4/20/12.

Docket Numbers: ER12–1416–000.
Applicants: Oklahoma Gas and Electric Company.
Description: Amended and Restated Network Integration Transmission Service Agreement to be effective 5/31/2012.
Filed Date: 3/30/12.
Accession Number: 20120330–5432.
Comments Due: 5 p.m. ET 4/20/12.

Docket Numbers: ER12–1417–000.
Applicants: San Diego Gas & Electric Company.
Description: SDGE Citizens Formula Appendix X to be effective 6/1/2012.
Filed Date: 3/30/12.
Accession Number: 20120330–5449.
Comments Due: 5 p.m. ET 4/20/12.

Docket Numbers: ER12–1418–000.
Applicants: TC Ravenswood, LLC.
Description: Rate Schedule to be effective 3/30/2012.
Filed Date: 4/2/12.
Accession Number: 20120402–5000.
Comments Due: 5 p.m. ET 4/12/12.

Docket Numbers: ER12–1421–000.
Applicants: ISO New England Inc., Central Maine Power Company.
Description: CMP MPRP CWIP Rev. to Attach. F and Schedule 21–CMP to be effective 6/1/2012.
Filed Date: 4/2/12.
Accession Number: 20120402–5102.
Comments Due: 5 p.m. ET 4/23/12.

Docket Numbers: ER12–1422–000.
Applicants: PJM Interconnection, L.L.C.
Description: Revisions to the PJM Tariff & OA re Lost Opportunity Cost for Wind to be effective 6/1/2012.
Filed Date: 4/2/12.
Accession Number: 20120402–5157.
Comments Due: 5 p.m. ET 4/23/12.

Docket Numbers: ER12–1423–000.
Applicants: Southwest Power Pool, Inc.
Description: 1839R1 City of Osage Kansas NITSA NOA to be effective 3/1/2012.
Filed Date: 4/2/12.
Accession Number: 20120402–5166.
Comments Due: 5 p.m. ET 4/23/12.

Docket Numbers: ER12–1424–000.
Applicants: Southwest Power Pool, Inc.
Description: 1997R1 City of Mulvane, Kansas NITSA NOA to be effective 3/1/2012.
Filed Date: 4/2/12.
Accession Number: 20120402–5172.
Comments Due: 5 p.m. ET 4/23/12.

Take notice that the Commission received the following open access transmission tariff filings:

Docket Numbers: OA07–35–006.
Applicants: Cleco Power LLC.
Description: Cleco Power LLC's 2011 Informational Filing of Operational Penalty Assessments and Distributions as Required by Order Nos. 890 and 890–A.
Filed Date: 4/2/12.
Accession Number: 20120402–5139.
Comments Due: 5 p.m. ET 4/23/12.

Docket Numbers: OA08–100–005.
Applicants: Duke Energy Carolinas, LLC.
Description: Duke Energy Carolina, LLC's Informational Filing of Operational Penalty Assessments and Distributions as Required by Order Nos. 890 and 890–A in OA08–100.
Filed Date: 4/2/12.
Accession Number: 20120402–5138.
Comments Due: 5 p.m. ET 4/23/12.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 2, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–8569 Filed 4–9–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14241–000]

Alaska Energy Authority; Notice of Extension of Time To File Comments on the Pad and Scoping Document, and To Identify Issues and Associated Study Requests

On February 24, 2012, the Commission issued Notice of Intent to File License Application, Filing of Pre-Application Document (PAD) and Commencement of Pre-Filing Process; Notice of Intent to Prepare an Environmental Impact Statement and Conduct Scoping; Request for Comments on the PAD and Scoping Document, and Identification of Issues and Associated Study Requests. The notice established a due date of April 27, 2012, to file comments on the PAD and the scoping document, and to file study requests for the Susitna-Watana Hydroelectric Project. The U.S. National Park Service, the National Marine Fisheries Service, Bureau of Land Management, and U.S. Fish and Wildlife Service requested an extension of time to May 31, 2012, to file comments and study requests given the complexity of the project and the large number of studies. They also note the need for additional time to review draft study plans prepared by the Alaska Energy Authority (AEA) and to more collaboratively develop study plans with the AEA. On March 26, 2012, AEA filed a letter of support for the extension of time and a request to modify the due date for the initial and updated study report meetings to January 6, 2014 and January 5, 2015, respectively to avoid meetings between Christmas and New Years.

Due to the large size of this original project and the large number of studies proposed to address complex issues, the due date for all participants to file comments and study requests is extended until May 31, 2012, pursuant to section 5.29(f)(2) of the Commission's regulations. This extension will facilitate AEA's unique approach to collaboratively develop study plans and will not delay processing of the license application. AEA's request to modify the due date for the initial and updated study reports is also granted. A revised schedule for this project will be published in Scoping Document 2, which will be issued by July 16, 2012.

Dated: April 2, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–8523 Filed 4–9–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ID–6835–001]

Manning, Richard W.; Notice of Filing

Take notice that on April 2, 2012, Richard W. Manning submitted for filing, an application for authority to hold interlocking positions, pursuant to section 305(b) of the Federal Power Act, 16 U.S.C. 825d(b) (2008) and section 45.8 of Title 18 of the Code of Federal Regulations, 18 CFR 45.8.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on April 23, 2012.

Dated: April 2, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–8527 Filed 4–9–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–1400–000]

Flat Ridge 2 Wind Energy LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Flat Ridge 2 Wind Energy LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is April 23, 2012.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also 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.

Dated: April 2, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–8526 Filed 4–9–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD12–10–000]

Reactive Power Resources; Supplemental Notice of Technical Conference

On February 17, 2012, the Federal Energy Regulatory Commission (Commission) announced that a staff Technical Conference on Reactive Power Resources will be held on April 17, 2012, beginning at 9 a.m. (EDT) in the Commission Meeting Room at the Commission's headquarters, located at 888 First Street NE., Washington, DC 20426. The technical conference will be led by staff, and Commissioners may be in attendance. The conference will be open for the public to attend. Advance registration is not required, but is encouraged to facilitate the building security process. You may register at the following Web page: *https://www.ferc.gov/whats-new/registration/reactive-power-4-17-12-form.asp.*

Attached to this supplemental notice is an agenda for the conference. If any changes are made, the revised agenda will be posted prior to the event on the Calendar of Events on the Commission's Web site, *www.ferc.gov.*

The conference will be transcribed and available by webcast. Transcripts will be available immediately for a fee from Ace Reporting Company (202–347–3700 or 1–800–336–6646). A free webcast of the technical conference in this proceeding is also available. Anyone with Internet access interested in viewing this conference can do so by navigating to the FERC Calendar of Events at *www.ferc.gov* and locating this event in the Calendar. The event will contain a link to its webcast. The Capitol Connection provides technical support for the webcasts and offers the

option of listening to the conferences via phone-bridge for a fee. If you have any questions, visit *www.CapitolConnection.org* or call (703) 993–3100.

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an email to *accessibility@ferc.gov* or call toll free 1–866–208–3372 (voice) or 202–208–8659 (TTY); or send a fax to 202–208–2106 with the required accommodations.

For more information on this conference, please contact Mary Cain at *mary.cain@ferc.gov* or (202) 502–6337, or Sarah McKinley at *sarah.mckinley@ferc.gov* or (202) 502–8004.

Dated: April 2, 2012.

Kimberly D. Bose,

Secretary.

The purpose of the technical conference is to examine whether the Commission should reconsider or modify the reactive power provisions of Order No. 661–A and examine what evidence could be developed under Order No. 661 to support a request to apply reactive power requirements more broadly than to individual wind generators during the interconnection study process.

Agenda for the Technical Conference on Reactive Power Resources

AD12–10

April 17, 2012

9 a.m.–9:15 a.m. Greeting and Opening Remarks.

9:15 a.m.–12:15 p.m. Discussion of Reactive Power in Interconnection Studies.

This panel will discuss:

- Methods used to determine the reactive power requirements for a transmission system, and
- How system impact and system planning studies take into account changes in technologies connected to the system.
- What evidence could be developed to support a request to apply reactive power requirements more broadly than to individual wind generators during the interconnection study process.

Panelists:

- Noman Williams, Vice President—Transmission Policy, Sunflower Electric Power Corporation
- Yi Zhang, Senior Regional Transmission Engineer, California ISO
- Eric Laverty, Director of Transmission Access Planning, Midwest ISO
- Dmitry Kosterev, Electrical Engineer, Bonneville Power Administration
- Robert Jenkins, Director—Utility Interconnection, First Solar
- Kris Zadlo, Vice President, Invenergy
- Richard Kowalski, Director—Transmission Strategy and Services, ISO New England Inc.
- Warren Lasher, Director, System Planning, ERCOT, Inc.

12:15 p.m.–1:15 p.m. Lunch Break.

1:15 p.m.–4:15 p.m. Discussion of Reactive Power Resources.

Discussion items will include:

- The technical and economic characteristics of different types of reactive power resources, including synchronous and asynchronous generation resources, transmission resources and energy storage resources;
- The design options for and cost of installing reactive power equipment at the time of interconnection as well as retrofitting a resource with reactive power equipment;
- Other means by which reactive power is currently secured such as through self-supply; and
- How a technology that is capable of providing reactive power but may not be subject to the generation interconnection process (e.g., FACTs) would be analyzed.

Panelists:

- Robert Nelson, Manager of Codes, Standards, and Regulations, Siemens Wind Turbines—Americas
- Kris Zadlo, Vice President, Invenergy
- Robert Jenkins, Director—Utility Interconnection, First Solar
- Michael Jacobs, Director Market and Regulatory Policy, Xtreme Power, Vice-Chair, Electricity Storage Association Advocacy Council
- Khaled Abdul-Rahman, Director, Power Systems Technology Development, California ISO
- Eric Laverty, Director of Transmission Access Planning, Midwest ISO
- Dmitry Kosterev, Electrical Engineer, Bonneville Power Administration
- Warren Lasher, Director, System Planning, ERCOT, Inc.

[FR Doc. 2012–8524 Filed 4–9–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2299–075]

Don Pedro Hydroelectric Project: Turlock Irrigation District; Modesto Irrigation District; Supplement to Notice of Study Dispute Resolution Technical Conference

On March 16, 2012, the Commission issued a *Notice of Dispute Resolution Process Schedule, Panel, Technical Conference, and Modified Filing Times for Panel Recommendations and Dispute Determination.* The notice announced that the Don Pedro Study Dispute Resolution Panel's technical conference would be an all day meeting in Sacramento, California on April 17, 2012. The notice stated that further details would be supplied in a future notice. Below are the final meeting details:

a. *Date and Time of Meeting:* Tuesday, April 17, 2012. 9 a.m.–5 p.m.

b. *Place:* Holiday Inn, Sacramento-Capitol Plaza, 300 J Street, Sacramento, CA 95814, 916–446–0100.

c. *FERC Contact:* Stephen Bowler, Don Pedro Hydroelectric Project, Dispute Resolution Panel Chair, (202) 505–6861, *stephen.bowler@ferc.gov.*

d. *Purpose of Meeting:*

The purpose of the technical conference is for the disputing agencies, the applicant, and the Commission to provide the Panel with additional information necessary to evaluate the disputed studies. All local, state, and federal agencies, Indian tribes, and other interested parties are invited to attend the meeting as observers. The Panel may also request information or clarification on written submissions as necessary to understand the matters in dispute. The Panel will limit all input that it receives to the specific studies or information in dispute and will focus on the applicability of such studies or information to the study criteria stipulated in 18 CFR 5.9(b). If the number of participants wishing to speak creates time constraints, the Panel may, at its discretion, limit the speaking time for each participant.

e. *Proposed Agenda:*

The Panel will gather information on NMFS identified study requests 1–4 and 7–9 as being in dispute. Specifically, the disputed study requests are: Request 1—*Effects of the Project and Related LaGrange Complex Facilities on Anadromous Fish;* Request 2—*Effects of the Project and Related Facilities Evaluated Through an Operations Model;* Request 3—*Effects of the Project*

and Related Activities on Fish Passage for Anadromous Fish; Request 4—*Effects of the Project and Related Facilities Hydrology for Anadromous Fish: Magnitude, Timing, Duration, and Rate of Change;* Request 7—*Evaluation of the Upper Tuolumne Habitats for Anadromous Fish;* Request 8—*Salmon and Steelhead Full Life-Cycle Population Models;* and Request 9—*Effects of the Project and Related Facilities on Ecosystem/Marine-Derived Nutrients for Anadromous Fish.*

Dated: April 2, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–8528 Filed 4–9–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL12–52–000]

System Energy Resources, Inc.; Notice of Petition for Declaratory Order

Take notice that on March 28, 2012, System Energy Resources, Inc. (System Energy Resources), submitted a petition requesting the Federal Energy Regulatory Commission to issue a declaratory order determining that System Energy Resources' payment of distributions out of common stock or paid-in capital to its parent and sole shareholder, Entergy Corporation, under the circumstances and conditions identified in the petition, will not violate section 305(a) of the Federal Power Act.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on April 27, 2012.

Dated: April 2, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–8525 Filed 4–9–12; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9657–2]

Clean Water Act: Final Agency Action on 32 Total Maximum Daily Loads (TMDLs) in Louisiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces final agency action on 32 TMDLs prepared by EPA Region 6 for waters listed in Louisiana's, Lake Pontchartrain Basin, under Section 303(d) of the Clean Water Act (CWA). Documents from the administrative record file for the 32 TMDLs, including TMDL calculations and responses to comments, may be viewed at *www.epa.gov/region6/water/npdes/tmdl/index.htm.* The administrative record file may be examined by calling or writing Ms. Diane Smith at the address below. Please contact Ms. Smith to schedule an inspection.

FOR FURTHER INFORMATION CONTACT: Diane Smith, Environmental Protection Specialist, Water Quality Protection Division, U.S. EPA Region 6, 1445 Ross Avenue, Dallas, TX 75202–2733, (214) 665–2145.

SUPPLEMENTARY INFORMATION: In 1996, two Louisiana environmental groups, the Sierra Club and Louisiana Environmental Action Network (plaintiffs), filed a lawsuit in Federal Court against the EPA, styled *Sierra Club, et al.* v. *Clifford et al.,* No. 96–0527, (E.D. La.). Among other claims, plaintiffs alleged that EPA failed to establish Louisiana TMDLs in a timely manner. EPA established 32 of these TMDLs pursuant to a consent decree entered in this lawsuit.

EPA Takes Final Agency Action on 32 TMDLs

By this notice EPA is taking final agency action on the following 32 TMDLs on waters located within the Louisiana Lake Pontchartrain Basin:

Subsegment	Waterbody name	Pollutant
040102	Comite River—Wilson-Clinton Hwy to entrance of White Bayou (East Baton Rouge Parish) (Scenic).	Fecal Coliform
040103	Comite River—Entrance of White Bayou to Amite River	Fecal Coliform.
040201	Bayou Manchac—Headwaters to Amite River	Fecal Coliform.
040302	Amite River—LA Hwy 37 to Amite River Diversion Canal	Fecal Coliform.
040304	Grays Creek—Headwaters to River Amite	Fecal Coliform.
040305	Colyell Creek System (includes Colyell Bay)	Fecal Coliform.
040503	Natalbany River—Headwaters to Tickfaw River	Fecal Coliform.
040504	Yellow Water River—Origin to Ponchatoula Creek	Fecal Coliform.
040505	Ponchatoula Creek and Ponchatoula River	Fecal Coliform.
040603	Selsers Creek—Origin to South Slough	Fecal Coliform.
040703	Big Creek and Tributaries—Headwaters to confluence with Tangipahoia River	Fecal Coliform.
040909	W–14 Main Diversion Canal—from its origin in the north end of the City of Slidell to its junction with Salt Bayou.	Fecal Coliform.
040910	Salt Bayou—Headwaters to Lake Pontchartrain (Estuarine)	Fecal Coliform.

Subsegment	Waterbody name	Pollutant
041302	Lake Pontchartrain Drainage Canals	Fecal Coliform.
041401	New Orleans East Leveed Waterbodies (Estuarine)	Fecal Coliform.
040501	Tickfaw River—From MS State Line to LA Hwy 42 (Scenic)	TDS.
040504	Yellow Water River—Origin to Ponchatoula Creek	TDS.
040301	Amite River—MS State Line to LA Hwy 37 (Scenic)	TSS.
040401	Blind River—From Amite River Diversion Canal to mouth at Lake Maurepas (Scenic).	TSS.
040903	Bayou Cane—Headwaters to U.S. Hwy 190 (Scenic)	TSS.
040303	Amite River—Amite River Diversion Canal to Lake Maurepas	Mercury.
040401	Blind River—From Amite River Diversion Canal to mouth at Lake Maurepas (Scenic).	Mercury.
040403	Blind River—Source to confluence with Amite River Diversion Canal (Scenic)	Mercury.
040501	Tickfaw River—From MS State Line to LA Hwy 42 (Scenic)	Mercury.
040701	Tangipahoa River—MS State Line to Interstate Hwy 1–12 (Scenic)	Mercury.
040801	Tchefuncte River and Tributaries—Headwaters to confluence with Bogue Falaya River (Scenic).	Mercury.
040905	Bayou Liberty—Headwaters to LA Hwy 433 Mercury..	
040906	Bayou Liberty—LA Hwy 433 to confluence With Bayou Bonfouca (Estuarine)	Mercury.
040505	Ponchatoula Creek and Ponchatoula Dissolved River	Oxygen.
041201	Bayou Labranche	Dissolved Oxygen.
041805	Lake Borgne Canal (Violet Canal)	Dissolved Oxygen.
041401	New Orleans East Leveed Waterbodies	Dissolved (Estuarine) Oxygen.

EPA requested the public provide to EPA any significant water quality related data or information that might impact the 32 TMDLs in the **Federal Register** Notices: volume 76, number 219, pages 70442 and 70443 (November 14, 2011), volume 76, number 234, page 76161 (December 6, 2011), and volume 76, number 247, page 80366 (December 23, 2011). The comments which were received, EPA's response to comments, as well as the TMDLs may be found at *www.epa.gov/region6/water/npdes/tmdl/index.htm.*

Dated: March 28, 2012.

William K. Honker,

P.E., Acting Director, Water Quality Protection Division, EPA Region 6.

[FR Doc. 2012–8496 Filed 4–9–12; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection Renewal; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, 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 the renewal of an existing information collection, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). Currently, the FDIC is soliciting comment on renewal of the information collection described below.

DATES: Comments must be submitted on or before June 11, 2012.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/notices.html.*
- *Email: comments@fdic.gov* Include the name of the collection in the subject line of the message.
- *Mail:* Gary A. Kuiper (202.898.3877), Counsel, Room NY–5046, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Gary A. Kuiper, at the FDIC address above.

SUPPLEMENTARY INFORMATION:

Proposal To Renew the Following Currently-Approved Collection of Information

Title: Interagency Notice of Change in Director or Executive Officer.

OMB Number: 3064–0097.

Affected Public: Business or other financial institutions.

Estimated Number of Respondents: 840.

Frequency of Response: On occasion.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 1680 hours.

General Description of Collection: Certain insured state nonmember banks must notify the FDIC of the addition of a director or the employment of a senior executive officer.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, 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 information collection on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, this 5th day of April 2012.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2012–8544 Filed 4–9–12; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

DATE AND TIME: Thursday, April 12, 2012 at 10 a.m.

PLACE: 999 E Street NW., Washington, DC (Ninth Floor).

STATUS: This Meeting Will be Open to the Public.

ITEMS TO BE DISCUSSED:

Correction and Approval of the Minutes for the Meeting of March 22, 2012.

Draft Advisory Opinion 2012–07: Feinstein for Senate.

Draft Advisory Opinion 2012–08: Repledge.

Draft Advisory Opinion 2012–10: Greenberg Quinlan Rosner Research, Inc.

Draft Advisory Opinion 2012–11: Free Speech.

Management and Administrative Matters.

Individuals who plan to attend and require special assistance, such as sign language interpretation or other reasonable accommodations, should contact Shawn Woodhead Werth, Secretary and Clerk, at (202) 694–1040, at least 72 hours prior to the meeting date.

FOR FURTHER INFORMATION CONTACT: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Shawn Woodhead Werth,

Secretary and Clerk of the Commission.

[FR Doc. 2012–8595 Filed 4–6–12; 11:15 am]

BILLING CODE 6715–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for a license as a Non-Vessel-Operating Common Carrier (NVO) and/or Ocean Freight Forwarder (OFF)—Ocean Transportation Intermediary (OTI) pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. Chapter 409 and 46 CFR part 515). Notice is also hereby given of the filing of applications to amend an existing OTI license or the Qualifying Individual (QI) for a license.

Interested persons may contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573, by telephone at (202) 523–5843 or by email at *OTI@fmc.gov.*

A.I.B. Internacional, LLC (NVO & OFF), 7429 NW 48th Street, Miami, FL 33166. *Officers:* Cintia Altheman, Managing Member (Qualifying Individual). Cristiano de Lima, Managing Member. *Application Type:* New NVO & OFF License.

American Guardship, LLC (NVO & OFF), 6679 Santa Barbara Road, #J, Elkridge, MD 21075. *Officers:* Sylvanus Taylor, President (Qualifying Individual). Olabisi Taylor, Resident Agent. *Application Type:* New NVO & OFF License.

American Red Ball International, Inc. (NVO & OFF), 9750 3rd Avenue NE., #200, Seattle, WA 98115. *Officers:* James A. Gaw, Vice President/General Manager (Qualifying Individual). John P. Griffin, President. *Application Type:* QI Change.

American Vanpac Carriers, Inc. (NVO & OFF), 9750 3rd Avenue NE., #200, Seattle, WA 98115. *Officers:* James A. Gaw, Vice President/General Manager (Qualifying Individual). John P. Griffin, President. *Application Type:* QI Change.

Atlas Van Lines International Corp. (NVO & OFF), 9750 3rd Avenue NE., #200, Seattle, WA 98115. *Officers:* James A. Gaw, Vice President/General Manager (Qualifying Individual). John P. Griffin, President. *Application Type:* QI Change.

Clover Internacional, LLC dba Clover Marine (NVO & OFF), 15700 International Plaza Dr., Ste. 100, Houston, TX 77032. *Officers:* Juan C. Castillo, Special Secretary (Qualifying Individual). Luis Angel Rincon, Manager. *Application Type:* Business Structure Change and Add NVO Service.

Dix McGuire International, Inc. (NVO & OFF), 624 E. Carpenter Drive, Pal, IL 60074. *Officers:* Robert E. Cleary, President (Qualifying Individual). Racheal L. Koza, Secretary. *Application Type:* New NVO & OFF License.

Global Distribution & Logistics LLC (NVO & OFF), 7977 NW 21st Street, Miami, FL 33122. *Officers:* Jose L. Matus, Manager (Qualifying Individual). Alejandro A. Vimos, Manager. *Application Type:* New NVO & OFF License.

Global Vision Group, Inc. (NVO & OFF), 2088 Salisbury Highway, Statesville, NC 28687, *Officers:* Edward J. Hathaway, Vice President—Business Development (Qualifying Individual). Jeff Harvey, President/Treasurer. *Application Type:* New NVO & OFF License.

Icon Logistics Services LLC (NVO), 14440 Cherry Lane Ct., #105, Laurel, MD 20707. *Officers:* Doreen Oloo-Dale, General Counsel (Qualifying Individual). Gbenga Vinusa, President. *Application Type:* New NVO License.

Javelin Logistics Corporation (NVO & OFF), 7447 Morton Avenue, Newark, CA 94560, *Officers:* Sandra K. Thoroughman, Director International Operations (Qualifying Individual). Malcolm Winspear, President/CFO. *Application Type:* Name Change.

Kelvin Logistics, Inc. (NVO & OFF), 23436 Anza Avenue, #A, Torrance, CA 90505. *Officer:* Kaehong Park, President/Secretary/Treasurer/CFO (Qualifying Individual). *Application Type:* New NVO & OFF License.

North American Cargo Solutions Inc. (NVO), 5200 Dixie Road, #14, Mississauga, Ontario, L4W 1E4, Canada. *Officers:* Stephen R. Halder, Vice President (Qualifying Individual). Valerio Shaha, Director/Vice President. *Application Type:* New NVO License.

Pine Logistics Corp. (NVO & OFF), 5 Sabbatia Ln., Billerica, MA 01821. *Officers:* Leonardo P. Albuquerque, President/CEO/Director (Qualifying Individual). Carolina M. Albuquerque, Treasurer/Secretary. *Application Type:* New NVO & OFF License.

Sasco America, Inc (NVO & OFF), 219 First Avenue South, Suite 401, Seattle, WA 98104. *Officers:* Ralf T. Bremsner, Vice President/Secretary/Treasurer (Qualifying Individual). Sergey Kozlov, Director/President. *Application Type:* New NVO & OFF License.

Transmarine Shipping, Inc. (NVO & OFF), 11222 S. La Cienega Blvd., #252, Inglewood, CA 90394. *Officer:* Shuigen Luo, President/Secretary/Chief Financial Officer (Qualifying Individual). *Application Type:* New NVO & OFF License.

Universal Shippers Group USA, LLC (NVO & OFF), 1077A Fred Drive, #A, Morrow, GA 30260. *Officers:* Alfred A. M. Khannu, General Manager (Qualifying Individual). Hawanatu B. Scott, President. *Application Type:* New NVO & OFF License.

Valueway Global Logistics Inc. (NVO), 104 S. Central Avenue, Room 2, Valley Stream, NY 11580. *Officers:* Ke Zhou, Vice President (Qualifying Individual). Qian Xie, Director/President/Secretary/Treasurer. *Application Type:* QI Change.

Dated: April 6, 2012.

Karen V. Gregory,

Secretary.

[FR Doc. 2012–8598 Filed 4–9–12; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting

April 5, 2012.

TIME AND DATE: 10 a.m., Tuesday, April 17, 2012.

PLACE: The Richard V. Backley Hearing Room, 9th Floor, 601 New Jersey Avenue NW., Washington, DC

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument in the matter *Long Branch Energy* v. *Secretary of Labor,* Docket Nos. WEVA 2009–1492–R, *et al.* (Issues include whether the judge erred in denying motions to dismiss late-filed petitions for assessment of civil penalties.)

Any person attending this oral argument who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 434–9950/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Emogene Johnson,

Administrative Assistant.

[FR Doc. 2012–8654 Filed 4–6–12; 11:15 am]

BILLING CODE 6735–01–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 proposed information collections 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 Reports

1. *Report title:* Microeconomic Survey.

Agency form number: FR 3051.

OMB control number: 7100–0321.

Frequency: Annually and monthly, as needed.

Reporters: Individuals, households, and financial and non-financial businesses.

Estimated annual reporting hours: Annual, 6,000 hours; Monthly, 18,000 hours.

Estimated average hours per response: Annual, 60 minutes; Monthly, 30 minutes.

Estimated number of respondents: Annual, 6,000; Monthly, 3,000.

General description of report: This information collection is voluntary (12 U.S.C. 225A and 263). If needed, the Federal Reserve can make this survey mandatory for Federal Reserve regulated institutions under section 9 of the Federal Reserve Act (12 U.S.C. 324) for state member banks; section 5(c) of the Bank Holding Company Act (12 U.S.C. 1844(c)) for bank holding companies and their subsidiaries; sections 25 and 25(A) of the Federal Reserve Act (12 U.S.C. 602 and 625) for Edge and agreement corporations; and section 7(c)(2) of the International Banking Act of 1978 (12 U.S.C. 3105(c)(2)) for U.S. branches and agencies of foreign banks. Generally, when the survey or study is conducted by an outside firm, names or other such directly identifying characteristics would not be reported to the Federal Reserve. In circumstances where identifying information is provided to the Federal Reserve, such information could possibly be protected from Freedom of Information Act (FOIA) disclosure by exemptions 4 and 6 (5 U.S.C. 552(b)(4) and (6)).

Abstract: The Federal Reserve uses this event-driven survey to obtain information specifically tailored to the Federal Reserve's supervisory, regulatory, operational, and other responsibilities. The Federal Reserve can conduct the FR 3051 up to 13 times per year (one survey on an annual basis and another on a monthly basis). The frequency and content of the questions depend on changing economic, regulatory, or legislative developments.

2. *Report title:* Recordkeeping Requirements Associated with Real Estate Appraisal Standards for Federally Related Transactions Pursuant to Regulations H and Y.

Agency form number: FR H–4.

OMB control number: 7100–0250.

Frequency: Event-generated.

Reporters: State Member Banks (SMBs) and nonbank subsidiaries of Bank Holding Companies (BHCs).

Estimated annual reporting hours: SMBs, 30,488 hours; nonbank subsidiaries of BHCs, 11,494 hours.

Estimated average hours per response: SMBs, 0.25; nonbank subsidiaries of BHCs, 0.25.

Number of respondents: SMBs, 824; nonbank subsidiaries of BHCs, 613.

General description of report: The recordkeeping requirements of this information collection are mandatory (12 U.S.C. 3339). Since the Federal Reserve does not collect this information, confidentiality not generally be an issue. However, if the Federal Reserve were to collect a copy of the appraisal report during an examination, the documents could be exempt from disclosure under FOIA (5 U.S.C 552(b)(4) and (b)(8)).

Abstract: For federally related transactions, Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) requires SMBs and BHCs with credit extending nonbank subsidiaries to use appraisals prepared in accordance with the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board of the Appraisal Foundation. Generally, these standards include the methods and techniques used to analyze a property as well as the requirements for reporting such analysis and a value conclusion in the appraisal. SMBs and BHCs with credit-extending nonbank subsidiaries are expected to maintain records that demonstrate that appraisals used in their real estate-related lending activities comply with these regulatory requirements. There is no formal reporting form.

3. *Report title:* Request for Proposal (RFP) and Request for Price Quotations (RFPQ).

Agency form number: RFP/RFPQ.
OMB control number: 7100–0180.
Frequency: On-occasion.
Reporters: Vendors and suppliers.
Estimated annual reporting hours: RFP, 7,000 hours; RFPQ, 1,700 hours.
Estimated average hours per response: RFP, 50 hours; RFPQ, 2 hours.
Number of respondents: RFP, 140; RFPQ, 850.
General description of report: This information collection is required to obtain a benefit and is authorized by Sections 10(3), 10(4), and 11(1) of the Federal Reserve Act (12 U.S.C. 243, 244, and 248(l)). Proposals from vendors that are not accepted and incorporated into contracts with the Federal Reserve would be protected from FOIA disclosure by (41 U.S.C. 4702), which expressly prohibits FOIA disclosure of these proposals. Moreover, during the solicitation process vendors are permitted to mark information contained in their proposals that is proprietary or confidential with the label RESTRICTED DATA. For information so marked, the Federal Reserve also may determine on a case-by-case basis whether FOIA exemption 4, which applies to ''trade secrets and commercial or financial information,'' would protect information from disclosure pursuant to a FOIA request (5 U.S.C. 552(b)(4)).
Abstract: The Federal Reserve Board uses the RFP and the RFPQ as appropriate to obtain competitive proposals and contracts from approved vendors of goods and services. This information collection is required to collect data on prices, specifications of goods and services, and qualifications of prospective vendors.

Final Approval Under OMB Delegated Authority To Conduct Following Survey

Report title: 2013 Survey of Consumer Finances (SCF).
Agency form number: FR 3059.
OMB control number: 7100–0287.
Frequency: One-time survey.
Reporters: U.S. families.
Estimated annual reporting hours: 8,938 hours.
Estimated average hours per response: Pretest, 75 minutes; and Main survey, 75 minutes.
Number of respondents: Pretest, 150; and Main survey, 7,000.
General description of report: This information collection is voluntary (12 U.S.C. 225a and 263). The names and other characteristics that would directly identify respondents would be retained by the Federal Reserve's contractor and are exempt from disclosure pursuant to the Confidential Information Protection and Statistical Efficiency Act and section (b)(3) of the FOIA (5 U.S.C. 552 (b)(3)).
Abstract: This would be the eleventh triennial SCF since 1983, the beginning of the current series. This survey is the only source of representative information on the structure of U.S. families' finances. The survey would collect data on the assets, debts, income, work history, pension rights, use of financial services, and attitudes of a sample of U.S. families. Because the ownership of some assets is relatively concentrated in a small number of families, the survey would make a special effort to ensure proper representation of such assets by systematically oversampling wealthier families.
Current Actions: On February 1, 2012, the Federal Reserve published a notice in the **Federal Register** (77 FR 5015) requesting public comment for 60 days on the FR 3051, RFP/RFPQ, FR H–4, and FR 3059 proposals. The comment period for this notice expired on April 2, 2012. The Federal Reserve did not receive any comments.

Board of Governors of the Federal Reserve System, April 5, 2012.
Robert deV. Frierson,
Deputy Secretary of the Board.
[FR Doc. 2012–8530 Filed 4–9–12; 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 April, 25, 2012.
A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:
1. *Andrew H. Wells,* Tahlequah, Oklahoma, as trustee of The Clair Squyres Trust FBO Clair Squyres Wells and The Louise Squyres Trust FBO Earl E. Squyres; to acquire control of Maxlou Bancshares, Inc., and thereby indirectly acquire control of First State Bank, both in Tahlequah, Oklahoma.

Board of Governors of the Federal Reserve System, April 5, 2012.
Robert deV. Frierson,
Deputy Secretary of the Board.
[FR Doc. 2012–8537 Filed 4–9–12; 8:45 am]
BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Savings and Loan Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Home Owners' Loan Act (12 U.S.C. 1461 *et seq.*) (HOLA), Regulation LL (12 CFR part 238), and Regulation MM (12 CFR part 239), and all other applicable statutes and regulations to become a savings and loan holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a savings association and nonbanking companies owned by the savings and loan holding company, including the companies listed below.
The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the HOLA (12 U.S.C. 1467a(e)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 10(c)(4)(B) of the HOLA (12 U.S.C. 1467a(c)(4)(B)). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.
Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 5, 2012.
A. Federal Reserve Bank of San Francisco (Kenneth Binning, Vice President, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:
1. *Sound Financial Bancorp,* Seattle, Washington; to become a savings and loan holding company upon the second-step conversion of Sound Community MHC, and Sound Financial, Inc., both in Seattle, Washington. Sound Financial

Bancorp will control Sound Community Bank, Seattle, Washington.

Board of Governors of the Federal Reserve System, April 5, 2012.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2012–8538 Filed 4–9–12; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier OS–0990–0281]

Agency Information Collection Request. 60-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed information collection request 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 functions; (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.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, email your request, including your address, phone number, OMB number, and OS document identifier, to *Sherette.funncoleman@hhs.gov,* or call the Reports Clearance Office on (202) 690–6162. Written comments and recommendations for the proposed information collections must be directed to the OS Paperwork Clearance Officer at the above email address within 60-days.

Proposed Project: Prevention Communication Formative Research Revision—OMB No. 0990–0281—Office of Disease Prevention and Health Promotion.

Abstract: The information collected will be used as formative communication research to provide guidance to the development and implementation of its disease prevention and health promotion communication and education efforts, including the Physical Activity and Dietary Guidelines for Americans. It is necessary to obtain consumer input to better understand the informative needs, attitudes, and beliefs of the audience in order to tailor messages, as well as to assist with clarity, understandability, and acceptance of prototyped messages, materials, and online tools. This generic clearance request describes data collection activities involving a limited set of focus groups, individual interviews, Web-based concept and prototype testing, and usability and effects testing to establish a deeper understanding of the interests and needs of consumers and health intermediaries for disease prevention and health promotion information and tools. The program is requesting a three year clearance.

ESTIMATED ANNUALIZED BURDEN TABLE

Data collection task	Instrument/form name	Number of respondents	Number responses/ respondent	Average burden/ response (in hours)	Total response burden (in hours)
In person, in-depth interviews (consumers with limited health literacy and/or Spanish speakers).	Screener	64	1	10/60	10.7
	Interview	16	1	1.5	24
	Confidentiality Agreement	16	1	5/60	1.3
In person, in-depth interviews (health intermediaries).	Screener	48	1	10/60	8
	Interview	16	1	1.5	24
	Confidentiality Agreement	16	1	5/60	1.3
In-person, in-depth interviews (public health professionals).	Screener	32	1	10/60	5.3
	Interview	16	1	1.5	24
	Confidentiality Agreement	16	1	5/60	1.3
Remote, in depth interviews (consumers with limited health literacy and/or Spanish speakers).	Screener	64	1	10/60	11
	Interview	16	1	1.5	24
	Confidentiality Agreement	16	1	5/60	1.3
Remote, in depth interviews (health intermediaries).	Screener	48	1	10/60	8
	Interview	16	1	1.5	24
	Confidentiality Agreement	16	1	5/60	1.3
Remote, in depth interviews (public health professionals).	Screener	48	1	10/60	8
	Interview	16	1	1.5	24
	Confidentiality Agreement	16	1	5/60	1.3
In person focus groups (consumers with limited health literacy).	Screener	280	1	10/60	47
	Focus Group	70	1	1.5	105
	Confidentiality Agreement	70	1	5/60	5.8
In person focus groups (health intermediaries).	Screener	210	1	10/60	35
	Focus Group	70	1	1.5	105
	Confidentiality Agreement	70	1	5/60	5.8

ESTIMATED ANNUALIZED BURDEN TABLE—Continued

Data collection task	Instrument/form name	Number of respondents	Number responses/ respondent	Average burden/ response (in hours)	Total response burden (in hours)
In person focus groups (public health professionals).	Screener	140	1	10/60	23.3
	Focus Group	70	1	1.5	105
	Confidentiality Agreement	70	1	5/60	6
Remote focus groups (consumers with limited health literacy and/or Spanish speakers).	Screener	168	1	10/60	28
	Focus Group	42	1	1.5	63
	Confidentiality Agreement	42	1	5/60	3.5
Remote focus groups (health intermediaries).	Screener	126	1	10/60	21
	Focus Group	42	1	1.5	63
	Confidentiality Agreement	42	1	5/60	3.5
Remote focus groups (public health professionals).	Screener	84	1	10/60	14
	Focus Group	42	1	1.5	63
	Confidentiality Agreement	42	1	5/60	3.5
In person usability and prototype testing of materials (print and Web).	Screener	160	1	10/60	27
	Usability Test	40	1	1.5	60
	Confidentiality Agreement	40	1	5/60	3.3
Remote usability, prototype and concept testing.	Screener	200	1	10/60	33.3
	Web-test	50	1	1	50
	Confidentiality Agreement	50	1	5/60	4.2
In person card sorting	Screener	120	1	10/60	20
	Card Sort	30	1	1.5	45
	Confidentiality Agreement	30	1	5/60	2.5
Web-based card sorting	Screener	400	1	10/60	67
	Card Sort	100	1	.5	50
	Confidentiality Agreement	100	1	5/60	8.3
Web-based message testing	Screener	0	0	0	0
	Web-test	115	1	1	115
	Confidentiality Agreement	115	1	5/60	9.6
TOTAL					1329.1

Keith A. Tucker,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. 2012–8518 Filed 4–9–12; 8:45 am]

BILLING CODE 4150–32–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Annual Survey of Refugees (Form ORR–9).

OMB No.: 0970–0033.

Description: The Annual Survey of Refugees collects information on the social and economic circumstances of a random sample of refugees, Amerasians, and entrants who arrived in the United States in the five years prior to the date of the survey. The survey focuses on the refugees training, labor force participation, and welfare utilization rates. Dates are segmented by region of origin, State of resettlement, and number of months since arrival. From the responses, the Office of Refugee Resettlement reports on the economic adjustment of refugees to the American economy. These data are used by Congress in its annual deliberations for refugee admissions and funding and by program managers in formulating policies for the future direction of the Refugee Resettlement Program.

Respondents: Refugees, entrants, Amerasians, and Havana parolees.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ORR–9 Annual Survey of Refugees	2,000	1	0.63	1,253.20
Request for Participation Letter	2,000	1	0.04	80

Estimated Total Annual Burden Hours: 1,333.20.

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@acf.hhs.gov.*

OMB Comment

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Email: *OIRA_SUBMISSION@OMB.EOP.GOV.*

Attn: Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2012–8512 Filed 4–9–12; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0306]

Agency Information Collection Activities; Proposed Collection; Comment Request; Administrative Detention and Banned Medical Devices

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, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection for administrative detention and banned medical devices.

DATES: Submit either electronic or written comments on the collection of information by June 11, 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: Daniel Gittleson, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–5156, *Daniel.Gittleson@fda.hhs.gov.*

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, including each proposed extension of an existing 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.

Administrative Detention and Banned Medical Devices—(OMB Control Number 0910–0114)—Extension

FDA has the statutory authority under section 304(g) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 334(g)) to detain during established inspections devices that are believed to be adulterated or misbranded. Section 800.55 (21 CFR 800.55), on administrative detention, includes among other things, certain reporting requirements and recordkeeping requirements. Under § 800.55(g), an applicant of a detention order must show documentation of ownership if devices are detained at a place other than that of the appellant. Under § 800.55(k), the owner or other responsible person must supply records about how the devices may have become adulterated or misbranded, in addition to records of distribution of the detained devices. These recordkeeping requirements for administrative detentions permit FDA to trace devices for which the detention period expired before a seizure is accomplished or injunctive relief is obtained.

FDA also has the statutory authority under section 516 of the FD&C Act (21 U.S.C. 360f) to ban devices that present substantial deception or an unreasonable and substantial risk of illness or injury. Section 895.21 (21 CFR 895.21), on banned devices, contains certain reporting requirements. Section 895.21(d) describes the procedures for banning a device when the Commissioner of Food and Drugs (the Commissioner) decides to initiate such a proceeding. Under 21 CFR 895.22, a manufacturer, distributor, or importer of a device may be required to submit to FDA all relevant and available data and information to enable the Commissioner to determine whether the device presents substantial deception, unreasonable and substantial risk of illness or injury, or unreasonable, direct, and substantial danger to the health of individuals.

During the past several years, there has been an average of less than one new administrative detention action per year. Each administrative detention will have varying amounts of data and information that must be maintained. FDA's estimate of the burden under the administrative detention provision is based on FDA's discussion with one of three firms whose devices had been detained.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR Section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
800.55(g)	1	1	1	25	25
895.21(d) and 895.22(a)	26	1	26	16	416
Total					441

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR Section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
800.55(k)	1	1	1	20	20

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: *April 3, 2012.*

David Dorsey,

Acting Associate Commissioner for Policy and Planning.

[FR Doc. 2012–8507 Filed 4–9–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0439]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Food and Drug Administration Recall Regulations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Food and Drug Administration Recall Regulations'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–7726, *ila.mizrachi@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: On November 28, 2011, the Agency submitted a proposed collection of information entitled ''Food and Drug Administration Recall Regulations'' to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910–0249. The approval expires on March 31, 2015. A copy of the supporting statement for this information collection is available on the Internet at *http://www.reginfo.gov/public/do/PRAMain*.

Dated: April 3, 2012.

David Dorsey,

Acting Associate Commissioner for Policy and Planning.

[FR Doc. 2012–8514 Filed 4–9–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Statement of Organization, Functions and Delegations of Authority

This notice amends Part R of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services (HHS), Health Resources and Services Administration (HRSA) (60 FR 56605, as amended November 6, 1995; as last amended at 77 FR 13613–13616 dated March 7, 2012).

This notice reflects organizational changes in the Health Resources and Services Administration. Specifically, this notice updates the functional statement for the HIV/AIDS Bureau (RV): (1) Rename the Division of Science and Policy (RVA) to the Division of Policy and Data (RVA) and update the functional statement; (2) rename the Office of Program Support (RV2) to the Office of Operations and Management (RV2); (3) rename the Division of Service Systems (RV5) to the Division of Metropolitan HIV/AIDS Programs (RV5) and update the function statement; (4) establish the Division of State HIV/AIDS Programs (RVD); (5) rename the Division of Community Based Programs (RV6) to the Division of Community HIV/AIDS Programs (RV6); and rename the Division of Training and Technical Assistance (RV7) to the Division of HIV/AIDS Training and Capacity Development (RV7) and update the functional statement.

Chapter RV—HIV/AIDS Bureau

Section RV–10, Organization

Delete in its entirety and replace with the following:

The HIV/AIDS Bureau (RV) is headed by the Associate Administrator, HIV/AIDS Bureau (HAB), who reports directly to the Administrator, Health Resources and Services Administration. HAB includes the following components:

(1) Office of the Associate Administrator (RV);

(2) Office of Operations and Management (RV2);

(3) Division of Policy and Data (RVA);

(4) Division of Metropolitan HIV/AIDS Programs (RV5);

(5) Division of State HIV/AIDS Programs (RVD);

(6) Division of Community HIV/AIDS Programs (RV6); and

(7) Division of HIV/AIDS Training and Capacity Development (RV7).

Section RV–20, Functions

(1) Delete the functional statement for the HIV/AIDS Bureau (RV) and replace in its entirety.

Office of the Associate Administrator (RV)

The Office of the Associate Administrator provides leadership and direction for the HIV/AIDS programs and activities of the Bureau and

oversees its relationship with other national health programs. Specifically: (1) Promotes the implementation of the National HIV/AIDS Strategy within the Agency and among Agency-funded programs; (2) coordinates the formulation of an overall strategy and policy for programs established by Title XXVI of the PHS Act as amended by the Ryan White HIV/AIDS Treatment Extension Act of 2009, Public Law 111–87; (3) coordinates the internal functions of the Bureau and its relationships with other Agency Bureaus and Offices; (4) establishes HIV/AIDS program objectives, alternatives, and policy positions consistent with broad Administration guidelines; (5) provides leadership for and oversight of the Bureau's budgetary development and implementation processes; (6) provides clinical leadership to Ryan White-funded programs and global HIV/AIDS programs; (7) oversees the implementation of the Global HIV/AIDS Program as part of the President's Emergency Plan for AIDS Relief; (8) serves as a principal contact and advisor to the Department and other parties on matters pertaining to the planning and development of HIV/AIDS-related health delivery systems; (9) reviews HIV/AIDS-related program activities to determine their consistency with established policies; (10) develops and oversees operating policies and procedures for the Bureau; (11) oversees and directs the planning, implementation, and evaluation of special studies related to HIV/AIDS and public health within the Bureau; (12) prioritizes Technical Assistance needs in consultation with each Division/Office; (13) plans, develops, implements and evaluates the Bureau's organizational and staff development, and staff training activities inclusive of guiding action steps addressing annual Employee Viewpoint Survey results; (14) plans, implements, and evaluates the Bureau's national Technical Assistance conference calls, TARGET Web site, Webex trainings and other distance learning modalities; (15) represents the Agency in HIV/AIDS-related conferences, consultations, and meetings with other Operating Divisions, Office of the Assistance Secretary for Health, the Department of State, and the White House; (16) coordinates the development and distribution of all Bureau communication activities, materials and products internally and externally; (17) provides leadership for and oversees Bureau's grants processes; and (18) oversees Bureau Executive Secretariat functions and coordinates HRSA responses and comments on HIV/AIDS-related reports, position papers, guidance documents, correspondence, and related issues, including Freedom of Information Act requests.

Office of Operations and Management (RV2)

The Office of Operations and Management headed by the Director and the Bureau's Executive Officer provides administrative and fiscal guidance and support for HAB and is responsible for all budgetary, administrative, human resources, operations, facility management and contracting functions. The Office also oversees and coordinates all Bureau program integrity activities. Specifically, the Office: (1) Assists in the development and administration of budgetary policies and procedures with government funding recommendations to the Associate Administrator; (2) provides guidance to the Bureau on all financial management activities; (3) develops the Bureau's Operating Budget and guides the formulation process; (4) develops budget and procurement plans; (5) provides guidance to Division leadership in the development and formulation of program budgets; (6) participates in the implementation of the formula based awards process; (7) reviews and approves funding memos and grant notices; (8) tracks Bureau budget expenditures for grants, contracts, cooperative agreements, and programmatic expenses; (9) collaborates with other office staff in the processing of contracts, cooperative agreements, and Inter/Intra Agency Agreements; (10) coordinates human resources activities for the Bureau and advises on the allocation of the Bureau's human resources; (11) develops policies and procedures for internal Bureau requirements, and interprets and implements the Agency's management policies and procedures; (12) coordinates the Bureau's delegations of authority activities; (13) manages travel related activities for the Bureau and, advises on Federal and Agency travel regulations; (14) manages the Bureau's performance management systems; (15) provides or arranges for the provision of support services such as procurement, safety and security, property management, supply management, space management, manual issuances, forms, records, reports, and supports civil rights compliance activities; (16) provides support in the implementation of staff development and training activities; (17) provides oversight to Bureau Contracting Officers Representative (COR) training requirements; (18) manages the Bureau's Inter/Intra Agency Agreement processes; (19) provides direction regarding technological developments in office management activities; (20) develops policies and procedures for internal Bureau requirements in areas of contracting; (21) interprets and implements the Agency's contracting policies and procedures; (22) coordinates the Bureau's delegations of authority activities; (23) manages all COR functions for contracts within the Bureau; and (24) provides oversight to Bureau CORs.

Division of Policy and Data (RVA)

The Division of Policy and Data serves as the Bureau's principal source of program data collection and evaluation and the focal point for coordination of program performance activities, policy analysis and development of policy guidance. The Division coordinates all technical assistance activities for the Bureau in collaboration with each Division. Specifically: (1) Plans, coordinates and administers the Bureau's annual program evaluation strategy; (2) conducts analysis and reports on Ryan White HIV/AIDS Program data to support public health decisionmaking for statutory programs; (3) designs, conducts, and/or administers health services research to evaluate grantee delivery of services to clients served by all HRSA HIV/AIDS programs including underserved and vulnerable populations; (4) designs and implements special scientific studies on the impact and outcomes of Bureau health care programs; (5) implements studies and analyzes trends in health care, including availability, access distribution, organization, and financing, to determine if the Bureau's activities address HIV/AIDS issues in an effective, efficient manner; (6) collects and analyzes Ryan White health data and information; (7) manages Bureau-sponsored, health data collection systems; (8) collects, compiles, cross tabulates, and disseminates full and complete statistics internally and externally on the condition and progress of the Ryan White HIV/AIDS Program; (9) determines methodology by which the Bureau and program grantees may accurately measure public health indicators supporting the National HIV/AIDS Strategy; (10) conducts data cleaning activities that document the clients served and services funded by the Bureau programs; (11) coordinates the HAB-wide implementation of the National HIV/AIDS Strategy; (12) participates in the development and coordination of program policies and

implementation plans, including the development, clearance, and dissemination of regulations, criteria, guidelines, and operating procedures; (13) provides program policy interpretation and guidance to the Bureau, Agency, Department, grantees, and other governmental and private organizations and institutions on matters related to the Ryan White HIV/AIDS Program and HIV-related areas; and (14) coordinates activities pertaining to policy and position papers to ensure the fullest possible consideration of programmatic requirements that meet departmental and Agency goals, policies, procedures and Federal statute.

Division of Metropolitan HIV/AIDS Programs (RV5)

The Division of Metropolitan HIV/AIDS Programs, within the HIV/AIDS Bureau, administers programs and activities and manages funds and other resources related to the provision of coordinated comprehensive HIV health care and support services for persons with HIV/AIDS. The Division manages the portfolio of grantees and programs funded under Part A of the Ryan White HIV/AIDS Program. Specifically, the Division: (1) Directs and manages the implementation of Emergency Relief Grants (Part A) of Title XXVI of the PHS Act as amended by the Ryan White HIV/AIDS Treatment Extension Act of 2009, Public Law 111–87 (the Ryan White HIV/AIDS Program); (2) promotes the implementation of the National HIV/AIDS Strategy among Part A programs; (3) provides program implementation proposals and plans, and the interpretation of legislation and regulations; (4) monitors HIV services planning and delivery programs in cities and metropolitan areas and provides administrative, strategic, and programmatic direction to grantees to encourage efficient, coordinated treatment of persons with HIV infection; (5) provides Technical Assistance, assesses effectiveness of Technical Assistance efforts/initiatives, identifies new Technical Assistance needs and priority areas, in collaboration with the Division of Policy and Data, and participates in the Bureau-wide Technical Assistance workgroup; (6) develops Program Application and Funding Opportunity documents; (7) develops requirements, guidance and monitors cities and metropolitan areas that promote early identification of people living with HIV, linking them to care and retaining them in care for their HIV disease; (8) formulates and interprets program related policies; and (9) coordinates and consults with state and local health departments, other components of the Department, other Federal agencies and/or outside groups on the implementation of the Part A program.

Division of State HIV/AIDS Programs (RVD)

The Division of State HIV/AIDS Programs, within the HIV/AIDS Bureau, administers programs and activities and manages funds and other resources related to the provision of coordinated comprehensive HIV health care and support services, including reimbursement for treatment with life-prolonging drugs, for persons with HIV/AIDS. The Division manages the portfolio of grantees and programs funded under Part B of the Ryan White HIV/AIDS Program. Specifically, the Division: (1) Directs and manages the implementation of HIV CARE Grants (Part B) of Title XXVI of the PHS Act as amended by the Ryan White HIV/AIDS Treatment Extension Act of 2009, Public Law 111–87 (the Ryan White HIV/AIDS Program) including the AIDS Drug Assistance programs; (2) promotes the implementation of the National HIV/AIDS Strategy among Part B programs; (3) provides program implementation proposals and plans, and the interpretation of legislation and regulations; (4) monitors HIV services planning and delivery programs in states and territories and provides administrative, strategic, and programmatic direction to grantees to encourage efficient, coordinated treatment of persons with HIV infection; (5) in collaboration with the Division of Policy and Data, assesses effectiveness of Technical Assistance efforts/initiatives, identifies new Technical Assistance needs and priority areas, and participates in the Bureau-wide Technical Assistance workgroup; (6) develops Program Application and Guidance documents; (7) develops requirements, guidance and monitors state and territorial programs for medical therapies established to ensure that these treatments are integrated into the system of health care services; (8) promotes the development of state treatment program formularies that include classes of drugs necessary for the proper treatment of people with HIV infection; (9) formulates and interprets program related policies; and (10) coordinates and consults with state and local health departments, other components of the Department, other Federal agencies and/or outside groups on the implementation of Division programs.

Division of Community HIV/AIDS Programs (RV6)

The Division of Community HIV/AIDS Programs within the HIV/AIDS Bureau, provides national leadership and manages the implementation of Parts C, D and F under Title XXVI of the PHS Act as amended by the Ryan White HIV/AIDS Treatment Extension Act of 2009, Public Law 111–87 (the Ryan White HIV/AIDS Program) including, Planning and Capacity Development programs (Part C), HIV Early Intervention Services program (Part C), Grants for Coordination Services and Access to Research for Women, Infants, Children, and Youth program (Part D), and the Dental Reimbursement and Community Based Dental Partnership programs (Part F). The Division promotes the implementation of the National HIV/AIDS Strategy among Part C, D, and F/Dental programs and administers programs and activities related to: (1) Providing comprehensive health services to persons infected with HIV in medically underserved areas; (2) demonstrating strategies and innovative models for the development and provision of HIV primary care services; (3) coordinating services for women of child-bearing age with HIV/AIDS, infants, children, and youth; (4) assisting dental schools and other eligible institutions with respect to oral health care to patients with HIV; and (5) in collaboration with the Division of Policy and Data, the Division assesses effectiveness of Technical Assistance efforts/initiatives, identifies new Technical Assistance needs and priority areas, and participates in the Bureau-wide Technical Assistance workgroup. The Division manages the portfolio of grantees and programs who provide comprehensive HIV primary care, treatment, and HIV-related support services.

Division of HIV/AIDS Training and Capacity Development (RV7)

The Division of HIV/AIDS Training and Capacity Development within the HIV/AIDS Bureau, provides national leadership and manages the implementation of Part F under Title XXVI of the PHS Act as amended by the Ryan White HIV/AIDS Treatment Extension Act of 2009, Public Law 111–87 (the Ryan White HIV/AIDS Program), including the Special Projects of National Significance and the AIDS Education and Training Centers Programs. The Special Projects of National Significance Program develops innovative models of HIV care and the AIDS Education and Training Centers Program increases the number of health

care providers who are educated and motivated to counsel, diagnose, treat, and medically manage people with HIV disease and to help prevent high-risk behaviors that lead to HIV transmission. The Division also implements the Global HIV/AIDS Program as part of the President's Emergency Plan for AIDS Relief (PEPFAR) to manage international programs designed to provide direct care and treatment for people living with HIV/AIDS and to strengthen health systems for delivery of prevention, care and treatment services for people living with HIV/AIDS in PEPFAR funded countries. The Division will translate lessons learned from both the Global HIV/AIDS Programs and Special Projects of National Significance projects to the Part A, B, C, D, and F grantee community. In collaboration with the Division of Policy and Data, the Division assesses effectiveness of Technical Assistance efforts/initiatives, identifies new Technical Assistance needs and priority areas, and participates in the Bureau-wide Technical Assistance workgroup.

Section RV–30, Delegations of Authority

All delegations of authority and re-delegations of authority made to HRSA officials that were in effect immediately prior to this reorganization, and that are consistent with this reorganization, shall continue in effect pending further re-delegation.

This reorganization is effective upon date of signature.

Dated: April 4, 2012.

Mary K. Wakefield,

Administrator.

[FR Doc. 2012–8513 Filed 4–9–12; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Indian Health Professions Preparatory, Indian Health Professions Pregraduate and Indian Health Professions Scholarship Programs

Overview Information: Indian Health Professions Preparatory, Indian Health Professions Pregraduate and Indian Health Professions Scholarship Programs.

Announcement Type: Initial.

CFDA Numbers: 93.971, 93.123, and 93.972.

Key Dates:

Application Deadline: May 7, 2012, for continuing students.

Application Deadline: May 7, 2012, for new students.

Application Review: May 21–25, 2012.

Application Notification: First week of July, 2012.

Award Start Date: August 1, 2012.

I. Funding Opportunity Description

The Indian Health Service (IHS) is committed to encouraging American Indians and Alaska Natives to enter the health professions and to assuring the availability of Indian health professionals to provide health care services to Indians. The IHS is committed to the recruitment of students for the following programs:

- *The Indian Health Professions Preparatory Scholarship* authorized by section 103 of the Indian Health Care Improvement Act (IHCIA), Public Law 94–437 (1976).
- *The Indian Health Professions Pre-graduate Scholarship* authorized by section 103 of the IHCIA, Public Law 94–437 (1976).
- *The Indian Health Professions Scholarship* authorized by section 104 of the IHCIA, Public Law 94–437 (1976).

Full-time and part-time scholarships will be funded for each of the three scholarship programs.

The scholarship award selections and funding are subject to availability of funds appropriated for the Scholarship Program.

II. Award Information

Awards under this initiative will be administered using the grant mechanism of the IHS.

Estimated Funds Available: An estimated $14.0 million will be available for FY 2012 awards. Of this estimated $14.0 million in funding, no more than $1.0 million will be set aside for Preparatory and Pre-graduate Scholarships, with the remaining balance to be used toward Health Professions Scholarships. The IHS program anticipates, but cannot guarantee, due to possible funding changes, student scholarship selections from any or all of the following disciplines in the 103, 103P and 104 Programs for the Scholarship Period 2012–2013. Due to the rising cost of education and the decreasing number of scholars who can be funded by the IHS Scholarship Program (IHSSP), the IHSSP has changed the funding policy for Preparatory and Pre-graduate scholarship awards and reallocated a greater percentage of its funding in an effort to increase the number of Health Professions scholarships, and inherently the number of service obligated scholars, to better meet the health care provider needs of the IHS and its Tribal and Urban Indian health care system partners.

Anticipated Number of Awards: Approximately 25 awards will be made under the Health Professions Preparatory and Pre-graduate Scholarship Programs for Indians. The awards are for tuition and fees only and the average award to a full-time student is approximately $10,701.35. An estimated 280 awards will be made under the Indian Health Professions Scholarship Program. The awards are for 12 months in duration, and will cover both tuition and fees and Other Related Costs (ORC). The average award to a full-time student is approximately $48,056.05. In FY 2012, an estimated $9,500,000 is available for continuation awards, and an estimated $3,500,000 is available for new awards.

Project Period—The project period for the IHS Health Professions Preparatory Scholarship support, tuition and fees only, is limited to two years for full-time students and the part-time equivalent of two years, not to exceed four years for part-time students. The project period for the Health Professions Pre-graduate Scholarship support, tuition and fees only, is limited to four years for full-time students and the part-time equivalent of four years, not to exceed eight years for part-time students.

The IHS Indian Health Professions Scholarship support, tuition, fees and Other Related Costs (ORC) is limited to four years for full-time students and the part-time equivalent of four years, not to exceed eight years for part-time students.

III. Eligibility Information

This announcement is a limited competition for awards made to American Indians (Federally recognized Tribal members, state recognized Tribal members, and first and second degree descendants of Federal or state recognized Tribal members), or Alaska Natives only. Continuation awards are non-competitive.

1. Eligible Applicants

The Health Professions Preparatory Scholarship awards are made to American Indians (Federally recognized Tribal members, first and second degree descendants of Tribal members, and state recognized Tribal members, first and second degree descendants of Tribal members), or Alaska Natives who:

- Have successfully completed high school education or high school equivalency; and
- Have been accepted for enrollment in a compensatory, pre-professional general education course or curriculum; and

The Health Professions Pre-graduate Scholarship awards are made to

American Indians (Federally recognized Tribal members, first and second degree descendants of Tribal members, and state recognized Tribal members, first and second degree descendants of Tribal members), or Alaska Natives who:

- Have successfully completed high school education or high school equivalency; and
- Have been accepted for enrollment or are enrolled in an accredited pre-graduate program leading to a baccalaureate degree in pre-medicine, pre-dentistry, or pre-podiatry.

The Indian Health Professions Scholarship may be awarded only to an individual who is a member of a Federally recognized Indian Tribe or Alaska Native as provided by section 4(c), and 4(d) of the IHCIA. Membership in a Tribe recognized only by a state does not meet this statutory requirement. To receive an Indian Health Professions Scholarship, an otherwise eligible individual must be enrolled in an appropriately accredited school and pursuing a course of study in a health profession as defined by section 4(10) of the IHCIA.

2. Cost Sharing/Matching

The Scholarship Program does not require matching funds or cost sharing to participate in the competitive grant process.

3. Benefits from State, Local and Other Federal Sources

Awardees of the Health Professions Preparatory or Health Professions Pre-graduate scholarship may accept outside funding from other scholarship, grant, fee waiver and student loan programs to assist with their education and other related expenses. Awardees of the Health Professions scholarship, who accept outside funding from other scholarship, grant and fee waiver programs, will have these monies applied to their student account tuition and fees charges at the college or university they are attending, before the IHS Scholarship Program will pay any of the remaining balance. These outside funding sources must be reported on the student's invoicing documents submitted by the college or university they are attending. Student loans accepted by Health Professions scholarship recipients will have no effect on the IHS Scholarship program payment made to their college or university.

IV. Application Submission Information

1. Address To Request Application Package

New applicants are responsible for contacting and requesting an application packet from their IHS Area Scholarship Coordinator. They are listed on the IHS Web site at *http://www.scholarship.ihs.gov/area_coordinators.cfm.*

This information is also listed below. Please review the following list to identify the appropriate IHS Area Scholarship Coordinator for your State. Application packets may be obtained by calling or writing to the following individuals listed below:

IHS Area office and States/locality served	Scholarship coordinator/address
Aberdeen Area IHS: Iowa, Nebraska, North Dakota, South Dakota	Ms. Kim Annis, IHS Area Scholarship Coordinator, Aberdeen Area IHS, 115 4th Avenue SE., Aberdeen, SD 57401, Tele: (605) 226–7466.
Alaska Native Tribal Health Consortium: Alaska	Ms. Courtney Bridges, Alternate: Ms. Tasha Hotch, IHS Area Scholarship Coordinator, 4000 Ambassador Drive, Anchorage, AK 99508, Tele: (907) 729–1913, 1–800–684–8361 (toll free).
Albuquerque Area IHS: Colorado, New Mexico	Ms. Cora Boone, IHS Area Scholarship Coordinator, Albuquerque Area IHS, 5300 Homestead Road, NE., Albuquerque, NM 87110, Tele: (505) 248–4418, 1–800–382–3027 (toll free).
Bemidji Area IHS: Illinois, Indiana, Michigan, Minnesota, Wisconsin	Mr. Tony Buckanaga, IHS Area Scholarship Coordinator, Bemidji Area IHS, 522 Minnesota Avenue NW., Room 209, Bemidji, MN 56601, Tele: (218) 444–0486, 1–800–892–3079 (toll free).
Billings Area IHS: Montana, Wyoming	Mr. Delon Rock Above, Alternate: Ms. Bernice Hugs, IHS Area Scholarship Coordinator, Billings Area IHS, Area Personnel Office, P.O. Box 36600, 2900 4th Avenue, North, Suite 400, Billings, MT 59103, Tele: (406) 247–7215.
California Area IHS: California, Hawaii	Ms. Mona Celli, IHS Area Scholarship Coordinator, California Area IHS, 650 Capitol Mall, Suite 7–100, Sacramento, CA 95814, Tele: (916) 930–3981, ext. 311.
Nashville Area IHS: Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, District of Columbia, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia.	Ms. Michelle Marshalek, IHS Area Scholarship Coordinator, Nashville Area IHS, 711 Stewarts Ferry Pike, Nashville, TN 37214, Tele: (615) 467–1505.
Navajo Area IHS: Arizona, New Mexico, Utah	Ms. Aletha John, IHS Area Scholarship Coordinator, Navajo Area IHS, P.O. Box 9020, Wndow Rock, AZ 86515, Tele: (928) 871–1360.
Oklahoma City Area IHS: Kansas, Missouri, Oklahoma	Mr. Keith Bohanan, IHS Area Scholarship Coordinator, Oklahoma City Area IHS, 701 Market Drive, Oklahoma City, OK 73114, Tele: (405) 951–3789, 1–800–722–3357 (toll free).
Phoenix Area IHS: Arizona, Nevada, Utah	Ms. Trudy Begay, IHS Area Scholarship Coordinator, Phoenix Area IHS, Suite 510, 40 North Central Avenue, Phoenix, AZ 85004, Tele: (602) 364–5256.
Portland Area IHS:	

IHS Area office and States/locality served	Scholarship coordinator/address
Idaho, Oregon, Washington	Ms. Laurie Veitenheimer, IHS Area Scholarship Coordinator, Portland Area IHS, 1414 NW Northrup Street, Suite 800, Portland, OR 97209, Tele: (503) 326–6983.
Tucson Area IHS: Arizona, Texas	Ms. Trudy Begay (See Phoenix Area).

2. Content and Form Submission

Each applicant will be responsible for submitting a completed application (Forms IHS–856–1 through 856–6) and one copy to the: IHS Scholarship Program Branch Office, 801 Thompson Ave, Suite 450 (TMP), Rockville, MD 20852. Electronic applications are being accepted for this cycle. Go to *www.scholarship.ihs.gov* for more information on how to apply electronically. The on-line portal will be open on December 12, 2011. The application will be considered complete if the following documents (original and one copy) are included;

a. Completed and signed application Checklist.

b. Original, signed, complete application form IHS–856 (for continuation students-Data Sheet in place of IHS–856).

c. Current Letter of Acceptance from College/University or Proof of Application to a College/University or Health Professions Program.

d. Official transcripts for all colleges/universities attended (or high school transcripts or Certificate of Completion of Home School Program for applicants who have not taken college courses).

e. Cumulative GPA: Applicant's calculations.

f. Applicant's Documents for Indian Eligibility.

i. If you are a member of a Federally recognized Tribe or Alaska Native (recognized by the Secretary of the Interior), provide evidence of membership such as:

1. Certification of Tribal enrollment by the Secretary of the Interior, acting through the Bureau of Indian Affairs (BIA Certification: Form 4432–Category A or D, whichever is applicable); or

2. In the absence of BIA certification, documentation that you meet requirements of Tribal membership as prescribed by the charter, articles of incorporation or other legal instrument of the Tribe and have been officially designated as a Tribal member as evidenced by an accompanying document signed by an authorized Tribal official, or

3. Other evidence of Tribal membership satisfactory to the Secretary of the Interior.

ii. If you are a member of a Tribe terminated since 1940 or a State recognized Tribe and first or second degree descendant, provide official documentation that you meet the requirements of Tribal membership as prescribed by the charter, articles of incorporation or other legal instrument of the Tribe and have been officially designated as a Tribal member as evidenced by an accompanying document signed by an authorized Tribal official; or other evidence, satisfactory to the Secretary of the Interior, that you are a member of the Tribe. In addition, if the terminated or state recognized Tribe of which you are a member is not on a list of such Tribes published by the Secretary of the Interior in the **Federal Register,** you must submit an official signed document that the Tribe has been terminated since 1940 or is recognized by the state in which the Tribe is located in accordance with the law of that state.

iii. If you are not a Tribal member but are a natural child or grandchild of a Tribal member you must submit: (1) evidence of that fact, e.g., your birth certificate and/or your parent's/grandparent's birth/death certificate showing the name of the Tribal member; and (2) evidence of your parent's or grandparent's Tribal membership in accordance with paragraphs A and B. The relationship to the Tribal member must be clearly documented. Failure to submit the required documentation will result in the application not being accepted for review.

Note: If you meet the criteria of B or C, you are eligible only for the Preparatory or Pre-graduate Scholarships.

- Two Faculty/Employee Evaluations with original signature.
- Reasons for Requesting the Scholarship.
- Delinquent Debt Form.
- Course Curriculum Verification with original signature.
- Acknowledgement Card (if submitting a hard copy application).
- Curriculum for Major.

3. Submission Dates and Times

Application Receipt Date: The application deadline for *New* applicants is Monday, May 7, 2012.

Applications (original and one copy) shall be considered as meeting the deadline if they are received by the IHS Scholarship Program Branch Office, located in Rockville, Maryland, and postmarked on or before the deadline date. Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks will not be acceptable as proof of timely mailing and will not be considered for funding. Once the application is received, the applicant will receive an ''Acknowledgement of Receipt of Application'' (IHS–815) card that is included in the application packet, if submitting a hard copy application. Applications received, with postmarks after the announced deadline date, will not be considered for funding.

4. Intergovernmental Review

Executive Order 12372 requiring intergovernmental review is not applicable to this program.

5. Funding Restrictions

No more than 5% of available funds will be used for part-time scholarships this fiscal year. Students are considered part-time if they are enrolled for a minimum of six hours of instruction and are not considered in full-time status by their college/university. Documentation must be received from part-time applicants that their school and course curriculum allows less than full-time status. Both part-time and full-time scholarship awards will be made in accordance with 42 CFR 136.320, 136.330 and 136.370 and this information will be published in all IHSSP Applications and Student Handbooks as they pertain to the Indian Health Service Scholarship Program.

6. Other Submissions Requirements

New applicants are responsible for using the online application or contacting and requesting an application packet from their IHS Area Scholarship Coordinator. Continuation students are also encouraged to use the online application process; however, the Division of Grants Management will also mail continuation students an application packet. If you do not receive this information, please contact your IHS Area Scholarship Coordinator or

your IHS Scholarship Program Analyst to request a continuation application.

Continuing students must submit a complete application (original plus one copy) and meet the deadline of Monday, May 7, 2012; *there will be no exceptions.*

V. Application Review Information

1. Criteria

Applications will be reviewed and scored with the following criteria.

• Needs of the IHS (Health Personnel Needs in Indian Country)

Applicants are considered for scholarship awards based on their desired career goals and how these goals relate to current Indian health personnel needs. Applications for each health career category are reviewed and ranked separately.

• Academic Performance (40 Points)

Applicants are rated according to their academic performance as evidenced by transcripts and faculty evaluations. In cases where a particular applicant's school has a policy not to rank students academically, faculty members are asked to provide a personal judgment of the applicant's achievement. Health Professions applicants with a cumulative GPA below 2.0 are not eligible for award.

• Faculty/Employer Recommendations (30 Points)

Applicants are rated according to evaluations by faculty members, current and/or former employers and Tribal officials regarding the applicant's potential in the chosen health related professions.

• Stated Reasons for Asking for the Scholarship and Stated Career Goals (30 Points)

Applicants must provide a brief written explanation of reasons for asking for the scholarship and of their career goals. The applicant's narrative will be judged on how well it is written and its content.

• Applicants who are closest to graduation or completion of training are awarded first. For example, senior and junior applicants under the Health Professions Pre-graduate Scholarship receives funding before freshmen and sophomores.

• Priority Categories

The following is a list of health professions that will be considered for funding in each scholarship program in FY 2012.

• Indian Health Professions Preparatory Scholarships

A. Pre-Clinical Psychology (Jr. and Sr. undergraduate years).
B. Pre-Nursing.
C. Pre-Pharmacy.
D. Pre-Social Work (Jr. and Sr. preparing for an MS in social work).

• Indian Health Professions Pre-Graduate Scholarships

A. Pre-Dentistry.
B. Pre-Medicine.
C. Pre-Podiatry.

• Indian Health Professions Scholarship

A. Bio Medical Engineering—BS.
B. Bio Medical Technology—AAS.
C. Chemical Dependency Counseling—Master's Degrees.
D. Clinical Psychology—Ph.D. or Psy.D.
E. Dentistry: DDS or DMD degrees
F. Diagnostic Radiology Technology: Associates and B.S.
G. Environmental Health/Sanitarian: B.S.
H. Health Records Administration: R.H.I.T. and R.H.I.A.
I. Medical Technology: B.S.
J. Medicine: Allopathic and Osteopathic.
K. Nurse: Associate and Bachelor Degrees and advanced degrees in Psychiatry, Geriatrics, Women's Health, Pediatrics, Family Health, and Nurse Anesthetist.
(Priority consideration will be given to Registered Nurses employed by the IHS; in a program conducted under a contract or compact entered into under the Indian Self-Determination Act and Education Assistance Act (Pub. L. 93–638) and its amendments; or in a program assisted under Title V of the IHCIA.)
L. Occupational Therapy: B.S. or Masters.
N. Pharmacy: Pharm.D.
O. Physician Assistant: PA–C.
P. Physical Therapy: M.S. and D.P.T.
Q Podiatry: D.P.M.
R. Public Health Nutritionist: M.S.
S. Respiratory Therapy: BS Degree.
T. Social Work: Masters Level only (Direct Practice and Clinical concentrations).
U. Ultrasonography (Prerequisite: Diagnostic Radiology Technology).

2. Review and Selection Process

The applications will be reviewed and scored by the IHS Scholarship Program's Application Review Committee appointed by the IHS. Each reviewer will not be allowed to review an application from his/her Area or his/her own Tribe. Each application will be reviewed by three reviewers. The average score of the three reviews provide the final Ranking Score for each applicant. To determine the ranking of each applicant, these scores are sorted from the highest to the lowest within each scholarship section, health discipline, enrollment status, date of graduation, and score. If several students have the same date of graduation and score within the same discipline, computer ranking list will randomly sort and will not be sorted by alphabetical name. Selections are then made from the top of each ranking list to the extent that funds allocated by the IHS among the three scholarships are available for obligation.

VI. Award Administration Information

1. Award Notices

It is anticipated that continuing applicants will be notified in writing during the first week of June and new applicants will be notified in writing during the first week of July 2012. An Award Letter will be issued to successful applicants. Unsuccessful applicants will be notified in writing, which will include a brief explanation of the reasons the application was not successful and provide the name of the IHS official to contact if more information is desired.

2. Administrative and National Policy Requirements

Regulations at 42 CFR 136.304 provide that the IHS shall, from time to time, publish a list of health professions eligible for consideration for the award of IHS Indian Health Professions Preparatory and Health Professions Pre-graduate Scholarships and IHS Health Professions Scholarship. Section 104(b)(1) of the IHCIA, as amended by the Indian Health Care Amendment of 1988, Public Law 100–713, authorizes the IHS to determine specific health professions for which Indian Health Scholarships will be awarded.

Awards for the Indian Health Professions Scholarships will be made in accordance with 42 CFR 136.330.

Awardees shall incur a service obligation prescribed under section 338A of the Public Health Service Act (42 U.S.C. 2541) which shall be met by service, through clinical practice:

(1) In the IHS;

(2) In a program conducted under a contract or compact entered into under the Indian Self-Determination Act and Education Assistance Act (Pub. L. 93–638) and its amendments;

(3) In a program assisted under Title V of the Indian Health Care Improvement Act (Pub. L. 94–437) and its amendments; or

(4) In a private practice option of his or her profession (physicians, dentists, and clinical psychologists, only) if the practice (a) is situated in a health professional shortage area, designated in regulations promulgated by the Secretary of Health and Human Services (Secretary) and (b) addresses the health care needs of a substantial number (75%) of Indians as determined by the Secretary in accordance with guidelines of the Service. The percentage of substantial number of Indians was increased in FY 2012 due to the significant vacancies for health professionals in IHS, Tribal and urban Indian health programs and the need to demonstrate service to a more substantial number of Indians in the private practice option to warrant the choice of this option over options 1–3. This change will apply prospectively for new scholarship applicants only.

Pursuant to the Indian Health Amendments of 1992, (Pub. L. 102–573), an awardee of an IHS Health Professions Scholarship may, at the election of the awardee, meet his/her service obligation prescribed under section 338A of the Public Health Service Act (42 U.S.C. 2541) by a program specified in options (1)–(4) above that:

(i) Is located on the reservation of the Tribe in which the awardee is enrolled; or

(ii) Serves the Tribe in which the awardee is enrolled, if there is an open vacancy available in the discipline for which the awardee was funded under the IHS Health Professions Scholarship during the required 90-day placement period.

In summary, all awardees of the Indian Health Professions Scholarship are reminded that acceptance of this scholarship will result in a service obligation requirement that is supported both by statutes and contract, which must be performed at an approved service payback facility.

Moreover, the Director, IHS, has the authority to make the final determination, designating a facility, whether managed and operated by IHS, or one of its Tribal or Urban Indian partners, consistent with IHCIA, Public Law 94–437, as amended by Public Law 100–713, and Public Law 102–573, and Public Law 111–148 § 10221 (2010), as approved for scholar obligated service payback.

3. Reporting

Scholarship Program Minimum Academic Requirements

It is the policy of the IHS that a scholarship awardee funded under the Health Professions Scholarship Program of the Indian Health Care Improvement Act must maintain a 2.0 cumulative grade point average (GPA), remain in good academic standing each semester/trimester/quarter, maintain full-time student status (minimum number credit hours, based upon what is considered ''full-time'' by the applicant's school). In addition to these requirements, a Health Professions Scholarship program awardee must be enrolled in an approved/accredited school for a Health Professions degree. An awardee of a scholarship under the IHS Health Professions Pre-Graduate and Health Professions Preparatory Scholarship authority must maintain a minimum 2.0 cumulative grade point average (GPA), remain in good standing each semester/trimester/quarter and be a full time student (minimum of 12 credit hours or the number of credit hours considered by your school as full-time). Part-time students for the three scholarship programs must also maintain a 2.0 cumulative GPA and must take at least six credit hours (undergraduate) each semester/trimester/quarter, but less than the number of hours considered full-time by your school. Scholarship awardees must be approved for part-time status at the time of scholarship award. Scholarship awardees may not change from part-time status to full-time status or vice versa in the same academic year.

The following reports must be sent to the IHS Scholarship Program at the identified time frame. Each scholarship awardee will be provided with an IHS Scholarship Program Student Handbook where the needed reports are located. If a scholarship awardee fails to submit these reports as required, they will be ineligible for continuation of scholarship support and scholarship award payments will be discontinued.

A. Recipient's Enrollment and Initial Progress Report

Within thirty (30) days from the beginning of each semester/trimester/quarter, scholarship awardees must submit a Recipient's Enrollment and Initial Progress Report (Form IHS–856–8, page 69 of the Student Handbook).

B. Transcripts

Within thirty (30) days from the end of each academic period, i.e., semester/trimester/quarter, or summer session, scholarship awardees must submit an Official Transcript showing the results of the classes taken during that period.

C. Notification of Academic Problem/Change

If at any time during the semester/trimester/quarter, scholarship awardees are advised to reduce the number of credit hours for which they are enrolled below the minimum of the 12 (or the number of hours considered by their school as full-time) for a full-time student or at least six hours for part-time students; or if they experience academic problems, they must submit this report (Form IHS–856–9, page 71 of the Student Handbook).

D. Change of Status

- Change of Academic Status

Scholarship awardees must immediately notify the IHS Area Scholarship Coordinator and their Scholarship Program Analyst if they are placed on academic probation, dismissed from school, or voluntarily withdraw for any reason (personal or medical).

- Change of Health Discipline

Scholarship awardees may not change from the approved IHS Scholarship Program health discipline during the school year. If an unapproved change is made, scholarship payments will be discontinued.

- Change in Graduation Date

Any time that a change occurs in a scholarship awardee's expected graduation date, they must notify their IHS Area Scholarship Coordinator and their Scholarship Program Analyst immediately in writing. Justification must be attached from the school advisor.

VII. Agency Contacts

Please address application inquiries to the appropriate IHS Area Scholarship Coordinator. Other programmatic inquiries may be addressed to Dr. Dawn A. Kelly, Chief, Scholarship Program, 801 Thompson Avenue, Suite 120, Rockville, Maryland 20852; Telephone (301) 443–6622. (This is not a toll-free number). For grants information, contact the Grants Scholarship Coordinator, Division of Grants Management, Indian Health Service, 801 Thompson Avenue, TMP 360, Rockville, Maryland 20852; Telephone (301) 443–5204. (This is not a toll-free number).

VIII. Other Information

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of *Healthy People 2020,* a PHS-led activity for setting priority areas. This program announcement is

related to the priority area of Education and Community-Based Programs. Potential applicants may download a copy of *Healthy People 2020,* at *http://www.healthypeople.gov.*

Interested individuals are reminded that the list of eligible health and allied professions is effective for applicants for the 2012–2013 academic year. These priorities will remain in effect until superseded. Applicants who apply for health career categories not listed as priorities during the current scholarship cycle will not be considered for a scholarship award.

Dated: April 4, 2012.

Randy Grinnell,

Deputy Director, Indian Health Service.

[FR Doc. 2012–8517 Filed 4–9–12; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301–496–7057; fax: 301–402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Nonpathogenic Bacteria, Paenibacillus alvei, Useful as a Natural Biocontrol Agent for Elimination of Food-borne Pathogenic Bacteria

Description of Technology: This newly isolated non-pathogenic bacterial strain (TS–15) has shown the ability kill or inhibit a wide variety of harmful bacteria including many of the most common food-borne pathogens such as *Salmonella, Escherichia, Listeria, Shigella, Enterobacter* and *Staphylococcus.* The TS–15 strain may provide a natural low cost means to help protect the food supply. The strain may be used as a biocontrol agent in the form of a pesticide or pretreatment to soils in which fruits and vegetable are grown. Preventative use of the TS–15 strain in biocontrol measures may prevent many of the millions of illnesses in the U.S. that are caused by food-borne pathogens each year. Such prevention may also reduce the associated costs of treatment for such illnesses. Furthermore, isolation and development of the antibiotic compounds produced by the TS–15 strain may yield useful new compositions to help treat bacterial illness, including infections by some pathogens resistant to standard antibiotics.

Potential Commercial Applications

- Agriculture—pesticide.
- Medicine—antibiotic.

Competitive Advantages: Low cost natural means of prevention of many food-borne bacterial illnesses.

Development Stage: Early-stage.

Inventors: Eric Brown (FDA), Jie Zheng (FDA), and Alex Enurah.

Intellectual Property: HHS Reference No. E–042–2011/0—U.S. Provisional Application No. 61/488,271 filed 20 May 2011.

Licensing Contact: Tedd Fenn; 301–435–5031; Tedd.Fenn@nih.gov.

Collaborative Research Opportunity: The FDA Center for Food Safety and Applied Nutrition is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize *Paenibacillus alvei* (TS–15). For collaboration opportunities, please contact Alice Welch at *alice.welch@fda.hhs.gov.*

Glass Capillary Arrays for Calibration, Validation, and Quality Assurance of Quantitative Measurements from Diffusion MRI Applications

Description of Technology: NIH scientists have developed a tool for calibration and quality assurance for diffusion MRI applications. These Glass Capillary Arrays (GCAs) allow reliable means for instrument calibration and data measurement validation of various MRI scanning parameters. A variety of GCA conformations is available, so they have broad utility in MRI applications ranging from material sciences to clinical and biological MRI.

Potential Commercial Applications

- Calibration, quality assurance, and quality control for diffusion MRI applications using physics and mathematics algorithms combined with known GCA properties.
- GCAs come in various diameters and thicknesses, so can be utilized in a wide range of sciences (material and biological).
- Provides known standards for adjustment of various parameters, including magnetic field gradient, magnetic field homogeneity, and radiofrequency pulse.

Competitive Advantages

- Allows sufficient quality assurance and instrument calibration not previously available for advanced diffusion MRI.
- GCAs are non-toxic and biologically and environmentally safe, so can be stored without special permits or requirements.

Development Stage: Prototype.

Inventors: Ferenc Horkey, et al. (NICHD).

Intellectual Property: HHS Reference No. E–202–2010/0—U.S. Provisional Application No. 61/536,032 filed 18 Sep 2011.

Licensing Contact: John Stansberry, Ph.D.; 301–435–5236; *stansbej@mail.nih.gov.*

Diffusion MRI of Beating Hearts and Other Moving Tissues in Live Patients

Description of Technology: Diffusion Tensor Imaging (DTI) is an improved form of Magnetic Resonance Imaging (MRI) that provides microscopic details about tissue structure based on water diffusion. DTI is commonly used to visualize the brain when examining patients with neurological disorders or strokes. Currently, DTI faces technical limitations preventing imaging of moving tissues, such as the beating heart, spinal cord, and base of the brain. The NIH inventors have established an improved method allowing application of DTI to moving tissues. Using DTI to examine patients' hearts will allow for better detection of location and severity of ischemia and for probing general muscle structure and integrity. This method can be applied to various diffusion models including Diffusion Weighted Imaging (DWI).

Potential Commercial Applications

- Heart disease diagnosis.
- Evaluating new drugs for effects on heart.
- Planning surgical procedures.
- Imaging spinal cord, base of brain, and periventricular zones.
- Enhanced imaging of other tissues.

Competitive Advantages

• Application of state-of-the-art DTI to a wider range of tissues.

• Works with multiple diffusion models including DWI.

Development Stage: Early-stage.

Inventor: Peter J. Basser (NICHD).

Publication: Rohde G, et al. Comprehensive approach for correction of motion and distortion in diffusion-weighted MRI. Magn Reson Med. 2004 Jan;51(1):103–114. [PMID 14705050]

Intellectual Property: HHS Reference No. E–168–2009/0—U.S. Provisional Application No. 61/523,108 filed 12 Aug 2011.

Related Technologies

• HHS Reference No. E–203–1993/0—U.S. Patent No. 5,539,310 issued 23 Jul 1996; PCT Application No. PCT/US94/08842 filed 05 Aug 1994.

• HHS Reference No. E–079–2003/1—U.S. Application No. 12/114,713 filed 02 May 2008.

• HHS Reference No. E–079–2003/0—U.S. Patent No. 7,643,863 issued 05 Jan 2010; PCT Application No. PCT/US2004/22027 filed 08 Jul 2004.

Licensing Contact: John Stansberry, Ph.D.; 301–435–5236; *stansbej@mail.nih.gov*.

Dated: April 4, 2012.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2012–8577 Filed 4–9–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Method for Segmenting Medical Images and Detecting Surface Anomalies in Anatomical Structures

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of an exclusive license to practice the inventions embodied in U.S. Patents: 6,246,784 filed August 18, 1998 and issued June 12, 2001; 6,345,112 filed January 19, 2001 and issued February 5, 2002; and 6,556,696 filed February 5, 2002 and issued April 29, 2003; each entitled ''Method for segmenting medical images and detecting surface anomalies in anatomical structures,'' by Ronald M. Summers *et al.,* to iCAD, Inc. having a place of business in 98 Spit Brook Road, Suite 100, Nashua, NH 03062 USA. The patent rights in this invention have been assigned to the United States of America.

DATES: Only written comments and/or application for a license that are received by the NIH Office of Technology Transfer on or before May 10, 2012 will be considered.

ADDRESSES: Requests for a copy of the patent application, inquiries, comments and other materials relating to the contemplated license should be directed to: Tedd Fenn, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Email: *Tedd.Fenn@mail.nih.gov;* Telephone: 301–435–5031; Facsimile: 301–402–0220.

SUPPLEMENTARY INFORMATION: The invention relates to methods of processing medical image data to extract information about organ structure and reconstruct the anatomical image in a virtual 3D model to detect anomalies. The methods help solve imaging problems such as image ''leakage,'' which causes distortion, overloads datasets and slows the 3D modeling display. Once the image is assembled, additional processing methods can detect surface anomalies by comparing the curvature characteristics of anatomy to curvature characteristics anomalies. The anomalies in the image can be colorized or otherwise identified in the image to enhance detection. This is helpful to identify harmful features such as precancerous polyps or other anomalies.

The field of use may be limited to ''computer aided detection in colonography.''

The prospective worldwide exclusive license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within thirty (30) days from the date of this published Notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Properly filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: April 4, 2012.

Richard U. Rodriguez,

Director, Division of Technology Development & Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2012–8578 Filed 4–9–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2011–0039; OMB No. 1660–0124]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, FEMA Preparedness Grants: Emergency Operations Center (EOC) Grant Program

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission will describe the nature of the information collection, the categories of respondents, the estimated burden (i.e., the time, effort and resources used by respondents to respond) and cost, and the actual data collection instruments FEMA will use.

DATES: Comments must be submitted on or before May 10, 2012.

ADDRESSES: 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 Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to *oira.submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Records Management Division, 1800 South Bell Street, Arlington, VA 20598–3005, facsimile number (202) 646–3347, or email address *FEMA–Information-Collections-Management@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Collection of Information

Title: FEMA Preparedness Grants: Emergency Operations Center (EOC) Grant Program.

Type of information collection: Revision of a currently approved information collection.

OMB Number: 1660–0124.

Form Titles and Numbers: FEMA Form 089–0–0–3, EOC Grant Program Investment Justification; FEMA Form 089–0–0–18, EOC Prioritization of Investment Justifications Template; FEMA Form 089–0–0–3A, EOC Investment Justification Scoring Worksheet.

Abstract: The Emergency Operations Center (EOC) Grant Program is intended to improve emergency management and preparedness capabilities by supporting flexible, sustainable, secure, and interoperable EOCs with a focus on addressing identified deficiencies and needs. Fully capable emergency operations facilities at the State, Territory, Local and/or Tribal levels are an essential element of a comprehensive national emergency management system and are necessary to ensure continuity of operations and continuity of government in major disasters caused by any hazard.

Affected Public: State, Local or Tribal Government.

Estimated Number of Respondents: 1,456.

Frequency of Response: On occasion.

Estimated Average Hour Burden per Respondent: EOC Grant Program Investment Justification, FEMA Form 089–0–0–3, 8 hours; EOC Prioritization of Investment Justifications Template, FEMA Form 089–0–0–18, 5 hours 30 minutes; EOC Investment Justification Scoring Worksheet, FEMA Form 089–0–0–3A, 30 minutes.

Estimated Total Annual Burden Hours: 6,258 hours.

Estimated Cost: The estimated annual cost to respondents for the hour burden is $195,386.10. There are no annual costs to respondents operations and maintenance costs for technical services. There is no annual start-up or capital costs. The cost to the Federal Government is $380,762.85.

Dated: March 28, 2012.

John G. Jenkins, Jr.,

Acting Director, Records Management Division, Mission Support Bureau, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2012–8620 Filed 4–9–12; 8:45 am]

BILLING CODE 9111–78–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2012–0015; OMB No. 1660–0131]

Agency Information Collection Activities: Proposed Collection; Comment Request; State Preparedness Report

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a proposed extension, without change, of a currently approved collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning revision of the State Preparedness Report. The State Preparedness Report is a self-assessment tool for State, local and Tribal governments to evaluate and report on their targeted preparedness capability levels and current capability levels.

DATES: Comments must be submitted on or before June 11, 2012.

ADDRESSES: To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at *www.regulations.gov* under Docket ID FEMA–2012–0015. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Regulatory Affairs Division, Office of Chief Counsel, DHS/FEMA, 500 C Street SW., Room 835, Washington, DC 20472–3100.

(3) *Facsimile.* Submit comments to (703) 483–2999.

(4) *Email.* Submit comments to *FEMA-POLICY@dhs.gov.* Include Docket ID FEMA–2012–0015 in the subject line.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via the link in the footer of *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Cathy R. Knight, Program Analyst, National Preparedness Assessment Division, 202–786–9670 for additional information. You may contact the Records Management Division for copies of the proposed collection of information at facsimile number (202) 646–3347 or email address: *FEMA-Information-Collections-Management@dhs.gov.*

SUPPLEMENTARY INFORMATION:

The *Post Katrina Emergency Management Reform Act of 2006 (PKEMRA),* and as amended by the *Implementing Recommendations of the 9/11 Commission Act of 2007,* established an annual requirement for a State Preparedness Report (SPR). Its contents are submitted 15 months after the date of enactment of the PKEMRA, and annually thereafter. This information collection will collect preparedness data from states and territories to fulfill the Congressional mandate for the SPR.

The nature of the information is a self-assessment of disaster preparedness, performed by State, Local, and Tribal Government. This will include an assessment of current capability levels and a description of target capability levels. The source of the information will be determined by each survey respondent, but will typically involve the subject matter expertise of emergency management personnel and other homeland security personnel.

Collection of Information

Title: State Preparedness Report.

Type of Information Collection: Extension, without change, of a previously approved collection.

OMB Number: 1660–0131.

Form Titles and Numbers: None.

Abstract: This State Preparedness Report is a Web-based survey that is combined with the National Incident Management System Compliance Assessment Support Tool (NIMSCAST) that will be used to respond to the congressional mandate for the Federal Emergency Management Agency (FEMA), to conduct nationwide assessments of emergency preparedness.

Affected Public: State, Local and Tribal Governments.

Estimated Total Annual Burden Hours: 3,696.

Estimated Cost: There are no recordkeeping, capital, start-up or maintenance costs associated with this information collection.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption

above. Comments are solicited to (a) Evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) 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.

Dated: April 5, 2012.

John G. Jenkins, Jr.,

Acting, Records Management Division, Mission Support Bureau, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2012–8594 Filed 4–9–12; 8:45 am]

BILLING CODE 9111–46–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2008–0010]

Board of Visitors for the National Fire Academy

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Committee Management; Notice of Open Federal Advisory Committee Teleconference Meeting.

SUMMARY: The Board of Visitors for the National Fire Academy (Board) will meet on April 25 and 26, 2012. The meeting will be open to the public.

DATES: The meeting will take place Wednesday, April 25, 2012, from 8:30 a.m. to 5 p.m. EST, and Thursday, April 26, 2012, from 8:30 a.m. to 1:30 p.m. EST. Please note that the meeting may close early if the Board has completed its business.

ADDRESSES: The meeting will be held at the National Emergency Training Center, Building H, Room 300, Emmitsburg, Maryland. Members of the public who wish to obtain details on how to gain access to the facility and directions may contact Ruth MacPhail as listed in the **FOR FURTHER INFORMATION CONTACT** section by close of business April 20, 2012. A picture identification is needed for access. For information on services for individuals with disabilities or to request special assistance, contact Ruth MacPhail as soon as possible.

To facilitate public participation, we are inviting public comment on the issues to be considered by the Board as listed in the **SUPPLEMENTARY INFORMATION** section. Comments must be submitted in writing no later than April 20, 2012, and must be identified by docket ID FEMA–2008–0010 and may be submitted by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: FEMA–RULES@dhs.gov.* Include the docket ID in the subject line of the message.
- *Fax:* 703–483–2999.
- *Mail:* Ruth MacPhail, 16825 South Seton Avenue, Emmitsburg, Maryland 21727.

Instructions: All submissions received must include the docket ID for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received by the Board, go to *http://www.regulations.gov.*

Public comments will be requested prior to discussion and deliberation of each agenda item. Speakers will be afforded 5 minutes to make comments. Contact Ruth MacPhail to register as a speaker.

FOR FURTHER INFORMATION CONTACT: Ruth MacPhail, 16825 South Seton Avenue, Emmitsburg, Maryland 21727, telephone (301) 447–1117, fax (301) 447–1173, and email *ruth.macphail@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. (Pub. L. 92- 463).

Purpose of the Board

The purpose of the Board is to review annually the programs of the National Fire Academy (Academy) and advise the Administrator of the Federal Emergency Management Agency (FEMA), through the United States Fire Administrator, regarding the operation of the Academy and any improvements therein that the Board deems appropriate. The Board makes interim advisories to the Administrator of FEMA, through the United States Fire Administrator, whenever there is an indicated urgency to do so in fulfilling its duties. In carrying out its responsibilities, the Board examines Academy programs to determine whether these programs further the basic missions which are approved by the Administrator of FEMA, examines the physical plant of the Academy to determine the adequacy of the Academy's facilities, and examines the funding levels for Academy programs. The Board submits an annual report through the United States Fire Administrator to the Administrator of FEMA, in writing. The report provides detailed comments and recommendations regarding the operation of the Academy.

Agenda

The Board will review and approve the minutes of the February 21, 2012, meeting. The Board will review Academy program activities including Academy online courses, the development of new online courses, current curriculum, anticipated FY 2012 curriculum developments, and the preliminary agenda for the June, 2012, FESHE conference. The Academy will report on the progress of the American Council on Education (ACE) review findings, prerequisites for acceptance into the Executive Fire Officer Program (EFOP), and a new Student Identification Number (SIN) procedure being implemented through the NFA Admissions process.

The Board will review the status of the Fire and Emergency Services Higher Education (FESHE) Recognition program and the status of Training Resources and Data Exchange (TRADE)/FESHE Adobe Connect sessions. The Board will discuss deferred maintenance and capital improvements on the NETC campus, to include FY 2012 Budget Planning, and National Fire Programs update. The Board will review and consider reports from the Applicant Outreach Subcommittee and FESHE/Professional Development Subcommittee.

The Board will tour the National Fire Academy physical plant to assess facility upgrades and plans for continued improvements and will observe Academy classes in session.

After deliberation, the Board will recommend actions to the Superintendent of the National Fire Academy and the Administrator of FEMA.

Dated: April 4, 2012.

Denis G. Onieal,

Superintendent, National Fire Academy, United States Fire Administration, Federal Emergency Management Agency.

[FR Doc. 2012–8622 Filed 4–9–12; 8:45 am]

BILLING CODE 9111–45–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Cargo Container and Road Vehicle Certification for Transport Under Customs Seal

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day Notice and request for comments; Extension of an existing collection of information.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the Cargo Container and Road Vehicle for Transport under Customs Seal. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Written comments should be received on or before June 11, 2012, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 799 9th Street NW., 5th Floor, Washington, DC. 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 799 9th Street NW., 5th Floor, Washington, DC. 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The comments should address: (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 estimates 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 including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual cost burden to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Cargo Container and Road Vehicle for Transport under Customs Seal.

OMB Number: 1651–0124.

Form Number: None.

Abstract: The United States is a signatory to several international Customs conventions and is responsible for specifying the technical requirements that containers and road vehicles must meet to be acceptable for transport under Customs seal. Customs and Border Protection (CBP) has the responsibility of collecting information for the purpose of certifying containers and vehicles for international transport under Customs seal. A certification of compliance facilitates the movement of containers and road vehicles across international territories. The procedures for obtaining a certification of a container or vehicle are set forth in 19 CFR part 115.

Action: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 25.

Estimated Number of Annual Responses per Respondent: 120.

Estimated Time per Response: 3.5 hours.

Estimated Total Annual Burden Hours: 10,500.

Dated: April 5, 2012.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2012–8624 Filed 4–9–12; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Lien Notice

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day Notice and request for comments; Extension of an existing collection of information.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the Lien Notice (CBP Form 3485). This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Written comments should be received on or before June 11, 2012, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 799 9th Street NW., 5th Floor, Washington, DC. 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 799 9th Street NW., 5th Floor, Washington, DC. 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The comments should address: (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 estimates 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 including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual cost burden to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Lien Notice.

OMB Number: 1651–0012.

Form Number: CBP Form 3485.

Abstract: Section 564, Tariff Act of 19, as amended (19 U.S.C. 1564) provides that the claimant of a lien for freight or can notify Customs and Border Protection (CBP) in writing of the existence of a lien, and CBP shall not

permit delivery of the merchandise from a public store or a bonded warehouse until the lien is satisfied or discharged. The claimant shall file the notification of a lien on CBP Form 3485, *Lien Notice.* This form is usually prepared and submitted to CBP by carriers, cartmen and similar persons or firms. The data collected on this form is used by CBP to assure that liens have been satisfied or discharged before delivery of the freight from public stores or bonded warehouses, and to ensure that proceeds from public auction sales are duly distributed to the lienholder. CBP Form 3485 is provided for by 19 CFR 141.112, and is accessible at *http://forms.cbp.gov/pdf/CBP_Form_3485.pdf.*

Action: CBP proposes to extend the expiration date of this information collection with a change to the burden hours as a result of changing the estimated response time for completing CBP Form 3485 from 5 minutes to 15 minutes. There are no changes to CBP Form 3485.

Type of Review: Extension (with change).

Affected Public: Businesses.

Estimated Number of Respondents: 112,000.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 28,000.

Dated: April 5, 2012.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2012–8637 Filed 4–9–12; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Application for Extension of Bond for Temporary Importation

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

ACTION: 30-Day notice and request for comments; Extension of an existing information collection.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Application for Extension of Bond for Temporary Importation (CBP Form 3173). This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This information collection was previously published in the **Federal Register** (77 FR 6136) on February 7, 2012, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before May 10, 2012.

ADDRESSES: Interested persons are invited to submit written comments on this information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for U.S. Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 799 9th Street NW., 5th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act (Pub. L. 104–13). Your comments should address one of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's/component'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 collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological techniques or other forms of information.

Title: Application for Extension of Bond for Temporary Importation.

OMB Number: 1651–0015.

Form Number: CBP Form 3173.

Abstract: Imported merchandise which is to remain in the customs territory for a period of one year or less without the payment of duties is entered as a temporary importation, as authorized under the Harmonized Tariff Schedules of the United States (19 U.S.C. 1202). When this time period is not sufficient, it may be extended by submitting an application on CBP Form 3173, ''*Application for Extension of Bond for Temporary Importation''.* This form is provided for by 19 CFR 10.37 and is accessible at *http://forms.cbp.gov/pdf/CBP_Form_3173.pdf.*

Current Actions: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to CBP Form 3173.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 1,200.

Estimated Number of Annual Responses per Respondent: 14.

Estimated Number of Total Annual Responses: 16,800.

Estimated Time per Response: 13 minutes.

Estimated Total Annual Burden Hours: 3,646.

Dated: April 4, 2012.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2012–8626 Filed 4–9–12; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Guam-CNMI Visa Waiver Agreement

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

ACTION: 30-Day notice and request for comments; Extension of an existing information collection.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval

in accordance with the Paperwork Reduction Act: Guam-CNMI Visa Waiver Agreement (CBP Form I–760). This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This information collection was previously published in the **Federal Register** (77 FR 6137) on February 7, 2012, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before May 10, 2012.

ADDRESSES: Interested persons are invited to submit written comments on this information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for U.S. Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 799 9th Street, NW., 5th Floor, Washington, DC. 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act (Pub. L. 104–13). Your comments should address one of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components 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 collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological techniques or other forms of information.

Title: Guam-CNMI Visa Waiver Agreement.

OMB Number: 1651–0126.

Form Number: CBP Form I–760.

Abstract: Carriers are responsible for ensuring that every alien transported to Guam and/or the Commonwealth of the Northern Mariana Islands (CNMI) pursuant to Public Law 110–229 under the Guam-CNMI Visa Waiver Program meets all of the eligibility criteria prior to departure to Guam and/or the CNMI. See 8 CFR 212.1(q). Carriers are liable and subject to fine, pursuant to section 273 of the Immigration and Nationality Act (INA) (8 U.S.C. 1323), for transporting to the United States any alien who does not have a valid passport and an unexpired visa, if a visa was required. Any transportation line bringing any alien to Guam and/or the CNMI under the Guam-CNMI Visa Waiver Program must enter into an agreement with CBP on Form I–760. This form is accessible at: *http://forms.cbp.gov/pdf/CBP_Form_i760.pdf.*

Current Actions: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 31.

Estimated Time per Respondent: 12 minutes.

Estimated Total Annual Burden Hours: 6.2.

Dated: April 5, 2012.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2012–8628 Filed 4–9–12; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Transfer of Cargo to a Container Station

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

ACTION: 30-Day notice and request for comments; Extension of an existing information collection.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Transfer of Cargo to a Container Station. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This information collection was previously published in the **Federal Register** (77 FR 3487) on January 24, 2012, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before May 10, 2012.

ADDRESSES: Interested persons are invited to submit written comments on this information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for U.S. Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 799 9th Street, NW., 5th Floor, Washington, DC. 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act (Pub. L.104–13). Your comments should address one of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components 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 collections of information on those who

are to respond, including the use of appropriate automated, electronic, mechanical, or other technological techniques or other forms of information.

Title: Transfer of Cargo to a Container Station.

OMB Number: 1651–0096.

Form Number: None.

Abstract: Before the filing of an entry of merchandise, for the purpose of breaking bulk and redelivery of the cargo, containerized cargo may be moved from the place of unlading or may be received directly at the container station from a bonded carrier after transportation in-bond. This also applies to loose cargo as part of containerized cargo. In accordance with 19 CFR 19.42, the container station operator may make a request for the transfer of a container to the station by submitting to CBP an abstract of the manifest for the transferred containers including the bill of lading number, marks, numbers, description of the contents and consignee.

Current Actions: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 14,327.

Estimated Number of Annual Responses per Respondent: 25.

Estimated Total Annual Responses: 358,175.

Estimated Time per Response: 7 minutes.

Estimated Total Annual Burden Hours: 41,548.

Dated: April 4, 2012.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2012–8632 Filed 4–9–12; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5634–N–01]

Changes in Certain Multifamily Housing and Health Care Facility Mortgage Insurance Premiums for Fiscal Year (FY) 2013

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: In accordance with HUD regulations, this notice announces changes of the mortgage insurance premiums (MIPs) for certain Federal Housing Administration (FHA) Multifamily Housing, Health Care Facilities, and Hospital Mortgage Insurance programs for commitments to be issued or reissued in FY 2013. The MIP for market-rate New Construction/Substantial Rehabilitation loans under Sections 207, 213, 220, 221(d)(4), 231, 232, and 242 is proposed to increase by 20 basis points and 223(a)(7) loans by 5 basis points; with a 15 basis point increase for all other market-rate multifamily housing, health care facility, and hospital loans. The increases will not apply to Low Income Housing Tax Credit Loans, other affordable housing loans for HUD-assisted properties, or loans insured under FHA's Risk Sharing programs. These MIP increases will not only provide additional protection for the GI/SRI fund and increase receipts to the Treasury, but will also encourage private lending to return to the market by ensuring FHA is not under-pricing its risk. In addition to announcing MIPs for FY 2013, this notice also announces that a positive credit subsidy obligation will not be required in FY 2013 for loans under any of the active mortgage insurance programs for multifamily housing or health care facilities.

DATES: *Comment Due Date:* May 10, 2012.

ADDRESSES: Interested persons are invited to submit comments regarding this Notice to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Room 10276, Washington, DC 20410–0500. Interested persons also may submit comments electronically through the Federal eRulemaking Portal at: *http://www.regulations.gov,* referencing the docket number for this Notice. Commenters should follow the instructions provided on that site to submit comments electronically. HUD strongly encourages commenters to submit their comments electronically through *http://www.regulations.gov.* The comments received through this portal are posted and can be easily viewed.

Facsimile (Fax) comments are not acceptable. In all cases, communications must refer to the docket number and title. All comments and communications submitted will be available, without change, for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the public comments by calling the Regulations Division at (202) 708–3055 (this is not a toll-free number). Copies of electronically filed comments are also available for inspection and downloading at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Dan Sullivan, Acting Director, Office of Multifamily Housing Development, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410–8000; telephone: 202–402–6130 (this is not a toll-free number). Hearing- or speech-impaired individuals may access these numbers through TTY by calling the Federal Relay Service at 800–877–8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

HUD's mortgage insurance regulation at 24 CFR 207.254 provides as follows:

> Notice of future premium changes will be published in the **Federal Register**. The Department will propose MIP changes for multifamily mortgage insurance programs and provide a 30-day public comment period for the purpose of accepting comments on whether the proposed changes are appropriate.

Pursuant to this 30-day comment procedure, this notice announces changes for FY 2013 in the MIP for programs authorized under the National Housing Act (the Act) (12 U.S.C. 1709(c)(1)). These changes will not apply to loans combined with Low Income Housing Tax Credits, other affordable housing loans for HUD-assisted properties, or loans insured under FHA's Risk Sharing programs. ''Other affordable housing loans for HUD-assisted properties'' include those for properties with an active project-based Section 8 contract covering any of its units. These changes will be effective and apply to any Firm Commitments issued or reissued after October 1, 2012.

II. MIPs for FHA's Mortgage Insurance Programs for FY2013

In the chart set forth below, this Notice announces the MIPs which will be in effect during FY 2013 for the multifamily housing, health care facilities, and hospital mortgage insurance programs authorized under the National Housing Act (12 U.S.C. 1713 *et seq.*). The multifamily housing programs are administered by FHA's Office of Multifamily Housing Programs. The health care facilities and the hospital insurance programs are administered by FHA's Office of Healthcare Programs. The programs

administered by these offices are listed separately on the chart.

III. Positive Credit Subsidy

Positive credit subsidy will no longer be required for loans under any of the active mortgage insurance programs for multifamily housing or health care facilities. Beginning on October 1, 2012, commitments issued for Section 223(d) operating loss loans for health care facilities and Section 241(a) supplemental loans to FHA-financed multifamily housing will be reported under the budget risk category of their respective, primary FHA mortgages, all of which will generate negative credit subsidy in FY 2013. In addition, the Department will suspend issuance and reissuance commitments under two other programs that had previously required positive credit: Section 221(d)(3) multifamily housing loans for projects with non-profit sponsors or for Section 223(d) operating loss loans to multifamily housing projects with a primary FHA mortgage.

The mortgage insurance premiums to be in effect for FHA firm commitments issued or reissued in FY 2013 are shown in the chart below.

FISCAL YEAR 2013 MIP RATES—MULTIFAMILY HOUSING, HEALTH CARE FACILITIES AND HOSPITAL INSURANCE PROGRAMS

	Current basis points	FY13 basis points
FHA Apartments:		
207 Multifamily Housing New Construction/Sub Rehab without LIHTC	50	70
207 Multifamily Housing New Construction/Sub Rehab with LIHTC	45	45
207 Manufactured Home Parks without LIHTC	50	70
207 Manufactured Home Parks with LIHTC	45	45
221(d)(3) New Construction/Substantial Rehabilitation (NC/SR) for Nonprofit/Cooperative mortgagor without LIHTC	80	N/A
221(d)(3) Limited dividend with LIHTC	45	45
221(d)(4) NC/SR without LIHTC	45	65
221(d)(4) NC/SR with LIHTC	45	45
220 Urban Renewal Housing without LIHTC	50	70
220 Urban Renewal Housing with LIHTC	45	45
213 Cooperative	50	70
207/223(f) Refinance or Purchase for Apartments without LIHTC	*45	*60
207/223(f) Refinance or Purchase for Apartments with LIHTC	*45	*45
223(a)(7) Refinance of Apartments without LIHTC	45	50
223(a)(7) Refinance of Apartments with LIHTC	45	45
223d Operating Loss Loan for Apartments	80	N/A
231 Elderly Housing without LIHTC	50	70
231 Elderly Housing with LIHTC	45	45
241(a) Supplemental Loans for Apartments/coop without LIHTC	80	95
241(a) Supplemental Loans for Apartments/coop with LIHTC	45	45
FHA Health Care Facilities (Nursing Homes, ALF & B&C):		
232 NC/SR Health Care Facilities without LIHTC	57	77
232 NC/SR—Assisted Living Facilities with LIHTC	45	45
232/223(f) Refinance for Health Care Facilities without LIHTC	*50	*65
232/223(f) Refinance for Health Care Facilities with LIHTC	*45	*45
223(a)(7) Refinance of Health Care Facilities without LIHTC	50	55
223(a)(7) Refinance of Health Care Facilities with LIHTC	45	45
223d Operating Loss Loan for Health Care Facilities	80	95
241(a) Supplemental Loans for Health Care Facilities without LIHTC	57	72
241(a) Supplemental Loans for Health Care Facilities with LIHTC	45	45
FHA Hospitals:		
242 Hospitals	50	70
223(a)(7) Refinance of Existing FHA-insured Hospital	50	55
223(f) Refinance or Purchase of Existing Non-FHA-insured Hospital	50	65
241(a) Supplemental Loans for Hospitals	50	65

*The first year MIP for the Section 207/223(f) loans for apartments is 100 basis (one percent) points for the first year, as specified in sections 24 CFR 207.252b(a). The first year MIP for a Section 232/223(f) health care facility remains at 100 basis points (one percent).

Dated: April 3, 2012.

Carol Galante,

Acting Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 2012–8570 Filed 4–9–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Kootenai Tribe of Idaho: Chapter 11—Alcohol Control Act

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes Chapter 11—Alcohol Control Act for the Kootenai Tribe of Idaho. The Act regulates and controls the possession, sale and consumption of liquor within the Kootenai Tribe of Idaho's Reservation. This Act allows for the possession and sale of alcoholic beverages within the jurisdiction of the Kootenai Tribe of Idaho's Reservation, will increase the ability of the tribal government to control the distribution and possession of liquor within their reservation, and at the same time will provide an important source of revenue, the strengthening of the tribal government and the delivery of tribal services.

DATES: *Effective Date:* This Act is effective April 10, 2012.

FOR FURTHER INFORMATION CONTACT: Betty Scissons, Tribal Government Specialist, Northwest Regional Office, Bureau of Indian Affairs, 911 NE. 11th Avenue, Portland, OR 97232, Phone: (503) 231–6723; Fax: (503) 231–6731: or De Springer, Office of Indian Services, Bureau of Indian Affairs, 1849 C Street NW., MS–4513–MIB, Washington, DC 20240; Telephone (202) 513–7626.

SUPPLEMENTARY INFORMATION: Pursuant to the Act of August 15, 1953, Public Law 83–277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice* v. *Rehner,* 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the **Federal Register** notice of adopted liquor ordinances for the purpose of regulating liquor transactions in Indian country. The Kootenai Tribal Council adopted Resolution No. 11–12 to enact a new Chapter 11—Alcohol Control Act on August 9, 2011.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs. I certify that the Kootenai Tribal Council duly adopted Resolution No. 11–12 to enact a new Chapter 11—Alcohol Control Act on August 9, 2011.

Dated: April 2, 2012.

Donald E. Laverdure,

Principal Deputy Assistant Secretary—Indian Affairs.

Chapter 11—Alcohol Control Act for the Kootenai Tribe of Idaho reads as follows:

CHAPTER 11—ALCOHOL CONTROL ACT

This Act repeals the previous Chapter 11 Alcohol Control, approved September 1994, in its entirety and replaces it with this restated Chapter 11.

11–1. *TITLE AND PURPOSE.*

11–1.01. This Chapter shall be known as the KOOTENAI TRIBE OF IDAHO ALCOHOL CONTROL ACT.

11–1.02. The purpose of this Chapter is to regulate and control the distribution and sale of liquor within the territory identified in Article I of the Kootenai Tribe of Idaho Constitution in conformance with federal law.

11–2. *AUTHORITY.*

11–2.01. *Powers of Council.* This Chapter is enacted pursuant to the authority vested in the Tribal Council of the Kootenai Tribe of Idaho under Article IV, Section 1 of the Kootenai Tribe of Idaho Constitution adopted April 10, 1947 and where applicable the Act of August 15, 1953 (Pub. L. 83–277, 67 Stat. 588, 18 U.S.C. 1161).

11–2.02. *Territory.* The Kootenai Tribe of Idaho exercises jurisdiction over the area of Indian trust lands acquired under the Act of February 8, 1887 (24 Stat. 388), and other trust lands acquired pursuant to the Act of May 10, 1926 (44 Stat. 202), and over any lands which may hereafter be acquired by or for the Kootenai Tribe of Idaho as set forth in Article I of the Kootenai Tribe of Idaho Constitution.

11–3. *DEFINITIONS.*

11–3.01. As used in this Chapter, except as may be specifically provided otherwise, the following definitions shall apply.

(1) ''*Alcohol''* means that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is produced by the fermentation or distillation of grain, starch, molasses, or sugar, or other substance including all dilutions and mixtures of this substance.

(2) ''*Beer*'' means any malt beverage, flavored malt beverage, or malt liquor as these terms are defined in this chapter.

(3) ''*Kootenai Reservation*'' refers to the lands defined in section 11–2.02, above.

(4) ''*Licensee*'' means any Tribally-owned business entity licensed by the Tribal Council to own and/or operate a liquor outlet.

(5) ''*Liquor*'' includes the four varieties of liquor herein defined (alcohol, spirits, wine and beer), and all fermented spirituous, vinous, or malt liquor or combination thereof, and mixed liquor, or otherwise intoxicating; and every liquor or solid or semisolid or other substance, patented or not, containing alcohol, spirits, wine and beer, and all drinks or drinkable liquids and all preparations or mixtures capable of all human consumption and any liquid, semisolid, solid, or other substances, which contain more than one percent of alcohol by weight shall be conclusively deemed to be intoxicating.

(6) ''*Malt Beverage*'' or ''*malt liquor*'' means any beverage such as beer, ale, lager, stout, porter, flavored malt beverages such as wine coolers, obtained by the alcoholic fermentation of an infusion or decoction of pure hops, or the pure extract of hops and pure barley malt or other wholesome grain or cereal in pure water containing not more than eight percent of alcohol by weight, and not less than one-half of one percent of alcohol by volume. Any such beverage containing more than eight percent of alcohol by weight shall be referred to as strong beer.

(7) ''*Liquor Outlet*'' means any business where liquor is served, sold and/or consumed.

(8) ''*Spirits*'' means any beverage which contains alcohol obtained by distillation and intended for consumption.

(9) ''*Tribal Council*'' or ''*Council*'' means the Tribal Council of the Kootenai Tribe of Idaho.

(10) ''*Tribe*'' means the Kootenai Tribe of Idaho.

(11) ''*Wine*'' means any alcoholic beverage obtained by fermentation of fruits or other agricultural products containing sugar and containing not more than twenty-four percent alcohol by volume and not less than one-half of one percent of alcohol by volume. For purposes of this chapter, ''wine coolers'' shall not be defined as wine but rather as a ''malt beverage''.

11–4. *POSSESSION OF ALCOHOL*

11–4.01. Possession of Alcohol is prohibited on the Kootenai Reservation, except as provided in this Chapter and in the locations identified in 11–4.02.

11–4.02. Tribal Council authorizes possession of alcohol at the Kootenai River Inn Casino & Spa, Twin Rivers RV Resort and such other locations as Tribal Council may designate by Resolution.

11–4.03. *Violations of this Section*

(1) Any individual found to be in possession of alcohol on the Kootenai Reservation in violation of this section is guilty of a crime under Section 4–5 of the Criminal Code.

(2) Any individual found to be in possession of alcohol on the Kootenai Reservation in violation of this section and not subject to the criminal jurisdiction of the Kootenai Tribe of Idaho is guilty of a regulatory infraction under Section 5–3.11.

11–5. *SALES OF LIQUOR.*

11–5.01. *Licenses Required.* No sales of alcoholic beverages shall be made within the Kootenai Reservation, except at a Tribally-licensed business.

11–5.02. *Sales for Cash.* All liquor sales within the Kootenai Reservation shall be on a cash only basis and no credit shall be extended to any person, organization, or entity, except that this provision does not prevent the use of major credit cards.

11–5.03. *Sale for Personal Consumption.* All sales shall be for the personal use and consumption of the purchaser. Resale of any alcoholic beverage purchased within the Kootenai Reservation is prohibited. Any person who is not licensed pursuant to this Chapter who purchases an alcoholic beverage and sells it, whether in the original container or not, shall be guilty of a violation of this Chapter and shall be subjected to paying damages to the Tribe as set forth herein.

11–5.04. *Restrictions on Sales.* No person shall sell, deliver or give, or cause or permit to be sold, delivered or given, any alcoholic beverages to:

(1) Any person under the age of twenty-one (21) years, proof of which shall be a valid Tribal identification card, driver's license, military identification card or any other validly issued government identification card;

(2) Any person apparently or actually intoxicated;

(3) A habitual drunkard; or

(4) An interdicted person.

Any person who fails to comply with this section shall have committed a violation

11–6. *LICENSING.*

11–6.01. *Eligibility.* Only Tribally owned entities shall be eligible to sell or dispense liquor for consumption and must possess a valid license issued by the Tribe.

11–6.02. *License Issued.* Upon approval, Council shall issue a Tribally-owned entity a Tribal Liquor License for a period of not more than three (3) years which will entitle the license holder to maintain one liquor outlet within the Kootenai Reservation. The license is nontransferable. It shall be renewed at the discretion of the Tribal Council subject to the terms of this Chapter.

11–6.03. *Liability for Bills.* A Liquor Outlet License issued by the Council does not represent any promise or commitment by the Tribe to assume responsibility for the business. The operator is responsible for the payment of all Liquor Outlet bills and is forbidden to represent or give the impression to any supplier that he or she is an official representative of the Tribe. The license issued by the Tribe under this Chapter is contingent on the agreement of the operator to hold the Tribe harmless from all claims and liability related to the operation of the Liquor Outlet.

11–6.04. *No Waiver.* The operation of a Tribally-owned Liquor Outlet is not to be deemed a waiver of sovereign immunity of the Tribe.

11–7. *RULES, REGULATIONS, AND ENFORCEMENT*

11–7.01. *Violations of This Chapter.* Any liquor outlet operator who violates this Chapter shall be guilty of an offense and subject to a penalty as determined by the Tribal Court.

11–7.02. *Loss of License.* In addition to any penalties imposed, any license issued under this Chapter may be suspended or canceled by the Tribal Council after ten (10) days notice to the licensee. The decision of the Tribal Council shall be final.

11–7.03. *Tribal Law.* Nothing in this Chapter shall preempt the criminal offenses imposed by Section 4–5 of Chapter 4 Crimes or the Regulatory Infractions of Chapter 5 of the Kootenai Law and Order Code.

11–7.04. *Non-Indian Offenders.* Any individual who is in violation of this Chapter or Chapter 4 shall be subject to a Regulatory Infraction and/or exclusion and shall be subject to any State action against them.

11–8. *VIOLATION—CIVIL PENALTIES, BURDEN OF PROOF*

11–8.01. Any person violating any of the provisions of this Chapter, except where a specific civil fine is provided, shall be subject to a civil fine of not less than three hundred dollars ($300) nor more than three thousand dollars ($3000) and shall be subject to any other lawful penalty such as loss of license, forfeiture of contraband and/or exclusion from the Reservation. Any court in which a civil judgment against any licensee shall be entered shall forthwith certify a copy thereof to the Tribal Council and the Council shall thereupon give notice of intent to revoke any license issued to such person or to exclude the person from the Reservation under Chapter 12 of this Code.

11–8.02. A violation of any of the provisions of this Chapter by any person in any way acting on behalf of the licensee shall be presumed to be a violation by the licensee.

11–8.03. All violations of this Chapter must be proven to the satisfaction of the Court by a preponderance of the evidence presented by any person qualified to appear before the Court on behalf of and at the direction of the Tribal Council.

11–9. *OTHER PROVISIONS*

11–9.01. *Persons Not Allowed To Purchase, Possess Or Consume Liquor.* Any person under the age of twenty-one (21) years who shall purchase, attempt to purchase, possess, or consume alcoholic beverages shall have committed a violation and shall be reported to the proper authorities.

11–9.02. *Identification Required.* It shall be a violation for any person to refuse to present valid identification indicating age when requested to do so by a licensee under this Chapter or the employee of such licensee or by a law enforcement officer with authority within the Kootenai Reservation if that person shall appear to be under the age of twenty-nine (29) and that person possesses, purchases, attempts to purchase or consumes alcoholic liquor, as defined by section 23–115, Idaho Code or beer as defined by section 23–1101, Idaho Code or is within a premises licensed to sell liquor by the drink at retail, or licensed to sell beer for consumption on the premises.

11–10. *SUSPENSION AND REVOCATION OF LICENSE*

11–10.01. *Procedures.* The Tribal Council may suspend or revoke a license issued in accordance with this Chapter for any violation of or failure to comply with the provisions of this Chapter or Idaho statute, or any rules and regulations promulgated pursuant to such laws. Procedures for suspension or revocation of licenses issued under this Chapter are the following:

(1) The Council shall give written notice of the alleged violations to the licensee and grant an opportunity to the licensee to challenge the allegations within thirty (30) days. The Council shall inform the licensee that it will suspend or revoke the license if no challenge is made within thirty (30) days.

(2) If a challenge is made, the Council shall set a time for hearing during a Council meeting and immediately send written notice to the licensee and the complaining officer or individual of the date, time and place of the hearing.

(3) A licensee who makes a timely challenge to alleged violations shall have the right to present evidence, including testimony of witnesses, that the licensee did not commit the violations alleged. The person alleging the violations shall present evidence of the violations at the same meeting and failure to do so will result in dismissal of the complaint.

(4) The complaining party must prove the violations took place by a preponderance of the evidence.

11–10.02. *Monetary Penalty.* When the Council makes a determination to suspend a license, the licensee may petition the Council to substitute a monetary penalty in lieu of the license suspension. If the Council determines such payment to be consistent with the purpose of this Chapter and is in the Tribal interest, it shall establish a payment in any amount not to exceed five thousand dollars ($5,000). The licensee may reject the amount determined by the Council, and shall have the license suspended until the terms of the suspension are met. Upon payment of the amount established, the Council shall cancel the suspension. The Council shall cause any payment to be paid to the treasurer of the Tribe.

11–11. *SEVERABILITY AND MISCELLANEOUS*

11–11.01. *Severability.* If any provision or application of this Chapter is determined by review to be invalid, such adjudication shall not be held to render ineffectual the remaining portions of this chapter or to render such provisions inapplicable to other person or circumstances.

11–11.02. *Prior Enactments.* All prior enactments of the Tribal Council, which are inconsistent with the provisions of this Chapter, are hereby rescinded.

11–11.03. *Idaho Law.* To the extent required by federal law, all acts and transactions under this Chapter shall be in conformity with the laws of the State of Idaho as required by 18 U.S.C. 1161.

11–11.04. *Effective Date.* This Chapter shall be effective upon adoption by the Tribal Council.

11–12. *SOVEREIGN IMMUNITY*

11–12.01. Nothing contained in this Chapter is intended to, nor does it in any way limit, alter, restrict, or waive the Tribe's sovereign immunity from unconsented suit or action.[1]

[FR Doc. 2012–8571 Filed 4–9–12; 8:45 am]

BILLING CODE 4310–4J–P

[1] Federal law imposes the requirement that this Chapter obtain approval of the Secretary of the Interior and published in the **Federal Register**.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCOF00000 L19900000.XZ0000]

Notice of Meeting, Front Range Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public Meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Front Range Resource Advisory Council (RAC), will meet as indicated below.

DATES: The meeting will be held on May 8, 2012, from 1 p.m. to 5 p.m., and May 9, 2012, from 8 a.m. to 1:30 p.m.

ADDRESSES: Orient Land Trust, 64393 County Road Gg, Crestone, CO, on Tuesday; and Hampton Inn Alamosa, 710 Mariposa Street, Alamosa, CO, on Wednesday.

FOR FURTHER INFORMATION CONTACT: Denise Adamic, Front Range RAC Coordinator, BLM Royal Gorge Field Office, 3028 E. Main St., Cañon City, CO 81212. Phone: (719) 269–8553. Email: *dadamic@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: The 15-member Council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in the BLM Front Range District, which includes the Royal Gorge Field Office (RGFO) and the San Luis Valley Field Office. Planned topics of discussion items include: Trail work and native fish habitat restoration with the Orient Land Trust, visual resource management studies, and special recreation permits. The meeting will also include a tour of the Orient Land Trust projects on Tuesday and a field trip to the BLM Zapata Falls campground on Wednesday. The meeting is open to the public. The public is encouraged to make oral comments to the Council at 8:30 a.m. on Wednesday or written statements may be submitted for the Council's consideration. Summary minutes for the RAC meetings will be maintained in the RGFO and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting. Previous meeting minutes and agendas are available at: *www.blm.gov/co/st/en/BLM_Resources/racs/frrac/co_rac_minutes_front.html*.

Dated: April 4, 2012.

Helen M. Hankins,

State Director.

[FR Doc. 2012–8586 Filed 4–9–12; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCOF00000 L16520000.XX0000]

Notice of Meeting, Rio Grande Natural Area Commission

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Rio Grande Natural Area Commission will meet as indicated below.

DATES: The meeting will be held from 10 a.m. to 3 p.m. on May 16, 2012.

ADDRESSES: Hampton Inn Alamosa, 710 Mariposa Street, Alamosa, CO 81101.

FOR FURTHER INFORMATION CONTACT: Denise Adamic, Public Affairs Specialist, BLM Front Range District Office, 3028 East Main, Cañon City, CO 81212. Phone: (719) 269–8553. Email: *dadamic@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: The Rio Grande Natural Area Commission was established in the Rio Grande Natural Area Act (16 U.S.C. 460rrr–2). The nine-member Commission advises the Secretary of the Interior, through the BLM, concerning the preparation and implementation of a management plan relating to non-Federal land in the Rio Grande Natural Area, as directed by law. Planned agenda topics include: Further discussions of resource concerns and goals that should be addressed in the management plan, creating subcommittees devoted to each issue in the plan and how public involvement could occur in the future. The public may offer oral comments at 2:15 p.m. or written statements may be submitted for the Commission's consideration. Please send written comments to Denise Adamic at the address above by May 11, 2012. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Summary minutes for the Commission Meeting will be maintained in the San Luis Valley Field Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting. Meeting minutes and agenda are also available at: *www.blm.gov/co/st/en/fo/slvfo.html.*

Dated: April 4, 2012.

Helen M. Hankins,

State Director.

[FR Doc. 2012–8583 Filed 4–9–12; 8:45 am]

BILLING CODE 4310–JB–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–836]

Certain Consumer Electronics and Display Devices and Products Containing Same; Institution of Investigation Pursuant to 19 U.S.C. 1337

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S.

International Trade Commission on March 6, 2012, under section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, on behalf of Graphics Properties Holdings, Inc. of New Rochelle, New York. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain consumer electronics and display devices and products containing same by reason of infringement of certain claims of U.S. Patent No. 6,650,327 (''the '327 patent''); U.S. Patent No. 6,816,145 (''the '145 patent''); and U.S. Patent No. 5,717,881 (''the '881 patent''). The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue an exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2011).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on April 4, 2012, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain consumer electronics and display devices and products containing same that infringe one or more of claims 2, 3, 5, and 6 of the '327 patent; claims 1–6, 8, 15–17, and 20 of the '145 patent; and claim 1 of the '881 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to Commission Rule 210.50(b)(1), 19 CFR 210.50(b)(1), the presiding administrative law judge shall take evidence or other information and hear arguments from the parties and other interested persons with respect to the statutory public interest factors (19 U.S.C. 1337(d)(1), (f)(1), (g)(1)), in this investigation, and provide the Commission with findings of fact and a recommended determination on this issue, except that the presiding judge shall not address assertions contained in respondents' letters of March 15 and 19, 2012 that certain types of entities are not entitled to bring actions and obtain relief under the statute;

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is:

Graphics Properties Holdings, Inc., 56 Harrison St., Suite 505, New Rochelle, NY 10801–6555

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Research In Motion Ltd., 295 Phillip Street, Waterloo, Ontario N2L 3W8, Canada

Research In Motion Corp., 122 W. John Carpenter Parkway, Suite 430, Irving, TX 75039

HTC Corporation, 23 Xinghua Road, Taoyuan, 330, Taiwan

HTC America, Inc., 13920 SE Eastgate Way, Suite 400, Bellevue, WA 98005

LG Electronics, Inc., LG Twin Towers, 20, Yoido-dong, Youngdungpo-gu, Seoul, 157–721, South Korea

LG Electronics U.S.A., Inc., 1000 Sylvan Avenue, Englewood Cliffs, NJ 07632

LG Electronics MobileComm U.S.A. Inc., 10101 Old Grove Road, San Diego, CA 92131

Apple Inc., 1 Infinite Loop, Cupertino, CA 95014

Samsung Electronics Co., Ltd., 1320–10, Seocho 2-dong Seocho-gu, Seoul, South Korea

Samsung Electronics America, Inc., 105 Challenger Road, Ridgefield Park, NJ 07660

Samsung Telecommunications, America, L.L.C., 1301 East Lookout Drive, Richardson, TX 75082

Sony Corporation, 1–7–1 Konan, Minato-ku, Tokyo 108–0075, Japan

Sony Corporation of America, 550 Madison Avenue, New York, NY 10022–3211

Sony Electronics, Inc., 16530 Via Esprillo, San Diego, CA 92127

Sony Ericsson Mobile, Communications AB, Nya Vattentornet, Lund, 2211 88, Sweden

Sony Ericsson Mobile, Communications (USA) Inc., 3333 Piedmont Road, Suite 600, Atlanta, GA 30305

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., Suite 401, Washington, DC 20436; and

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d)–(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By Order of the Commission.

Issued: April 4, 2012.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2012–8540 Filed 4–9–12; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Consolidated Omnibus Budget Reconciliation Act Health Benefits Subsidy Under the American Recovery and Reinvestment Act of 2009 Evaluation

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Office of the Assistant Secretary for Administration and Management (OASAM) sponsored information collection request (ICR) titled, ''Consolidated Omnibus Budget Reconciliation Act Health Benefits Subsidy Under the American Recovery and Reinvestment Act of 2009 Evaluation,'' 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 May 10, 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 DOL–OASAM, 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: This ICR is to conduct an evaluation of the impact of a subsidy for health benefits under the Consolidated Omnibus Budget Reconciliation Act (COBRA) that the American Recovery and Reinvestment Act (ARRA) of 2009 provided. The subsidy was available to workers who experienced involuntary termination of a job from September 2008 to May 2010, were eligible for COBRA benefits at the time of job loss, and were not eligible for certain other health insurance options. The overall aim of the evaluation is to determine whether and how people with employer-sponsored health insurance maintained health care coverage after employment termination and whether the COBRA subsidy provided by the ARRA led to increased health care coverage. The DOL seeks OMB approval to conduct a one-time survey of randomly selected unemployment insurance recipients as part of this evaluation.

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 seeks OMB approval for this information collection under OMB ICR Reference Number 201109–1291–001. For additional information, see the related notice published in the **Federal Register** on December 12, 2011 (76 FR 77263).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should reference OMB ICR Reference Number 201109–1291–001. 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: DOL–OASAM.

Title of Collection: Consolidated Omnibus Budget Reconciliation Act Health Benefits Subsidy Under the American Recovery and Reinvestment Act of 2009 Evaluation.

OMB ICR Reference Number: 201109–1291–001.

Affected Public: Individuals or Households.

Total Estimated Number of Respondents: 26,000.

Total Estimated Number of Responses: 31,800.

Total Estimated Annual Burden Hours: 5,217.

Total Estimated Annual Other Costs Burden: $0.

Dated: April 4, 2012.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2012–8549 Filed 4–9–12; 8:45 am]

BILLING CODE 4510–22–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–81,071]

II–VI, Incorporated, Infrared Optics—Saxonburg Division, Saxonburg, PA; Notice of Affirmative Determination Regarding Application for Reconsideration

By application dated February 21, 2012, a worker requested administrative reconsideration of the negative determination regarding workers' eligibility to apply for Trade Adjustment Assistance (TAA) applicable to workers and former workers of II–VI, Incorporated, Infrared Optics—Saxonburg Division, Saxonburg, Pennsylvania (subject firm). The determination was issued on February 8, 2012. The Department's Notice of determination was published in the **Federal Register** on February 14, 2012 (77 FR 8281). The workers were engaged in employment related to the production of infrared and CO_2 laser optics, and related materials.

The initial investigation resulted in a negative determination based on the findings that the subject firm has not experienced a decline in the sales or production of infrared and CO_2 laser optics, and related materials, from 2009 to 2010 or from January–October 2010 compared to the same period in 2011.

With respect to Section 222(a)(2)(B) of the Act, the investigation revealed that the workers' firm did not shift production of infrared and CO_2 laser optics, and related materials (or like or directly competitive articles), to a foreign country, or acquire the production of such articles from a foreign country.

With respect to Section 222(b)(2) of the Act, the investigation revealed that the subject firm is a Supplier to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, 19 U.S.C. 2272(a); however, the component parts supplied did not account for at least 20 percent of the production or sales or contribute importantly to workers' separation or threat thereof.

With respect to Section 222(b)(2) of the Act, the investigation revealed that the subject firm does not act as a Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, 19 U.S.C. 2272(a).

Finally, the group eligibility requirements under Section 222(e) of the Act have not been satisfied because the workers' firm has not been publicly identified by the International Trade Commission as a member of a domestic industry in an investigation resulting in an affirmative finding of serious injury, market disruption, or material injury, or threat thereof.

In the request for reconsideration, the petitioner supplied new information regarding a possible decline in sales during the relevant period under investigation.

The Department of Labor has carefully reviewed the request for reconsideration and the existing record, and has determined that the Department will conduct further investigation to determine if the workers meet the eligibility requirements to apply for TAA.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the U.S. Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 27th day of March 2012.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–8501 Filed 4–9–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–75,152; TA–W–75,152A]

Pratt and Whitney; A Subsidiary of United Technologies Corporation Cheshire Engine Center Including On-Site Leased Workers From Belcan Techservices, Universal Staffing and Kelly Services Cheshire, Connecticut; Pratt and Whitney A Subsidiary of United Technologies Corporation Far Group and Experimental Test Group East Hartford, Connecticut; 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 25, 2011, applicable to workers of Pratt and Whitney, Cheshire Engine Center, a subsidiary of United Technologies Corporation, including on-site leased workers from Belcan TechServices, Universal Staffing, and Kelly Services, Cheshire, Connecticut. The workers provide engine repair services. The notice was published in the **Federal Register** on March 10, 2011 (76 FR 13233).

At the request of Connecticut State agency, the Department reviewed the certification for workers of the subject firm.

New company information shows that the East Hartford, Connecticut location of Pratt and Whitney, a subsidiary of United Technologies Corporation, FAR Group and Experimental Test Group, supplies/supports and operates as an extension of the Cheshire, Connecticut location of Pratt and Whitney, a subsidiary of United Technologies Corporation, Cheshire Engine Center. Both locations experienced worker separations during the relevant time period, due to the subject firm shifting its' overhaul and engine repair services to Singapore.

Accordingly, the Department is amending the certification to include workers of the East Hartford, Connecticut facility of Pratt & Whitney, a subsidiary of United Technologies Corporation, FAR Group and Experimental Test Group.

The amended notice applicable to TA–W–75,152 is hereby issued as follows:

''All workers of Pratt and Whitney, a subsidiary of United Technologies Corporation, Cheshire Engine Center, including on-site leased workers from Belcan TechServices, Universal Staffing, and Kelly Services, Cheshire, Connecticut (TA–W–75,152) and Pratt and Whitney, a subsidiary of United Technologies Corporation, FAR Group and Experimental Test Group, East Hartford, Connecticut (TA–W–75,152)), who became totally or partially separated from employment on or after January 11, 2010 through February 25, 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 in Washington, DC, this 27th day of March 2012.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–8500 Filed 4–9–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–81,021]

Bayer Cropscience, LP, Including On-Site Leased Workers From Jacobs PSG, Middough Associates, Inc., Adecco, CDI Engineering Solutions, Becht Engineering, Engineering Support Systems, Manufacturing Management Services, US Securities, WB Wells, Belcan, American Engineers, CH2M Hill Engineers, Inc., Digital Management Group, Mercury Air Group, Inc., Greenwood, and Professional Maintenance of Charleston (PMOC) Institute, West Virginia; 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 3, 2012, applicable to workers of Bayer Cropscience, LP, including on-site leased workers from Jacobs PSG, Middough Associates, Inc., Adecco, CDI Engineering Solutions, Becht Engineering, Engineering Support Systems, Manufacturing Management Services, US Securities, WB Wells, Belcan American Engineers, CH2M Hill Engineers, Inc., Digital Management Group, Mercury Air Group, Inc., Greenwood, and Professional Maintenance of Charleston (PMOC), Institute, West Virginia. The workers are engaged in activities related to the

production of pesticides. The notice was published in the **Federal Register** on February 21, 2012 (77 FR 9971).

At the request of the International Association of Machinists and Aerospace Workers (IAMAW), the Department reviewed the certification for workers of the subject firm. New information from the company shows that workers leased from Professional Maintenance of Charleston (PMOC) were employed on-site at the Institute, West Virginia location of Bayer CropScience, LP. The Department has determined that these workers were sufficiently under the control of Bayer CropScience, LP, Institute, West Virginia to be considered leased workers.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by increased company imports of pesticides.

Based on these findings, the Department is amending this certification to include workers leased from Professional Maintenance of Charleston (PMOC) working on-site at the Institute, West Virginia location of the subject firm.

The amended notice applicable to TA–W–81,021 is hereby issued as follows:

All workers from Bayer CropScience, including on-site leased workers from Jacobs PSG, Middough Associates, Inc., Adecco, CDI Engineering Solutions, Becht Engineering, Engineering Support Systems, Manufacturing Management Services, US Securities, WB Wells, Belcan, American Engineers, CH2M Hill Engineers, Inc., Digital Management Group, Mercury Air Group, Inc., Greenwood, and Professional Maintenance of Charleston (PMOC), Institute, West Virginia, who became totally or partially separated from employment on or after February 13, 2010, through February 3, 2014, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed at Washington, DC, this 23rd day of March 2012.

Michael W. Jaffe.

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–8502 Filed 4–9–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–71,704]

Hart and Cooley, Inc., A Subsidiary of Tomkins, PLC Including On-Site Leased Workers from Reliable, Masiello Employment Services, Harmon Personnel Services, Community Enterprises, and Employment Plus Turners Falls, Massachusetts; 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 Hart and Cooley, Inc., a subsidiary of Tomkins, PLC, including on-site leased workers from Reliable, Masiello Employment Services, Harmon Personnel Services, and Community Enterprises, Turners Falls, Massachusetts. The workers are engaged in activities related to the production of air distribution and ventilation products. The notice of determination was published in the **Federal Register** on April 23, 2010 (75 FR 21354).

At the request of the Massachusetts Department of Career Services, the Department reviewed the certification for workers of the subject firm. New information from the subject firm shows that workers leased from Employment Plus were employed on-site at Hart and Cooley, Inc., Turners Falls, Massachusetts during the period covered under the certification. The Department has determined that these workers were sufficiently under the control of the subject firm to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from Employment Plus working on-site at the Turners Falls, Massachusetts location of the subject firm.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by increased customer imports.

The amended notice applicable to TA–W–71,704 is hereby issued as follows:

''All workers from Hart and Cooley, Inc., a subsidiary of Tomkins, PLC, including on-site leased workers from Reliable, Masiello Employment Services, Harmon Personnel Services, Community Enterprises, and Employment Plus, Turners Falls, Massachusetts, who became totally or partially separated from employment on or after July 12, 2008, through March 26, 2012, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1074, as amended.''

Signed at Washington, DC this 29th day of March, 2012.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–8499 Filed 4–9–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers by (TA–W) number issued during the period of *March 19, 2012 through March 23, 2012*.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Under Section 222(a)(2)(A), the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The sales or production, or both, of such firm have decreased absolutely; and

(3) One of the following must be satisfied:

(A) Imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(B) Imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased;

(C) Imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles

incorporating one or more component parts produced by such firm have increased;

(D) Imports of articles like or directly competitive with articles which are produced directly using services supplied by such firm, have increased; and

(4) The increase in imports contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

II. Section 222(a)(2)(B) all of the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) One of the following must be satisfied:

(A) There has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm;

(B) There has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm; and

(3) The shift/acquisition contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in public agencies and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) A significant number or proportion of the workers in the public agency have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The public agency has acquired from a foreign country services like or directly competitive with services which are supplied by such agency; and

(3) The acquisition of services contributed importantly to such workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(c) of the Act must be met.

(1) A significant number or proportion of the workers in the workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm is a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, and such supply or production is related to the article or service that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(f) of the Act must be met.

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) An affirmative determination of serious injury or threat thereof under section 202(b)(1);

(B) An affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) An affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

(2) The petition is filed during the 1-year period beginning on the date on which—

(A) A summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3); or

(B) Notice of an affirmative determination described in subparagraph (1) is published in the Federal Register; and

(3) The workers have become totally or partially separated from the workers' firm within—

(A) The 1-year period described in paragraph (2); or

(B) Notwithstanding section 223(b)(1), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W number	Subject firm	Location	Impact date
81,364	Jeld-Wen, Inc., Millwork Manufacturing Division, Express Services, Flexforce Staffing, etc.	Bend, OR	February 23, 2011.
81,403	Huitt Mills, Inc.	Hildebran, NC	April 10, 2012.
81,403A	Huitt Mills, Inc.	North Wilkesboro, NC	April 10, 2012.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production or services) of the Trade Act have been met.

TA–W number	Subject firm	Location	Impact date
81,179	Film Services Technicolor, Technicolor, Ajilon Professional Staffing, North Hollywood and Burbank, CA.	Glendale, CA	February 13, 2010.
81,192	Ferre Hickory LLC	Hickory, NC	February 13, 2010.
81,348	Fashion Tech, Inc., Hunter Douglas	Salt Lake City, UT	February 17, 2011.
81,363	FLABEG Automotive US Corporation, Belcan, Kelly Services, Manpower and Staffmark.	Brackenridge, PA	February 23, 2011.
81,370	Intelius, Inc., Customer Support Division, Terra Staffing.	Bothell, WA	February 24, 2011.
81,373	International Rehabilitative Services, DNC, D/B/A RS Medical, Finance and Sales Divisions, Robert Half Finance, etc.	Vancouver, WA	February 27, 2011.
81,396	Zondervan, Harper Collins, Harpercollins Publishers, Peoplemark Temporary Agency, etc.	Grand Rapids, MI	March 6, 2011.
81,404	Jones Distribution Corporation, Wise Staffing.	Lawrenceburg, TN	July 21, 2011.
81,409	OnBoard Research Corporation, Sterling Personnel.	Carrollton, TX	March 9, 2011.

The following certifications have been issued. The requirements of Section 222(c) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W number	Subject firm	Location	Impact date
81,394	Unifi, Inc., Unifi Manufacturing, Inc	Ft. Payne, AL	March 2, 2011.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

The investigation revealed that the criteria under paragraphs (a)(2)(A) (increased imports) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W number	Subject firm	Location	Impact date
80,518	Ther-RX Corporation, KV Pharmaceutical Company.	Bridgeton, MO	
80,525	Long Elevator & Machine Company, Inc., Unemployment Insurance (UI) Wages were Report Through Kone, Inc.	Riverton, IL	
81,048	Tiz's Door Sales, Inc.	Everett, WA	
81,291	Exelis, Inc., Formerly Known as ITT Corporation, Geospatial Systems Division.	Roanoke, VA	
81,389	Howard Distributing II, Inc.	Mayfield, KY	

Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioning groups of workers are covered by active certifications. Consequently, further investigation in these cases would serve no purpose since the petitioning group of workers cannot be covered by more than one certification at a time.

TA–W number	Subject firm	Location	Impact date
81,375	Dow Jones & Company, Inc., Dow Jones Content Services.	Princeton, NJ	

I hereby certify that the aforementioned determinations were issued during the period of *March 19, 2012 through March 23, 2012.* These determinations are available on the Department's Web site tradeact/taa/taa search form.cfm under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll-free at 888–365–6822.

Dated: March 29, 2012.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–8498 Filed 4–9–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Availability of Funds and Solicitation for Grant Applications for Women in Apprenticeship and Nontraditional Occupations (WANTO); Funding Opportunity Number: SGA/DFA PY–11–10

AGENCY: Employment and Training Administration, Labor Department.

ACTION: Notice.

SUMMARY: Through this notice, the U.S. Department of Labor Employment and Training Administration (ETA), announces the availability of approximately $1,800,000 in grant funds authorized under the WANTO Act of 1992 to award six consortia made up of a community-based organization (CBO), a Local Workforce Investment Area (LWIA) established under the Workforce Investment Act and a registered apprenticeship program (RAP) sponsor. Each consortium will conduct innovative projects to improve outreach, recruitment, hiring, training, employment, and retention of women in apprenticeships in the nontraditional occupations. Each consortium must consist of a minimum of three components: (1) A CBO (which may be a faith-based organization) that has demonstrated experience in providing women with job-training services; (2) a LWIA (which includes a representative of the local government responsible for administering workforce programs under WIA or Workforce Investment Board); and (3) a RAP sponsor (which can be an individual employer, association of employers, or an apprenticeship committee which includes joint and non-joint committees designated by the sponsor to administer and operate an apprenticeship program and in whose name the apprenticeship program is registered or approved). It is anticipated that awards will be in the amount of up to $300,000 over the two-year grant period.

DATES: The closing date for receipt of applications is May 21, 2012.

FOR FURTHER INFORMATION CONTACT: L. Gerald Tate, Grants Management Specialist, Office of Grants Management, at (202) 693–3703.

SUPPLEMENTARY INFORMATION: The Grant Officer for this SGA is Latifa Jeter.

The complete SGA and any subsequent SGA amendments, in connection with this solicitation are described in further detail on ETA's Web site at *http://www.doleta.gov/grants/* or on *http://www.grants.gov*. The Web sites provide application information, eligibility requirements, review and selection procedures and other program requirements governing this solicitation.

Signed April 3, 2012 in Washington, DC.

Donna Kelly,

Grant Officer, Employment and Training Administration.

[FR Doc. 2012–8494 Filed 4–9–12; 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

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 April 20, 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 April 20, 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 29th day of March 2012.

Michael Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

[21 TAA petitions instituted between 3/19/12 and 3/23/12]

TA–W	Subject Firm (petitioners)	Location	Date of institution	Date of petition
81426	Dixtal Medical, Inc., a subsidiary of Philips Healthcare (Company).	Wallingford, CT	03/19/12	03/16/12
81427	Bremner Inc. (State/One-Stop)	Fort Smith, AR	03/19/12	03/16/12
81428	Polymer Group, Inc. (State/One-Stop)	North Little Rock, AR	03/19/12	03/16/12
81429	ICL Performance Products (State/One-Stop)	Carteret, NJ	03/20/12	03/19/12
81430	Vectron International (Workers)	Hudson, NH	03/20/12	03/19/12
81431	Motorola Solutions, Inc. (MSI) (State/One-Stop)	Schaumburg, IL	03/20/12	03/19/12
81432	Geiger (aka GeigerG4 Products) (Workers)	Lewiston, ME	03/20/12	03/19/12

APPENDIX—Continued

[21 TAA petitions instituted between 3/19/12 and 3/23/12]

TA–W	Subject Firm (petitioners)	Location	Date of institution	Date of petition
81433	Afni, Inc. (State/One-Stop)	San Antonio, TX	03/20/12	03/19/12
81434	Kace International (Company)	Shreveport, LA	03/20/12	03/19/12
81435	Albany International (Company)	Albany, NY	03/20/12	03/19/12
81436	Hewlett Packard (Company)	Shreveport, LA	03/20/12	03/19/12
81437	The Wise Company (Workers)	Rector, AR	03/21/12	03/19/12
81438	Emporia Foundry (Union)	Emporia, VA	03/21/12	03/13/12
81439	Williams International (Workers)	Ogden, UT	03/21/12	03/09/12
81440	KRACO Enterprises, LLC (State/One-Stop)	Compton, CA	03/22/12	03/21/12
81441	Access Business Group LLC (Company)	Lakeview, CA	03/23/12	03/23/12
81442	Paslode, A Subsidiary of Illionois Tool Works (Company)	Pontotoc, MS	03/23/12	03/22/12
81443	Powerex, Inc. (Company)	Youngwood, PA	03/23/12	03/22/12
81444	Acord Leasing, LLC. (Company)	Rochester Hills, MI	03/23/12	03/22/12
81445	Worley Parsons (State/One-Stop)	LaPorte, TX	03/23/12	03/22/12
81446	WellPoint, Inc. (State/One-Stop)	North Haven, CT	03/23/12	03/22/12

[FR Doc. 2012–8497 Filed 4–9–12; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act Meeting

TIME AND DATE: 10 a.m., Thursday, April 12, 2012.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Consideration of Supervisory Activities (2). Closed pursuant to some or all of the following: exemptions (8), (9)(i)(B) and 9(ii).

FOR FURTHER INFORMATION CONTACT: Mary Rupp, Secretary of the Board, Telephone: 703–518–6304.

Mary Rupp,

Board Secretary.

[FR Doc. 2012–8639 Filed 4–6–12; 11:15 am]

BILLING CODE 7535–01–P

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for Materials Research; Notice of Meeting: Correction

SUMMARY: The National Science Foundation (NSF) published in the **Federal Register** on March 30, 2012, a notice of a partially open meeting for the Proposal Review Panel for Materials Research, #1203. This notice is to correct the ending time of the meeting on April 24, 2012 being held at the Pennsylvania State University, College Station, PA.

Correction

On page 19362, column 2, under *Dates & Times,* please replace ''April 24, 2012; 5:30p.m.–8:30p.m.'' with ''April 24, 2012; 5:30p.m.–10:30p.m.''

On page 19362, column 3, line 3, please replace: ''7 p.m.–8:30p.m. Open-Poster Session'' with ''7 p.m.–10:30p.m. Open-Poster Session''.

Dated: April 5, 2012.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2012–8564 Filed 4–9–12; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2011–0135]

Guidelines for Preparing and Reviewing Licensing Applications for the Production of Radioisotopes

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft interim staff guidance; request for public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC or the Commission) is requesting public comment on Chapters 7–18 of Draft Interim Staff Guidance (ISG) NPR–ISG–2011–002, augmenting NUREG–1537, Part 1, ''Guidelines for Preparing and Reviewing Applications for the Licensing of Non-Power Reactors: Format and Content,'' for the production of radioisotopes and NUREG–1537, Part 2, ''Guidelines for Preparing and Reviewing Applications for the Licensing of Non-Power Reactors: Standard Review Plan and Acceptance Criteria,'' for the production of radioisotopes. The ISG augmenting NUREG–1537, Parts 1 & 2, Chapters 1–6 were published in the **Federal Register** for comment on October 13, 2011 (76 FR 63668). This draft ISG provides guidance for preparing and reviewing applications to obtain a construction permit and operating license for a radioisotope production facility.

DATES: Comments may be submitted by May 10, 2012. Comments received after this date will be considered, if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may access information and comment submissions related to this document by searching on *http://www.regulations.gov* under Docket ID NRC–2011–0135. You may submit comments by the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2011–0135. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov.*
- *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.
- *Fax comments to:* RADB at 301–492–3446.

For additional direction on accessing information and submitting comments, see ''Accessing Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Mr. Marcus Voth, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20005–

0001; telephone: (301) 415–1210; email: *marcus.voth@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2011–0135 when contacting the NRC about the availability of information regarding this document. You may access information related to this document by the following methods:

• *Federal Rulemaking Web Site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2011–0135.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly-available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.*

The draft ISG is located in ADAMS, as listed in the table below:

ADAMS Document	ADAMS accession number
Part 1 Chapters 7–18	ML111570224
Part 2 Chapters 7–18	ML111160065

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2011–0135 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS, and the NRC does not edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information in their comment submissions that they do not want to be publicly disclosed. Your request should state that the NRC will not edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

The NRC is issuing this notice to solicit public comments on NPR–ISG–2011–002. After the NRC staff considers public comments, it will make a determination regarding issuance of the final ISG.

Dated at Rockville, Maryland, this 3rd day of April, 2011.

For the Nuclear Regulatory Commission.

Jessie F. Quichocho,

Chief, Research and Test Reactors Licensing Branch, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.

[FR Doc. 2012–8551 Filed 4–9–12; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 052–00027 and 052–00028; NRC–2008–0441]

V. C. Summer Nuclear Station, Units 2 and 3 Combined Licenses and Record of Decision

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of issuance.

FOR FURTHER INFORMATION CONTACT: Denise McGovern, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: (301) 415–0681; email: *denise.mcgovern@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

Pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) 2.106, the Nuclear Regulatory Commission (NRC) is providing notice of the issuance of Combined Licenses (COL), NPF–93 and NPF–94, to South Carolina Electric and Gas (SCE&G) and South Carolina Public Service Authority (Santee Cooper). The (NRC) finds that the applicable standards and requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations have been met. The NRC finds that any required notifications to other agencies or bodies have been duly made and that there is reasonable assurance that the facility will be constructed and will operate in conformity with the license, the provisions of the Act, and the Commission regulations. Furthermore, the NRC finds that the licensees are technically and financially qualified to engage in the activities authorized, and that issuance of the licenses will not be inimical to the common defense and security or to the health and safety of the public.

Accordingly, the COLs were issued on March 30, 2012, and are effective immediately.

II. Further Information

The NRC has prepared a Final Safety Evaluation Report (FSER) and Final Environmental Impact Statement (FEIS) that document the information reviewed and NRC's conclusion. The Commission has also issued its Memorandum and Order documenting its final decision on the uncontested hearing held on October 12–13, 2011, which serves as the Record of Decision in this proceeding. In accordance with 10 CFR 2.390 of the NRC's ''Rules of Practice,'' details with respect to this action, including the FSER and accompanying documentation included in the combined license package, as well as the Commission's hearing decision, are available online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* From this site, persons can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession numbers for the documents related to this notice are:

ML110450305 ''Final Safety Evaluation Report for Combined Licenses for Virgil C. Summer Nuclear Station, Units 2 and 3''

ML11098A044 NUREG–1939, Vol 1, ''Final Environmental Impact Statement for Combined Licenses for Virgil C. Summer Nuclear Station, Units 2 and 3''

ML11098A057 NUREG–1939, Vol 2, ''Final Environmental Impact Statement for Combined Licenses for Virgil C. Summer Nuclear Station, Units 2 and 3''

ML11187A127 VCSNS COL Application—Revision 5 of the application

ML12090A531 Memorandum and Order on the uncontested hearing (record of decision)

ML113190371 Combined License No. NPF–93

ML113190715 Combined License No. NPF–94

Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC Public Document Room (PDR) Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The documents

are also available at *http://www.nrc.gov/reactors/new-reactors/col.html.*

These documents may also be viewed electronically on the public computers located at the NRC's PDR, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Rockville, Maryland, this 2nd day of April, 2012.

For The Nuclear Regulatory Commission.

Mark Tonacci,

Chief, Licensing Branch 4, Division of New Reactor Licensing, Office of New Reactors.

[FR Doc. 2012–8548 Filed 4–9–12; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–269, 50–270, and 50–28; NRC–2012–0088]

Duke Energy Carolinas, LLC; Environmental Assessment and Finding of No Significant Impact, Oconee Nuclear Station, Units 1, 2, and 3

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption to Renewed Facility Operating Licenses DPR–38, DPR–47, and DPR–55, issued to Duke Energy Carolinas, LLC (the licensee), for operation of the Oconee Nuclear Station, Units 1, 2, and 3, located in Oconee County in South Carolina, in accordance with Title 10 of the *Code of Federal Regulations* (10 CFR) 50.12. Therefore, as required by 10 CFR 51.21, the NRC performed an environmental assessment. Based on the results of the environmental assessment, the NRC is issuing a finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

Part 50, Appendix G requires that fracture toughness requirements for ferritic materials of pressure-retaining components of the reactor coolant pressure boundary of light-water nuclear power reactors provide adequate margins of safety during any condition of normal operation, including anticipated operational occurrences and system hydrostatic tests, to which the pressure boundary may be subjected over its service lifetime, 10 CFR 50.61 provides fracture toughness requirements for protection against pressurized thermal shock (PTS) events.

The proposed action would grant an exemption from certain requirements of 10 CFR 50.61, ''Fracture Toughness Requirements for Protection Against Pressurized Thermal Shock Events,'' and 10 CFR part 50 Appendix G, ''Fracture Toughness Requirements.'' The exemption would allow use of alternate initial reference nil ductility temperature (RT_{NDT}) as described in the NRC approved topical reports, BAW–2308, Revisions 1–A and 2–A, for determining the adjusted RT_{NDT} of Linde 80 weld materials present in the beltline region of the Oconee Nuclear Station, (ONS) Units 1, 2, and 3 reactor pressure vessels.

The proposed action is in accordance with the licensee's application dated August 3, 2011 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML11223A010).

The Need for the Proposed Action

The proposed action is needed to allow the licensee to use alternate initial RT_{NDT} (reference nil ductility temperature), as described in the NRC-approved topical reports (TRs), BAW–2308, ''Initial RT_{NDT} of Linde 80 Weld Materials,'' Revisions 1–A and 2–A, for determining the adjusted RT_{NDT} of Linde 80 weld materials present in the beltline region of the ONS, Units 1, 2, and 3 reactor vessels (RVs).

Environmental Impacts of the Proposed Action

The NRC has completed its environmental assessment of an exemption. The staff has concluded that the proposed action to allow the use of alternate initial reference nil ductility temperature (RT_{NDT}) as described in the NRC approved topical reports BAW–2308, Revisions 1–A and 2–A for determining the adjusted RT_{NDT} of Linde 80 weld materials present in the beltline region of the ONS, Units 1, 2, and 3 reactor pressure vessels, would not significantly affect plant safety and would not have a significant adverse effect on the probability of an accident occurring.

The proposed action would not result in an increased radiological hazard beyond those previously analyzed in the updated final safety analysis report for ONS, Units 1, 2, and 3. There will be no change to radioactive effluents that effect radiation exposures to plant workers and members of the public. No changes will be made to plant buildings or the site property. The proposed action does not involve a change to plant building or land areas on the ONS site. Therefore, no changes or different types of radiological impacts are expected as a result of the proposed exemption.

The proposed action does not result in changes to land use or water use, or result in changes to the quality or quantity of non-radiological effluents. No changes to the National Pollution Discharge Elimination System permit are needed. No effects on the aquatic or terrestrial habitat in the vicinity of the plant, or to threatened, endangered, or protected species under the Endangered Species Act, or impacts to essential fish habitat covered by the Magnuson-Stevens Act are expected. There are no impacts to the air or ambient air quality. There are no impacts to historical and cultural resources. There would be no noticeable effect on socioeconomic conditions in the region. Therefore, no changes to or different types of non-radiological environmental impacts are expected as a result of the proposed action. Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

The details of the staff's safety evaluation will be provided as part of the letter to the licensee approving issuance of the license amendment.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

The action does not involve the use of any different resources than those previously considered in the Final Environmental Statement for the ONS, Units 1, 2, and 3, dated March 1972, and Final Supplemental Environmental Impact Statement (NUREG–1437, Supplement 2) dated December 1999 (ADAMS Accession No. ML003770518).

Agencies and Persons Consulted

In accordance with its stated policy, on February 27, 2012, the staff consulted with the South Carolina State official, Mr. Mark Yeager of the South Carolina Department of Health and Environmental Control, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the

human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated August 3, 2011. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available documents created or received at the NRC are accessible electronically through the Agencywide Documents Access and Management System (ADAMS) in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC's PDR reference staff by telephone at 1–800–397–4209 or 301–415–4737, or send an email to *pdr.resource@nrc.gov.*

Dated at Rockville, Maryland, this 30th day of March 2012.

For the Nuclear Regulatory Commission.

John Stang,

Senior Project Manager, Plant Licensing Branch II–1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2012–8547 Filed 4–9–12; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2012–0082]

Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving Proposed No Significant Hazards Considerations and Containing Sensitive Unclassified Non-Safeguards Information and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment request; opportunity to comment, request a hearing and petition for leave to intervene, order.

DATES: Comments must be filed by May 10, 2012. A request for a hearing or leave to intervene must be filed by June 11, 2012. Any potential party as defined in Title 10 of the Code of Federal Regulations (10 CFR) 2.4 who believes access to Sensitive Unclassified Non-Safeguards Information (SUNSI) is necessary to respond to this notice must request document access by April 20, 2012.

ADDRESSES: You may access information and comment submissions related to this document, which the NRC possesses and is publicly available, by searching on *http://www.regulations.gov* under Docket ID NRC–2012–0082.

You may submit comments by the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0082. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov.*
- *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.
- *Fax comments to:* RADB at 301–492–3446.

For additional direction on accessing information and submitting comments, see ''Accessing Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2012–0082 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and is publicly available, by the following methods:

- *Federal Rulemaking Web Site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0082.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.*
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2012–0082 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS, and the NRC does not edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information in their comment submissions that they do not want to be publicly disclosed. Your request should state that the NRC will not edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Background

Pursuant to Section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This notice includes notices of amendments containing SUNSI.

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an

accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license or combined license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders'' in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be issued in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E–Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov*, or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html*. System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html*. Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html*.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with the NRC guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html*. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's Web site at *http://www.nrc.gov/site-help/e-submittals.html*, by email at *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/*, unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Non-timely filings will not be entertained absent a determination by the presiding officer that the petition or request should be granted or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

For further details with respect to this amendment action, see the application for amendment which is available for public inspection at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852.

Entergy Operations, Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: November 17, 2011, as supplemented by letter dated January 26, 2012.

Description of amendment request: This license amendment request (LAR) contains Sensitive Unclassified Non-Safeguards Information (SUNSI). The LAR requests NRC review and approval for adoption of a new risk-informed, performance-based (RI–PB) fire protection licensing basis for Waterford Steam Electric Station, Unit 3. The request is submitted in accordance with the requirements in 10 CFR 50.48(a) and (c), and the guidance in NRC Regulatory Guide (RG) 1.205, ''Risk-Informed Performance-Based Fire Protection for Existing Light-Water Nuclear Power Plants,'' National Fire Protection Association (NFPA) 805, ''Performance-Based Standard for Fire Protection for Light Water Reactor Electric Generating Plants (2001),'' and Nuclear Energy Institute (NEI) 04–02, ''Guidance for Implementing a Risk-Informed, Performance-Based Fire Protection Program under 10 CFR 50.48(c).''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1: The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

Operation of the Waterford Steam Electric Station, Unit 3 (Waterford 3) in accordance with the proposed amendment does not result in a significant increase in the probability or consequences of accidents previously evaluated. The proposed amendment does not affect accident initiators

or precursors as described in the Waterford 3 Updated Final Safety Analysis Report (UFSAR), nor does it adversely alter design assumptions, conditions, or configurations of the facility, and it does not adversely impact the ability of structures, systems, or components (SSCs) to perform their intended function to mitigate the consequences of an initiating event within the assumed acceptance limits. The proposed changes do not affect the way in which safety-related systems perform their functions as required by the accident analysis. The SSCs required to safely shut down the reactor and to maintain it in a safe shutdown condition will remain capable of performing their design functions.

The purpose of this amendment is to permit Waterford 3 to adopt a new risk-informed, performance-based fire protection licensing basis that complies with the requirements in 10 CFR 50.48(a) and 10 CFR 50.48(c), as well as the guidance contained in Regulatory Guide (RG) 1.205. The NRC considers that NFPA 805 provides an acceptable methodology and performance criteria for licensees to identify fire protection requirements that are an acceptable alternative to the 10 CFR Part 50, Appendix R, fire protection features (69 FR 33536; June 16, 2004). Engineering analyses, which may include engineering evaluations, probabilistic risk assessments, and fire modeling calculations, have been performed to demonstrate that the performance-based requirements of NFPA 805 have been met.

NFPA 805, taken as a whole, provides an acceptable alternative for satisfying General Design Criterion 3 (GDC 3) of Appendix A to 10 CFR Part 50, meets the underlying intent of the NRC's existing fire protection regulations and guidance, and achieves defense-in-depth along with the goals, performance objectives, and performance criteria specified in NFPA 805, Chapter 1. In addition, if there are any increases in core damage frequency (CDF) or risk as a result of the transition to NFPA 805, the increase will be small, governed by the delta risk requirements of NFPA 805, and consistent with the intent of the Commission's Safety Goal Policy.

Based on the above, the implementation of this amendment to transition the Fire Protection Plan (FPP) at Waterford 3 to one based on NFPA 805, in accordance with 10 CFR 50.48(c), does not result in a significant increase in the probability of any accident previously evaluated. In addition, all equipment required to mitigate an accident remains capable of performing the assumed function.

Therefore, the consequences of any accident previously evaluated are not significantly increased with the implementation of this amendment.

Criterion 2: The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident from Any Accident Previously Evaluated

Operation of Waterford 3 in accordance with the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. Any scenario or previously analyzed accident with offsite dose consequences was included in the evaluation of design basis accidents (DBA) documented in the UFSAR as a part of the transition to NFPA 805. The proposed amendment does not impact these accident analyses. The proposed change does not alter the requirements or functions for systems required during accident conditions, nor does it alter the required mitigation capability of the fire protection program, or its functioning during accident conditions as assumed in the licensing basis analyses and/or DBA radiological consequences evaluations.

The proposed amendment does not adversely affect accident initiators nor alter design assumptions, or conditions of the facility. The proposed amendment does not adversely affect the ability of SSCs to perform their design function. SSCs required to maintain the unit in a safe and stable condition remain capable of performing their design functions.

The purpose of the proposed amendment is to permit Waterford 3 to adopt a new fire protection licensing basis which complies with the requirements in 10 CFR 50.48(a) and (c) and the guidance in Revision 1 of RG 1.205. As indicated in the Statements of Consideration, the NRC considers that NFPA 805 provides an acceptable methodology and performance criteria for licensees to identify fire protection systems and features that are an acceptable alternative to the 10 CFR Part 50 Appendix R fire protection features.

The requirements in NFPA 805 address only fire protection and the impacts of fire effects on the plant have been evaluated. The proposed fire protection program changes do not involve new failure mechanisms or malfunctions that could initiate a new or different kind of accident beyond those already analyzed in the UFSAR. Based on this, as well as the discussion above, the implementation of this amendment to transition the FPP at Waterford 3 to one based on NFPA 805, in accordance with 10 CFR 50.48(c), does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3: The Proposed Change Does Not Involve a Significant Reduction in a Margin of Safety

Operation of Waterford 3 in accordance with the proposed amendment does not involve a significant reduction in a margin of safety. The transition to a new risk-informed, performance-based fire protection licensing basis that complies with the requirements in 10 CFR 50.48(a) and 10 CFR 50.48(c) does not alter the manner in which safety limits, limiting safety system settings, or limiting conditions for operation are determined. The safety analysis acceptance criteria are not affected by this change. The proposed amendment does not adversely affect existing plant safety margins or the reliability of equipment assumed in the UFSAR to mitigate accidents. The proposed change does not adversely impact systems that respond to safely shut down the plant and maintain the plant in a safe shutdown condition. In addition, the proposed amendment will not result in plant operation in a configuration outside the design basis for an unacceptable period of time without implementation of appropriate compensatory measures.

The purpose of the proposed amendment is to permit Waterford 3 to adopt a new fire protection licensing basis which complies with the requirements in 10 CFR 50.48(a) and (c) and the guidance in Regulatory Guide 1.205. The NRC considers that NFPA 805 provides an acceptable methodology and performance criteria for licensees to identify fire protection systems and features that are an acceptable alternative to the 10 CFR Part 50 Appendix R required fire protection features (69 FR 33536; June 16, 2004).

The risk evaluations for plant changes, in part as they relate to the potential for reducing a safety margin, were measured quantitatively for acceptability using the delta risk guidance contained in RG 1.205. Engineering analyses, which may include engineering evaluations, probabilistic safety assessments, and fire modeling calculations, have been performed to demonstrate that the performance-based methods of NFPA 805 do not result in a significant reduction in the margin of safety.

As such, the proposed changes are evaluated to ensure that risk and safety margins are kept within acceptable limits. Based on the above, the implementation of this amendment to transition the FPP at Waterford 3 to one based on NFPA 805, in accordance with 10 CFR 50.48(c), will not significantly reduce a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Joseph A. Aluise, Associate General Counsel—Nuclear, Entergy Services, Inc., 639 Loyola Avenue, New Orleans, Louisiana 70113.

NRC Branch Chief: Michael T. Markley.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit 1, Washington County, Nebraska

Date of amendment request: September 28, 2011, as supplemented by letters dated December 19 and 22, 2011.

Description of amendment request: This amendment request contains Sensitive Unclassified Non-Safeguards Information (SUNSI). The proposed amendment would adopt National Fire Protection Association (NFPA) 805, *''Performance-Based Standard for Fire Protection for Light Water Reactor Generating Plants'' (2001 Edition).* Implementation of the regulatory actions presented in the attachments to the license amendment request will enable Fort Calhoun Station, Unit 1 (FCS), to adopt a new fire protection licensing basis which complies with the

requirements in 10 CFR 50.48(a), 10 CFR 50.48(c), and the guidance in NRC Regulatory Guide (RG) 1.205, Revision 1, ''Risk-Informed, Performance-Based Fire Protection for Existing Light-Water Nuclear Power Plants,'' December 2009, and Nuclear Energy Institute (NEI) 04–02, ''Guidance for Implementing a Risk-Informed, Performance-Based Fire Protection Program under 10 CFR 50.48(c).''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

Operation of FCS in accordance with the proposed amendment does not increase the probability or consequences of accidents previously evaluated. Engineering analyses, which may include engineering evaluations, probabilistic safety assessments, and fire modeling calculations, have been performed to demonstrate that the performance-based requirements of National Fire Protection Association (NFPA) 805 have been satisfied. The Updated Safety Analysis Report (USAR) documents the analyses of design basis accidents (DBA) at FCS. The proposed amendment does not adversely affect accident initiators nor alter design assumptions, conditions, or configurations of the facility and does not adversely affect the ability of structures, systems, or components (SSCs) to perform their design functions. SSCs required to safety shutdown the reactor and to maintain it in a safe shutdown condition will remain capable of performing their design functions.

The purpose of the proposed amendment is to permit FCS to adopt a new fire protection licensing basis which complies with the requirements of 10 CFR 50.48(a) and (c) and the guidance in RG 1.205, Revision 0. The Nuclear Regulatory Commission (NRC) considers that NFPA 805 provides an acceptable methodology and performance criteria for licensees to identify fire protection requirements that are an acceptable alternative to the 10 CFR Part 50 Appendix R required fire protection features (69 FR 33536; June 16, 2004). Engineering analyses, which may include engineering evaluations, probabilistic safety assessments, and fire modeling calculations, have been performed to demonstrate that the performance based requirements of NFPA 805 have been met.

NFPA 805 taken as a whole, provides an acceptable alternative for satisfying General Design Criterion (GDC) 3 of 10 CFR Part 50, Appendix A. NFPA 805 meets the underlying intent of the NRC's existing fire protection regulations and guidance, and achieves defense-in-depth and the goals, performance objectives, and performance criteria specified in Chapter 1 of the standard. Under the standard, if there are any increases in core damage frequency (CDF) or risk, the increase will be small and consistent with the intent of the Commission's Safety Goal Policy.

Based on this, the implementation of the proposed amendment does not increase the probability of any accident previously evaluated. Equipment required to mitigate an accident remains capable of performing the assumed function. The proposed amendment will not affect the source term, containment isolation, or radiological release assumptions used in evaluating the radiological consequences of any accident previously evaluated. The applicable radiological dose criteria will continue to be met.

Therefore, the consequences of any accident previously evaluated are not increased with the implementation of the proposed amendment.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

Operation of FCS in accordance with the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. Any scenario or previously analyzed accident with off-site dose was included in the evaluation of DBAs documented in the USAR. The proposed change does not alter the requirements or function for systems required during accident conditions. Implementation of the new fire protection licensing basis which complies with the requirements of 10 CFR 50.48(a) and (c) and the guidance in RG 1.205, Revision 0, will not result in new or different accidents.

The proposed amendment does not adversely affect accident initiators nor alter design assumptions, conditions, or configurations of the facility. The proposed amendment does not adversely affect the ability of SSCs to perform their design function. SSCs required to safely shutdown the reactor and maintain it in a safe shutdown condition remain capable of performing their design functions.

The purpose of the proposed amendment is to permit FCS to adopt a new fire protection licensing basis which complies with the requirements of 10 CFR 50.48(a) and (c) and the guidance in RG 1.205, Revision 0. The NRC considers that NFPA 805 provides an acceptable methodology and performance criteria for licensees to identify fire protection requirements that are an acceptable alternative to the 10 CFR Part 50, Appendix R required fire protection features (69 FR 33536; June 16, 2004). Engineering analyses, which may include engineering evaluations, probabilistic safety assessments, and fire modeling calculations, have been performed to demonstrate that the performance based requirements of NFPA 805 have been met.

The requirements of NFPA 805 address only fire protection and the impacts of fire on the plant that have previously been evaluated. Based on this, the implementation of the proposed amendment does not create the possibility of a new or different kind of accident from any kind of accident previously evaluated. No new accident scenarios, transient precursors, failure mechanisms, or limiting single failures will be introduced as a result of this amendment. There will be no adverse effect or challenges imposed on any safety-related system as a result of this amendment.

Therefore, the possibility of a new or different kind of accident from any kind of accident previously evaluated is not created with the implementation of this amendment.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

Operation of FCS in accordance with the proposed amendment does not involve a significant reduction in the margin of safety. The risk evaluation of plant changes, as appropriate, were measured quantitatively for acceptability using the ΔCDF and ΔLarge Early Release Fraction (ΔLERF) criteria from Section 5.3.5 of NEI 04–02 and RG 1.205. The proposed amendment does not alter the manner in which safety limits, limiting safety system settings, or limiting conditions for operation are determined. The safety analysis acceptance criteria are not affected by this change. The proposed amendment does not adversely affect existing plant safety margins or the reliability of equipment assumed to mitigate accidents in the USAR. This amendment does not adversely affect the ability of SSCs to perform their design function. SSCs required to safely [shut down] the reactor and to maintain it in a safe shutdown condition remain capable of performing their design functions.

The purpose of the proposed amendment is to permit FCS to adopt a new fire protection licensing basis which complies with the requirements in 10 CFR 50.48(a) and (c) and the guidance in RG 1.205, Revision 0. The NRC considers that NFPA 805 provides an acceptable methodology and performance criteria for licensees to identify fire protection requirements that are an acceptable alternative to the 10 CFR Part 50 Appendix R required fire protection features (69 FR 33536; June 16, 2004). Engineering analyses, which may include engineering evaluations, probabilistic safety assessments, and fire modeling calculations, have been performed to demonstrate that the performance based requirements of NFPA 805 have been met.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: David A. Repka, Esq., Winston & Strawn, 1700 K Street, NW., Washington, DC 20006–3817.

NRC Branch Chief: Michael T. Markley.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation

Entergy Operations, Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit 1, Washington County, Nebraska

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing Sensitive Unclassified Non-Safeguards Information (SUNSI).

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to respond to this notice may request such access. A ''potential party'' is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requestor shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The email address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *OGCmailcenter@nrc.gov*, respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1); and

(3) The identity of the individual or entity requesting access to SUNSI and the requestor's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention.

D. Based on an evaluation of the information submitted under paragraph C.(3) the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order[2] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after the requestor is granted access to that information. However, if more than 25 days remain between the date the petitioner is granted access to the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff after a determination on standing and need for access, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requestor may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) the presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

H. Review of Grants of Access. A party other than the requestor may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed with the Chief Administrative Judge within 5 days of the notification by the NRC staff of its grant of access.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[3]

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR Part 2. Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated at Rockville, Maryland, this 3rd day of April, 2012.

For the Nuclear Regulatory Commission.

Andrew L. Bates,

Acting Secretary of the Commission.

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E–Filing Rule,'' the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

[2] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

[3] Requestors should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION IN THIS PROCEEDING

Day	Event/activity
0	Publication of FEDERAL REGISTER notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 requestor/petitioner reply).
20	Nuclear Regulatory Commission (NRC) staff informs the requestor of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no "need" or no likelihood of standing, the deadline for requestor/petitioner to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds "need" for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

[FR Doc. 2012–8464 Filed 4–9–12; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2012–0002]

Sunshine Act Meeting

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission; [NRC–2012–0002].

DATE: Weeks of April 9, 16, 23, 30, May 7, 14, 2012.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of April 9, 2012

Tuesday, April 10, 2012

9 a.m. Briefing on the Final Report of the Blue Ribbon Commission on America's Nuclear Future (Public Meeting), (Contact: Alicia Mullins, 301–492–3351).

This meeting will be webcast live at the Web address—*www.nrc.gov*

Week of April 16, 2012—Tentative

There are no meetings scheduled for the week of April 16, 2012.

Week of April 23, 2012—Tentative

Tuesday, April 24, 2012

9 a.m. Briefing on Part 35 Medical Events Definitions—Permanent Implant Brachytherapy (Public Meeting), (Contact: Michael Fuller, 301–415–0520).

This meeting will be webcast live at the Web address—*www.nrc.gov*

Week of April 30, 2012—Tentative

Monday, April 30, 2012

9:30 a.m. Briefing on Human Capital and Equal Employment Opportunity (EEO) (Public Meeting) (Contact: Kristin Davis, 301–492–2208).

This meeting will be webcast live at the Web address—*www.nrc.gov*

Week of May 7, 2012—Tentative

Friday, May 11, 2012

9 a.m. Briefing on Potential Medical Isotope Production Licensing Actions (Public Meeting) (Contact: Jessie Quichocho, 301–415–0209).

This meeting will be webcast live at the Web address—*www.nrc.gov*

Week of May 14, 2012—Tentative

There are no meetings scheduled for the week of May 14, 2012.

* * * * *

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—301–415–1292. Contact person for more information: Rochelle Bavol, 301–415–1651.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html*.

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify Bill Dosch, Chief, Work Life and Benefits Branch, at 301–415–6200, TDD: 301–415–2100, or by email at

william.dosch@nrc.gov. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

This notice is distributed electronically to subscribers. If you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969), or send an email to *darlene.wright@nrc.gov*.

Dated: April 5, 2012.

Rochelle C. Bavol,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2012–8668 Filed 4–6–12; 11:15 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, April 12, 2012 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Aguilar, as duty officer, voted to consider the items listed for the Closed Meeting in a closed session.

The subject matter of the Closed Meeting scheduled for Thursday, April 12, 2012 will be:

Institution and settlement of injunctive actions; institution and settlement of administrative proceedings; and other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551–5400.

Dated: April 5, 2012.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–8714 Filed 4–6–12; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66732; File No. SR–ICC–2012–06]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change To Amend Schedule 502 of the ICE Clear Credit LLC Rules To Provide for Clearing of the Markit CDX North American High Yield Series 15 Credit Default Swap Contracts Maturing on December 20, 2013

April 4, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder [2] notice is hereby given that on March 27, 2012, ICE Clear Credit LLC (''ICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by ICC. 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 purpose of proposed rule change is to provide for the clearance of the Markit CDX North American High Yield Series 15 credit default swap (''CDS'') contracts with a three year maturity, maturing on December 20, 2013 (''Additional Index''). ICC currently clears Markit CDX North American High Yield CDS contracts with five year maturities. The Additional Index does not require any changes to the body of the ICC Rules. ICC will clear the Additional Index pursuant to ICC's existing rules. Also, clearing the Additional Index does not require any changes to the ICC risk management framework including the ICC margin methodology, guaranty fund methodology, pricing parameters and pricing model. The only change being submitted is the inclusion of the Additional Index to Schedule 502 of the ICC Rules.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICC 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. ICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

ICC believes that the clearing of the Additional Index will facilitate the prompt and accurate settlement of commodity-based swaps and contribute to the safeguarding of securities and funds associated with commodity-based swap transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

ICC does not believe the proposed rule change would have any impact, or impose any burden, on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. ICC will notify the Commission of any written comments received by ICC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and paragraph (f) of Rule 19b-4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ICC–2012–06 on the subject line.

Paper Comments

Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ICC–2012–06. 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 Section, 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 filings will also be available for inspection and copying at the principal office of ICC and on ICC's Web site at *https://www.theice.com/publicdocs/regulatory_filings/ICEClearCredit_032712.pdf.*

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ICC–2012–06 and should be submitted on or before May 1, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[3]

Kevin O'Neill,

Deputy Secretary.

[FR Doc. 2012–8520 Filed 4–9–12; 8:45 am]

BILLING CODE 8011–01–P

[3] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66733; File No. SR–BX–2012–020]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing of Proposed Rule Change Regarding Registration, Qualification, and Continuing Education Requirements for Associated Persons

April 4, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 21, 2012, NASDAQ OMX BX, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Rules of the Boston Options Exchange Group, LLC (''BOX'') regarding the registration of associated persons. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://nasdaqomxbx.cchwallstreet.com/NASDAQOMXBX/Filings/.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend its rules regarding qualification, registration and continuing education of individual associated persons.[3] Specifically, in response to a request by the Division of Trading and Markets of the U.S. Securities and Exchange Commission, the Exchange is proposing to expand its registration and qualification requirements to include additional types of individual associated persons. The Exchange believes the proposed rule change is consistent with Rule 15b7–1,[4] promulgated under the Securities Exchange Act of 1934, as amended (''Exchange Act''),[5] which provides: ''No registered broker or dealer shall effect any transaction in * * * any security unless any natural person associated with such broker or dealer who effects or is involved in effecting such transaction is registered or approved in accordance with the standards of training, experience, competence, and other qualification standards* * * established by the rules of any national securities exchange * * *''

Currently, an individual person engaged only in proprietary trading or submitting quotations or orders for a BOX Market Maker is not subject to a registration requirement under the BOX Rules. One purpose of this proposed rule change is to recognize new categories of registration that will subject such individuals to such a requirement. Proposed Chapter II, Section 8 establishes the qualification and registration requirements for associated persons of Participants, and recognizes a new category of limited representative registration for proprietary traders. Proposed changes to Chapter VI, Section 2 establish the qualification and registration requirements for individual persons, Market Maker Authorized Traders

[3] Under Chapter 1, Section 1(a)(3) of the BOX Rules, the term ''associated person'' or ''person associated with a Participant'' means any partner, officer, director or branch manager of [sic] Options Participant (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with a Participant or any employee of a Participant. This filing refers specifically to the classification of ''individual associated persons'' as an organization could fall within the scope of this definition, and it is not BOX's intention to require registration by an organization.

[4] 17 CFR 240.15b7–1.

[5] 15 U.S.C. 78a et seq.

(''MMAT''),[6] who submit quotations and orders to BOX on behalf of Participants which are registered as BOX Market Makers. Further, this proposed rule sets forth the circumstances under which the Exchange may suspend or withdraw the registration of an MMAT.

The proposed Chapter II, Section 8 also establishes registration requirements for a Chief Compliance Officer (''CCO'') for each Participant and for a Financial/Operations Principal for each Participant subject to Exchange Act Rule 15c3–1.[7] Proposed Chapter II, Section 8 also references the registration requirements set forth in Chapter XI of the BOX Rules for associated persons of Participants that conduct a public customer business.[8]

Under the proposal, individual associated persons acting in the capacity of a sole proprietor, officer, partner, director or CCO will be subject to heightened qualification requirements. In addition, an individual associated person that is engaged in the supervision or monitoring of proprietary trading, market-making or brokerage activities and/or that is engaged in the supervision or training of those engaged in proprietary trading, market-making or brokerage activities will be subject to heightened qualification requirements. The Exchange believes that the heightened qualification requirements should enhance the supervisory structure for Participants that do not conduct a public customer business.[9]

Specifically, the Exchange is proposing to require additional associated persons to submit the appropriate application for registration online through the Central Registration Depository system (''Web CRD''), which is operated by the Financial Industry Regulatory Authority, Incorporated (''FINRA''), successfully complete the qualification examination(s) as prescribed by the Exchange and submit any required registration and examination fees.[10] Proposed Chapter II, Section 8 will require registration and qualification by individual associated persons engaged or to be engaged in the securities business of a Participant.[11] An individual associated person will be considered to be a person engaged in the securities business of a Participant if (i) the individual associated person conducts proprietary trading, acts as a market-maker, effects transactions on behalf of a broker-dealer account, supervises or monitors proprietary trading, market-making or brokerage activities on behalf of the broker-dealer, supervises or conducts training for those engaged in proprietary trading, market-making or brokerage activities on behalf of a broker-dealer account; or (ii) the individual associated person engages in the management of any individual associated person identified in (i) above as an officer, partner or director.[12]

The Exchange is also proposing to recognize a new category of limited representative registration for individual persons associated with a BOX Options Participant that is a ''proprietary trading firm'' as defined in Supplementary Material .07 to the proposed Section 8.[13] Further, the Exchange is proposing to extend the registration requirements to Market Maker Authorized Traders, i.e., individual persons submitting to BOX quotations or orders for Participants registered as BOX Market Makers.[14]

With respect to the new qualification examination associated with the proposed rule changes,[15] the Exchange has developed, with other self-regulatory organizations (''SROs''), the Series 56 examination that would be applicable to proprietary traders. A subset of individuals associated with Participants, those engaged only in proprietary trading, may use the Series 56 examination to qualify for registration under the new category of limited representative registration as a proprietary trader.[16] Persons who conduct a public customer business do not fit in the registration category proposed for proprietary traders and as noted in note 6 above, must continue to comply with the registration requirements in Chapter XI of the BOX Rules and register and be qualified by passing the General Securities Registered Examination (Series 7). The Exchange believes the Series 7 examination covers a great deal of material that is not relevant to proprietary trading functions. Instead, the Series 56 covers both equities and options trading rules, but not all of the rules applicable to firms and persons conducting business with public customers. The Exchange will describe the Series 56 in greater detail in a separate proposed rule change and the Exchange will notify its Participants via regulatory circular that the Series 56 examination will be acceptable for compliance with the requirements proposed in Chapter II, Section 8.

Of course, persons registering as proprietary trader representatives or an MMAT would be subject to the continuing education requirements set forth in Chapter XI, Section 5 of the BOX Rules. Additionally, the Exchange will require all associated persons required to register under proposed Chapter II, Section 8 that are not already registered in Web CRD to register (i.e., complete a Form U4) within 60 days of the approval date of this filing by the

[6] Persons with similar functions at other Exchanges are subject to registration requirements. *See,* e.g., Rule 801 of the International Securities Exchange, LLC (''ISE''), Rule 11.6 of BATS Exchange, Inc., and Rule 6.34A of the NYSE Arca, Inc.

[7] 17 CFR 240.15c3–1.

[8] These proposed rule changes are consistent with those previously adopted by the Chicago Board of Options Exchange (''CBOE'') and International Securities Exchange, LLC (''ISE''). *See* Securities Exchange Act Release Nos. 62977 (September 22, 2010), 75 FR 59773 (September 28, 2010) (''CBOE Registration Proposal''); 63314 (November 12, 2010), 75 FR 70957 (November 19, 2010) (''CBOE Approval Order''), and 63843 (February 4, 2011), 76 FR 7884 (February 11, 2011) (''ISE Approval Order'').

[9] Proposed Chapter II, Section 8 specifies that individual associated persons of a Participant that conducts a public customer business, including Registered Options Principals and Registered Representatives, are also subject to the registration requirements set forth in Chapter XI, Sections 2 and 3 of the BOX Rules. It also specifies that individual persons entering quotations or orders for a Participant registered as a BOX Market Maker must also comply with the registration requirements set forth in Chapter VI, Section 2 of the BOX Rules for Market Maker Authorized Traders.

[10] Under the proposal, each individual associated person subject to the registration requirements in proposed Chapter II, Section 8 will be required to electronically file a Uniform Application for Securities Industry Registration (''Form U4'') through Web CRD.

[11] An individual with an indirect ownership interest in a Participant that is engaged in the securities business of such Participant is required to register under proposed Chapter II, Section 8.

[12] This requirement is consistent with FINRA's registration requirement for ''Principals'' (as defined in NASD Rule 1021). BOX is declining to adopt the term ''Principal'' in the proposed rule change to avoid confusion with existing terms, such as ''Option Principal.''

[13] For purposes of this requirement, a Participant is considered to conduct only proprietary trading if it has the following characteristics: (i) The Participant is not required by Section 15(b)(8) of the Exchange Act to become a FINRA member but is a member of another registered securities exchange not registered solely under Section 6(g) of the Exchange Act; (ii) all funds used or proposed to be used by the Participant are the Participant's own capital, traded through the Participant's own accounts; (iii) the Participant does not, and will not, have customers; and (iv) all persons registered on behalf of the Participant acting or to be acting in the capacity of a trader must be owners of, employees of, or contractors to the Participant.

[14] *See* proposed Chapter VI, Section 2.

[15] *See* Securities Exchange Act Rel. No. 64699, (June 17, 2011), 76 FR 36945 (June 23, 2011), (SR–CBOE–2011–056) Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Adopt the Selection Specifications and Content Outline for the Proprietary Traders Examination Program (Series 56). The Series 56 examination recognized by the Exchange for the category of Proprietary Trader became available on Web CRD on June 20, 2011.

[16] The Exchange, with other SROs, has developed the Series 56 examination that would be applicable to proprietary traders required to register under the proposed rule. The Exchange will submit a non-controversial rule change to the Commission that, when effective, will allow the Exchange to Adopt the Selection Specifications and Content Outline for the Series 56 Examination Program [sic].

U.S. Securities and Exchange Commission.[17]

This proposal does not require proprietary traders or MMATs who have already registered and have passed the Series 7 examination to register under the new proprietary trader category or to pass the Series 56 because the Exchange believes this would be redundant. Persons whom are registered with the Exchange and have passed the Series 7 may, of course, perform the functions of a proprietary trader or MMAT, because these new registration categories are limited registration categories. This proposal does not preclude associated persons from passing the Series 7 examination, registering with the Exchange, and then functioning as a proprietary trader or MMAT.

BOX expects that new BOX Options Participants might consider these new registration alternatives when applying to be a Participant. Accordingly, BOX believes that the [sic] these alternatives should be helpful to attracting new Participants, while at the same time preserving the important goals of appropriate registration and qualification for persons in the securities business. Additionally, proprietary trading or market making firms who hire new associated persons might choose to register those persons using the Series 56 exam. Unlike the associated persons of proprietary trading and market making firms covered by this proposal, associated persons of firms that conduct business with public customers continue to be subject to registration with the Exchange and have to pass the Series 7 examination. These individual associated persons are not eligible for the new registration category and examination.

The Exchange is proposing to identify in Chapter II, Section 8 several categories of persons that are exempt from these additional registration requirements. The categories of individual associated persons that are exempt from the registration requirements include: (i) Individual associated persons functioning solely and exclusively in a clerical or ministerial capacity; (ii) individual associated persons that are not actively engaged in the securities business; (iii) individual associated persons functioning solely and exclusively to meet a need for nominal corporate officers or for capital participation; and (iv) individual associated persons whose functions are solely and exclusively related to transactions in commodities, transactions in security futures and/or effecting transactions on the floor of another national securities exchange and who are registered as floor members with such exchange. The Exchange believes these registration exemptions are appropriate because it would not consider individuals that fall into the exemptions to be actively engaged in securities business unless they are registered as floor members on another national securities exchange, in which case, they are already registered as floor members and not required to register with the Exchange. The Exchange believes incorporating these exemptions into the rule provides additional clarity to individual associated persons as to who will or will not be required to register with the Exchange under the proposed rule. Any applicable FINRA registration requirements would continue to apply to Participants that are also members of FINRA.

Additionally, under the proposal, the Exchange may, in exceptional cases and where good cause is shown, waive the qualification examination requirement. Similar rules are in place at the New York Stock Exchange, Inc. (''NYSE'') and FINRA.[18] In determining whether a waiver shall be granted, the Exchange shall consider, among other things, previous industry employment, training and/or the successful completion of similar qualification examinations of other self-regulatory organizations.

The Exchange also is proposing to require the designation of a Financial/Operations Principal by each Participant that is subject to Exchange Act Rule 15c3–1, and the designation of a CCO by each Participant. Under the proposed rule, the Financial/Operations Principal and CCO are required to register and pass the appropriate qualification examination.[19] The Financial/Operations Principal and CCO play important roles within a Participant's business by acting as the persons responsible for the firm's compliance with applicable net capital, recordkeeping, and other financial and operational rules and regulations. The registration requirements for a Financial/Operations Principal and for a CCO are consistent with CBOE Rule 3.6A[20] (which in turn are consistent with FINRA Rule 3130 and NASD Rule 1022). The proposal includes a limited exemption from the requirement to pass the appropriate qualification examination by a CCO. Specifically, a person that has been designated as a CCO on Schedule A of Form BD for at least two years immediately prior to January 1, 2002, and who has not been subject within the last ten years to any statutory disqualification as defined in Section 3(a)(39) of the Act; a suspension; or the imposition of a $5,000 or more fine for a violation(s) of any provision of any securities law or regulation, or any agreement with, rule or standard of conduct of any securities governmental agency, securities self-regulatory organization, or as imposed by any such self-regulatory organization in connection with a disciplinary proceeding, shall be required to register in the category of registration appropriate to the function to be performed as prescribed by the Exchange, but shall be exempt from the requirement to pass the heightened qualification examination as prescribed by the Exchange. The Exchange believes that implementing this proposed change will help meet the important goals of appropriate registration and qualification for all persons engaged in the securities business.

All individuals who engage in supervisory functions of the Participant's securities business shall be required to register and pass the appropriate heightened qualification examination(s) relevant to their particular category of registration. Each BOX Participant must have at least two such persons. The Exchange is proposing to require registration and successful completion of a heightened qualification examination by at least two individuals [sic] for any person who is an (i) officer; (ii) partner; (iii) director; (iv) supervisor of proprietary trading, market-making or brokerage activities; and/or (v) supervisor of those engaged in proprietary trading, market-making or brokerage activities with respect to those activities.[21] The Exchange believes it is appropriate that any

[17] Web CRD has been enhanced by FINRA to allow for general registration of applicable associated persons.

[18] *See* NASD Rule 1070 (Qualification Examinations and Waiver of Requirements) and NYSE Rule 345 (Employees—Registration, Approval, Records).

[19] The appropriate qualification examination for a Financial/Operations Principal is the Series 27 exam. The appropriate qualification examination for a CCO is the Series 14 exam. These categories of registration and the accompanying qualification examinations are available to the Exchange through Web CRD.

[20] The duties of a Financial/Operations Principal include taking appropriate actions to assure that the Participant complies with applicable financial and operational requirements under SRO rules and the Exchange Act. The Exchange notes that it is not the Designated Examining Authority for any BOX Participant, but for consistency with other SRO rules, is proposing to include the designation of a Financial/Operations Principals in the BOX Rules.

[21] With the exception of its application to sole proprietors, this requirement is consistent with the registration requirement set forth in NASD Rule 1021 addressing registration of two Principals (as defined in NASD Rule 1021).

person acting in a supervisory capacity be required to comply with heightened requirements regarding their qualification and registration.

The Exchange may waive the requirement to have two officers, partners, directors, and/or supervisors registered if a Participant conclusively demonstrates that only one such person should be required to register. For example, a Participant could conclusively demonstrate that only one individual is required to register if such Participant is owned by one individual (such as a single member limited liability company), such individual acts as the only trader on behalf of the Participant, and the Participant employs only one other individual who functions only in a clerical capacity. The ability to waive this registration requirement is consistent with similar FINRA rules regarding principal registration.[22]

The Exchange notes that Participants that are sole proprietors may also be granted a waiver from the requirement that two officers, partners, directors, and/or supervisors be registered. Further, the Exchange is also proposing to allow a Participant that conducts only proprietary trading and has 25 or fewer registered persons to have only one officer or partner registered under this section rather than two. This exception is similar to that of several other exchanges and reflects that such Participants do not necessitate the same level of supervisory structure as those Participants that have customers or are larger in size. For purposes of this requirement, a Participant is considered to conduct only proprietary trading if it has the following characteristics: (i) The Participant is not required by Section 15(b)(8) of the Exchange Act to become a FINRA member but is a member of another registered securities exchange not registered solely under Section 6(g) of the Exchange Act; (ii) all funds used or proposed to be used by the Participant are the Participant's own capital, traded through the Participant's own accounts; (iii) the Participant does not, and will not, have customers; and (iv) all persons registered on behalf of the Participant acting or to be acting in the capacity of a trader must be owners of, employees of, or contractors to the Participant. The description of what constitutes proprietary trading for purposes of this requirement is appropriate in that it provides additional clarity for associated persons to evaluate whether two individuals are required to register. The Exchange believes these potential waivers are appropriate to allow proprietary trading firms and sole proprietor firms to comply with the regulatory supervisory requirements in a reasonable manner.

Proposed Chapter II, Section 8 also sets forth the requirements for examinations where there is a lapse in registration. Specifically, an individual associated person shall be required to pass the appropriate qualification examination for the category of registration if the individual associated person's registration has been revoked by the Exchange as a disciplinary sanction or whose most recent registration has been terminated for a period of two or more years. The Exchange believes that implementing this proposed change will help meet the important goals of appropriate registration and qualification for all persons engaged in the securities business.

Additionally, the Exchange proposes to update Chapter XI, Section 5 of the BOX Rules regarding continuing education requirements so that it is consistent with other SRO rules.[23] Specifically, the Exchange proposes to add a provision detailing the procedures required for in-house delivery of the regulatory element. The required procedures address responsibility for the education program, site requirements, technology requirements, supervision requirements, and administration of the program. Participants are required to file with their Designated Examining Authority, [sic] a letter of attestation signed by a senior officer or partner, attesting to the establishment of the required procedures, and must annually represent that they have continued to maintain all required procedures for the previous year. While BOX does not have a floor, for consistency with other SRO rules, the Exchange also proposes to delete language that excludes those people whose activities are limited solely to the transaction of business on a floor from the definition of ''registered person'' for purposes of Chapter XI, Section 5 of the BOX Rules.[24] The Exchange believes that implementing this proposed change will help meet the important goals of appropriate qualification and continuing education for all persons engaged in the securities business.

Finally, this filing proposes to make non-substantive changes to Chapter XI, Section 2 (Registration of Options Principals), Section 3 (Registration of Representatives) and Section 4 (Termination of Registered Persons) of the BOX Rules to define and reference certain terms consistently within these rules and with proposed Chapter II, Section 8. Specifically, these rules currently contain inconsistent references to the use of the Central Registration Depository, and the registration and termination forms required to be filed under the rules. Additionally, these rules contain reference [sic] to the National Association of Securities Dealers which is now known as the Financial Industry Regulatory Authority or ''FINRA.''

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[25] in general, and Section 6(b)(5) of the Act,[26] in particular, in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism for a free and open market and a national market system and, in general, to protect investors and the public interest. Specifically, the enhanced registration and qualification requirements will provide additional protection to investors and further promote the public interest. Additionally, the proposed rule change is intended to provide uniformity across the various SROs with respect to the registration and qualification requirements for individual persons. The Exchange believes that implementing this proposed rule change will help meet the important goals of subjecting all persons engage in the securities business to appropriate registration requirements, qualification requirements through the examination process, and continuing education requirements, including those persons associated with proprietary trading firms and BOX market makers.

In addition, the Exchange believes that the proposed rule change is consistent with Section 6(c) of the Exchange Act,[27] in general, and furthers the objectives of Section 6(c)(3)(B) of the Act,[28] which provides, among other things, that a national securities exchange may bar a natural person from becoming associated with a member if such natural person does not meet the standards of training, experience and competence as prescribed by the rules of the national securities exchange. The Exchange also believes that the

[22] *See* NASD Rule 1021(e).

[23] *E.g.,* CBOE Rule 9.3A and ISE Rule 604.

[24] *See* CBOE Rule 9.3A and ISE Rule 604.

[25] 15 U.S.C. 78f(b).

[26] 15 U.S.C. 78f(b)(5).

[27] 15 U.S.C. 78f(c).

[28] 15 U.S.C. 78f(c)(3)(B).

proposed rule change furthers the objectives of Section 6(c)(3)(C) of the Exchange Act,[29] which provides, among other things, that a national securities exchange may bar any person from becoming associated with a member if such person does not agree to supply the exchange with such information with respect to its dealings with the member as may be specified by the rules of the exchange and to permit the examination of its books and records to verify the accuracy of any information so supplied. The Exchange believes the Series 56 examination program establishes the appropriate qualifications for an individual associated person that is required to register as a Proprietary Trader under proposed Chapter II, Section 8 of the BOX Rules, including, but not limited to, Market-Makers, proprietary traders and individuals effecting transactions on behalf of other broker-dealers. The Exchange also believes the Series 56 addresses industry topics that establish the foundation for the regulatory and procedural knowledge necessary for individuals required to register as Market Maker Authorized Trader [sic] under proposed Chapter VI, Section 2 of the BOX Rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

[29] 15 U.S.C. 78f(c)(3)(C).

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 Number SR–BX–2012–020 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2012–020. 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 on business days between the hours of 10 a.m. and 3 p.m. in the Commission's Public Reference Room located at 100 F Street NE., Washington, DC 20549. 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 Number SR–BX–2012–020 and should be submitted on or before May 1, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[30]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–8521 Filed 4–9–12; 8:45 am]

BILLING CODE 8011–01–P

[30] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66741; No. SR–NASDAQ–2012–040]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify NASDAQ's Transaction Execution Fee and Credit Schedule

April 5, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 23, 2012, The NASDAQ Stock Market LLC (''NASDAQ'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a 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

NASDAQ proposes to modify the Exchange's transaction execution fee and credit schedule in Rule 7018. NASDAQ will implement the proposed change on April 2, 2012. The text of the proposed rule change is available at *nasdaq.cchwallstreet.com*, at NASDAQ's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NASDAQ is amending its fee and credit schedule for transaction executions in Rule 7018(a).[3] First, with respect to orders that route to the New York Stock Exchange (''NYSE'') to participate in its closing process, NASDAQ is increasing the fee from $0.00085 per share executed to $0.00095 per share executed. The proposed change mirrors an identical change to the fee charged by NYSE for executing such orders.[4] Second, NASDAQ is increasing the monthly cap on fees charged for routed orders that execute in the NYSE opening process from $10,000 to $15,000. The proposed change also mirrors an identical change made by NYSE.[5]

Third, NASDAQ is amending Rule 7018(e) to increase the monthly cap for orders executed in the NASDAQ Opening Cross from $10,000 to $15,000 per firm. The change is intended to keep the charges incurred by members to participate in the NASDAQ Opening Cross comparable to the charges incurred by NYSE members to participate in its opening process. Fourth, NASDAQ is increasing the charge for LIST orders that are routed for participation in the NYSEAmex closing process from $0.00085 to $0.00095. The change is intended to maintain consistency between the fees charged for closing process orders that route to NYSE and NYSEAmex.

Fifth, NASDAQ is amending Rule 7018(a) to introduce rebates with respect to NASDAQ's new Supplemental Order type, which is expected to be introduced in April 2012.[6] Supplemental Orders, which resemble the Tracking Orders that have long been in use at NYSEArca, are non-displayed orders that post to the book, that are accessed only after other liquidity on the NASDAQ book, and that execute only at the national best bid or best offer (''NBBO''). NASDAQ is setting rebates for use of these orders at a level that is equal to or slightly higher than prevailing rebate rates for other forms of non-displayed orders but lower than the rates for displayed liquidity. The goal of setting the rebate at these levels is to encourage use of the new order type, while maintaining consistency with NASDAQ's overall pricing philosophy of encouraging displayed liquidity. Specifically, the rebate will be $0.0018 per share executed for Supplemental Orders entered through a market participant identifier (''MPID'') through which a member provides an average daily volume during the month of more than 1 million shares of liquidity via Supplemental Orders, and $0.0015 per share executed for all other Supplemental Orders.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[7] in general, and with Sections 6(b)(4) and (5) of the Act,[8] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which NASDAQ operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers. All similarly situated members are subject to the same fee structure, and access to NASDAQ is offered on fair and non-discriminatory terms.

The proposed changes to the fee to route orders to the NYSE closing process and the monthly cap on fees charged for orders routed to the NYSE opening process are reasonable because they correspond directly to the fees charged by NYSE. These changes reflect an equitable allocation of fees because they reflect the costs incurred by NASDAQ's routing broker when sending orders to NYSE. Finally, the changes are not unfairly discriminatory because they are charged to members that route orders to NYSE and thereby require NASDAQ to incur the costs of routing such orders.

The proposed change to the monthly cap on fees charged for participation in the NASDAQ Opening Cross is reasonable because it ensures that total monthly costs of members to participate in the NASDAQ Opening Cross are comparable to the monthly costs of members to participate in the opening process of NASDAQ's primary competitor. As is currently the case, once a member reaches the cap, its marginal rate thereafter will be zero and its blended rate will decrease with each additional transaction. NASDAQ believes that the proposed change reflects an equitable allocation of fees because it believes that the NASDAQ Opening Cross provides an extremely robust price discovery process for its members, and that accordingly, it is equitable to increase the maximum fees payable by members that participate in the process. Finally, NASDAQ believes that the change is not unfairly discriminatory because it applies solely to members that opt to participate in the Opening Cross.

The proposed change to the fee to route orders to the NYSEAmex closing process is reasonable because it allows NASDAQ to maintain an identical fee for routing to the NYSE and NYSEAmex close. Moreover, although the fee charged to NASDAQ by NYSEAmex remains $0.00085 per share, NASDAQ believes that it is reasonable to charge a $0.0001 per share markup on such routed orders as a means of assisting NASDAQ in covering its own costs of operations and earning a profit. NASDAQ believes that the change reflects an equitable allocation of fees because NYSEAmex is not a widely used routing destination, and accordingly, it is equitable for NASDAQ to charge members a markup for making use of NASDAQ's connection to it. Finally, NASDAQ believes that the change is not unfairly discriminatory because it applies solely to members that route orders to NYSEAmex.

The proposed rebates for Supplemental Orders are reasonable because they are consistent with or slightly higher than rebates currently paid with respect to other non-displayed orders. NASDAQ believes that it is reasonable to set the rebate at this level as a means of promoting use of this new feature of its market. NASDAQ further believes that the rebates reflect an equitable allocation of fees because Supplemental Orders are designed to provide an additional means by which members may offer liquidity at the NBBO. Accordingly, the orders are designed to benefit not only members that enter them, but also members that can access additional liquidity at the NBBO. NASDAQ believes that it is equitable to set the rebates associated with use of these orders at a level that is designed to provide these benefits. Finally, NASDAQ believes that the rebates are not unfairly discriminatory, in that they are set at levels that NASDAQ believes to be consistent with both its overall pricing philosophy with respect to non-displayed orders and the goal of

[3] Rule 7018(a) applies to executions of transactions at a price of $1 or more. Fees for transactions at a price below $1 remain unchanged.

[4] Securities Exchange Act Release No. 66600 (March 14, 2012), 77 FR 16298 (March 20, 2012) (SR–NYSE–2012–07).

[5] *Id.*

[6] Securities Exchange Act Release No. 66540 (March 8, 2012), 77 FR 15167 (March 14, 2012) (SR–NASDAQ–2012–031).

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(4) and (5).

introducing Supplemental Orders to the market.

Finally, NASDAQ notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, NASDAQ must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because numerous alternatives exist to the execution and routing services offered by NASDAQ, if NASDAQ increases its fees to an excessive extent, it will lose customers to its competitors. Accordingly, NASDAQ believes that competitive market forces help to ensure that the fees it charges for execution and routing are reasonable, equitably allocated, and non-discriminatory.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Because the market for order and routing execution is extremely competitive, members may readily opt to disfavor NASDAQ's execution services if they believe that alternatives offer them better value. Accordingly, NASDAQ does not believe that the proposed changes will unfairly affect the ability of members or competitors to maintain their competitive standing in the financial markets.

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 foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[9] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2012–040 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2012–040. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2012–040 and should be submitted on or before May 1, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–8581 Filed 4–9–12; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66740; File No. SR–NASDAQ–2012–042]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Re-Organize NASDAQ's Rules Governing the Fees Applicable to NASDAQ's Depth-of-Book Market Data

April 5, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 28, 2012, The NASDAQ Stock Market LLC (''NASDAQ'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASDAQ. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

NASDAQ proposes to: (1) Re-organize NASDAQ's rules governing the fees applicable to NASDAQ's Depth-of-Book market data; and (2) establish an Enterprise License for Non-Professional Usage of certain NASDAQ Depth-of-Book market data.

The text of the proposed rule change is available at *http://nasdaq.cchwallstreet.com/,* at NASDAQ's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASDAQ included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

places specified in Item IV below. NASDAQ has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NASDAQ is proposing two changes to the fees governing distribution of NASDAQ market data: (1) Re-organize NASDAQ's rules governing the fees applicable to NASDAQ's Depth-of-Book market data; and (2) establish an Enterprise License for Non-Professional Usage of certain NASDAQ Depth-of-Book market data.

Re-Organizing NASDAQ Rules 7017 and 7023

NASDAQ proposes to create a single rule containing all fees applicable to NASDAQ Depth-of-Book market data. To accomplish this, NASDAQ will combine NASDAQ Rule 7017 which governs the NASDAQ Quotation Data Service or NQDS and NASDAQ Rule 7023 which governs NASDAQ TotalView and NASDAQ OpenView. In doing so, NASDAQ will collect and improve all existing defined terms and add several new defined terms where needed to enhance the clarity of NASDAQ's rules. None of these proposed modifications will change the substance of NASDAQ's rules or the manner in which NASDAQ applies the existing fees for NASDAQ Depth-of-Book data.

New Rule 7023 begins by defining the relevant terminology in subsection (a). New Rule 7023(a)(1) defines in one place the three Depth-of-Book feeds that NASDAQ offers: NASDAQ Level 2 (formerly known as the NASDAQ Quotation Data Service or NQDS) currently defined in Rule 7017(a); NASDAQ TotalView, currently defined in Rule 7023(a), and NASDAQ OpenView, currently defined at Rule 7023(c).

NASDAQ is proposing to rename NQDS as NASDAQ Level 2, and to clarify the definition of NASDAQ Level 2 without substantively modifying its content or cost. NQDS (now Level 2) currently consists of three components: individual market maker quotations from NASDAQ, NASDAQ Level 1, and the Last Sale Information Service (''Last Sale''). The NASDAQ Level 1 and Last Sale Services are consolidated data feeds disseminated by the network processor for NASDAQ-listed stocks. The current monthly fee for NASDAQ Level 1 is $20 per Professional Subscriber and $1 per Non-Professional Subscriber for NASDAQ Level 1 and Last Sale. However, because NASDAQ Level 1 and Last Sale are consolidated feeds, the fees for those services are remitted to the network processor rather than to the Exchange.

The current fee for NASDAQ Level 2, listed in Rule 7017(a) and (b), is $50 monthly for Professional Subscribers and $10 monthly for Non-Professional Subscribers. Of that $50 for Professional Subscribers, $20 is attributable to NASDAQ Level 1; and of that $10 for Non-Professional Subscribers, $1 is attributable to NASDAQ Level 1. Thus, the current monthly fee attributable to individual market maker quotations from NASDAQ is $30 for Professional Subscribers and $9 for Non-Professional Subscribers.

Going forward, new NASDAQ Rule 7023(a)(1)(A) will properly define NASDAQ Level 2 to include only individual market maker quotations from NASDAQ (thereby excluding the consolidated data feeds), and new Rule 7023(b)(1) will properly list the monthly fee of $30 for Professional Subscribers and $9 for Non-Professional Subscribers (thereby excluding the fees for the consolidated data feeds). As a result, there will be no impact to current or future Subscribers either in the price or content of NASDAQ Level 2.

New NASDAQ Rule 7023(a)(2) contains new definitions of Display and Non-Display Usage of Depth-of-Book data based on the distinction already reflected throughout current NASDAQ Rule 7023, most clearly at subsection (a)(1)(D). NASDAQ has assessed fees for Display and Non-Display Usage since 2006, although it was not until 2010 that NASDAQ assessed different fees based on the two different usage methods.[3]

New NASDAQ Rule 7023(a)(3) defines and distinguishes between Professional and Non-Professional Subscribers, carrying forward the same definition set forth in current NASDAQ Rule 7017(c).

New NASDAQ Rule 7023(a)(4) defines Distributor and distinguishes between Internal and External Distribution.

New NASDAQ Rule 7023(a)(5) defines and distinguishes between Direct Access and Indirect Access based on the existing definition and distinction set forth at NASDAQ Rule 7019(d). This will not change the application of NASDAQ rules or fees.

New NASDAQ Rule 7023(a)(6) defines Controlled Device with minor, stylistic changes to the definition set forth at existing NASDAQ Rule 7023(b). The stylistic changes are intended only to improve the clarity and not to change the application or impact of the defined term.

New NASDAQ Rule 7023(b) collects and reorganizes the Subscriber fees for NASDAQ Level 2, NASDAQ TotalView, and NASDAQ OpenView. Subsection (b)(1)(A) and (b)(1)(B) set forth the monthly Non-Professional and Professional Subscriber fees currently set forth in NASDAQ Rule 7017(a) and (b). The fee for Professional usage of NASDAQ Level 2 will appear lower by $20 (down from $50 to $30) per month because (as stated above) NASDAQ is removing the $20 monthly fee for NASDAQ Level 1 that previously had been combined in the fee for NASDAQ Level 2. The fee for Non-Professional usage of Level 2 will also appear lower by $1 (from $10 to $9) because NASDAQ is removing the $1 fee for NASDAQ Level 1 which also had been combined with the fee for NASDAQ Level 2. New NASDAQ Rule 7023(b)(1)(C) states clearly that the fees for NASDAQ Level 1 and NASDAQ Level 2 are completely separate, as they have been and should be. The feeds themselves also have been and will remain separately available for the same monthly Subscriber fees.

The Subscriber fees for NASDAQ TotalView and NASDAQ OpenView are now set forth at NASDAQ Rule 7023(b)(2) and (b)(3) in the same form as currently set forth in NASDAQ Rule 7023(a) and (c).

New NASDAQ Rule 7023(c) sets forth the fee caps generally referred to as Enterprise Licenses. Subsections (c)(1), (c)(2), and (c)(4) reflect the enterprise licenses currently set forth in NASDAQ Rule 7023(a)(1)(C) and (D). Current Rule 7023(a)(1)(E) is being modified and moved to new NASDAQ Rule 7023(c)(3) as described in more detail below in the second section of this proposed rule change.

New NASDAQ Rule 7023(d) and (e) are repeated almost verbatim from current Rule 7023(a)(2) and (d). NASDAQ is proposing to make minor, stylistic changes to those provisions, which will have no impact on the application of the rule.

With the exception of those provisions identified above and described in detail below, the elimination of NASDAQ Rule 7017 and the proposed changes to NASDAQ Rule 7023 are technical and administrative changes that will not impact the fees assessed to any Subscriber.

[3] *See* NASDAQ Rule 7023(a)(1)((D). *See also* Securities Exchange Act Release No. 34–61700 (Mar. 12, 2010), 75 FR 13172 (Mar. 18, 2010).

Depth-of-Book Enterprise License for Non-Professional Usage

New NASDAQ Rule 7023(c)(3) will offer an optional Enterprise License for unlimited Non-Professional Usage of NASDAQ Level 2, NASDAQ TotalView, or NASDAQ OpenView for certain NASDAQ members. Specifically, Distributors that are also broker-dealers registered under the Act can choose to pay a fee of $325,000 per month that covers all Non-Professional Usage fees to Subscribers with whom the firm has a brokerage relationship.[4] This Depth-of-Book Enterprise License Fee includes Non-Professional Usage fees, but does not include Distributor fees. Non-broker-dealer vendors and application service providers are not eligible for the enterprise license; such firms typically pass through the cost of market data Subscriber fees to their customers.[5]

NASDAQ continues to seek broader distribution of Depth-of-Book data and to reduce the cost of providing Depth-of-Book data to larger numbers of investors. In the past, NASDAQ has accomplished this goal in part by offering similar enterprise licenses for Professional and Non-Professional Usage of TotalView which contains the full Depth-of-Book data for the NASDAQ Market Center Execution System. NASDAQ believes that the adoption of enterprise licenses has led to greater distribution of market data, particularly among Non-Professional Subscribers.

Based on input from market participants, NASDAQ believes that this increase in distribution is attributable in part to the relief it provides distributors from the NASDAQ requirement that distributors count and report each Non-Professional Subscriber of NASDAQ Depth-of-Book data. In addition to increased administrative flexibility, enterprise licenses also encourage broader distribution by firms that are currently over the fee cap as well as those that are approaching the cap and wish to take advantage of the benefits of the program. Further, NASDAQ believes that capping fees in this manner creates goodwill with broker-dealers and increases transparency for retail investors.

The Depth-of-Book Enterprise License Fee covers usage fees for data received directly from NASDAQ as well as data received from third-party vendors (*e.g.,* Bloomberg, Thomson-Reuters, etc.). Upon joining the program, firms may inform third-party market data vendors they utilize (through a NASDAQ-provided form) that, going forward, depth data usage by the broker-dealer may be reported to NASDAQ on a non-billable basis. This structure attempts to address a long-standing concern that broker-dealers are over-billed for market data consumed by one person through multiple market-data display devices. At the same time, the proposed billing structure will continue to provide NASDAQ with accurate reporting information for purposes of usage monitoring and auditing.

The proposed Depth-of-Book Enterprise License Fee is completely optional and does not replace existing enterprise license fee alternatives set forth in Rule 7023. Additionally, the proposal does not impact individual usage fees for any product or raise the costs of any Subscriber of any NASDAQ data product. To the contrary, it provides broker-dealers with an additional approach to providing more NASDAQ data at a fixed cost.

b. [sic] Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[6] in general, and with Section 6(b)(4) of the Act,[7] in particular, in that it provides an equitable allocation of reasonable fees among Subscribers and recipients of NASDAQ data. In adopting Regulation NMS, the Commission granted self-regulatory organizations and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data.

The Commission concluded that Regulation NMS—by deregulating the market in proprietary data—would itself further the Act's goals of facilitating efficiency and competition:

> [E]fficiency is promoted when broker-dealers who do not need the data beyond the prices, sizes, market center identifications of the NBBO and consolidated last sale information are not required to receive (and pay for) such data. The Commission also believes that efficiency is promoted when broker-dealers may choose to receive (and pay for) additional market data based on their own internal analysis of the need for such data.[8]

By removing ''unnecessary regulatory restrictions'' on the ability of exchanges to sell their own data, Regulation NMS advanced the goals of the Act and the principles reflected in its legislative history. If the free market should determine whether proprietary data is sold to broker-dealers at all, it follows that the price at which such data is sold should be set by the market as well. Level 2, TotalView and OpenView are precisely the sort of market data product that the Commission envisioned when it adopted Regulation NMS.

On July 21, 2010, President Barack Obama signed into law H.R. 4173, the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (''Dodd-Frank Act''), which amended Section 19 of the Act. Among other things, Section 916 of the Dodd-Frank Act amended paragraph (A) of Section 19(b)(3) of the Act by inserting the phrase ''on any person, whether or not the person is a member of the self-regulatory organization'' after ''due, fee or other charge imposed by the self-regulatory organization.'' As a result, all SRO rule proposals establishing or changing dues, fees, or other charges are immediately effective upon filing regardless of whether such dues, fees, or other charges are imposed on members of the SRO, non-members, or both. Section 916 further amended paragraph (C) of Section 19(b)(3) of the Act to read, in pertinent part, ''At any time within the 60-day period beginning on the date of filing of such a proposed rule change in accordance with the provisions of paragraph (1) [of Section 19(b)], the Commission summarily may temporarily suspend the change in the rules of the self-regulatory organization made thereby, 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 this title. If the Commission takes such action, the Commission shall institute proceedings under paragraph (2)(B) [of Section 19(b)] to determine whether the proposed rule should be approved or disapproved.''

The decision of the United States Court of Appeals for the District of Columbia Circuit in *NetCoalition* v.

[4] NASDAQ previously offered the same optional Enterprise License on a pilot basis. *See* Securities Exchange Act Release No. 63892 (Feb. 11, 2011); 76 FR 9391 (Feb. 17, 2011) (SR–NASDAQ–2011–021); Securities Exchange Act Release No. 63084 (Oct. 13, 2010); 75 FR 64379 (Oct. 19, 2010) (SR–NASDAQ–2010–125). *See also* Securities Exchange Act Release No. 62908 (Sept. 14, 2010); 75 FR 57321 (Sept. 20, 2010) (SR–NASDAQ–2010–111). The proposed Depth Enterprise License will be a permanent rule rather than a pilot.

[5] NASDAQ relies on Distributor self-reporting of usage rather than on individual contact with each end-user Subscriber. NASDAQ permits Distributors to designate an entire Subscriber population as Non-Professional provided that the number of Professional Subscribers within that Subscriber population does not exceed ten percent (10%) of the total population.

[6] 15 U.S.C. 78f.

[7] 15 U.S.C. 78f(b)(4).

[8] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

SEC, No. 09–1042 (DC Cir. 2010), although reviewing a Commission decision made prior to the effective date of the Dodd-Frank Act, upheld the Commission's reliance upon competitive markets to set reasonable and equitably allocated fees for market data. ''In fact, the legislative history indicates that the Congress intended that the market system 'evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed' and that the SEC wield its regulatory power 'in those situations where competition may not be sufficient,' such as in the creation of a 'consolidated transactional reporting system.' '' *NetCoalition,* at 15 (quoting H.R. Rep. No. 94–229, at 92 (1975), *as reprinted in* 1975 U.S.C.C.A.N. 321, 323). The court's conclusions about Congressional intent are therefore reinforced by the Dodd-Frank Act amendments, which create a presumption that exchange fees, including market data fees, may take effect immediately, without prior Commission approval, and that the Commission should take action to suspend a fee change and institute a proceeding to determine whether the fee change should be approved or disapproved only where the Commission has concerns that the change may not be consistent with the Act.

For the reasons stated above, NASDAQ believes that the proposed fees are fair and equitable, and not unreasonably discriminatory. As described above, the proposed fees are based on pricing conventions and distinctions that exist in NASDAQ's current fee schedule, and the fee schedules of other exchanges. These distinctions (top-of-book versus Depth-of-Book, Professional versus non-Professional Subscribers, Direct versus Indirect Access, Internal versus External Distribution) are each based on principles of fairness and equity that have helped for many years to maintain fair, equitable, and not unreasonably discriminatory fees, and that apply with equal or greater force to the current proposal.

As described in greater detail below, if NASDAQ has calculated improperly and the market deems the proposed fees to be unfair, inequitable, or unreasonably discriminatory, firms can diminish or discontinue the use of their data because the proposed fee is entirely optional to all parties. Firms are not required to purchase Depth-of-Book data or to utilize any specific pricing alternative if they do choose to purchase Depth-of-Book data. NASDAQ is not required to make Depth-of-Book data available or to offer specific pricing alternatives for potential purchases. NASDAQ can discontinue offering a pricing alternative (as it has in the past) and firms can discontinue their use at any time and for any reason (as they often do), including due to their assessment of the reasonableness of fees charged. NASDAQ continues to create new pricing policies aimed at increasing fairness and equitable allocation of fees among Subscribers, and NASDAQ believes this is another useful step in that direction.

NASDAQ believes that the Depth-of-Book Enterprise License promotes increased transparency by offering a new pricing option resulting in lower fees for heavy users of Depth-of-Book data. This fee limitation will, in turn, enable firms to make additional information available to the firms' clients, thereby increasing transparency of the market. Additionally, the proposal provides for simplified market data administration by eliminating the current requirement that firms identify and track the number of individual Subscribers of Depth-of-Book data. NASDAQ continues to create new pricing policies aimed at increasing transparency in the market and believes this is useful step in that direction.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Notwithstanding its determination that the Commission may rely upon competition to establish fair and equitably allocated fees for market data, the *NetCoalition* court found that the Commission had not, in that case, compiled a record that adequately supported its conclusion that the market for the data at issue in the case was competitive. NASDAQ believes that a record may readily be established to demonstrate the competitive nature of the market in question.

There is intense competition between trading platforms that provide transaction execution and routing services and proprietary data products. Transaction execution and proprietary data products are complementary in that market data is both an input and a byproduct of the execution service. In fact, market data and trade execution are a paradigmatic example of joint products with joint costs. The decision whether and on which platform to post an order will depend on the attributes of the platform where the order can be posted, including the execution fees, data quality and price and distribution of its data products. Without the prospect of a taking order seeing and reacting to a posted order on a particular platform, the posting of the order would accomplish little. Without trade executions, exchange data products cannot exist. Data products are valuable to many end Subscribers only insofar as they provide information that end Subscribers expect will assist them or their customers in making trading decisions.

The costs of producing market data include not only the costs of the data distribution infrastructure, but also the costs of designing, maintaining, and operating the exchange's transaction execution platform and the cost of regulating the exchange to ensure its fair operation and maintain investor confidence. The total return that a trading platform earns reflects the revenues it receives from both products and the joint costs it incurs. Moreover, an exchange's customers view the costs of transaction executions and of data as a unified cost of doing business with the exchange. A broker-dealer will direct orders to a particular exchange only if the expected revenues from executing trades on the exchange exceed net transaction execution costs and the cost of data that the broker-dealer chooses to buy to support its trading decisions (or those of its customers). The choice of data products is, in turn, a product of the value of the products in making profitable trading decisions. If the cost of the product exceeds its expected value, the broker-dealer will choose not to buy it. Moreover, as a broker-dealer chooses to direct fewer orders to a particular exchange, the value of the product to that broker-dealer decreases, for two reasons. First, the product will contain less information, because executions of the broker-dealer's orders will not be reflected in it. Second, and perhaps more important, the product will be less valuable to that broker-dealer because it does not provide information about the venue to which it is directing its orders. Data from the competing venue to which the broker-dealer is directing orders will become correspondingly more valuable.

Thus, a super-competitive increase in the fees charged for either transactions or data has the potential to impair revenues from both products. ''No one disputes that competition for order flow is 'fierce'.'' *NetCoalition* at 24. However, the existence of fierce competition for order flow implies a high degree of price sensitivity on the part of broker-dealers with order flow, since they may readily reduce costs by directing orders toward the lowest-cost trading venues. A

broker-dealer that shifted its order flow from one platform to another in response to order execution price differentials would both reduce the value of that platform's market data and reduce its own need to consume data from the disfavored platform. Similarly, if a platform increases its market data fees, the change will affect the overall cost of doing business with the platform, and affected broker-dealers will assess whether they can lower their trading costs by directing orders elsewhere and thereby lessening the need for the more expensive data.

Analyzing the cost of market data distribution in isolation from the cost of all of the inputs supporting the creation of market data will inevitably underestimate the cost of the data. Thus, because it is impossible to create data without a fast, technologically robust, and well-regulated execution system, system costs and regulatory costs affect the price of market data. It would be equally misleading, however, to attribute all of the exchange's costs to the market data portion of an exchange's joint product. Rather, all of the exchange's costs are incurred for the unified purposes of attracting order flow, executing and/or routing orders, and generating and selling data about market activity. The total return that an exchange earns reflects the revenues it receives from the joint products and the total costs of the joint products.

Competition among trading platforms can be expected to constrain the aggregate return each platform earns from the sale of its joint products, but different platforms may choose from a range of possible, and equally reasonable, pricing strategies as the means of recovering total costs. For example, some platform may choose to pay rebates to attract orders, charge relatively low prices for market information (or provide information free of charge) and charge relatively high prices for accessing posted liquidity. Other platforms may choose a strategy of paying lower rebates (or no rebates) to attract orders, setting relatively high prices for market information, and setting relatively low prices for accessing posted liquidity. In this environment, there is no economic basis for regulating maximum prices for one of the joint products in an industry in which suppliers face competitive constraints with regard to the joint offering. This would be akin to strictly regulating the price that an automobile manufacturer can charge for car sound systems despite the existence of a highly competitive market for cars and the availability of after-market alternatives to the manufacturer-supplied system.

The market for market data products is competitive and inherently contestable because there is fierce competition for the inputs necessary to the creation of proprietary data and strict pricing discipline for the proprietary products themselves. Numerous exchanges compete with each other for listings, trades, and market data itself, providing virtually limitless opportunities for entrepreneurs who wish to produce and distribute their own market data. This proprietary data is produced by each individual exchange, as well as other entities, in a vigorously competitive market.

Broker-dealers currently have numerous alternative venues for their order flow, including ten SRO markets, as well as internalizing BDs and various forms of alternative trading systems (''ATSs''), including dark pools and electronic communication networks (''ECNs''). Each SRO market competes to produce transaction reports via trade executions, and two FINRA-regulated Trade Reporting Facilities (''TRFs'') compete to attract internalized transaction reports. Competitive markets for order flow, executions, and transaction reports provide pricing discipline for the inputs of proprietary data products.

The large number of SROs, TRFs, BDs, and ATSs that currently produce proprietary data or are currently capable of producing it provides further pricing discipline for proprietary data products. Each SRO, TRF, ATS, and BD is currently permitted to produce proprietary data products, and many currently do or have announced plans to do so, including NASDAQ, NYSE, NYSE Amex, NYSEArca, and BATS.

Any ATS or BD can combine with any other ATS, BD, or multiple ATSs or BDs to produce joint proprietary data products. Additionally, order routers and market data vendors can facilitate single or multiple broker-dealers' production of proprietary data products. The potential sources of proprietary products are virtually limitless.

The fact that proprietary data from ATSs, BDs, and vendors can by-pass SROs is significant in two respects. First, non-SROs can compete directly with SROs for the production and sale of proprietary data products, as BATS and Arca did before registering as exchanges by publishing Depth-of-Book data on the Internet. Second, because a single order or transaction report can appear in an SRO proprietary product, a non-SRO proprietary product, or both, the data available in proprietary products is exponentially greater than the actual number of orders and transaction reports that exist in the marketplace.

Market data vendors provide another form of price discipline for proprietary data products because they control the primary means of access to end Subscribers. Vendors impose price restraints based upon their business models. For example, vendors such as Bloomberg and Thomson Reuters that assess a surcharge on data they sell may refuse to offer proprietary products that end Subscribers will not purchase in sufficient numbers. Internet portals, such as Google, impose a discipline by providing only data that will enable them to attract ''eyeballs'' that contribute to their advertising revenue. Retail broker-dealers, such as Schwab and Fidelity, offer their customers proprietary data only if it promotes trading and generates sufficient commission revenue. Although the business models may differ, these vendors' pricing discipline is the same: they can simply refuse to purchase any proprietary data product that fails to provide sufficient value. NASDAQ and other producers of proprietary data products must understand and respond to these varying business models and pricing disciplines in order to market proprietary data products successfully.

In addition to the competition and price discipline described above, the market for proprietary data products is also highly contestable because market entry is rapid, inexpensive, and profitable. The history of electronic trading is replete with examples of entrants that swiftly grew into some of the largest electronic trading platforms and proprietary data producers: Archipelago, Bloomberg Tradebook, Island, RediBook, Attain, TracECN, BATS Trading and Direct Edge. A proliferation of dark pools and other ATSs operate profitably with fragmentary shares of consolidated market volume.

Regulation NMS, by deregulating the market for proprietary data, has increased the contestability of that market. While broker-dealers have previously published their proprietary data individually, Regulation NMS encourages market data vendors and broker-dealers to produce proprietary products cooperatively in a manner never before possible. Multiple market data vendors already have the capability to aggregate data and disseminate it on a profitable scale, including Bloomberg, and Thomson Reuters.

The court in *NetCoalition* concluded that the Commission had failed to demonstrate that the market for market data was competitive based on the reasoning of the Commission's

NetCoalition order because, in the court's view, the Commission had not adequately demonstrated that the Depth-of-Book data at issue in the case is used to attract order flow. NASDAQ believes, however, that evidence not before the court clearly demonstrates that availability of data attracts order flow. For example, as of July 2010, 92 of the top 100 broker-dealers by shares executed on NASDAQ consumed NQDS and 80 of the top 100 broker-dealers consumed TotalView. During that month, the NQDS–Subscribers were responsible for 94.44% of the orders entered into NASDAQ and TotalView Subscribers were responsible for 92.98%.

Competition among platforms has driven NASDAQ continually to improve its platform data offerings and to cater to customers' data needs. For example, NASDAQ has developed and maintained multiple delivery mechanisms (IP, multi-cast, and compression) that enable customers to receive data in the form and manner they prefer and at the lowest cost to them. NASDAQ offers front end applications such as its ''Bookviewer'' to help customers utilize data. NASDAQ has created new products like TotalView Aggregate to complement TotalView ITCH and/NQDS, because offering data in multiple formatting allows NASDAQ to better fit customer needs. NASDAQ offers data via multiple extranet providers, thereby helping to reduce network and total cost for its data products. NASDAQ has developed an online administrative system to provide customers transparency into their data feed requests and streamline data usage reporting. NASDAQ has also expanded its Enterprise License options that reduce the administrative burden and costs to firms that purchase market data.

Despite these enhancements and a dramatic increase in message traffic, NASDAQ's fees for market data have remained flat. In fact, as a percent of total Subscriber costs, NASDAQ data fees have fallen relative to other data usage costs—including bandwidth, programming, and infrastructure—that have risen. The same holds true for execution services; despite numerous enhancements to NASDAQ's trading platform, absolute and relative trading costs have declined. Platform competition has intensified as new entrants have emerged, constraining prices for both executions and for data.

The vigor of competition for Depth-of-Book information is significant and the Exchange believes that this proposal itself clearly evidences such competition. NASDAQ is offering a new pricing model in order to keep pace with changes in the industry and evolving customer needs. It is entirely optional and is geared towards attracting new customers, as well as retaining existing customers.

The Exchange has witnessed competitors creating new products and innovative pricing in this space over the course of the past year. NASDAQ continues to see firms challenge its pricing on the basis of the Exchange's explicit fees being higher than the zero-priced fees from other competitors such as BATS. In all cases, firms make decisions on how much and what types of data to consume on the basis of the total cost of interacting with NASDAQ or other exchanges. Of course, the explicit data fees are but one factor in a total platform analysis. Some competitors have lower transactions fees and higher data fees, and others are vice versa. The market for this Depth-of-Book information is highly competitive and continually evolves as products develop and change.

Additional evidence cited by NYSE Arca in SR–NYSE Arca–2010–097 [9] [sic] which was not before the *NetCoalition* court also demonstrates that availability of Depth-of-Book data attracts order flow and that competition for order flow can constrain the price of market data:

1. Terrence Hendershott & Charles M. Jones, *Island Goes Dark: Transparence, Fragmentation, and Regulation,* 18 Review of Financial Studies 743 (2005);
2. Charts and Tables referenced in Exhibit 3B to that filing;
3. PHB Hagler Bailly, Inc., ''Issues Surrounding Cost-Based Regulation of Market Data Prices;'' and
4. PHB Hagler Bailly, Inc., ''The Economic Perspective on Regulation of Market Data.''

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 foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[10] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2012–042 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2012–042. 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 offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–

[9] *See* Securities Exchange Act Release No. 63291 (Nov. 9, 2010) 75 FR 70311 (Nov. 17, 2010) (SR–NYSEArca–2010–97).

[10] 15 U.S.C. 78s(b)(3)(A)(ii).

NASDAQ–2012–042, and should be submitted on or before May 1, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–8580 Filed 4–9–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66734; File No. SR–ISE–2012–29]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Additions to the Schedule of Fees

April 4, 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 April 2, 2012, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by 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 ISE proposes to add notes to its Schedule of Fees with respect to two fees. The text of the proposed rule change is available on the Exchange's Web site (*http://www.ise.com*), at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to add notes to its Schedule of Fees with respect to the application of two fees currently assessed by ISE. The first note relates to Non-ISE Market Maker fees, which apply to regular and complex orders, and how those fees are applied to execution of complex orders on the Exchange.[3] Non-ISE Market Maker fees were adopted by ISE in 2006.[4] Prior to this fee change, Non-ISE Market Makers were subject to the fee listed on the Schedule of Fees under ''firm proprietary'' for both regular and complex orders. In order to attract complex orders to the Exchange, ISE charged an execution fee only on the largest leg of a complex order. Most of the execution fees for complex orders on the Exchange's Schedule of Fees currently note that for complex orders, this fee is ''charged for the leg of the trade consisting of the most contracts.'' However, in 2006, when ISE carved out the fee for Non-ISE Market Makers as a separate line item on the Schedule of Fees, the Exchange inadvertently failed to note that the Exchange only charges an execution fee on the largest leg of a trade for complex orders sent to the Exchange. The Exchange continued to charge Non-ISE Market Makers only for the largest leg of a complex order. The Exchange now proposes to add the following note under the Non-ISE Market Maker line item: ''For Complex Orders, fee charged only for the leg of the trade consisting of the most contracts.''

The second note relates to a fee for executions in symbols that are subject to the Exchange's modified maker/taker fees. The Exchange initially adopted modified maker/taker fees in April 2010 [5] and has since amended these fees regularly in response to competitive changes made by other options exchanges. These fees apply to market participants that add or remove liquidity from the Exchange in 101 options classes.[6] When the Exchange adopted modified maker/taker fees, it did not specify how the maker/taker fees would apply to executions by Primary Market Makers (PMMs) when they provide away market price protection for marketable public customer orders when the ISE market is not at the NBBO in accordance with their obligations under ISE rules and the Intermarket Linkage Plan.[7] Since the PMM is performing its linkage obligations when it executes (i.e., ''trade reports'') such public customer orders, it is neither a taker nor maker of liquidity as those terms are used within the framework of the ISE's maker/taker pricing model. Accordingly, when PMMs are performing this intermarket price protection function, the Exchange has not charged any fees or provided any rebates for PMM trade reports since the adoption of the maker/taker fees. The Exchange now proposes to specify in a note that: ''Primary Market Makers do not receive a maker rebate nor pay a taker fee when trade reporting a public customer order in accordance with their obligation to provide away market price protection pursuant to ISE Rule 803(c)(2).''

2. Statutory Basis

The Exchange believes that its proposal to clarify its Schedule of Fees is consistent with Section 6(b) of the Act [8] in general, and furthers the objectives of Section 6(b)(4) of the Act [9] in particular, in that it is an equitable allocation of reasonable dues, fees and other charges among Exchange members and other persons using its facilities. In particular, the proposal will correct an ambiguity that was created by the adoption of a separate Non-ISE Market Maker fee that failed to specify the fee's application to complex orders. Non-ISE Market Makers were only charged for the largest leg of a complex order prior to that fee change, and continued to be charged only for the largest leg of a complex order after the fee change. Accordingly, the Exchange's application of the transaction fee to complex orders remained consistent, and Non-ISE Market Makers continued to be treated

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A Non-ISE Market Maker is a market maker as defined in Section 3(a)(38) of the Act, registered in the same options class on another options exchange.

[4] *See* Securities Exchange Act Release No. 53630 (April 11, 2006), 71 FR 19918 (April 18, 2006) (SR–ISE–2006–18).

[5] *See* Securities Exchange Act Release No. 61869 (April 7, 2010), 75 FR 19449 (April 14, 2010) (SR–ISE–2010–25).

[6] Options classes subject to maker/taker fees are identified by their ticker symbol on the Exchange's Schedule of Fees.

[7] The Intermarket Linkage Plan prohibits an exchange from allowing the automatic execution of public customer orders at a price that is inferior to the best prices being publically displayed by another exchange. Under ISE Rule 803(c)(2), it is the responsibility of the PMM to either execute an order at a price that matches or betters the NBBO, or obtain such better prices on behalf of the public customer.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4).

in a non-discriminatory manner with respect to the execution of complex orders.

The Exchange also believes it is fair and equitable not to charge a taker fee, nor provide a maker rebate, to PMMs when they trade report a public customer order in compliance with their linkage obligations. The PMM neither receives a financial benefit in the form of a rebate from performing its obligations, nor is it subject to the burden of paying the taker fee. The Exchange believe this is the most fair way to approach the PMM trade report function under the maker/taker pricing model, as categorizing the PMM trade report as a maker or taker would either provide an inequitable benefit to PMMs or place an inequitable burden on PMMs. The proposal to codify the application of the maker/taker pricing model to PMM trade reports will add transparency to the Exchange's Schedule of Fees.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[10] At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2012–29 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2012–29. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2012–29 and should be submitted on or before May 1, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–8522 Filed 4–9–12; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78s(b)(3)(A)(ii).

[11] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions and one extension of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov*.

(SSA), Social Security Administration, DCRDP, Attn: Reports Clearance Director, 107 Altmeyer Building, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OPLM.RCO@ssa.gov*.

I. The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than June 11, 2012. Individuals can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410–965–8783 or by writing to the above email address.

1. *Request for Workers' Compensation/Public Disability Benefit Information—20 CFR 404.408(e)—0960–0098.* Claimants for Social Security disability payments who are also receiving Worker's Compensation/Public Disability Benefits (WC/PDB)

must notify SSA about their WC/PDB, so the agency can compute the correct reduction of Social Security disability payments. SSA considers the claimants the primary sources of verification; therefore, if claimants provide necessary evidence, such as a copy of their award notice, benefit check, etc., that is sufficient.

In cases where claimants cannot provide such evidence, SSA uses form SSA–1709. The entity paying the WC/PDB benefits, its agent, (such as an insurance carrier), or an administering public agency complete this form. The respondents are Federal, State, and local agencies, insurance carriers, and public or private self-insured companies administering WC/PDB benefits to disability claimants.

Type of Request: Revision of an OMB-approved information collection.

Collection instrument	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–1709	120,000	1	15	30,000

2. *Claimant's Medication—20 CFR 404.1512, 416.912—0960–0289.* In cases where claimants request a hearing after denial of their claim for Social Security benefits, SSA uses Form HA–4632 to obtain information from the claimant about medications they are using. This information helps the administrative law judge overseeing the case to fully investigate (1) the claimant's medical treatment and (2) the effects of the medications on the claimant's medical impairment and functional capacity. The respondents are applicants (or their representatives) for Social Security benefits or payments requesting a hearing to contest an agency denial of their claim.

Type of Request: Revision of an OMB-approved information collection.

Collection method	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
HA–4632 (paper)	20,000	1	15	5,000
Electronic Records Express	180,000	1	15	45,000
Total	200,000			50,000

3. *Representative Payee Report—Special Veterans Benefits—20 CFR 408.665—0960–0621.* Title VIII of the Social Security Act allows for payment of monthly Social Security benefits to qualified World War II veterans residing outside the United States. An SSA-appointed representative payee may receive and manage the monthly payment for the beneficiary's use and benefit. SSA uses the information from Form SSA–2001–F6 to determine if the payee is using the benefits properly on behalf of the beneficiary. Respondents are persons or organizations who act on behalf of beneficiaries who receive Special Veterans Benefits and live outside the United States.

Type of Request: Revision of an OMB-approved information collection.

Collection instrument	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–2001–F6	100	1	10	17

4. *Representative Payment Policies Regulation—20 CFR 404.2011, 404.2025, 416.611, 416.625—0960–0679.* If SSA determines it may cause substantial harm for beneficiaries to receive their payments directly, beneficiaries may dispute that decision. To do so, beneficiaries must provide SSA with information the agency will use to re-evaluate its determination. In addition, after SSA selects a representative payee to receive benefits on a beneficiary's behalf, the payees provide SSA with information on their continuing relationship and responsibility for the beneficiaries, and explain how they use the beneficiaries' payments. This Information Collection Request includes the CFR citations that mandate the above provisions.

Type of Request: Extension of an OMB-approved information collection.

CFR Section	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated annual burden (hours)
404.2011(a)(1), 416.611(a)(1)	250	1	15	63
404.2025, 416.625	3,000	1	6	300
Totals	3,250			363

II. SSA submitted the information collection below to OMB for clearance. Your comments regarding the information collection would be most useful if OMB and SSA receive them within 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than May 10, 2012. Individuals can obtain copies of the OMB clearance packages by calling the SSA Reports Clearance Director at 410–965–8783 or by writing to the above email address.

Third Party Liability Information Statement—42 CFR 433.136–433.139—0960–0323. States may enter into agreements with the Commissioner of Social Security to make Medicaid eligibility determinations for aged, blind, and disabled beneficiaries in those states. Applications for and redeterminations of SSI eligibility in jurisdictions with such agreements are applications and redeterminations of Medicaid eligibility.

To reduce Medicaid costs, Medicaid state agencies must identify third party insurers liable for medical care or services for Medicaid beneficiaries. Regulations at 42 CFR 433.136–433.139 require Medicaid state agencies to obtain this information on Medicaid applications and redeterminations as a condition of Medicaid eligibility. The Medicaid state agencies use the information to bill third parties liable for medical care, support, or services for a beneficiary to guarantee that Medicaid remains the payer of last resort. Under the Medicaid agreements, SSA obtains third party liability information using Form SSA–8019, and provides that information to the Medicaid state agencies. The respondents are SSI claimants and recipients.

Note: This is a correction notice: SSA published this information collection as an extension on January 31, 2012 at 77 FR 4854. Since we are revising the Privacy Act Statement, this is now a revision of an OMB-approved information collection.

Type of Request: Revision of an OMB-approved information collection.

Collection instrument	Number of responses	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–8012 Paper form	130	1	5	11
Modernized SSI Claims System (MSSICS)	66,904	1	5	5,575
Totals	67,034			5,586

Dated: April 5, 2012.

Faye Lipsky,

Reports Clearance Director, Office of Regulations and Reports Clearance, Social Security Administration.

[FR Doc. 2012–8546 Filed 4–9–12; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 7843]

60-Day Notice of Proposed Information Collection: Civilian Response Corps Database In-Processing Electronic Form, OMB Control Number 1405–0168, Form DS–4096

ACTION: Notice of request for public comments.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Civilian Response Corps Database In-Processing Electronic Form.
- *OMB Control Number:* 1405–0168.
- *Type of Request:* Extension of a Currently Approved Collection.
- *Originating Office:* Bureau of Conflict and Stabilization Operations (CSO).
- *Form Numbers:* DS–4096.
- *Respondents:* Individuals who are members of or apply for one or more of the three components of the Civilian Response Corps (Active, Standby and Expert Corps).
- *Estimated Number of Respondents:* 2000 per year.
- *Estimated Number of Responses:* 2000 per year.
- *Average Hours per Response:* 1 hour.
- *Total Estimated Burden:* 2000 Hours.
- *Frequency:* On occasion.
- *Obligation to Respond:* Required to receive benefits.

DATE(S): The Department will accept comments from the public up to 60 days from April 10, 2012.

ADDRESSES FOR COMMENTS AND FURTHER INFORMATION: You may submit comments and request for further information by either of the following methods:

- *Email: CRCcomments@state.gov.*
- *Mail (paper, disk, or CD–ROM submissions):* CRC Comments, Suite 1150, 1900 North Kent Street, Rosslyn, VA 22202.

You must include the DS form number (if applicable), information collection title, and OMB control number in any correspondence.

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper performance of our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

Abstract of proposed collection:

The information collected is an important part of the Department's responsibility to coordinate U.S. Government planning; institutionalize U.S. conflict prevention and stabilization capacity; and help stabilize societies in transition from conflict or civil strife so they can reach a sustainable path toward peace, democracy, and a market economy. The information gathered will be used to identify Civilian Response Corps members who are available to participate in CRC missions.

Methodology:

Respondents will complete an electronic DS–4096 application via the Web site (*www.crs.state.gov*).

Dated: March 30, 2012.

John C. Roberts,

Director of Civilian Response Operations, Office of the Coordinator for Reconstruction & Stabilization, Department of State.

[FR Doc. 2012–8635 Filed 4–9–12; 8:45 am]

BILLING CODE 4710–02–P

DEPARTMENT OF STATE

[Public Notice 7814]

Shipping Coordinating Committee; Notice of Committee Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 9:30 a.m. on Wednesday, April 25, 2012, in Room 2501 of the United States Coast Guard Headquarters Building, 2100 Second Street SW., Washington, DC 20593–7126. The primary purpose of the meeting is to prepare for the 90th Session of the International Maritime Organization's (IMO) Marine Safety Committee to be held at the IMO Headquarters, London, England, United Kingdom, May 16–25, 2012.

The primary matters to be considered include:

Consideration and adoption of amendments to mandatory instruments;
Measures to enhance maritime security;
Goal-based new ship construction standards;
LRIT-related matters;
Flag State implementation;
Radiocommunications and search and rescue;
Ship design and equipment;
Safety of navigation;
Fire protection;
Dangerous goods, solid cargoes and containers;
Stability, load lines and fishing vessel safety;
Bulk liquids and gases;
Implementation of the STCW Convention;
Technical assistance sub-programme in maritime safety and security;
Capacity-building for the implementation of new measures;
Role of the human element;
Formal safety assessment;
Piracy and armed robbery against ships;
General cargo ship safety;
Implementation of instruments and related matters;
Relations with other organizations;
Application of the Committee's Guidelines;
Passenger ship safety.

Members of the public may attend this meeting up to the seating capacity of the room. To facilitate the building security process, and to request reasonable accommodation, those who plan to attend should contact the meeting coordinator, LCDR Matthew Frazee, by email at *imo@uscg.mil,* by phone at (202) 372–1376, or in writing at Commandant (CG–52), U.S. Coast Guard, 2100 2nd Street SW., Stop 7126, Washington, DC 20593–7126 not later than April 18, 2012, 7 days prior to the meeting. Requests made after April 18, 2012 might not be able to be accommodated. Please note that due to security considerations, two valid, government issued photo identifications must be presented to gain entrance to the Headquarters building. The Headquarters building is accessible by taxi and privately owned conveyance (public transportation is not generally available). However, parking in the vicinity of the building is extremely limited. Additional information regarding this and other IMO SHC public meetings may be found at: *www.uscg.mil/imo.*

Dated: March 29, 2012.

Brian Robinson,

Executive Secretary, Shipping Coordinating Committee, Department of State.

[FR Doc. 2012–8636 Filed 4–9–12; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed the Week Ending March 10, 2011

The following Agreements were filed with the Department of Transportation under the Sections 412 and 414 of the Federal Aviation Act, as amended (49 U.S.C. 1382 and 1384) and procedures governing proceedings to enforce these provisions. Answers may be filed within 21 days after the filing of the application.

Docket Number: DOT–OST–2012–0035.

Date Filed: March 7, 2012.

Parties: Members of the International Air Transport Association.

Subject: Mail Vote 702—Resolution 100 Standard Condition Resolution for Special Fares (Memo 1665) Intended effective date: 1 April 2012.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. 2012–8446 Filed 4–9–12; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Office of Commercial Space Transportation; Notice of Intent To Prepare an Environmental Impact Statement (EIS), Open a Public Scoping Period, and Conduct a Public Scoping Meeting

AGENCY: The Federal Aviation Administration (FAA) is the lead Federal agency.

ACTION: Notice of Intent to Prepare an EIS, Open a Public Scoping Period, and Conduct a Public Scoping Meeting.

SUMMARY: This Notice provides information to Federal, State, and local agencies, Native American tribes, and other interested persons regarding the FAA's intent to prepare an EIS for Space Exploration Technologies' (SpaceX's) proposal to launch the Falcon 9 and Falcon Heavy orbital vertical launch vehicles from a private site located in Cameron County, Texas. Under the Proposed Action, SpaceX proposes to construct a vertical launch area and a control center area to support up to 12 commercial launches per year. The vehicles to be launched include the Falcon 9, Falcon Heavy (up to two per year), and a variety of smaller reusable suborbital launch vehicles. SpaceX would be required to apply for the appropriate launch licenses and/or experimental permits to be issued by the FAA. The FAA will prepare the EIS in accordance with the National Environmental Policy Act of 1969 (NEPA; 42 United States Code [U.S.C.] 4321 et seq.), the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 Code of Federal Regulations [CFR] parts 1500–1508), and FAA Order 1050.1E, Change 1, *Environmental Impacts: Policies and Procedures,* as part of its licensing and permitting process.

DATES: The FAA invites interested agencies, organizations, Native American tribes, and members of the public to submit comments or suggestions to assist in identifying significant environmental issues and in determining the appropriate scope of the EIS. The public scoping period starts with the publication of this notice in the **Federal Register**. To ensure sufficient time to consider issues identified during the public scoping period, comments should be submitted to Ms. Stacey M. Zee, FAA Environmental Protection Specialist, by one of the methods listed below no later than May 30, 2012. All comments will receive the same attention and consideration in the preparation of the EIS.

ADDRESSES: Comments, statements, or questions concerning scoping issues or the EIS process should be mailed to: Ms. Stacey M. Zee, FAA Environmental Protection Specialist, SpaceX EIS c/o Cardno TEC Inc., 275 West Street, Suite 110, Annapolis, MD 21409. Comments can also be sent by email to *faaspacexeis@cardnotec.com* or by fax to (410) 990–0455.

SUPPLEMENTARY INFORMATION:

Background

The FAA is preparing an EIS to analyze the potential environmental

impacts of SpaceX's proposal to launch orbital and suborbital launch vehicles from a private site in Cameron County in southern Texas. The EIS will consider the potential environmental impacts of the Proposed Action and reasonable alternatives, including the No Action Alternative. The successful completion of the environmental review process does not guarantee that the FAA would issue launch licenses and/or experimental permits to SpaceX. The project must also meet all FAA safety, risk, and indemnification requirements.

Proposed Action

The Proposed Action is for the FAA to issue launch licenses and/or experimental permits to SpaceX that would allow SpaceX to launch the Falcon 9 and Falcon Heavy orbital vertical launch vehicles and a variety of reusable suborbital launch vehicles from a launch site on privately-owned property in Cameron County, Texas. The Falcon 9 orbital vertical launch vehicle is a medium-lift class launch vehicle with a gross lift-off weight of approximately 1,000,000 pounds (lbs) with a maximum length of 230 feet (ft). The Falcon 9 uses liquid oxygen (LOX) and highly refined kerosene, also known as rocket propellant-1 or refined petroleum-1 (RP–1), as propellants to carry payloads into orbit. The Falcon Heavy is similar to the Falcon 9, except it has an additional two boosters ''strapped on,'' each booster being almost identical to the Falcon 9 first stage core. The Falcon Heavy is a heavy lift class launch vehicle with a gross lift-off weight of approximately 3,400,000 lbs. It has an overall maximum length of approximately 230 ft.

A reusable suborbital launch vehicle could consist of a Falcon 9 Stage 1 tank with a maximum propellant (RP–1 and LOX) load of approximately 6,900 gallons.

As part of the Proposed Action, SpaceX proposes to construct a vertical launch area and a control center area. The proposed vertical launch area site is currently undeveloped and is located directly adjacent to the eastern terminus of Texas State Highway 4 (Boca Chica Boulevard) and approximately 3 miles north of the Mexican border on the Gulf Coast. It is located approximately 5 miles south of Port Isabel and South Padre Island. At the vertical launch area, the new facilities required would include: an integration- and processing-hangar, a launch pad and stand with its associated flame duct, propellant storage and handling areas, a workshop and office area, and a warehouse for parts storage.

The control center area would be located inland to the west of the vertical launch area and would include: A control center building and a payload processing facility; it might also include a launch vehicle preparation hangar and satellite fuels storage. All facilities would be constructed on private land owned or leased by SpaceX. The development of access and supporting utility infrastructure for the vertical launch area and the control center area may occur on lands outside that which is owned or leased by SpaceX.

Operations would consist of up to 12 launches per year with a maximum of two Falcon Heavy launches. All Falcon 9 and Falcon Heavy launches would be expected to have commercial payloads, including satellites or experimental payloads. In addition to standard payloads, the Falcon 9 and Falcon Heavy may also carry a capsule, such as the SpaceX Dragon capsule. All launch trajectories would be to the east over the Gulf of Mexico.

The potential environmental impacts of all proposed construction activities will be analyzed in the EIS, in addition to the impacts from operating the facilities and launching orbital and suborbital launch vehicles. The EIS will evaluate the potential environmental effects associated with: air quality; noise and compatible land use; land use, including Section 4(f) properties and Farmlands; coastal resources; biological resources, including threatened and endangered species; water resources, including surface waters and wetlands, groundwater, floodplains, and water quality; historical, architectural, archaeological, and cultural resources; light emissions and visual resources; hazardous materials, pollution prevention, and solid waste; infrastructure and utilities; and socioeconomics, environmental justice, and children's environmental health and safety. The analysis will include an evaluation of the potential direct and indirect impacts, and will account for cumulative impacts from other relevant activities in the area of Cameron County, Texas.

Alternatives

Alternatives under consideration include the Proposed Action and the No Action Alternative. Under the No Action Alternative, the FAA would not issue a license or experimental permit to SpaceX. Based on comments received during the scoping period, the FAA may propose additional alternatives.

Scoping Meetings

A public scoping meeting will be held to solicit input from the public on potential issues that may need to be evaluated in the EIS. The scoping meeting will be held on May 15, 2012 from 5 p.m. to 8 p.m., at the International Technology, Education and Commerce Center (ITEC Center), located at 301 Mexico Blvd. G–1, Brownsville, Texas 78520. The meeting format will include an open-house workshop from 5 p.m. to 6 p.m. The FAA will provide an overview of the environmental process from 6 p.m. to 6:15 p.m. followed by a public comment period from 6:15 p.m. to 8 p.m.

Issued in Washington, DC on April 3, 2012.

Glenn Rizner,

Deputy Manager, Space Transportation Development Division.

[FR Doc. 2012–8556 Filed 4–9–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2012–0033]

Notice of the Buy America Waiver Request for Vossloh 101–LV Concrete Ties

AGENCY: Federal Railroad Administration (FRA), United States Department of Transportation (DOT).

ACTION: Notice of Buy America waiver request and request for comment.

SUMMARY: FRA is issuing this notice to advise the public that the Burlington Northern Santa Fe Railway Co. (''BNSF'') has submitted to FRA through or with the support of the Washington Department of Transportation (''WSDOT''), the Illinois Department of Transportation (''IDOT''), the Texas Department of Transportation (''TxDOT''), and the California Department of Transportation (''Caltrans'') a waiver request from FRA's Buy America Act requirements for the purchase of Vossloh 101–LV concrete ties, which contain certain components not manufactured in the United States. In furtherance of four FRA High-Speed Intercity Passenger Rail (''HSIPR'') grants, BNSF, as the railroad infrastructure owner, will construct certain rail project elements that consist of the installation of Vossloh 101–LV concrete ties. FRA has received this request from the four States for the following projects: (a) The Pacific Northwest Rail Corridor Program (b) the Amtrak Quad Cities to Chicago Service Initiation Project, (c) the Tower 55 At-Grade Improvement Project, and (d) the LA to Fullerton Triple Track—Segment 7 Project.

DATES: Written comments should be provided on or before April 25, 2012.

ADDRESSES: *Comments:* Comments related to Docket No. FRA–2012–0033 may be submitted by any of the following methods:

(1) *Web Site: http://www.regulations.gov*. Follow the instructions for submitting comments on the U.S. Government electronic docket site;

(2) *Fax:* (202) 493–2251;

(3) *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M–30, Room W12–140, Washington, DC 20590–0001; or

(4) *Hand Delivery:* Room W12–140 on the first floor of the West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must make reference to the ''Federal Railroad Administration'' and include docket number FRA–2012–0033. Note that all submissions received, including any personal information therein, will be posted without change or alteration to *http://www.regulations.gov*. For more information, you may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://www.dot.gov/privacy.html*.

Docket: For access to the docket to read comments received, go to *http://www.regulations.gov* at anytime, or to the Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays. Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, please contact Ms. Linda Martin, Attorney-Advisor, FRA Office of Chief Counsel, Mail Stop 10, West Building 3rd Floor, Room W31–304, 1200 New Jersey Avenue SE., Washington, DC 20590 (telephone 202–493–6062) or via email at *Linda.Martin@dot.gov*.

SUPPLEMENTARY INFORMATION: FRA projects funded through the American Recovery and Reinvestment Act of 2009 and the Transportation, Housing and Urban Development and Related Agencies Appropriations Act for 2010 (Div. A of the Consolidated Appropriations Act, 2010 (Pub. L. 111–117) (''FY 2010 DOT Appropriations Act''), must comply with the Passenger Rail Investment and Improvement Act of 2008 (''PRIIA'') Buy America provisions (49 U.S.C. 24405(a)). Section 24405(a)(1) authorizes the Secretary of Transportation (''Secretary'') to obligate grant funds only if the steel, iron, and manufactured goods used in the project are produced in the United States. However, sec. 24405(a)(2) also permits the Secretary to waive the Buy America requirements if he finds that: (A) Applying paragraph (1) would be inconsistent with the public interest; (B) the steel, iron, and goods manufactured in the United States are not produced in sufficient and reasonably available amount or are not of a satisfactory quality; (C) rolling stock or power train equipment cannot be bought or delivered to the United States within a reasonable time; or (D) including domestic material will increase the cost of the overall project by more than 25 percent.

Before determining whether it is appropriate to waive the Buy America provision, sec. 24405(a)(4) requires that the Secretary first provide the public with an opportunity to comment. If after receiving public comment, the Secretary decides to grant the waiver, a detailed written justification for the decision must be published in the **Federal Register**. The purpose of this notice is to inform the public that FRA has received a waiver request for the Vossloh 101–LV concrete tie system, which contains certain components not manufactured in the United States, and to solicit public comments on the request. BNSF as the owner of the infrastructure that will be improved by the HSIPR grants proposes to install approximately 171,000 Vossloh 101–LV concrete ties for the following projects: (a) The Pacific Northwest Rail Corridor Program (b) the Amtrak Quad Cities to Chicago Service Initiation Project, (c) the Tower 55 At-Grade Improvement Project, and (d) the LA to Fullerton Triple Track—Segment 7 Project. Transmittals in furtherance of this request have been submitted to FRA by WSDOT, IDOT, TxDOT, and Caltrans.

The foreign components of the concrete tie are limited to the dowel inserts and SKL–30 tension clamps. The function of the dowel insert is to provide housing for the lag screw that fastens the SKL–30 tension clamps to the tie. The SKL–30 tension clamps hold the rail to the tie and prevent lateral and longitudinal movement of the rail. BNSF and the identified States seek the waiver pursuant to sec. 24405(a)(2)(B) because they believe that for the reasons set forth in the request, that suitable materials are not reasonably available in the United States and therefore a waiver from FRA's Buy America requirement is appropriate.

The request in its entirety is available on FRA's Web site at *http://www.fra.dot.gov/Pages/251.shtml*. In order to completely understand the facts surrounding the request, FRA seeks comment from all interested parties regarding the availability of suitable domestically manufactured products, any public interest concerns, or the potential Buy America waiver.

Issued in Washington, DC on April 4, 2012.

Corey Hill,

Director, Rail Project Development and Delivery, Federal Railroad Administration.

[FR Doc. 2012–8633 Filed 4–9–12; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

United States Mint

Meeting of Notification of Citizens Coinage Advisory Committee

ACTION: Notification of April 26, 2012 Public Meeting.

SUMMARY: Pursuant to United States Code, Title 31, section 5135(b)(8)(C), the United States Mint announces the Citizens Coinage Advisory Committee (CCAC) public meeting scheduled for April 26, 2012.

Date: April 26, 2012.

Time: 10 a.m. to 5 p.m.

Location: Conference Room A, United States Mint, 801 9th Street NW., Washington, DC 20220.

Subject: Review and consideration of reverse candidate designs for the 2013 Girl Scouts of America Commemorative Coin Program, background research for the reverse designs of the 2013 First Spouse Gold Coins and Medals, and designs for the Code Talkers Recognition Congressional Gold Medals. In addition, the CCAC plans a discussion relating to the 2011 CCAC Annual Report and a presentation by member Michael Bugeja on historical coin legends, mottos, dates, symbols and devices.

Interested Persons Should Call the CCAC HOTLINE at (202) 354–7502 for the Latest Update on Meeting Time and Room Location

In accordance with 31 U.S.C. 5135, the CCAC:

- Advises the Secretary of the Treasury on any theme or design proposals relating to circulating coinage, bullion coinage, Congressional Gold Medals, and national and other medals.
- Advises the Secretary of the Treasury with regard to the events,

persons, or places to be commemorated by the issuance of commemorative coins in each of the five calendar years succeeding the year in which a commemorative coin designation is made.

- Makes recommendations with respect to the mintage level for any commemorative coin recommended.

FOR FURTHER INFORMATION CONTACT: Andy Fishburn, United States Mint Liaison to the CCAC; 801 9th Street NW.; Washington, DC 20220; or call 202–354–7200.

Any member of the public interested in submitting matters for the CCAC's consideration is invited to submit them by fax to the following number: 202–756–6525.

Authority: 31 U.S.C. 5135(b)(8)(C).

Dated: April 4, 2012.

Richard A. Peterson,

Deputy Director, United States Mint.

[FR Doc. 2012–8543 Filed 4–9–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

Special Medical Advisory Group; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the Special Medical Advisory Group will meet on April 19, 2012, in Room 830 at VA Central Office, 810 Vermont Avenue NW., Washington, DC, from 8:30 a.m. to 3 p.m. The meeting is open to the public.

The purpose of the Group is to advise the Secretary of Veterans Affairs and the Under Secretary for Health on the care and treatment of disabled Veterans, and other matters pertinent to the Department's Veterans Health Administration (VHA).

The agenda for the meeting will include discussions on the Academic Affiliations Council, ethics, an update on social services, and the White House initiative, ''Joining Forces.''

No time will be allocated for receiving oral presentations from the public. However, members of the public may submit written statements for review by the Committee to Ms. Juanita Leslie, VA Office of Administrative Operations (10B), VHA, 810 Vermont Avenue NW., Washington, DC 20420, or by email at *j.t.leslie@va.gov*. Any member of the public wishing to attend the meeting or seeking additional information should contact Ms. Leslie at (202) 461–7019.

By Direction of the Secretary.

Dated: April 4, 2012.

Vivian Drake,

Committee Management Officer.

[FR Doc. 2012–8516 Filed 4–9–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

Rehabilitation Research and Development Service Scientific Merit Review Board; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the Rehabilitation Research and Development Service Scientific Merit Review Board will be held on April 20, 2012, 131 M Street NE., Washington, DC, from 8 a.m. to 5 p.m. to evaluate Rehabilitation Research and Development Center of Excellence applications.

The purpose of the Board is to review rehabilitation research and development applications and advise the Director, Rehabilitation Research and Development Service, and the Chief Research and Development Officer on the scientific and technical merit, the mission relevance, and the protection of human and animal subjects.

A general session will be open to the public for approximately one hour at the start of the meeting to cover administrative matters and to discuss the general status of the program. The remaining portion of the meeting will be closed to the public for the discussion, examination, reference to, and oral review of the research applications and critiques. During the closed potion of the meeting, discussion and recommendations will include qualifications of the personnel conducting the studies (the disclosure of which would constitute a clearly unwarranted invasion of personal privacy), as well as research information (the premature disclosure of which would likely compromise significantly the implementation of proposed agency action regarding such research projects). As provided by subsection 10(d) of Public Law 92–463, as amended by Public Law 94–409, closing the meeting is in accordance with 5 U.S.C. 552b(c)(6) and (9)(B).

No oral or written comments will be accepted from the public for either portion of the meeting. Those who plan to attend the general session should contact Tiffany Asqueri, Designated Federal Officer, Rehabilitation Research and Development Service, Department of Veterans Affairs (10P9R), 810 Vermont Avenue NW., Washington, DC 20420, or email at *tiffany.asqueri@va.gov*. For further information, please call Mrs. Asqueri at (202) 443–5757.

By Direction of the Secretary.

Dated: April 4, 2012.

Vivian Drake,

Committee Management Officer.

[FR Doc. 2012–8519 Filed 4–9–12; 8:45 am]

BILLING CODE P

Reader Aids

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CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

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The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO's Federal Digital System (FDsys) at *http://www.gpo.gov/fdsys*. Some laws may not yet be available.

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