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WHEN: Tuesday, June 12, 2012
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Washington, DC 20002

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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.

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0042; Directorate Identifier 2011–NM–154–AD; Amendment 39–17057; AD 2012–10–08]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

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

ACTION: Final rule.

SUMMARY: We are superseding an existing airworthiness directive (AD) for certain Bombardier, Inc. Model CL–600–2C10 (Regional Jet Series 700, 701 & 702), CL–600–2D15 (Regional Jet Series 705), and CL–600–2D24 (Regional Jet Series 900) airplanes. That AD currently requires a one-time inspection of the main landing gear (MLG) shock strut assemblies for part and serial numbers; for certain MLG shock strut assemblies, a one-time inspection of the torque link apex joint, and corrective actions if necessary; and, for certain MLG shock strut assemblies, replacement or rework of the apex nut. This new AD continues to require the actions in the existing AD, and adds the previously omitted part and serial numbers. This AD was prompted by reports of loose or detached main landing gear (MLG) torque link apex pin locking plate and the locking plate retainer bolt in the torque link apex joint. We are issuing this AD to detect and correct improper assembly and damage of the MLG torque link apex joint, which could cause heavy vibration during landing, consequent damage to MLG components, and subsequent collapse of the MLG.

DATES: This AD becomes effective June 26, 2012.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 18, 2011 (76 FR 20498, April 13, 2011).

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: Stephen Kowalski, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; phone: 516–228–7327; fax: 516–794–5531; email: *Stephen.Kowalski@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 February 6, 2012 (77 FR 5730), and proposed to supersede AD 2011–08–04, Amendment 39–16654 (76 FR 20498, April 13, 2011). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> There have been four reports of loose or detached main landing gear torque link apex pin locking plate and the locking plate retainer bolt. This condition could result in torque link apex pin disengagement, heavy vibration during landing, damage to main landing gear components and subsequent main landing gear collapse.
>
> Investigation has determined that incorrect stack-up tolerances of the apex joint or improper installation of the locking plate and apex nut could result in torque link apex pin disengagement. This [TCCA] directive mandates [a one-time detailed] inspection of the torque link apex joint [for correct installation and damage, and corrective actions if necessary] and replacement of the torque link apex nut.

The corrective actions include re-installing parts that are not correctly installed and replacing damaged parts. 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 NPRM (77 FR 5730, February 6, 2012) or on the determination of the cost to the public.

Explanation of Changes Made to This AD

We have revised certain headers throughout this AD. We have also revised the heading for and the wording in paragraph (n) of this AD; this change has not affected the intent of that paragraph.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (77 FR 5730, February 6, 2012) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (77 FR 5730, February 6, 2012).

Difference Between This AD and the MCAI or Service Information

The MCAI specifies to inspect only airplanes having certain serial numbers that are part of the MCAI applicability. Because the affected part could be rotated onto any of the airplanes listed in the applicability, this AD continues to require that the inspection be done on all airplanes. We have coordinated this difference with the TCCA.

Costs of Compliance

We estimate that this AD will affect about 361 products of U.S. registry.

The actions that are required by AD 2011–08–04, Amendment 39–16654 (76 FR 20498, April 13, 2011), and retained in this AD take about 5 work-hours per product, at an average labor rate of $85 per work-hour. Based on these figures, the estimated cost of the currently required actions is $153,425, or $425 per product.

We estimate that it will take about 5 work-hours per product to comply with the new basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S.

operators to be $153,425, or $425 per product.

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 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 (77 FR 5730, February 6, 2012), 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 airworthiness directive (AD) 2011–08–04, Amendment 39–16654 (76 FR 20498, April 13, 2011), and adding the following new AD:

2012–10–08 Bombardier, Inc.: Amendment 39–17057. Docket No. FAA–2012–0042; Directorate Identifier 2011–NM–154–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective June 26, 2012.

(b) Affected ADs

This AD supersedes AD 2011–08–04, Amendment 39–16654 (76 FR 20498, April 13, 2011).

(c) Applicability

This AD applies to the Bombardier airplanes identified in paragraphs (c)(1) and (c)(2) of this AD, certificated in any category.

(1) Model CL–600–2C10 (Regional Jet Series 700, 701 & 702) airplanes, serial numbers (S/Ns) 10003 and subsequent.

(2) Model CL–600–2D15 (Regional Jet Series 705) airplanes and Model CL–600–2D24 (Regional Jet Series 900) airplanes, S/Ns 15001 and subsequent.

(d) Subject

Air Transport Association (ATA) of America Code 32: Landing gear.

(e) Reason

This AD was prompted by reports of loose or detached main landing gear (MLG) torque link apex pin locking plate and the locking plate retainer bolt in the torque link apex joint. We are issuing this AD to detect and correct improper assembly and damage of the MLG torque link apex joint, which could cause heavy vibration during landing, consequent damage to MLG components, and subsequent collapse of the MLG.

(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 Inspection for Part Number (P/N) and S/N for Model CL–600–2C10 Airplanes

This paragraph restates the requirements of paragraph (g) of AD 2011–08–04, Amendment 39–16654 (76 FR 20498, April 13, 2011). For airplanes identified in paragraph (c)(1) of this AD: Within 900 flight hours after May 18, 2011 (the effective date of AD 2011–08–04), inspect the MLG shock strut assemblies to determine whether an MLG shock strut assembly having a P/N 49000–11 through 49000–22 inclusive and a S/N 0001 through 0284 inclusive is installed. A review of airplane maintenance records is acceptable in lieu of this inspection if the part and serial numbers of the MLG shock strut assembly can be conclusively determined from that review.

(h) Retained Inspection of the Torque Link Apex Joint for Model CL–600–2C10 Airplanes

This paragraph restates the requirements of paragraph (h) of AD 2011–08–04, Amendment 39–16654 (76 FR 20498, April 13, 2011). For any MLG shock strut assembly having a P/N 49000–11 through 49000–22 inclusive and a S/N 0001 through 0284 inclusive found installed during the inspection or records check required by paragraph (g) of this AD: Within 900 flight hours after May 18, 2011 (the effective date of AD 2011–08–04), perform a one-time detailed inspection and all applicable corrective actions on the torque link apex joint, in accordance with Part A of the Accomplishment Instructions of Bombardier Service Bulletin 670BA–32–019, Revision A, dated September 18, 2008, except as provided by paragraph (o) of this AD. Do all applicable corrective actions before further flight.

(i) Retained Replacement or Rework of the Apex Nut for Model CL–600–2C10 Airplanes

This paragraph restates the requirements of paragraph (i) of AD 2011–08–04, Amendment 39–16654 (76 FR 20498, April 13, 2011). For any MLG shock strut assembly identified during the inspection or records check required by paragraph (g) of this AD: Within 4,500 flight hours after May 18, 2011 (the effective date of AD 2011–08–04), replace or rework the apex nut, in accordance with Part B of the Accomplishment Instructions of Bombardier Service Bulletin 670BA–32–019, Revision A, dated September 18, 2008.

(j) Retained Parts Installation

For all airplanes: As of May 18, 2011 (the effective date of AD 2011–08–04, Amendment 39–16654 (76 FR 20498, April 13, 2011)), no person may install, on any airplane, a replacement MLG shock strut assembly identified in paragraph (j)(1) or (j)(2) of this AD, unless it has been reworked in accordance with paragraph B. of Part B of the Accomplishment Instructions of Bombardier Service Bulletin 670BA–32–019, Revision A, dated September 18, 2008.

(1) Part numbers 49000–11 through 49000–22 inclusive, and with a serial number in the range of S/Ns 0001 through 0284 inclusive (the serial number can start with ''MA,'' ''MAL,'' or ''MA-'').

(2) Part numbers 49050–5 through 49050–10 inclusive, and with a serial number in the range of S/Ns 1001 through 1114 inclusive (the serial number can start with ''MA,'' ''MAL,'' or ''MA-'').

(k) New Inspection for Part Number and Serial Number for Model CL–600–2D15 and CL–600–2D24 Airplanes

For airplanes identified in paragraph (c)(2) of this AD: Within 900 flight hours after the effective date of this AD, inspect the MLG shock strut assemblies to determine whether an MLG shock strut assembly having P/Ns 49050–5 through 49050–10 inclusive and a S/N 0001 through 1114 inclusive is installed. A review of airplane maintenance records is acceptable in lieu of this inspection if the part and serial numbers of the MLG shock strut assembly can be conclusively determined from that review.

(l) Inspection of the Torque Link Apex Joint for Model CL–600–2D15 and CL–600–2D24 Airplanes

For any MLG shock strut assembly having P/Ns 49050–5 through 49050–10 inclusive and a S/N 0001 through 1114 inclusive found installed during the inspection or records check required by paragraph (k) of this AD: Within 900 flight hours after the effective date of this AD, perform a one-time detailed inspection and all applicable corrective actions on the torque link apex joint, in accordance with Part A of the Accomplishment Instructions of Bombardier Service Bulletin 670BA–32–019, Revision A, dated September 18, 2008, except as provided by paragraph (o) of this AD. Do all applicable corrective actions before further flight.

(m) Replacement or Rework of the Apex Nut for Model CL–600–2D15 and CL–600–2D24 Airplanes

For any MLG shock strut assembly identified during the inspection or records check required by paragraph (k) of this AD: Within 900 flight hours after the effective date of this AD, replace or rework the apex nut, in accordance with Part B of the Accomplishment Instructions of Bombardier Service Bulletin 670BA–32–019, Revision A, dated September 18, 2008.

(n) Credit for Previous Actions

(1) This paragraph provides credit for inspections, corrective actions, replacements, and rework required by paragraphs (g), (h), and (i) of this AD, if those actions were performed before May 18, 2011 (the effective date of AD 2011–08–04, Amendment 39–16654 (76 FR 20498, April 13, 2011)), using Bombardier Service Bulletin 670BA–32–019, dated March 16, 2006.

(2) This paragraph provides credit for inspections, corrective actions, replacements, and rework required by paragraphs (k), (l), and (m) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 670BA–32–019, dated March 16, 2006.

(o) Inspections Not Required Under Certain Conditions

The inspections specified in paragraph (h) or (l) of this AD are not required if the actions specified in paragraph (i) or (m) of this AD, as applicable, have already been accomplished; or if Bombardier Repair Engineering Order 670–32–11–0022, dated October 22, 2005, or Goodrich Service Concession Request SCR 0056–05, dated October 22, 2005; has been incorporated.

(p) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO), ANE–170, 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 ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone 516–228–7300; fax 516–794–5531. 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.

(q) Special Flight Permits

Special flight permits, as described in Section 21.197 and Section 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199), are not allowed.

(r) Related Information

Refer to MCAI Canadian Airworthiness Directive CF–2009–20, dated May 1, 2009; and Bombardier Service Bulletin 670BA–32–019, Revision A, dated September 18, 2008; for related information.

(s) 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 18, 2011 (76 FR 20498, April 13, 2011).

(i) Bombardier Service Bulletin 670BA–32–019, Revision A, dated September 18, 2008.

(4) For service information identified in this AD, contact Bombardier, Inc., 400 Cote-Vertu Road West, Dorval, Quebec H4S 1Y9, Canada; phone: 514–855–5000; fax: 514–855–7401; email: *thd.crj@aero.bombardier.com;* Internet: *http://www.bombardier.com.*

(5) 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.

(6) 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 May 10, 2012.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–12336 Filed 5–21–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2012–0131; Airspace Docket No. 12–ANM–2]

Amendment of Class E Airspace; Rock Springs, WY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace at Rock Springs-Sweetwater County Airport, Rock Springs, WY. Decommissioning of the Rock Springs Tactical Air Navigation System (TACAN) has made this action necessary for the safety and management of Instrument Flight Rules (IFR) operations at the airport. This action also adjusts the geographic coordinates of the airport.

DATES: Effective date, 0901 UTC, July 26, 2012. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

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:

History

On February 28, 2012, the FAA published in the **Federal Register** a notice of proposed rulemaking to amend controlled airspace at Rock Springs, WY (77 FR 11796). Interested parties were invited to participate in this rulemaking

effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6002 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 E airspace designations listed in this document will be published subsequently in that Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by amending Class E surface airspace, and Class E airspace extending upward from 700 feet above the surface, at Rock Springs-Sweetwater County Airport. Airspace reconfiguration is necessary due to the decommissioning of the Rock Springs TACAN. Also, the geographic coordinates of the airport are updated to coincide with the FAA's aeronautical database. This action is necessary for the safety and management of IFR operations at the airport.

The FAA has determined this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally Current. Therefore, this 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 rule, when promulgated, will 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 discusses the authority of 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 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 amends controlled airspace at Rock Springs-Sweetwater County Airport, Rock Springs, WY.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures,'' paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 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 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 6002 Class E airspace designated as surface areas.

* * * * *

ANM WY E2 Rock Springs, WY [Modified]

Rock Springs-Sweetwater County Airport, WY
(Lat. 41°35′39″ N., long. 109°03′55″ W.)

Within 4.8 miles each side of the Rock Springs-Sweetwater County Airport 095° and 275° bearings extending from the airport to 13.5 miles west and 13.2 miles east.

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ANM WY E5 Rock Springs, WY [Modified]

Rock Springs-Sweetwater County Airport, WY
(Lat. 41°35′39″ N., long. 109°03′55″ W.)

Rock Springs VOR/DME
(Lat. 41°35′25″ N., long. 109°00′55″ W.)

That airspace extending upward from 700 feet above the surface within a 10.1-mile radius of the Rock Springs-Sweetwater County Airport, and within 8.5 miles north and 6.3 miles south of the Rock Springs-Sweetwater County Airport 269° and 089° bearings extending from the 10.1-mile radius to 23.4 miles west and 20.4 miles east of the airport, and within 2.2 miles north and 4.4 miles south of the Rock Springs-Sweetwater County Airport 109° bearing extending to 18.6 miles east of the airport; that airspace extending upward from 1,200 feet above the surface within a 20.1-mile radius of the Rock Springs VOR/DME, including that airspace bounded on the north by V–4 and V–6, on the southeast by V–208, and on the southwest by V–328.

Issued in Seattle, Washington, on May 11, 2012.

Robert Henry,

Acting Manager, Operations Support Group, Western Service Center.

[FR Doc. 2012–12324 Filed 5–21–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 100 and 165

[Docket No. USCG–2011–1026]

RIN 1625–AA08; AA00

Safety Zones; Annually Recurring Marine Events in Coast Guard Southeastern New England Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending special local regulations and establishing permanent safety zones in Coast Guard Southeastern New England Captain of the Port (COTP) Zone for annually recurring marine events.

DATES: This rule is effective June 21, 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–2011–1026 and are available online by going to *http://www.regulations.gov,* inserting USCG–2011–1026 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 rule, call Mr. Edward G. LeBlanc at Coast Guard

Sector Southeastern New England, 401–435–2351. If you have questions on viewing the docket, please call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On February 3, 2012, we published a notice of proposed rulemaking (NPRM) entitled ''Safety Zones; Annually Recurring Marine Events in Coast Guard Southeastern New England Captain of the Port Zone'' in the **Federal Register** (77 FR 5463). We received no comments on the proposed rule.

Basis and Purpose

The legal basis for the 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; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to define safety zones.

Many marine events are held annually on a recurring basis on or over the navigable waters within the Coast Guard Southeastern New England COTP Zone. These events include sailing regattas, powerboat races, rowboat races, parades, swim events, air shows, and fireworks displays. This rule will consistently apprise the public of recurring marine events in the Coast Guard Southeastern New England COTP Zone in a timely manner through permanent publication in Title 33 of the Code of Federal Regulations. The Table in this rule lists each annually recurring event requiring a regulated area as administered by the Coast Guard.

By establishing permanent regulations for these events, the Coast Guard eliminates the need to establish temporary rules for events that occur on an annual basis. This rule also amends local regulations for events already contained in 33 CFR Part 100 both to update event information as well as to move fireworks displays to part 165, a citation that better meets the Coast Guard's intended purpose of ensuring safety during these events.

Background

This rule removes sections 33 CFR 100.112, 100.113, 100.116, revises 33 CFR 100.114, and adds a new section, 33 CFR 165.173. The rule removes seven outdated marine events and establishes permanent regulated areas in conjunction with 24 other recurring marine events. The rule applies to each recurring marine event listed in the attached Table in the Coast Guard Southeastern New England COTP Zone. The Table provides the event name, type, and approximate safety zone dimensions as well as approximate dates, times, and locations of the events. The specific times, dates, regulated areas and enforcement period for each event will be provided through the Local Notice to Mariners, Broadcast Notice to Mariners or through a Notice of Enforcement published in the **Federal Register**.

Three fireworks displays include safety zones which may be enforced 365 days a year. The purpose of these 365 day safety zones is to permit sponsors the flexibility to hold similar fireworks displays at the same location on different days and for different events without the need of creating temporary final rules. These three 365 day Safety Zones can be found in section 1.0 in the Table below.

The particular size of the safety zones established for each event will be reevaluated on an annual basis in accordance with Navigational and Vessel Inspection Circular (NVIC) 07–02, Marine Safety at Firework Displays, the National Fire Protection Association Standard 1123, Code for Fireworks Displays (100-foot distance per inch of diameter of the fireworks mortars), and other pertinent regulations and publications.

Discussion of Comments and Changes

No comments were received, and no changes were made to the language contained in the NPRM.

Regulatory Analyses

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

Executive Order 12866 and Executive Order 13563

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

We expect minimal additional cost impacts to the industry because this rule is not imposing fees, permits, or specialized requirements for the maritime industry to utilize this anchorage area. The effect of this rule is not significant as it only updates currently listed annually recurring events, and serves to permanently publish special local regulations and safety zones for annually recurring events that heretofore had been published on an individual case-by-case basis.

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 might be small entities: Owners or operators of vessels intending to transit, fish, or anchor in the areas where the listed annually recurring events are being held.

This rule will not have a significant economic impact on a substantial number of small entities for the following reasons: Vessels will only be restricted from safety zones for a short duration of time; vessels may transit in portions of the affected waterway except for those areas covered by this rule; and vessels may enter or pass through the affected waterway with the permission of the COTP or the COTP's representative. The Coast Guard has promulgated safety zones or special local regulations in accordance with 33 CFR parts 100 and 165 for all event areas in the past and has not received notice of any negative impact caused by any of the safety zones or special local regulations; and notifications will be made to the local maritime community through the Local Notice to Mariners well in advance of the events. If the event does not have a date listed, then exact dates and times of the enforcement period will be announced through a Notice of Enforcement in the **Federal Register**. No new or additional restrictions would be imposed on vessel traffic.

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 this 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 does not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. Any comments made in response to the previously published Notice of Proposed Rulemaking for this action were also considered in arriving at this conclusion. This rule is categorically excluded, under figure 2–1, paragraphs (34)(g) and (34)(h) of the Instruction since it involves establishment of safety zones for annually recurring marine events, including marine related fireworks events and special local regulations for regattas. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects

33 CFR Part 100

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

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 parts 100 and 165 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 reads as follows:

Authority: 33 U.S.C. 1233.

■ 2. Remove §§ 100.112 and 100.113.

§ 100.114 [Amended]

■ 3. Remove the following entries in the ''Fireworks Display Table'' in § 100.114 (along with the associated ''Massachusetts'' and ''Rhode Island'' titles and the headings for August, September, October and December) as follows: 7.16, 7.18, 7.19, 7.20, 7.21, 7.22, 7.24, 7.25, 7.26, 7.27, 7.28, 7.38, 8.2, 8.5, 9.4, 10.1, 12.2, 12.3, and 12.5.

■ 4. Remove § 100.116.

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 5. The authority citation for part 165 reads 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.

■ 6. Add a new § 165.173 to read as follows:

§ 165.173 Safety Zones for annually recurring marine events held in Coast Guard Southeastern New England Captain of the Port Zone.

(a) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 as well as the following regulations apply to the fireworks displays and swim events listed in the Table to § 165.173. These regulations may be enforced for the duration of each event.

(2) Notifications will be made to the local maritime community through the Local Notice to Mariners well in advance of the events. If the event does not have a date listed, then exact dates and times of the enforcement period will be announced through a Notice of Enforcement in the **Federal Register**.

Note to paragraph (a): Although listed in the Code of Federal Regulations, sponsors of events listed in the Table shall submit an application each year in accordance with 33 CFR 100.15.

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

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

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

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

(c) The Coast Guard may patrol each event area under the direction of a designated Coast Guard Patrol Commander. The Patrol Commander may be contacted on Channel 16 VHF–FM (156.8 MHz) by the call sign ''PATCOM.'' The ''official patrol vessels'' may consist of any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the Captain of the Port, Southeastern New England.

(d) Vessels may not transit the regulated areas without Patrol Commander approval. Vessels permitted to transit must operate at a no wake speed, in a manner which will not endanger participants or other crafts in the event.

(e) Spectators or other vessels shall not anchor, block, loiter, or impede the movement of event participants or official patrol vessels in the regulated areas during the effective dates and times, or dates and times as modified through a Notice of Enforcement published in the **Federal Register**, unless authorized by an official patrol vessel.

(f) The Patrol Commander may control the movement of all vessels in the regulated area. When hailed or signaled by an official patrol vessel, a vessel shall come to an immediate stop and comply with the lawful directions issued. Failure to comply with a lawful direction may result in expulsion from the area, citation for failure to comply, or both.

(g) The Patrol Commander may delay or terminate any event in this subpart at any time to ensure safety. Such action may be justified as a result of weather, traffic density, spectator operation or participant behavior.

(h) For all fireworks displays listed below, the regulated area is that area of navigable waters within the specified radius of the launch platform or launch site for each fireworks display, unless modified later in a Notice of Enforcement published in the **Federal Register**.

TABLE TO § 165.173

1.0 365 DAY JANUARY–DECEMBER	
1.1 Provincetown Fireworks	• Event Type: Fireworks Display. • Date: Enforced on any day during the duration of the event as specified by a Notice of Enforcement published in the **Federal Register**. • Time: Approximately 5:00 p.m. to 11:59 p.m. • Location: From a barge in the vicinity of the Provincetown Harbor, Provincetown, MA. • Position: Within 500 yards of 41°28′44″ N, 070°10′83″ W (NAD 83). • Safety Zone Dimension: Approximately 300 yard radius circle around the fireworks barge.
1.2 Providence Fireworks	• Event Type: Fireworks Display. • Date: Enforced on any day during the duration of the event as specified by a Notice of Enforcement published in the **Federal Register**. • Time: Approximately 5:00 p.m. to 11:59 p.m. • Location: From a barge in the vicinity of the Hurricane Barrier in the Providence River, Providence, RI. • Position: Within 500 yards of 41°48′50″ N, 071°23′43″ W (NAD 83). • Safety Zone Dimension: Approximately 300 yard radius circle around the fireworks barge.
1.3 Fall River Fireworks	• Event Type: Fireworks Display. • Date: Enforced on any day during the duration of the event as specified by a Notice of Enforcement published in the **Federal Register**. • Time: Approximately 5:00 p.m. to 11:59 p.m. • Location: From a barge in the vicinity of Battleship Cove, Fall River, MA. • Position: Within 500 yards of 41°42′37″ N, 071°09′53″ W (NAD 83). • Safety Zone Dimension: Approximately 200 yard radius circle around the fireworks barge.
6.0 JUNE	
6.1 Oak Bluffs Summer Solstice	• Event Type: Fireworks Display.

TABLE TO § 165.173—Continued

	• Date: One night on the 3rd or 4th weekend of June. • Time: Approximately 8:00 p.m. to 11:59 p.m. • Location: From a barge in the vicinity of Town Beach, Oak Bluffs, MA. • Position: Within 500 yards of 41°27′19″ N, 070°33′08″ W (NAD 83). • Safety Zone Dimension: Approximately 300 yard radius circle around the fireworks barge.
6.2 RI National Guard Air Show	• Event Type: Air Show. • Date: One weekend (Friday, Saturday, and Sunday) in June or July. • Time: Approximately 9:00 a.m. to 7:00 p.m. • Location: (1) All waters over the West Passage of Narragansett Bay, in the vicinity of the Quonset State Airport, North Kingston, RI which are within a 4000-yard radius arc extending from position 41°35′44″ N, 071°24′14″ W (NAD 83); and (2) All waters over the West Passage of Narragansett Bay, in the vicinity of Narragansett Pier, Narragansett, RI, which are within a 2000-yard radius arc extending from position 41°26′17″ N, 071°27′02″ W (NAD 83) (Friday only). • Safety Zone Dimension: Approximately 1000 yards long by 1000 yards wide.
7.0 JULY	
7.1 Marion 4th of July Fireworks	• Event Type: Fireworks Display. • Date: One night between July 1st and July 10th, as announced in the Local Notice to Mariners. • Time: Approximately 8:00 p.m. to 11:59 p.m. • Location: From a barge in the vicinity of Outer Sipican Harbor, Marion, MA. • Position: Within 500 yards of 41°42′17″ N, 070°45′08″ W (NAD 83). • Safety Zone Dimension: Approximately 300 yard radius circle around the fireworks barge.
7.2 Oyster Harbors July 4th Festival	• Event Type: Fireworks Display. • Date: One night between July 1st and July 10th, as announced in the Local Notice to Mariners. • Time: Approximately 8:00 p.m. to 11:59 p.m. • Location: From a barge in the vicinity of Tim's Cove, North Bay, Osterville, MA. • Position: Within 500 yards of 41°37′29″ N, 070°25′12″ W (NAD 83). • Safety Zone Dimension: Approximately 200 yard radius circle around the fireworks barge.
7.3 North Kingstown Fireworks Display.	• Event Type: Fireworks Display. • Date: One night between July 1st and July 10th, as announced in the Local Notice to Mariners. • Time: Approximately 8:00 p.m. to 11:59 p.m. • Location: From a barge in the vicinity of Town Beach, North Kingston, RI. • Position: Within 500 yards of 41°33′59″ N, 071°26′23″ W (NAD 83). • Safety Zone Dimension: Approximately 200 yard radius circle around the fireworks barge.
7.4 Falmouth Fireworks	• Event Type: Fireworks Display. • Date: One night between July 1st and July 10th, as announced in the Local Notice to Mariners. • Time: Approximately 8:00 p.m. to 11:59 p.m. • Location: From a barge in the vicinity of Falmouth Beach, Falmouth, MA. • Position: Within 500 yards of 41°32′27″ N, 070°35′26″ W (NAD 83). • Safety Zone Dimension: Approximately 300 yard radius circle around the fireworks barge.
7.5 Town of Nantucket Fireworks	• Event Type: Fireworks Display. • Date: One night between July 1st and July 10th, as announced in the Local Notice to Mariners. • Time: Approximately 8:00 p.m. to 11:59 p.m. • Location: From a barge in the vicinity of Jetties Beach, Nantucket Sound, MA. • Position: Within 500 yards of 41°19′00″ N, 070°06′30″ W (NAD 83). • Safety Zone Dimension: Approximately 200 yard radius circle around the fireworks barge.
7.6 City of Newport 4th of July Fireworks	• Event Type: Fireworks Display. • Date: One night between July 1st and July 10th, as announced in the Local Notice to Mariners. • Time: Approximately 8:00 p.m. to 11:59 p.m. • Location: From the shore in the vicinity of Fort Adams, Newport, RI. • Position: Within 500 yards of 41°28′49″ N, 071°20′12″ W (NAD 83). • Safety Zone Dimension: Approximately 350 yard radius circle around the launch site.
7.7 Town of Barnstable/Hyannis July 4th Fireworks	• Event Type: Fireworks Display.

TABLE TO § 165.173—Continued

	• Date: One night between July 1st and July 10th, as announced in the Local Notice to Mariners. • Time: Approximately 8:00 p.m. to 11:59 p.m. • Location: From a barge in the vicinity of Lewis Bay, Hyannis, MA. • Position: Within 500 yards of 41°38′20″ N, 070°15′08″ W (NAD 83). • Safety Zone Dimension: Approximately 350 yard radius circle around the fireworks barge.
7.8 Edgartown 4th of July Fireworks Celebration	• Event Type: Fireworks Display. • Date: One night between July 1st and July 10th, as announced in the Local Notice to Mariners. • Time: Approximately 8:00 p.m. to 11:59 p.m. • Location: From a barge in the vicinity of Edgartown Outer Harbor, Edgartown, MA. • Position: Within 500 yards of 41°22′39″ N, 070°30′14″ W (NAD 83). • Safety Zone Dimension: Approximately 300 yard radius circle around the fireworks barge.
7.9 City of New Bedford Fireworks Display	• Event Type: Fireworks Display. • Date: One night between July 1st and July 10th, as announced in the Local Notice to Mariners. • Time: Approximately 8:00 p.m. to 11:59 p.m. • Location: From a barge in the vicinity of New Bedford Harbor, New Bedford, MA. • Position: Within 500 yards of 41°37′55″ N, 070°54′44″ W (NAD 83). • Safety Zone Dimension: Approximately 250 yard radius circle around the fireworks barge.
7.10 Onset Fireworks	• Event Type: Fireworks Display. • Date: One night between July 1st and July 10th, as announced in the Local Notice to Mariners. • Time: Approximately 8:00 p.m. to 11:59 p.m. • Location: On the shore, in the vicinity of Shellpoint Beach, Onset, MA. • Position: Within 500 yards of 41°44′13″ N, 070°39′51″ W (NAD 83). • Safety Zone Dimension: Approximately 300 yard radius circle around the fireworks launch site.
7.11 Bristol 4th of July Fireworks	• Event Type: Fireworks Display. • Date: One night between July 1st and July 10th, as announced in the Local Notice to Mariners. • Time: Approximately 8:00 p.m. to 11:59 p.m. • Location: In the vicinity of Northern portion of the Bristol Harbor, Bristol, RI, on the section of Poppasquash Rd separating the harbor and Mill Pond. • Position: Within 500 yards of 41°40′53.4″ N, 071°17′00″ W (NAD 83). • Safety Zone Dimension: Approximately 300 yard radius circle around the fireworks launch site.
7.12 Swim Buzzards Bay	• Event Type: Swim Event. • Date: One Saturday or Sunday in July or August, as announced in the Local Notice to Mariners. • Time: Start times will vary from 6:00 a.m. to 11:59 a.m., and last approximately two hours until the last swimmer is ashore. Start time will be announced in advance in the Local Notice to Mariners. • Location: The regulated area includes all waters in the vicinity of the Outer New Bedford Harbor, within 500 yards along a centerline with an approximate start point of 41°36′35″ N, 070°54′18″ W (NAD 83) and an approximate end point of 41°37′26″ N, 070°53′48″ W (NAD 83) at Davy's Locker Restaurant in New Bedford, MA, to Fort Phoenix Beach in Fairhaven, MA. • Safety Zone Dimension: 500 yards on either side of the centerline described above.
7.13 Save the Bay Swim	• Event Type: Swim Event. • Date: One Saturday or Sunday in July or August, as announced in the Local Notice to Mariners. • Time: Start time will vary from 6:00 a.m. to 11:59 a.m. and last for approximately four hours, until the last swimmer is ashore. Start time will be announced in advance in the Local Notice to Mariners. • Location: The regulated area includes all waters in the vicinity of the Newport/Pell Bridge, East Passage of Narragansett Bay, along a centerline with an approximate start point of 41°30′24″ N, 071°19′49″ W (NAD 83) and an approximate end point of 41°30′39″ N, 071°21′50″ W (NAD 83), i.e., a line drawn from the Officers' Club, Coaster's Harbor Island, Naval Station Newport, to Potter Cove, Jamestown. • Safety Zone Dimension: 500 yards on either side of the centerline described above.
8.0 AUGUST	

TABLE TO § 165.173—Continued

8.1 Boston Pops Nantucket	• Event Type: Fireworks Display. • Date: One night in August as announced in the Local Notice to Mariners. • Time: Approximately 8:00 p.m. to 11:59 p.m. • Location: On the shore, in the vicinity of Jetties Beach, Nantucket, MA. • Position: Within 500 yards of 41°17′43″ N, 070°06′10″ W (NAD 83). • Safety Zone Dimension: Approximately 400 yard radius circle around the fireworks barge.
8.2 Oak Bluffs Fireworks	• Event Type: Fireworks Display. • Date: One night in August. • Time: Approximately 8:00 p.m. to 11:59 p.m. • Location: From a barge in the vicinity of Oak Bluffs Harbor, Oak Bluffs, MA. • Position: Within 500 yards of 41°27′27″ N, 070°33′17″ W (NAD 83). • Safety Zone Dimension: Approximately 350 yard radius circle around the fireworks barge.
8.3 Newport Salute to Summer Fireworks	• Event Type: Fireworks Display. • Date: One night during the last two weekends in August or 1st weekend in September. • Time: Approximately 8:00 p.m. to 11:59 p.m. • Location: From a barge in the vicinity of Naval Station Newport, Newport, RI. • Position: Within 500 yards of 41°30′15″ N, 071°19′50″ W (NAD 83). • Safety Zone Dimension: Approximately 400 yard radius circle around the fireworks barge.
9.0 SEPTEMBER	
9.1 Provincetown Harbor Swim for Life	• Event Type: Swim Event. • Date: On a day in September as announced in the Local Notice to Mariners. • Time: Times will vary from 10:00 a.m. until the last swimmer is ashore, no later than 2:00 p.m. • Location: The regulated area includes all waters in the vicinity of the Provincetown Harbor along a centerline between the start point, the Long Point Lighthouse. approximate position 42°01′59″ N, 070°10′07″ W (NAD 83), and the end point, the Boatslip Resort, Provincetown, MA., approximate position 42°02′48″ N, 070°11′24″ W (NAD 83). • Safety Zone Dimension: 250 yards on either side of the centerline described above.
9.2 Spirit of Somerset Celebration	• Event Type: Fireworks Display. • Date: One night in September, as announced in the Local Notice to Mariners. • Time: Approximately 8:00 p.m. to 11:59 p.m. • Location: On the shore, in the vicinity of Mallard Point, Somerset, MA. • Position: Within 500 yards of 41°46′18″ N, 071°07′14″ W (NAD 83). • Safety Zone Dimension: Approximately 200 yard radius circle around the fireworks launch site.
10.0 OCTOBER	
10.1 Yarmouth Seaside Festival Fireworks	• Event Type: Fireworks Display. • Date: One night in October, as announced in the Local Notice to Mariners. • Time: Approximately 7:00 p.m. to 11:59 p.m. • Location: On the shore, in the vicinity of Seagull Beach, West Yarmouth, MA. • Position: Within 500 yards of 41°38′06″ N, 070°13′13″ W (NAD 83). • Safety Zone Dimension: Approximately 300 yard radius circle around the fireworks launch site.

Dated: May 7, 2012.

V.B. Gifford, Jr.,

Captain, U.S. Coast Guard, Captain of the Port Southeastern New England.

[FR Doc. 2012–12316 Filed 5–21–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2012–0349]

RIN 1625–AA00

Safety Zone; Flagship Niagara Mariners Ball Fireworks, Presque Isle Bay, Erie, PA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on Presque Isle Bay, Erie, PA. This zone is intended to restrict vessels from a portion of Presque Isle Bay during the Flagship Niagara Mariners Ball Fireworks display. This temporary safety zone is necessary to protect spectators and vessels from the hazards associated with a firework display.

DATES: This rule will be effective from 9:30 p.m. until 11:00 p.m. on June 2, 2012.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket USCG–2012–0349 and are available online by going to *http://www.regulations.gov*, inserting USCG–2012–0349 in the ''Keyword'' box, and then clicking ''Search.'' This material is also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or email LT Christopher Mercurio, Chief of Waterway Management, U.S. Coast Guard Sector Buffalo; telephone 716–843–9343, email *SectorBuffaloMarineSafety@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

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 doing so would be impracticable. The final details for this event were not known to the Coast Guard until there was insufficient time remaining before the event to publish an NPRM. Thus, delaying the effective date of this rule to wait for a comment period to run would be both impracticable and because it would inhibit the Coast Guard's ability to protect spectators and vessels from the hazards associated with a maritime fireworks display, which are discussed further below. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. For the same reasons discussed in the preceding paragraph, waiting for 30 day notice period run would be impracticable.

Background and Purpose

Between 10:00 p.m. and 10:20 p.m. on June 2, 2012, a fireworks display will be held on Presque Isle Bay near Erie, PA. The Captain of the Port Buffalo has determined that fireworks launched proximate to watercraft pose a significant risk to public safety and property. Such hazards include premature and accidental detonations, dangerous projectiles, and falling or burning debris.

Discussion of Rule

With the aforementioned hazards in mind, the Captain of the Port Buffalo has determined that this temporary safety zone is necessary to ensure the safety of spectators and vessels during the Flagship Niagara Mariners Ball Fireworks. This zone will be effective and enforced from 9:30 p.m. until 11:00 p.m. on June 2, 2012. This zone will encompass all waters of Presque Isle Bay, Erie, PA within a 420 FT radius of position 42°08′22.2″ N and 80°05′15.9″ W (NAD 83).

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

Regulatory Analyses

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

Regulatory Planning and Review

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

Small Entities

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

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

This temporary final rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in a portion of Presque Isle Bay, Erie, PA between 9:30 p.m. to 11:00 p.m. on June 2, 2012.

This safety zone will not have a significant economic impact on a substantial number of small entities because of the minimal amount of time in which the safety zone will be enforced. This safety zone will only be enforced for 90 minutes in a low commercial vessel traffic area. Vessel traffic can pass safely around the zone.

Before the effective period, maritime advisories will be issued, which include a Broadcast Notice to Mariners.

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 offer to assist small entities in understanding this 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.

If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact LT Christopher Mercurio, Chief of Waterway Management, U.S. Coast Guard Sector Buffalo; telephone 716–843–9343, email *SectorBuffaloMarineSafety@uscg.mil*. 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 will 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 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.

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, because it involves the establishment of a safety zone. A final environmental analysis checklist and a preliminary categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T09–0349 to read as follows:

§ 165.T09–0349 Safety Zone; Flagship Niagara Mariners Ball, Presque Isle Bay, Erie, PA.

(a) *Location.* The safety zone will encompass all waters of the Presque Isle Bay, Erie, PA within a 420 FT radius of position 42°08′22.2″ N and 80°05′15.9″ W (NAD 83).

(b) *Effective and Enforcement Period.* This regulation will be enforced on June 2, 2012, from 9:30 p.m. until 11:00 p.m.

(c) *Regulations.*

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

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

(3) The ''on-scene representative'' of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Buffalo to act on his behalf.

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

Dated: May 3, 2012.

S.M. Wischmann,

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

[FR Doc. 2012–12315 Filed 5–21–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 2 and 7

[Docket No. PTO–T–2010–0073]

RIN 0651–AC49

Changes in Requirements for Specimens and for Affidavits or Declarations of Continued Use or Excusable Nonuse in Trademark Cases

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: In order to help assess and ensure the accuracy of the trademark register, the United States Patent and Trademark Office (''USPTO'') is revising the Trademark Rules of Practice and the Rules of Practice for Filings Pursuant to the Madrid Protocol to allow the USPTO to: Upon request, require any additional specimens, information, exhibits, and affidavits or declarations deemed reasonably necessary to examine a post registration affidavit or declaration of continued use or excusable nonuse in trademark cases, and for a two-year period, conduct a pilot program for the USPTO to assess the accuracy and integrity of the register; and upon request, require more than one specimen in connection with a use-based trademark application, an allegation of use, or an amendment to a registered mark. These revisions aim to ensure the ability to rely on the trademark register as an accurate reflection of marks that are actually in use in the United States for the goods/services identified in the registration, and thereby reduce costs and burdens on the public.

DATES: This rule is effective on June 21, 2012.

FOR FURTHER INFORMATION CONTACT: Contact Cynthia C. Lynch, Office of the Deputy Commissioner for Trademark Examination Policy, by telephone at (571) 272–8742.

SUPPLEMENTARY INFORMATION:

General Information

To benefit the public, the USPTO is revising the Trademark Rules of Practice (37 CFR part 2) and the Rules of Practice for Filings Pursuant to the Madrid Protocol (''Madrid Rules'') (37 CFR part 7) to allow the USPTO to: (1) Upon request, require any specimens, information, exhibits, and affidavits or declarations deemed reasonably necessary to examine a post registration affidavit or declaration of continued use in trademark cases, and assess the accuracy and integrity of the register; and (2) upon request, require more than one specimen in connection with a use-based trademark application, an allegation of use, or an amendment to a registered mark.

The revisions will facilitate the USPTO's ability to verify the accuracy of identifications of goods/services. The accuracy of the trademark register as a reflection of marks that are actually in use in the United States for the goods/services identified in the registration serves an important purpose for the public. The public relies on the register to clear trademarks that they may wish to adopt or are already using. Where a party searching the register uncovers a similar mark, registered for goods or services that may result in confusion of consumers, that party may incur a variety of resulting costs and burdens, such as changing plans to avoid use of the mark, investigative costs to determine how the similar mark is actually used and assess the nature of any conflict, or cancellation proceedings or other litigation to resolve a dispute over the mark. If a registered mark is not actually in use in the United States, or is not in use on all the goods/services recited in the registration, these types of costs and burdens may be incurred unnecessarily. Thus, accuracy and reliability of the trademark register help avoid such needless costs and burdens, and thereby benefit the public.

Specimens of use in use-based trademark applications illustrate how the applicant is using the proposed mark in commerce on particular goods/services identified in the application. Post registration affidavits or declarations of use and their accompanying specimens demonstrate a trademark owner's continued use of its mark in commerce for the goods/services in the registration. As part of a pilot program to assess the accuracy of the identifications of goods/services of currently registered marks, the USPTO anticipates issuing requirements for additional proof of use in conjunction with the review of post-registration maintenance filings for approximately 500 registrations.

Background

On April 26, 2010, the USPTO and the George Washington University Law School hosted a roundtable discussion on the topic of ''The Future of the Use-Based Register.'' Panelists and audience members explored the implications of the decision of the Court of Appeals for the Federal Circuit in *In re Bose Corp.,* 580 F.3d 1240, 91 USPQ2d 1938 (Fed. Cir. 2009), clarifying the high standard for fraud on the USPTO in connection with trademark cases.

A ''brainstorming'' session at the conclusion of the roundtable resulted in a list of suggestions for how to improve the accuracy of identifications of goods/services. These suggestions were not focused on fraud, as was the *Bose* decision, but rather on the accuracy of the register. Several participants made the suggestion that the USPTO require additional specimens, or a specific type of proof of use of a mark, for all, or more than one, of the identified goods/services. Such additional requirements could help provide information regarding the extent to which a problem

with inaccuracy exists on the register, and could help discourage inaccuracies.

The Trademark Act gives the Director discretion regarding the number of specimens to require (15 U.S.C. 1051(a)(1), (d)(1), 1058(b)(1)(C), 1141k(b)(1)(C)). Moreover, it requires applicants to comply with rules as prescribed by the Director (15 U.S.C. 1051(a)(4), (b)(4)). Additionally, the Director and USPTO may establish regulations governing the conduct of proceedings in the Office (15 U.S.C. 1123, 35 U.S.C. 2(b)(2)(A)). The current Trademark Rules of Practice and Madrid Rules mandate the submission of one specimen per class in connection with use-related filings (37 CFR 2.34(a)(1)(iv), 2.56(a), 2.76(b)(2), 2.86(a)(3), 2.86(b), 2.88(b)(2), 2.161(g), 7.37(g)). Similarly, the current rules require one specimen to be submitted in connection with an amendment to a registered mark (37 CFR 2.173(b)(3)). In addition, although the current Trademark Rules of Practice allow the USPTO to require additional information or exhibits deemed reasonably necessary to the examination of a pending application (37 CFR 2.61(b)), no counterpart rule exists in the post registration context to facilitate proper examination of an affidavit or declaration of continued use or excusable nonuse.

To ensure that the USPTO may properly examine affidavits or declarations, and the nature and veracity of the use claimed therein, additional specimens or other information or exhibits, such as a photograph of the mark appearing on certain goods, may be needed. Accompanying affidavits or declarations to verify information or exhibits may also be needed. One purpose of the final rule is to allow the USPTO to require trademark applicants or registrants to submit any additional specimens or other information, exhibits and affidavits or declarations reasonably necessary for proper examination. A second purpose of the rule is to allow the USPTO to conduct a limited-duration post registration pilot program to verify the accuracy of claims that a trademark is in use on particular goods/services, as a means to assess and improve the accuracy and integrity of the register. The rule does not focus on fraud issues, but only on the more general concern with ensuring accuracy. A third purpose of the rule is to harmonize the requirements that can be made as part of the examination of use allegations made in post registration maintenance documents with the requirements currently authorized in the examination of use allegations made prior to registration.

Proposed Rule and Request for Comments

A proposed rule was published in the **Federal Register** on July 12, 2011, at 76 FR 40839, and in the Official Gazette on August 9, 2011. The USPTO received comments from six intellectual property organizations and four attorneys and/or law firms. These comments are posted on the USPTO's Web site at *http://www.uspto.gov/trademarks/law/comments_requirements_for_specimens_or_evidence.jsp,* and are addressed below.

References below to ''the Act,'' ''the Trademark Act,'' or ''the statute'' refer to the Trademark Act of 1946, 15 U.S.C. 1051 *et seq.,* as amended. References to ''TMEP'' or ''*Trademark Manual of Examining Procedure*'' refer to the 8th edition, October 2011.

General Comments

Comment: Five commenters expressed support of the USPTO's efforts to ensure the accuracy of the trademark register but expressed concern regarding the lack of more specific criteria signaling when and to what extent an owner might expect a request for additional evidence, specimens, or information under the rule changes. Two commenters speculated that the only way an owner might mitigate these concerns would be to preemptively submit additional specimens in all filings; and another commenter noted that, without further guidelines, the rules could be implemented to create an unfair burden on certain trademark owners.

Response: The USPTO appreciates the commenters' support of the general objective of the rule changes, namely, requiring additional evidence or specimens to allow the USPTO to assess the accuracy and integrity of the register. The USPTO initially intends to accomplish this objective by conducting a pilot in which approximately 500 trademark registrations for which Section 8 or 71 affidavits are being filed will be randomly selected to receive an Office action requiring proof of use of the mark on two additional goods/services per class. If the owner is unable to provide the requested proof of the mark appearing on or in connection with the specified goods/services, those goods/services in question will be deleted from the registration, and the Section 8 or 71 affidavit will be subject to further review.

Because the USPTO and stakeholders initially desire information about the level of accuracy of the register, rather than assuming that widespread inaccuracies exist, the rules permit the USPTO to randomly select for the pilot from among all types of registrations. This will ensure that the resulting assessment is not skewed by consideration of registrations with particular criteria, and that implementation of the rules does not create an unfair burden on specific types of trademark owners.

Contrary to the suggestion by some commenters, owners need not submit additional specimens with all Section 8 or 71 affidavits. The approximately 500 registrations selected to participate in the two-year pilot represent less than 1% of the total number of affidavits usually processed during a typical six-month period. Moreover, owners of the registrations selected will be afforded the usual post registration response period to the Office action requiring additional information.

To address concerns regarding the long-term impact of the rule changes beyond the pilot, the USPTO is amending the rulemaking to indicate that the language authorizing the USPTO to assess the accuracy and integrity of the register will expire two years after the effective date of the final rules on Section 8 and 71 affidavits. This ''sunset provision'' allows the USPTO the necessary authority to randomly sample Section 8 and 71 affidavits in order to conduct the pilot. Upon expiration of the two-year period, additional specimens and information may be requested when the USPTO deems it reasonably necessary for examination of a particular Section 8 or 71 affidavit. The USPTO is eliminating from the final rulemaking other provisions included in the proposed rule which would have authorized requests for additional specimens and information to assess the accuracy and integrity of the register both prior to registration and in connection with a Section 7 amendment to a registration. In those contexts, the final rules provide that the USPTO may request additional specimens and information only when reasonably necessary for examination. Therefore, although the USPTO is sunsetting its authority to ask randomly for additional specimens and information, it is maintaining authority to probe accuracy when reasonably necessary for proper examination of a particular application or registration.

Comment: Due to the potential burden on trademark owners and broad discretion given to examiners, three commenters suggested a targeted approach in determining when the USPTO would request additional specimens. One commenter requested a provision in the rules or TMEP that the USPTO only require additional

specimens on special occasions; for example, where identifications include a large number of, or significant disparity in, goods or services, and that the standards for requiring additional specimens for house marks be relaxed as compared to other identifications.

Another commenter suggested that specific guidelines be enacted to direct the exercise of discretion in requesting additional specimens. For example, an examiner should be required to identify some other fact-based reason, beyond the number of goods or services in an application, to justify a request for additional specimens, such as where a Web site does not show use of a mark with all goods or services. Moreover, the TMEP should be revised to include specific guidelines for when an examiner can request additional specimens.

A third commenter suggested that in order to achieve the desired result of a more accurate register, implementation of the proposed rules should be accompanied by guidance describing instances in which additional evidence can be required. The commenter suggested that applications and registrations be flagged for heightened scrutiny and additional specimens or evidence of use if they use class headings in the identification, include unrelated and unlikely goods within a class, use multiple languages on packaging, include a lengthy list of related goods or services, or encompass alphabetically arranged ''data dumps'' from the ID manual.

Response: The USPTO determined that its objective of assessing the accuracy and integrity of the register could be better reached by randomly selecting the registrations chosen to participate in the pilot rather than targeting a specific subset of registrations. While the USPTO concurs that in the long term, a ''targeted'' approach may be appropriate, an initial assessment of a wide cross section of all types of registrations will best determine appropriate criteria for targeting. The limited nature of the pilot and ''sunset provision'' are geared to alleviate concerns regarding potential burdens to trademark owners. The USPTO has opted to initially request proof of use for two additional goods/services per class for registrations selected for the pilot. Thus, the potential burden will not be greater on trademark owners with particular types of registrations, including those for house marks or with lengthy identifications.

Comment: One commenter requested clarification whether trademark owners would face additional fees and surcharges for supplemental filings required under the new rules. The commenter noted that it was unclear whether a response to a request for additional evidence must be completed according to the same timeline as other responses and if an owner would need to pay a deficiency surcharge for a deficiency that did not exist until the request.

Response: No additional fees or surcharges will be required under the new rules. Owners must respond to an Office action requiring additional information or specimens within six months of the issuance date of the Office action, or before the end of the relevant filing period for the Section 8 or 71 affidavit, whichever is later (37 CFR 2.163(b), 7.39(a)). Although such an Office action may address other items unrelated to the pilot program, and those other items may trigger a deficiency surcharge, a request under the new rules pertaining to the pilot would not be considered a deficiency requiring an additional fee.

Comment: One commenter expressed that typical trademark file histories are ''too skimpy'' with respect to specimens. The commenter further explained that advances in technology, and the USPTO's information technology, have made it easier for trademark owners to submit photographs for specimen use. The commenter, therefore, suggested that specimens be required for each good or service, along with liberal correction of the specimen record. The commenter additionally expressed his preference for a date of use to be listed for every good and service so that priority of use is easier for the public to check.

Response: The USPTO appreciates the commenter's support of its on-line resources. In order to mitigate the potential burden on trademark owners, the USPTO has opted to initially request proof of use for only two additional goods/services per class from participants in the pilot. Failure to provide such proof may result in a further request for additional information or specimens. The results of the pilot will help the USPTO to assess the accuracy and integrity of the register and whether and to what extent it may be necessary to request additional information or specimens on a more routine basis to ensure the accuracy of a registration.

Currently, the USPTO requires dates of use for each class of goods and services. There must be at least one specified item in each class to which the specified dates pertain (37 CFR 2.34(a)(1)(v), 2.76(c), 2.88(c); TMEP section 903.08). It is longstanding Office practice not to require dates of use for each good or service since it would be cumbersome for applicants to designate the dates for each item individually (TMEP section 903.08).

Comment: Another commenter stated that especially in cases where a lengthy identification triggers a requirement for additional information, examination of the accuracy of a claim of use should focus on ensuring the registration accurately reflects the goods or services for which the mark is used, based on all evidence that can be supplied, and not be an exercise designed to delete goods or services from registrations based on a ''hyper-technical'' analysis of specimens. Trademark owners should not lose rights in marks used in commerce because producing formal specimens can be burdensome, costly, and time-consuming. Deleting such goods and services from a mark in use would detract from, rather than improve, the accuracy of the register.

The commenter, therefore, suggested that the USPTO accept evidence of use that is reasonably sufficient to confirm the accuracy of the list, rather than determining if the evidence qualifies as a formal specimen. Acceptance of this evidence would be a practical way of determining that the claim of use is accurate without imposing an undue burden on trademark owners or an undue allocation of USPTO resources to the examination of additional specimens.

Moreover, the commenter noted that the USPTO's examination of the additional evidence supplied in response to an information inquiry should apply a reasonable standard as to whether the mark on the specimen agrees with the drawing, consistent with recent TTAB decisions and the more forgiving standard applied post registration.

A second commenter similarly proposed that a formal specimen is not necessary to ensure proper examination of claims of use and to assess the possibility of over-claiming. The commenter noted that goods and services should not necessarily be considered improperly included in a claim of use because specimens fail to satisfy rigorous formal requirements as to their sufficiency.

Response: As noted above, in order to assess the accuracy and integrity of the register, the USPTO intends to conduct a pilot in which approximately 500 trademark registrations will be randomly selected to submit proof of use for only two additional goods/services per class in response to an Office action issued after a Section 8 or 71 affidavit is reviewed by the USPTO.

Registrations will not be selected for the pilot program's additional inquiry based on either the length or content of the identification in the registration. Instead, the incomplete nature of a trademark owner's response to the initial request for additional information will determine whether further inquiry is necessary. The limited nature of the pilot, in terms of duration, number of registrations impacted, the random selection of registrations for participation, and the amount of additional proof or specimens required, is intended to alleviate concerns regarding the potential burden to trademark owners.

The additional information or specimens will be reviewed according to the generally accepted standards for use in commerce. The USPTO finds no basis to establish a different, less formal, standard for use of the mark in commerce in the context of the pilot, and believes such a distinction would be a disservice to the public. Not only would a new standard for determining what constitutes acceptable use in commerce increase public confusion, but it would also call into question whether a mark is actually used with particular goods or services. The USPTO notes that there is a uniform standard for determining what constitutes an acceptable specimen both prior to and post registration.

Comment: A comment noted that additional specimens or evidence of use should not be required to support identifications that appear in the USPTO ID Manual, even if the particular identification encompasses numerous products, such as ''cosmetics'' or ''furniture.'' Evidence of use of the mark on a single product should be sufficient to support inclusion of the phrase in the identification of goods or services.

Response: In conducting the pilot to assess the accuracy and integrity of the register, the USPTO will request that pilot participants submit proof of use for only two additional goods/services per class, with each demonstrating use for a different good or service in the identification. Even if a good or service within an identification is broadly defined, the USPTO will only require one specimen or other proof to demonstrate use for that particular good or service.

Discussion of Rule Changes

The USPTO is amending §§ 2.34(a)(1)(iv), 2.56(a), 2.76(b)(2), 2.86(a)(3), 2.86(b), and 2.88(b)(2) to indicate that the USPTO may, upon request, require more than one specimen, including more than one specimen per class, if the USPTO deems additional specimens reasonably necessary to examine the application or allegation of use. These revisions codify existing practice, where such additional specimens occasionally are requested under § 2.61 as information or exhibits necessary to examination. The Trademark Act gives the Director discretion regarding the number of specimens to require (15 U.S.C. 1051(a)(1), (d)(1)). The USPTO is additionally amending the final rule for § 2.56(a) to substitute the wording ''or services'' for ''or in the sale or advertising of the services in commerce'' to be consistent with the language in § 2.173(b)(3), and adding the wording ''as reasonably necessary to proper examination'' to be consistent with the language in § 2.61(b).

Comment: One commenter stated that requiring applicants and registrants to submit additional specimens is not burdensome, especially in comparison to the exclusive rights and evidentiary presumptions granted to trademark owners and the benefits of an accurate trademark register. The commenter further noted that in the digital age, the costs of obtaining and submitting additional specimens are negligible when the goods or services are being used in commerce as required. The commenter additionally stated that thorough training by the USPTO should mitigate concerns regarding the additional discretion given to examiners and describe with particularity the types of situations where additional specimens may be required. The commenter, therefore, expressed strong support for the rule changes because of the benefits obtained from a more accurate register and relatively small burdens on applicants and registrants. The commenter also noted that further study regarding the amount of ''deadwood'' on the U.S. trademark register would be valuable to all stakeholders in the trademark community.

Response: The USPTO appreciates the commenter's support of the rule changes and agrees that the public will greatly benefit from an accurate trademark register. As the commenter suggests, the USPTO intends to continue to provide internal and external guidance to mitigate concerns regarding USPTO discretion and provide examples of when additional specimens may be required.

The USPTO is amending § 2.61(b) to indicate that accompanying affidavits or declarations may be required along with information or exhibits. The wording ''and such additional specimens'' is added to the final rule to explicitly provide for specimen requests. The previously proposed provision that a requirement for additional information may issue, for the USPTO to assess the accuracy and integrity of the register, is not included in the final rule because the USPTO's pilot program will focus exclusively on use allegations in post registration maintenance filings. The USPTO maintains its authority to probe accuracy when reasonably necessary for examination of a particular application.

Comment: Citing TMEP section 904.01(a) and current § 2.61(b), three commenters stated that in the context of pre-registration, examining attorneys already have authority to request additional specimens. Two commenters noted that it is unclear why the amendment to § 2.61(b) is necessary since authority to request additional specimens is already given under the current rule. The third commenter suggested that further guidance on the use of this authority can be provided through examination guides, rather than rule changes. One of the commenters expressed a lack of support for the changes to §§ 2.34, 2.56, 2.61, 2.76, 2.86, or 2.88.

Response: Because the current rule on specimens refers to only one specimen per class and the current rule on information requirements does not explicitly refer to specimens, in revising the rules, the USPTO deems it appropriate to provide explicitly for such specimen requests. Specifically, the additional language allowing for ''affidavits or declarations'' to be required codifies existing practice, where additional evidence is requested, and explicitly clarifies that the USPTO may verify information or exhibits, when needed.

The additional previously proposed language allowing the USPTO to ''assess the accuracy and integrity of the register'' was deleted and is not included in the final rule because the USPTO's pilot program will focus exclusively on use allegations in post registration maintenance filings. The USPTO maintains its authority to probe accuracy when reasonably necessary for examination of a particular application.

Comment: A commenter expressed concern that while the goal of amending § 2.61(b) may be to determine the extent to which over-claiming exists pre-registration, the changes to the rule may impact domestic applicants more than Section 44 or 66 applicants, who are not required to submit specimens prior to registration.

Response: Section 2.61(b) is used to require additional information and exhibits from all applicants prior to registration. Although it has

occasionally been used as a means for requiring additional specimens, it is more commonly used as a means for examining attorneys to request literature, exhibits, and general information concerning the nature of the mark in order to allow for proper examination. *See* TMEP section 814. The additional previously proposed language allowing the USPTO to ''assess the accuracy and integrity of the register'' was deleted and is not included in the final rule. The USPTO maintains its authority to probe accuracy when reasonably necessary for examination of a particular application. The USPTO will conduct its pilot to assess accuracy in connection with the filing of a Section 8 or 71 affidavit, since such filings are required of all trademark owners.

The USPTO is amending § 2.161(g) and § 7.37(g) to indicate that the USPTO may require more than one specimen in connection with the examination of the affidavit or declaration of continued use. For example, additional specimens may be requested in a case to verify the accuracy and the nature of the use when the identification includes a large number of, or significant disparity in, goods or services. The Trademark Act gives the Director discretion regarding the number of specimens to require (15 U.S.C. 1058(b)(1)(C), 1141k(b)(1)(C)).

The USPTO is adding § 2.161(h) and § 7.37(h) to provide that the USPTO may require such specimens, information, exhibits, and affidavits or declarations as the USPTO deems reasonably necessary to the proper examination of the affidavit or declaration of continued use, or for the USPTO to assess the accuracy and integrity of the register. These provisions are corollaries to § 2.61(b), which currently allows the USPTO to require additional information or exhibits in connection with the examination of a pending application. These provisions also clarify that accompanying affidavits or declarations may be required. The wording ''and such additional specimens'' is added to the final rule to clarify that the standards applicable to § 2.161(g) and § 7.37(g) are contained in § 2.161(h) and § 7.37(h). The provisions allowing the USPTO to assess the accuracy and integrity of the register will expire two years after the effective date of the final rule.

Comment: Noting that currently there is not a counterpart to § 2.61(b) that would enable the USPTO to request additional specimens post registration, three commenters expressed support of implementing proposed § 2.161(h) and § 7.37(h) to the extent they conform to current § 2.61(b). Two of the commenters further noted that claims of use, post registration, for owners of registrations under Sections 44 and 66 should be examined under the same criteria applied to owners of use-based applications. One commenter further noted that they did not support the proposed changes to § 2.161(g) and § 7.37(g) since they did not conform to current § 2.61(b).

Response: The USPTO appreciates the commenters' support of the rule changes and agrees with the commenters regarding the importance of having post registration corollaries to § 2.61(b). Just as § 2.61(b) was amended to clarify that accompanying affidavits or declarations may be required, this same clarification was added to § 2.161(h) and § 7.37(h) in order to explicitly provide for the USPTO to verify information or exhibits, when needed. Similarly, the amendments to § 2.161(g) and § 7.37(g) were made in order to provide for the USPTO to request additional specimens.

The language in § 2.161(h) and § 7.37(h) allowing the USPTO to ''assess the accuracy and integrity of the register'' is for the limited purposes of the pilot explained above, and will expire two years after the effective date of the final rule. This ''sunset provision'' is intended to alleviate concerns regarding the burdens associated with discretionary requests for additional specimens and information to assess the accuracy and integrity of the register. The USPTO maintains its authority to probe accuracy when reasonably necessary for examination of a particular registration.

The USPTO agrees with the commenters that post registration claims of use should be examined under the same criteria regardless of the initial filing basis. The USPTO, therefore, determined that the pilot assessing the accuracy and integrity of the register should be conducted with the filing of Section 8 or 71 affidavits, since such filings are required of all trademark owners.

Comment: Noting that a registration could include many goods and services, one commenter emphasized that submitting many specimens could be time-consuming and burdensome.

Response: As previously noted, the limited nature of the pilot and ''sunset provision'' are geared to alleviate concerns regarding potential burdens to trademark owners. As proof of use of the mark on only two additional goods/services per class will be required of participants in the pilot, the potential burden will not be much greater on trademark owners with registrations for many goods or services. Failure to provide the requested proof may result in further requests for proof as to additional goods/services in that registration.

Comment: Two commenters noted that prior to registration, if an applicant is unable to provide an acceptable specimen for a Section 1(a) use-based application, the applicant has the option of amending the applicable goods or services to a Section 1(b) intent-to-use basis. The commenters proposed, with a third commenter, that if a trademark owner is faced with a requirement for additional specimens post registration, the USPTO should allow the owner to voluntarily delete the goods or services, as an alternative to providing the specimens, without incurring vulnerability as to the remaining goods or services. This should not be viewed as an admission that the goods or services were improperly claimed in the initial filing as there are a number of reasons why trademark owners may opt not to provide additional evidence of use.

Similarly, one of the commenters noted that if goods or services are deleted from a registration following an information request, the remainder of the registration should not be vulnerable to challenge as to its validity. A commenter further stated that pre-registration for use-based applications, applicants should have the option of asserting a dual Section 1(b) basis for any goods or services subject to a requirement for additional specimens or evidence.

Response: When a trademark owner files a Section 8 or 71 affidavit, the trademark owner is asked to specifically verify if the mark is in use in commerce on or in connection with all of the goods or services listed in the registration. If the mark is not in use with all of the goods or services, the owner is asked to identify the goods or services to be deleted from the registration. Therefore, if a trademark owner is not using the mark with all of the goods or services listed in a registration, and excusable nonuse is not claimed, the goods should be voluntarily deleted from the registration upon the filing of the Section 8 or 71 affidavit as required by the Trademark Act, prior to the USPTO's request for additional information or specimens upon review of the Section 8 or 71 affidavit. As a reminder, 18 U.S.C. 1001 and 37 CFR 11.18 apply to submissions to the USPTO and impose an obligation of reasonable inquiry and truthfulness.

If a registration is selected to participate in the pilot assessing the accuracy and integrity of the register, the trademark owner may at that point voluntarily delete goods or services

from its registration as an alternative to providing the additional information or specimens requested by the USPTO. Such a deletion will not trigger cancellation of the entire registration, but may subject the registration to a further information or specimen requirement by the USPTO to verify the accuracy of the remaining goods or services claimed in the registration. Although the pilot will not apply to applications, applicants always have the option of relying on both Sections 1(a) and 1(b) in the same application, though the applicant may not assert both bases for identical goods or services in the same application. *See* TMEP section 806.02(b).

Comment: One comment noted that failure to provide requested information as to only a portion of the goods or services should not result in cancellation of the entire registration.

Response: The USPTO agrees with this comment and notes that when a registration is selected to participate in the pilot and an Office action issues requiring additional evidence or specimens, a response must be filed within six months of the Office action, or before the end of the filing period for the Section 8 or 71 affidavit, whichever is later (37 CFR 2.163(b), 7.39(a)). If a response is filed but fails to include the required evidence or specimens, the USPTO will deem the Section 8 or 71 affidavit unacceptable as to the goods or services to which the requirement pertained and delete them from the registration. Such a response may also trigger a further requirement for proof of use as to some or all of the remaining goods/services. However, assuming the Section 8 or 71 affidavit is otherwise acceptable, and any requested proof of use as to remaining goods/services is satisfied, the remaining goods/services will be unaffected. By contrast, if no response whatsoever to the Office action is filed within the response period, and no time remains in the statutory filing period, the registration will be cancelled (37 CFR 2.163(c), 7.39(b)). Thus, absent other issues with the affidavit, the registration will not be cancelled unless the owner fails to respond to the Office action or is unable to demonstrate use for any of the remaining goods or services in the registration.

Comment: Citing § 2.161 and § 7.37, an additional commenter indicated that the proposed rules providing for additional specimens could present an equal-protection issue due to their discretionary nature, noting that ''when requested by the Office'' is not a clear and definite standard.

Response: The Trademark Act gives the Director discretion regarding the number of specimens to require (15 U.S.C. 1051(a)(1), (d)(1), 1058(b)(1)(C), 1141k(b)(1)(C)). The revisions to §§ 2.34(a)(1)(iv), 2.56(a), 2.76(b)(2), 2.86(a)(3), 2.86(b), and 2.88(b)(2) to indicate that the USPTO may, upon request, require more than one specimen, including more than one specimen per class, if the USPTO deems additional specimens reasonably necessary to examine the application or allegation of use, codify existing practice, where such additional specimens occasionally are requested under § 2.61 as information or exhibits necessary to examination.

The revisions to § 2.161(g) and § 7.37(g) to indicate that the USPTO may require more than one specimen in connection with the examination of an affidavit or declaration of continued use are corollaries to the above-referenced pre-registration procedures when additional specimens are necessary to verify the accuracy and nature of the use. The standards applicable to § 2.161(g) and § 7.37(g) can be found in § 2.161(h) and § 7.37(h). Both subsections have been revised to explicitly provide that the USPTO may require specimens, information, exhibits, and affidavits or declarations as ''reasonably necessary'' for examination or ''to assess the accuracy and integrity of the register.'' Because these standards are not impermissible or arbitrary, there can be no equal-protection violation. *Cf. In re Boulevard Entm't, Inc.,* 334 F.3d 1336, 1343, 67 USPQ2d 1475, 1480 (Fed. Cir. 2003) (noting that no USPTO equal-protection violation could occur ''unless the agency acted pursuant to some impermissible or arbitrary standard'').

Moreover, even regardless of standards, constitutional challenges have been rejected in the trademark-registration context where a determination not to register a mark does not foreclose use of that mark. *See In re Mavety Media Grp. Ltd.,* 33 F.3d 1367, 1374, 31 USPQ2d 1923, 1928–29 (Fed. Cir. 1994); *In re McGinley,* 660 F.2d 481, 484, 211 USPQ 668, 672 (C.C.P.A. 1981).

The USPTO is amending § 2.173(b)(3) to clarify that where an amendment involves a change in the mark, a new specimen must be provided for each class in a multiple-class registration, and additional specimens may be required when necessary, and to add § 2.173(b)(4) to provide that the USPTO may require such specimens, information, exhibits, and affidavits or declarations as the USPTO deems reasonably necessary to the proper examination of the proposed amendment. The term ''specimens'' is added to § 2.173(b)(4) to clarify that the standards applicable to § 2.173(b)(4) are contained in § 2.173(b)(3). The previously proposed provision that a requirement for additional information may issue, for the USPTO to assess the accuracy and integrity of the register, is not included in the final rule.

Comment: Two commenters noted that because claims of use as to all goods and services are not at issue when a request for amendment of a registration is sought, they do not support the proposed changes to § 2.173.

Response: As claims of use as to all goods and services do not accompany amendments to registrations, the pilot to assess the accuracy and integrity of the register will be conducted with the filing of mandatory Section 8 or 71 affidavits and not optional Section 7 amendments. The revisions to § 2.173(b)(3) clarify that where an amendment involves a change in the mark, a new specimen must be provided for each class in a multiple-class registration. This will allow the USPTO to assess that the amended mark is being used on or in connection with each class of goods or services in the registration. The addition of § 2.173(b)(4) similarly assists the USPTO by providing a means for additional information to be requested, as a post registration corollary to § 2.61(b). The additional previously proposed language allowing the USPTO to ''assess the accuracy and integrity of the register'' was deleted and is not included in the final rule.

Overview of the Pilot

As set forth above, the USPTO intends to conduct a two-year pilot program to verify the accuracy of post registration claims that a trademark is in use on particular goods/services. The USPTO will randomly select approximately 500 trademark registrations for which a Section 8 or 71 affidavit was filed and issue an Office action requiring proof of use of the mark on two additional goods/services per class. Although a declaration will be required to verify the proof of use, one declaration may support all the additional proof. The random selection will include all types of registrations and will represent less than 1% of the total number of affidavits usually processed during a typical six-month period.

Owners of the registrations selected for the pilot will be afforded the usual post registration response period to the Office action requiring additional proof of use and an accompanying standard declaration. Specifically, a response will be due within six months of the Office

action, or before the end of the filing period for the Section 8 or 71 affidavit, whichever is later (37 CFR 2.163(b), 7.39(a)). Specially trained senior attorneys will conduct the examination for the pilot, reviewing the proof of use according to the generally accepted standards for use in commerce. The assigned senior attorneys may address specific questions or concerns about particular cases. The USPTO also will establish a dedicated mailbox, *TMPostRegPilot@uspto.gov* for more general questions and concerns relating to the pilot.

If a response is filed but fails to include the required evidence or specimens, the USPTO will deem the Section 8 or 71 affidavit unacceptable as to the goods or services to which the requirement pertained and delete them from the registration. Such a response may also trigger a further requirement for proof of use as to some or all of the remaining goods/services. However, assuming the Section 8 or 71 affidavit is otherwise acceptable, and any requested proof of use as to remaining goods/services is satisfied, the remaining goods/services will be unaffected. By contrast, if no response to the Office action is filed within the response period, and no time remains in the statutory filing period, the registration will be cancelled (37 CFR 2.163(c), 7.39(b)).

After the conclusion of the pilot, the USPTO will share the results as a basis for further consideration and discussion of the level of accuracy of the register. The results of the pilot will help inform whether and to what extent it may be appropriate to request additional information or specimens on a more routine basis to ensure accuracy.

Rulemaking Requirements

Executive Order 12866: This rule has been determined not to be significant for purposes of Executive Order 12866.

Executive Order 13563: The Office has complied with Executive Order 13563. Specifically, the Office has: (1) Used the best available techniques to quantify costs and benefits, and has considered values such as equity, fairness and distributive impacts; (2) provided the public with a meaningful opportunity to participate in the regulatory process, including soliciting the views of those likely affected prior to issuing a notice of proposed rulemaking, and provided on-line access to the rulemaking docket; (3) attempted to promote coordination, simplification and harmonization across government agencies and identified goals designed to promote innovation; (4) considered approaches that reduce burdens and maintain flexibility and freedom of choice for the public; and (5) ensured the objectivity of scientific and technological information and processes, to the extent applicable.

Administrative Procedure Act: This rule merely involves rules of agency practice and procedure within the meaning of 5 U.S.C. 553(b)(A). *See Cooper Techs. Co.* v. *Dudas,* 536 F.3d 1330, 1336–37 (Fed. Cir. 2008) (stating that 5 U.S.C. 553, and thus 35 U.S.C. 2(b)(2)(B), does not require notice and comment rulemaking for ''interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice'') (quoting 5 U.S.C. 553(b)(A)); *Inova Alexandria Hosp.* v. *Shalala,* 244 F.3d 342, 350 (4th Cir. 2001) (rules for handling appeals were procedural where they did not change the substantive standard for reviewing claims); *Bachow Commc'ns Inc.* v. *FCC,* 237 F.3d 683, 690 (DC Cir. 2001) (rules governing an application process are procedural under the Administrative Procedure Act). Therefore, this rule may be adopted without prior notice and opportunity for public comment under 5 U.S.C. 553(b) and (c), or thirty-day advance publication under 5 U.S.C. 553(d).

However, the USPTO chose to seek public comment before implementing the rule and is providing thirty-day advance publication notice.

Regulatory Flexibility Act: The final rule involves rules of agency practice and procedure. As prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553 or any other law, neither a Regulatory Flexibility Act analysis nor a certification under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) is required. *See* 5 U.S.C. 603.

A Final Regulatory Flexibility Act Analysis (''FRFA'') of the final rule is not required; nevertheless, the USPTO has undertaken this FRFA to further describe the minimal effects on any small entities.

1. Description of the Reasons That Action by the Office Is Being Undertaken

The USPTO is requiring: (1) Any specimens, information, exhibits, and affidavits or declarations deemed reasonably necessary to examine an affidavit or declaration of continued use in trademark cases; and (2) upon request, more than one specimen in connection with a use-based trademark application, an allegation of use, an amendment to a registered mark, or an affidavit or declaration of continued use in trademark cases.

These revisions will facilitate the USPTO's ability to verify the accuracy of identifications of goods/services. Specimens of use in use-based trademark applications illustrate how the applicant is using the proposed mark in commerce on particular goods/services identified in the application. Post registration affidavits or declarations of use and their accompanying specimens demonstrate a trademark owner's continued use of its mark in commerce for the goods/services in the registration.

2. Succinct Statement of the Objectives of, and Legal Basis for, the Final Rule

The objective of the final rule is to facilitate the USPTO's ability to verify the accuracy of identifications of goods/services in trademark applications and registrations. The rule ensures that the USPTO may properly examine the nature and veracity of allegations of use made during the trademark application or post registration phase, and upon request, may require additional specimens or other information or exhibits, such as a photograph of the mark appearing on certain goods. Another purpose of the rule is to harmonize the requirements that can be made as part of the examination of use allegations made in post registration maintenance documents, which are currently more limited, with the requirements authorized in the examination of use allegations made prior to registration.

The Trademark Act gives the Director of the USPTO discretion regarding the number of specimens to require (15 U.S.C. 1051(a)(1), (d)(1), 1058(b)(1)(C), 1141k(b)(1)(C)). Moreover, it requires applicants to comply with rules as prescribed by the Director (15 U.S.C. 1051(a)(4), (b)(4)). Additionally, the Director and USPTO may establish regulations governing the conduct of proceedings in the Office (15 U.S.C. 1123, 35 U.S.C. 2(b)(2)(A)). The current Trademark Rules of Practice and the Rules of Practice for Filings Pursuant to the Madrid Protocol mandate the submission of one specimen per class in connection with use-related filings (37 CFR 2.34(a)(1)(iv), 2.56(a), 2.76(b)(2), 2.86(a)(3), 2.86(b), 2.88(b)(2), 2.161(g), 7.37(g)). Similarly, the current rules require one specimen to be submitted in connection with a proposed amendment of a registered mark (37 CFR 2.173(b)(3)). In addition, although the current Trademark Rules of Practice allow the USPTO to require additional information or exhibits deemed reasonably necessary to the examination of a pending application (37 CFR 2.61(b)), no counterpart rule exists in the post registration context to facilitate proper examination of an affidavit or

declaration of continued use or excusable nonuse.

3. Description and Estimate of the Number of Affected Small Entities

The USPTO does not collect or maintain statistics in trademark cases on small versus large entity applicants, and this information would be required in order to estimate the number of small entities that would be affected by the final rule. However, the USPTO believes that the overall impact of the rule on applicants and registrants will be relatively minimal.

The final rule applies to any entity filing a use-based trademark application and to any entity filing trademark registration maintenance filings or amendments. With respect to allegations of use in trademark applications, the rules merely codify existing practice, whereby the USPTO already occasionally requests additional specimens or other information under 37 CFR 2.61. Thus, because no change in practice will result from the rules in this regard, they will have no impact in the trademark application context.

After registration, registrants must make periodic filings with the USPTO to maintain their registrations. A Section 8 or 71 affidavit of continued use is a sworn statement that the mark is in use in commerce, filed by the owner of a registration (15 U.S.C. 1058, 1141k). The purpose of the Section 8 or 71 affidavit is to facilitate the cancellation of registrations for marks no longer in use. With respect to post registration maintenance filings, the Office estimates that only a small subset of trademark owners will be required to provide more than one specimen, or information or exhibits in connection with a Section 8 or 71 affidavit. The USPTO is unable to estimate what subset of the owners will be small entities impacted by the rules. In Fiscal Year 2011, 114,808 Section 8 or 71 affidavits were filed.

4. Description of The Reporting, Recordkeeping, and Other Compliance Requirements of the Final Rule, Including an Estimate of the Classes of Small Entities Which Will Be Subject to the Requirement and the Type of Professional Skills Necessary for Preparation of the Report or Record

The final rule imposes no new recordkeeping requirements on trademark applicants or registrants.

Regarding compliance with the final rule, as an initial matter, the USPTO does not anticipate that the rule will have a disproportionate impact upon any particular class of small or large entities. Any entity that has a registered trademark could potentially be impacted by the rule.

Based on additional comment from the proposed rule, the USPTO estimates that in those post registration cases where a requirement for additional information, exhibits, declarations, or specimens is issued, it will take one hour to comply.

While the statement of use is a similar type of filing to those at issue in the final rules applied in the post registration context, as the statement of use involves providing one or more specimens of use and an accompanying declaration, the compliance time for the final rules should be less. Under the final rules applied in the post registration context, the type of fact gathering and review of the nature and extent of the use of the mark that underlies a statement of use will already have occurred. Compliance with the requirement will only necessitate gathering and submitting the evidence to demonstrate what has already been assessed.

Assuming the mark is in use, as claimed, the compliance time involves the length of time to secure a specimen, exhibit (such as taking a digital photograph), information, or declaration, plus any time it takes an attorney to communicate with the client in order to obtain what is required and make the necessary filing with the USPTO. In reality, approximately one-third of applications are filed pro se. These applicants and registrants, therefore, will likely have a lower compliance time than the USPTO has estimated, which assumes the involvement of counsel. These rules do not mandate the use of counsel.

The Office does not estimate any change in compliance cost associated with the final rules with respect to allegations of use in trademark applications, since the USPTO's current practice already allows for this. The rule change merely codifies existing practice.

5. Description of Any Significant Alternatives to the Final Rule Which Accomplish the Stated Objectives of Applicable Statutes and Which Minimize Any Significant Economic Impact of the Rule on Small Entities

The USPTO has considered whether and how it is appropriate to reduce any burden on small businesses through increased flexibility. The following options have been considered, but rejected, by the USPTO as ineffective.

The alternative of never requiring additional specimens or other information in connection with Section 8 or 71 affidavits or exempting small entities from such requirements would have a lesser economic impact on small entities, but would not accomplish the stated objective of verifying the accuracy of identifications of goods/services in trademark registrations. As set forth above, the USPTO will rely on the final rule to assess the accuracy of use allegations. This assessment may provide a better sense of whether significant problems may exist with the accuracy of identifications of goods and services. Thus, exempting small entities would prevent the potential consideration of all Section 8 or 71 affidavits for this purpose, and therefore, would not achieve the stated objective of verifying accuracy.

The stated objective of the final rule also facilitates the cancellation of any registrations for marks that are no longer in use, the policy underlying the statutory requirement for Section 8 or 71 affidavits. Exempting small entities from any possible scrutiny regarding use allegations would fail to reach non-use of marks by small entity owners, thereby failing to achieve the objective.

Other options to potentially lessen the impact on small entities have been rejected as ineffective. For example, the USPTO deems unnecessary extended time periods for small entity compliance because there appears to be no reason that compliance with the requirements in the rules would be more time-consuming for small entities, and because the USPTO's standard time period for responding to trademark Office actions allows sufficient time regardless of small entity status.

The USPTO deems any streamlined or simplified compliance mechanism for small entities unnecessary, given the ease of responding to trademark Office actions electronically. Thus, compliance will be as streamlined and simplified as possible for all affected entities. Moreover, where the objective is to verify the accuracy of a claim of use in an affidavit, the requirements of one or more additional examples of the manner of the claimed use, or of other information such as photographic proof already seem to be the least burdensome and complex way to achieve the objective. Additionally, the requirement for submissions in order to assess the accuracy and integrity of the register will expire two years from the effective date of the rule. Accordingly, these post registration requirements will not have a significant economic impact on small entities. Any more minimal requirement would not demonstrate use, and therefore, would not meet the objective to verify use claims.

Use of performance rather than design standards is not applicable to the final rulemaking because the USPTO is not

issuing any sort of standard. Rather, the rules will require applicants and registrants to furnish evidence of use, rather than comply with a performance or design standard.

Finally, with respect to allegations of use in trademark applications, the final rules merely codify existing practice, whereby the USPTO already occasionally requests additional specimens or other information under 37 CFR 2.61. Thus, because no change in practice would result from the rules in this regard, any different treatment of small entities in this context would fail to meet the stated objective and likely would generate concern and confusion about a change in practice.

6. Identification, to the Extent Practicable, of All Relevant Federal Rules Which May Duplicate, Overlap, or Conflict With the Final Rule

The final rule will not duplicate, overlap, or conflict with any other Federal rules.

Unfunded Mandates: The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any given year. This rule would have no such effect on State, local, and tribal governments or the private sector.

Executive Order 13132: This rule does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

Paperwork Reduction Act: This rule involves information collection requirements which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). An information collection request was submitted to OMB under control number 0651–0055 at the time of the Notice of Proposed Rulemaking, and a pre-approval was given. Since that time no substantive changes to the burden have been made. Additionally, the agency will follow up with a change worksheet submission to make all the necessary burden estimate adjustments.

This rulemaking provides for the USPTO to require: (1) Any specimens, information, exhibits, and affidavits or declarations deemed reasonably necessary to examine an affidavit or declaration of continued use or excusable nonuse in trademark cases, or for the USPTO to assess the accuracy and integrity of the register; and (2) upon request, more than one specimen in connection with a use-based trademark application, an allegation of use, or an amendment to a registered mark.

There is no fee impact for submission of specimens. Additional burden due to postage costs for paper submissions for the post-registration Office actions is estimated at $90, for a total increase in fee burden by an estimated $90. The agency estimates the following overall impact on burden: An increase of responses of 500; an increase in burden hours of 485; and an increase in burden hour costs of $164,900.

Comments were invited on: (1) Whether the collection of information is necessary for proper performance of the functions of the agency; (2) the accuracy of the agency's estimate of the burden; (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 to respondents.

In response to the first inquiry, whether the collection of information is necessary for proper performance of the functions of the agency, the USPTO received three comments.

Comment: One comment noted that based on the U.S. trademark system, the commenter could understand the contents of the revision, but the commenter indicated that the revision may contradict the Trademark Law Treaty prohibition against submitting evidence of use with a renewal application.

Response: Evidence of use, or excusable non-use, is not a requirement for renewal applications under Section 9, and therefore, the revision does not contradict the Trademark Law Treaty (15 U.S.C. 1059). To renew a registration under Section 9, the owner must submit the requisite fee with the signed renewal form (15 U.S.C. 1059). Evidence of use, or excusable nonuse, is separately required under Sections 8 and 71 between the fifth and sixth year anniversaries after registration and every ten years after registration, or with payment of an additional fee, during the six-month grace period that follows (15 U.S.C. 1058(a), 1141k(a)).

Comment: Another commenter expressed that the collection of additional specimens would ensure a more accurate register and thus benefits the public and brand owners.

Response: The USPTO appreciates the commenter's support of the rule changes and agrees with the commenter regarding the benefit of a more accurate register.

Comment: A third commenter agreed that collecting information regarding the accuracy of the marks on the trademark register is a necessary and proper performance of the USPTO's functions. The commenter noted that an up-to-date register reflecting marks that are actually in use would benefit everyone. The commenter further stated that the USPTO should ensure that the information is gathered consistently and without singling out any particular classes of applications, registrations, or mark owners.

Response: The USPTO appreciates the commenter's support of the information collection. In conducting the pilot, the USPTO will collect the information regarding the accuracy of marks on the register consistently, without singling out any particular classes of applications, registrations, or mark owners. The USPTO intends to ensure consistent information collection by having a small group of specially trained senior attorneys examine the registrations selected for participation in the pilot. As the USPTO also intends to randomly select the registrations examined in the pilot, no type of application, registration, or mark owner will be singled out.

Regarding the accuracy of the agency's estimate of the burden, comments were received from three parties.

Comment: One commenter noted that due to the limited nature of the rule changes, they will not affect the scope of pre-registration trademark searches; and costs will be incurred when attorneys submit the additional evidence required. The commenter additionally requested that foreign applicants be allowed to maintain broader identifications of goods and services when filing a new trademark application based on a home-country registration.

Response: The rule changes codify current pre-registration practice. The USPTO's pilot program will be conducted post registration, and the limited nature of the pilot will alleviate the potential burden on trademark owners. The rule changes will not affect the USPTO's standards for determining the acceptability of identifications of goods and services, which are applied to all applicants and registrants.

Comment: Another comment noted that the burden on applicants to produce additional specimens is not terribly significant in the age of electronic specimens and filings. The burden of producing additional specimens is far less than the burdens imposed on the public and trademark community from an inaccurate register. Any evidence required under the rule changes relates to something an

applicant or registrant should possess or easily document in carrying out existing duties of confirming that goods and services are currently in use.

Response: The USPTO appreciates the commenter's support of the rule changes and concurs that the rule changes create minimal burdens on trademark owners.

Comment: A commenter on the time burden agreed that the time to actually submit specimens or additional evidence will likely be an hour, but stated that the time involved in making the request to a client and reviewing the client's responses will be substantially greater. For mark owners and their counsel, compliance time with the additional requirements may depend on factors such as whether the client is foreign or domestic, the degree of explanation necessary for the client, and the length of the identification. The commenter noted that the USPTO may help alleviate the burden by requiring only one additional specimen or minimal additional information, and by foregoing the need for verifications of the specimens or other information.

Response: The USPTO notes that the estimated time burden for Paperwork Reduction Act purposes is an average encompassing the response time for all trademark owners, taking into account that trademark owners comprise large and small entities, with and without counsel. The USPTO acknowledges that the compliance time for the pilot may be greater than the compliance time for a typical post registration response, and based on the commenter's feedback, the USPTO has increased the estimated burden time for submissions under the pilot to an hour. While the USPTO concurs with the commenter that compliance time may be greater for larger, represented entities, the average also encompasses pro se owners, for whom the compliance time will likely be lower than the USPTO has estimated. The USPTO also notes that as trademark owners are already required to ascertain whether a mark is currently in use with all the goods/services in connection with the filing of a Section 8 or 71 affidavit, any additional requirement to provide proof of such use with select goods/services should not be unduly burdensome.

As an additional means of alleviating the potential burden to trademark owners, only approximately 500 registrations will be selected to participate in the pilot assessing the accuracy and integrity of the register. Moreover, only proof of use of two additional goods/services per class will be required of participants in the pilot. Although a declaration will be required to verify the proof of use, one declaration may support all the additional proof. Owners need not preemptively submit multiple specimens with all trademark filings since the approximately 500 registrations selected to participate in the pilot represent less than 1% of the total number of Section 8 and 71 affidavits processed during a typical six-month period.

In response to the third inquiry, whether there are ways to enhance the quality, utility, and clarity of the information to be collected, the USPTO received two comments.

Comment: One commenter suggested that the USPTO could publish more guidance as to when specimens are required and the type of specimens that are generally acceptable. The commenter additionally noted that the USPTO should provide guidance to both applicants and examiners that specimens for goods that appear to be merely digital mock-ups may be insufficient.

Response: The USPTO intends to provide additional guidance for those trademark owners chosen to participate in the pilot and continue its efforts to provide both internal and external guidance, through the TMEP and examination guides, regarding the general acceptability of specimens. It is long-standing Office policy that a submission that appears not to be actually used in commerce is unacceptable as a specimen. See, e.g., TMEP sections 904.03(i) and 904.04(a) regarding beta Web sites and printers proofs.

Comment: Another comment stated that the USPTO should publicize the nature of the specimens and additional information that will be required to support requests for information under the rule changes. The commenter noted that loosening the restrictions on catalog submissions could assist mark owners requested to provide additional specimens. Moreover, the USPTO should clarify whether requests for additional information will apply to entire classes or specific goods or services within a class. If declarations will be required to support additional specimens, having a uniform format will help ensure higher-quality submissions. Additionally, ensuring uniform levels of inquiry for specimens during prosecution and post registration, and publicizing them in exam guides or the TMEP, would further the goal of an accurate trademark register. Having a particular contact person, or dedicated mailbox, for issues that arise would ensure that practitioners and USPTO employees receive consistent guidance. Lastly, the USPTO should share any statistics kept on the success of the new rule—such as the length of descriptions routinely queried, percentage of applications or registrations queried, and statistics that suggest that ''deadwood'' on the register is an issue to be addressed.

Response: As noted above, in order to assess the accuracy and integrity of the register, the USPTO intends to conduct a pilot in which approximately 500 trademark registrations will be selected to receive a requirement to submit proof of use for two additional goods/services per class in response to an Office action issued after a Section 8 or 71 affidavit is reviewed by the USPTO. The additional proof will be reviewed according to the same general standards as specimens submitted with a Section 8 or 71 affidavit, with the standard Section 8 or 71 declaration language required to be submitted with the additional proof.

In order to ensure uniformity within the pilot, a small group of specially trained senior attorneys will conduct the examination of the registrations selected for participation in the pilot. The assigned senior attorney handling a particular case may address specific questions or concerns about the case. As suggested by the commenter, the USPTO will establish a dedicated mailbox for more general questions and concerns relating to the pilot. Moreover, the USPTO will share the results of the pilot in the context of further consideration as to whether ''deadwood'' on the register is an issue.

Regarding ways to minimize the burden of the collection of information to respondents, comments were received from two parties.

Comment: A commenter proposed additional emphasis by the USPTO to educate applicants, in advance, regarding proper specimens and the difference between use-based and intent-to-use applications. The commenter also suggested adding information and warnings on the USPTO Web site and during the electronic application process explaining the types of specimens that may be acceptable. The commenter additionally expressed that the USPTO could suggest to applicants that they may be able to reduce the length of the application process by submitting additional specimens with their applications.

Response: The USPTO appreciates the commenter's suggestions regarding ways to educate the public regarding the trademark process. The USPTO has developed a series of ''how-to'' videos covering important topics and critical application-filing and registration-

maintenance tips. One video entitled ''Before You File'' covers the different filing bases, while another video focuses exclusively on education about specimens. The videos can be accessed on the USPTO Web site at *http://www.uspto.gov/trademarks/process/TMIN.jsp*. The USPTO is continuously striving to improve its electronic systems and to provide helpful information and warnings to guide users throughout the trademark registration process, and provides a link to the instructional video accessed through the Trademark Electronic Application System (''TEAS'') explaining what constitutes an appropriate specimen for a good or service. While applicants are always welcome to submit additional specimens, the USPTO only requires one specimen per class, but agrees that by submitting additional specimens, applicants may in certain circumstances reduce the length of the application process by reducing the need for Office actions requesting acceptable specimens.

Notwithstanding any other provision of law, no person is 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 currently valid OMB control number.

List of Subjects

37 CFR Part 2

Administrative practice and procedure, Trademarks.

37 CFR Part 7

Administrative practice and procedure, Trademarks, International registration.

For the reasons stated in the preamble and under the authority contained in 15 U.S.C. 1123 and 35 U.S.C. 2, as amended, the USPTO amends parts 2 and 7 of title 37 as follows:

PART 2—RULES OF PRACTICE IN TRADEMARK CASES

■ 1. The authority citation for 37 CFR part 2 continues to read as follows:

Authority: 15 U.S.C. 1123, 35 U.S.C. 2, unless otherwise noted.

■ 2. Amend § 2.34 by revising paragraph (a)(1)(iv) to read as follows:

§ 2.34 Bases for filing.

(a) * * *

(1) * * *

(iv) One specimen per class showing how the applicant actually uses the mark in commerce. When requested by the Office, additional specimens must be provided.

* * * * *

■ 3. Amend § 2.56 by revising paragraph (a) to read as follows:

§ 2.56 Specimens.

(a) An application under section 1(a) of the Act, an amendment to allege use under § 2.76, and a statement of use under § 2.88 must each include one specimen per class showing the mark as used on or in connection with the goods or services. When requested by the Office as reasonably necessary to proper examination, additional specimens must be provided.

* * * * *

■ 4. Amend § 2.61 by revising paragraph (b) to read as follows:

§ 2.61 Action by examiner.

* * * * *

(b) The Office may require the applicant to furnish such information, exhibits, affidavits or declarations, and such additional specimens as may be reasonably necessary to the proper examination of the application.

* * * * *

■ 5. Amend § 2.76 by revising paragraph (b)(2) to read as follows:

§ 2.76 Amendment to allege use.

* * * * *

(b) * * *

(2) One specimen per class showing the mark as actually used in commerce. When requested by the Office, additional specimens must be provided. See § 2.56 for the requirements for specimens; and

* * * * *

■ 6. Amend § 2.86 by revising paragraphs (a)(3) and (b) to read as follows:

§ 2.86 Application may include multiple classes.

(a) * * *

(3) Include either dates of use (see §§ 2.34(a)(1)(ii) and (iii)) and one specimen for each class, or a statement of a bona fide intention to use the mark in commerce on or in connection with all the goods or services specified in each class. When requested by the Office, additional specimens must be provided. The applicant may not claim both use in commerce and a bona fide intention to use the mark in commerce for the identical goods or services in one application.

(b) An amendment to allege use under § 2.76 or a statement of use under § 2.88 must include, for each class, the required fee, dates of use, and one specimen. When requested by the Office, additional specimens must be provided. The applicant may not file the amendment to allege use or statement of use until the applicant has used the mark on all the goods or services, unless the applicant files a request to divide. See § 2.87 for information regarding requests to divide.

* * * * *

■ 7. Amend § 2.88 by revising paragraph (b)(2) to read as follows:

§ 2.88 Filing statement of use after notice of allowance.

* * * * *

(b) * * *

(2) One specimen of the mark as actually used in commerce. When requested by the Office, additional specimens must be provided. See § 2.56 for the requirements for specimens; and

* * * * *

■ 8. Amend § 2.161 by revising paragraph (g) introductory text and adding paragraph (h) to read as follows:

§ 2.161 Requirements for a complete affidavit or declaration of continued use or excusable nonuse.

* * * * *

(g) Include one specimen showing current use of the mark for each class of goods or services, unless excusable nonuse is claimed under § 2.161(f)(2). When requested by the Office, additional specimens must be provided. The specimen must:

* * * * *

(h) The Office may require the owner to furnish such information, exhibits, affidavits or declarations, and such additional specimens:

(1) As may be reasonably necessary to the proper examination of the affidavit or declaration under section 8 of the Act; or

(2) For the Office to assess the accuracy and integrity of the register.

(3) The provisions of paragraph (h)(2) of this section will no longer be applied after June 21, 2014.

■ 9. Amend § 2.173 by revising paragraph (b)(3) and adding paragraph (b)(4) to read as follows:

§ 2.173 Amendment of registration.

* * * * *

(b) * * *

(3) If the amendment involves a change in the mark: one new specimen per class showing the mark as used on or in connection with the goods or services; an affidavit or declaration under § 2.20 stating that the specimen was in use in commerce at least as early as the filing date of the amendment; and a new drawing of the amended mark. When requested by the Office, additional specimens must be provided.

(4) The Office may require the owner to furnish such specimens, information, exhibits, and affidavits or declarations as may be reasonably necessary to the proper examination of the amendment.

* * * * *

PART 7—RULES OF PRACTICE IN FILINGS PURSUANT TO THE PROTOCOL RELATING TO THE MADRID AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS

■ 10. The authority citation for 37 CFR part 7 continues to read as follows:

Authority: 15 U.S.C. 1123, 35 U.S.C. 2, unless otherwise noted.

■ 11. Amend § 7.37 by revising paragraph (g) and adding paragraph (h) to read as follows:

§ 7.37 Requirements for a complete affidavit or declaration of continued use or excusable nonuse.

* * * * *

(g) Include a specimen showing current use of the mark for each class of goods or services, unless excusable nonuse is claimed under § 7.37(f)(2). When requested by the Office, additional specimens must be provided. The specimen must meet the requirements of § 2.56 of this chapter.

(h) The Office may require the holder to furnish such information, exhibits, affidavits or declarations, and such additional specimens:

(1) As may be reasonably necessary to the proper examination of the affidavit or declaration under section 71 of the Act; or

(2) For the Office to assess the accuracy and integrity of the register.

(3) The provisions of paragraph (h)(2) of this section will no longer be applied after June 21, 2014.

Dated: May 15, 2012.

David J. Kappos,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2012–12178 Filed 5–21–12; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2011–0819; FRL–9674–5]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Baltimore Nonattainment Area Determinations of Attainment of the 1997 Annual Fine Particulate Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking action to finalize two separate and independent determinations regarding the fine particulate matter ($PM_{2.5}$) nonattainment area of Baltimore (hereafter referred to as the ''Baltimore Area'' or ''Area''). First, EPA is determining that the Baltimore Area has attained the 1997 annual $PM_{2.5}$ National Ambient Air Quality Standard (NAAQS) under the Clean Air Act (CAA). This determination is based upon complete, quality-assured, and certified ambient air monitoring data for the 2008–2010 monitoring period showing that the Area has monitored attainment of the 1997 annual $PM_{2.5}$ NAAQS, and data available to date for 2011 in EPA's Air Quality System (AQS) database showing that the Area continues to attain. Under EPA's $PM_{2.5}$ implementation regulations, this final determination suspends obligation of the Area to submit an attainment demonstration and associated reasonably available control measures and reasonably available control technologies (RACM/RACT), a reasonable further progress (RFP) plan, contingency measures, and other planning State Implementation Plan (SIP) revisions related to the attainment of the standard for so long as the Area continues to attain the 1997 annual $PM_{2.5}$ NAAQS. EPA is also determining, based on complete quality-assured and certified monitoring data for the 2007–2009 monitoring period, that the Area attained the 1997 annual $PM_{2.5}$ NAAQS by its applicable attainment date of April 5, 2010. In addition, EPA is withdrawing its July 31, 2009 (74 FR 38161) proposed determination of attainment for the Baltimore Area, because more recent monitoring data has become available. EPA is finalizing a determination of attainment for the Baltimore Area, in accordance with the requirements of the (CAA).

DATES: This final rule is effective on June 21, 2012.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2011–0819. All documents in the docket are listed in the *www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, i.e., 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 for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

FOR FURTHER INFORMATION CONTACT: Emlyn Vélez-Rosa, (215) 814–2038, or by email at *velez-rosa.emlyn@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. Background
II. What is EPA's analysis of the relevant air quality data?
III. Summary of Public Comment and EPA Response
IV. Final Action

I. Background

On July 18, 1997 (62 FR 36852), EPA established a health-based $PM_{2.5}$ NAAQS at 15.0 micrograms per cubic meter (μg/m³) based on a 3-year average of annual mean $PM_{2.5}$ concentrations (hereafter referred to as ''the annual $PM_{2.5}$ NAAQS'' or ''the annual standard''). At that time, EPA also established a 24-hour standard of 65 μg/m³ (the ''1997 24-hour standard''). *See* 40 CFR 50.7. On January 5, 2005 (70 FR 944), EPA published its air quality designations and classifications for the 1997 $PM_{2.5}$ NAAQS based upon air quality monitoring data from those monitors for calendar years 2001–2003. These designations became effective on April 5, 2005. The Baltimore Area was designated nonattainment for the 1997 $PM_{2.5}$ NAAQS during this designations process. *See* 40 CFR 81.321 (Maryland).

On October 17, 2006 (71 FR 61144), EPA retained the 1997 annual $PM_{2.5}$ NAAQS at 15.0 μg/m³ based on a 3-year average of annual mean $PM_{2.5}$ concentrations, and promulgated a 24-hour standard of 35 μg/m³ based on a 3-year average of the 98th percentile of 24-hour concentrations (the ''2006 24-hour standard''). On November 13, 2009, EPA designated the Baltimore

Area as attainment for the 2006 24-hour standard. In that action, EPA also clarified the designations for the $PM_{2.5}$ NAAQS promulgated in 1997, stating that the Baltimore Area was attainment for the 1997 24-hour standard (74 FR 58688). Today's action, however, does not address either the 1997 or the 2006 24-hour standard.

In response to legal challenges of the annual standard promulgated in 2006, the U.S. Court of Appeals for the District of Columbia Circuit (DC Circuit) remanded this standard to EPA for further consideration. *See American Farm Bureau Federation and National Pork Producers Council, et al.* v. *EPA,* 559 F.3d 512 (DC Cir. 2009). However, given that the 1997 and 2006 annual standards are essentially identical, attainment of the 1997 annual standard would also indicate attainment of the remanded 2006 annual standard.

On April 25, 2007 (72 FR 20664), EPA promulgated its $PM_{2.5}$ implementation rule, codified at 40 CFR part 51, subpart Z, in which EPA provided guidance for state and tribal plans to implement the 1997 $PM_{2.5}$ standard. This rule, at 40 CFR 51.1004(c), specifies some of the regulatory consequences of attaining the standard, as discussed later.

Under CAA section 179(c), EPA is required to make a determination that a $PM_{2.5}$ nonattainment area has attained by its applicable attainment date, and publish that determination in the **Federal Register**. On November 23, 2011 (76 FR 72374), EPA published a notice of proposed rulemaking (NPR) for the State of Maryland, proposing to determine that the Baltimore Area has attained the 1997 annual $PM_{2.5}$ NAAQS, based on the most recent three years of complete, quality-assured and certified data and data available to date for 2011. EPA also proposed, based on complete, quality-assured and certified data for 2007–2009 that the Area attained the 1997 annual $PM_{2.5}$ NAAQS by its applicable attainment date of April 5, 2010. EPA's determinations are in accordance with the CAA, EPA's $PM_{2.5}$ Implementation Rule of April 25, 2007 (72 FR 20664), and other applicable regulations. During the comment period on its proposed determinations, EPA received a comment letter from Earthjustice on December 23, 2011. A summary of the comments submitted by Earthjustice and EPA's responses are provided in section III of this document.

II. What is EPA's analysis of the relevant air quality data?

EPA has reviewed the ambient air monitoring data for $PM_{2.5}$, consistent with the requirements contained in 40 CFR part 50 and based on data from the EPA AQS database for the Baltimore Area, for the monitoring periods of 2007–2009, 2008–2010, and for data available to date for 2011. Based upon the most recent three years of complete, quality-assured, quality-controlled, and certified ambient air monitoring data as well as the data available to date for 2011, EPA determines that the Baltimore Area has monitored attainment of the 1997 annual $PM_{2.5}$ standard. EPA also determines, based on complete, quality-assured and certified 2007–2009 monitoring data, that the Area attained the 1997 annual $PM_{2.5}$ NAAQS by its applicable attainment date of April 5, 2010.

Under EPA regulations at 40 CFR 50.7(b), the annual primary and secondary $PM_{2.5}$ standards are met when the annual arithmetic mean concentration, as determined in accordance with 40 CFR part 50, appendix N, is less than or equal to 15.0 $\mu g/m^3$. The values calculated in accordance with 40 CFR part 50, appendix N, are referred to as design values, and these values are used to determine if an area is attaining the $PM_{2.5}$ NAAQS.

The air quality monitoring network design criteria, established in 40 CFR part 58 appendix D, describe the specific requirements for the number and location of Federal Reference Method (FRM), Federal Equivalent Method (FEM), and Approved Regional Method (ARM) monitoring sites for specific pollutants. The network criteria apply to the Baltimore-Towson, Maryland Metropolitan Statistical Area (hereby ''the Baltimore MSA''), which consists of Baltimore City and the counties of Anne Arundel, Baltimore, Carroll, Harford, Howard, and Queen Anne's. Metropolitan areas are determined using the statistical-based definitions provided by the Office of Management and Budget and the Census Bureau. Section 4.7.1 of appendix D requires the Baltimore MSA network to operate at a minimum two $PM_{2.5}$ monitoring sites. Currently, the Baltimore MSA network consists of eight $PM_{2.5}$ FRM monitors and one $PM_{2.5}$ FEM monitor. Thus, EPA has determined that the $PM_{2.5}$ monitoring network in the Baltimore MSA is adequate, in accordance with 40 CFR part 58, appendix D.

Additionally, EPA has determined that the $PM_{2.5}$ Baltimore MSA monitoring network meets all relevant criteria specified in 40 CFR part 58 and is in accordance with the monitoring network plans that have been reviewed and approved by EPA on an annual basis. Additional information about the monitoring network and air quality data was included in the Technical Support Document (TSD) for this action which is available online at *www.regulations.gov,* Docket number EPA–R03–OAR–2011–0819.

III. Summary of Public Comment and EPA Response

The commenter, Earthjustice, objected generally to EPA's proposed attainment determination for the 1997 annual $PM_{2.5}$ NAAQS for the Baltimore nonattainment area, on the basis that such determination relies on deficient monitoring data. The commenter asserts that there are various deficiencies with the monitoring network and data.

Comment: The commenter contended that there were specific deficiencies with the monitoring network, citing Maryland's 5-Year Network Assessment. The commenter asserts that Maryland has not assured that adequate mandatory continuous monitors for $PM_{2.5}$ are in place in the Baltimore MSA as required by 40 CFR part 58 appendix D, section 4.7.2. The commenter asserts that Maryland Department of Environment (MDE) explains in its assessment that failure to meet these requirements is caused by a ''technicality'' while testing a continuous monitor, AQS ID: 24–510–0040 (Oldtown), in the Baltimore MSA. The commenter indicates it is unclear whether the affected monitor was collecting adequate continuous $PM_{2.5}$ data during this testing period and whether this data was used in the clean data finding.

Response: The network design criteria, in 40 CFR part 58, appendix D, section 4.7.2, requires that the State must operate in the $PM_{2.5}$ network continuous monitors that are at least one-half of the minimum number of the required sites, of which at least one must be collocated with a required FRM monitor. According to Table D–5 of appendix D, the Baltimore MSA is required to have a minimum of two $PM_{2.5}$ monitoring sites, and thus is required to have one continuous monitor in the network. To meet this requirement, one $PM_{2.5}$ Beta Attenuation Mass (BAM) FEM monitor is operated in the Baltimore MSA monitoring network which is collocated with an FRM monitor at the monitoring site AQS ID: 24–510–0040 (Oldtown).

During July 2008 thru July 2010, the continuous BAM FEM monitor was tested to ensure that it was operating properly. Thus, during this time the continuous monitor was designated as a Special Purpose Monitor (SPM). The test consisted of a correlation study to compare the data from the FRM monitor with the continuous BAM FEM data.

The study showed that the data being collected by the continuous BAM FEM monitor correlated sufficiently well, and therefore, continuous $PM_{2.5}$ data from the Oldtown site was shown to be adequate. As a result, as of July 2010, the continuous monitor was no longer designated as an SPM, and is now considered a collocated monitor. The continuous BAM FEM monitor is currently collocated with an FRM monitor at the Oldtown site and data from these monitors during 2008–2010 is presented in Table 1.

Because Oldtown is a middle scale station which has not been determined to be a population-oriented site representative of many such locations throughout the Baltimore MSA, the data from that site is not used for comparison to the annual $PM_{2.5}$ NAAQS. *See* 40 CFR 58.30. Although the Oldtown monitoring site was not considered for the attainment determination, the monitoring data from Oldtown recorded $PM_{2.5}$ levels below the level of the annual $PM_{2.5}$ NAAQS during the time period of 2008–2010. Similarly, the 2011 preliminary data from both the FRM and BAM FEM in Oldtown showed levels below the annual $PM_{2.5}$ NAAQS. *See* the publicly available FRM/FEM data comparison tool provided by EPA at *http://www.epa.gov/airquality/airdata/ad_rep_frmvfem.html.* This tool shows that the FRM and continuous BAM FEM at the Oldtown site have good comparability. For additional information about testing continuous monitors, *see* the Technical Memorandum, ''Implementing Continuous $PM_{2.5}$ Federal Equivalent Methods (FEMs) and Approved Regional Methods (ARMs) in State or Local Air Monitoring Station (SLAMS) Networks,'' in *http://www.epa.gov/ttn/airs/airsaqs/memos/Use%20of%20PM2.5%20FEMS%20and%20ARMs%20in%20SLAMS%20Network.pdf.*

TABLE 1—MONITORING SITE ID. NO. 24–510–0040 (OLDTOWN) 2008–2010 $PM_{2.5}$ DATA (IN μG/M³)

Site name	Site ID	2008 Annual mean	2009 Annual mean	2010 Annual mean	2010 Design value	2011 Annual mean **
Maryland Oldtown	24–510–0040 POC 1	12.8	11.2	11.2	11.7	11.7
Maryland Oldtown continuous	24–510–0040 POC 3	13.7*	12.1	12.7	12.8	13.1

* Incomplete data for 2008.
** Based on preliminary data for 2011.

Comment: The commenter raises, with regard to the monitoring network adequacy of the Baltimore MSA, that, as of September 2010, Maryland had not satisfied the requirement to designate a monitoring station in the Baltimore MSA as a maximum $PM_{2.5}$ concentration site. *Id.* 40 CFR part 58, appendix D, section 4.7.1(b)(1). MDE's 5-year network assessment states that it planned to classify the monitoring site Id. No. 24–510–0040 (Oldtown) as the highest concentration $PM_{2.5}$ site for the Baltimore MSA. *See* Maryland 5-Year Network Assessment.

Response: Maryland satisfies the maximum $PM_{2.5}$ concentration site requirements, set forth in 40 CFR part 58, appendix D, section 4.7.1(b)(1) for the Baltimore MSA which requires at least one monitoring station at a population-oriented area of maximum concentration. The Maryland 5-Year Network assessment identifies two possible locations in the Baltimore MSA as highest concentration: the Oldtown monitoring station and the Fire Station 20 monitoring station, AQS ID 245100008 (*see* Maryland 5-Year Network Assessment, page 53). Data from the Fire Station 20, which is a neighborhood scale site representing community wide air quality, was used in the determination of attainment. However, because Oldtown does not meet the siting requirements for comparing the data to the annual $PM_{2.5}$ NAAQS, the monitoring data from that site was not used in the determination of attainment. Even if the data from the Oldtown monitoring was eligible for comparison to the annual $PM_{2.5}$ NAAQS, it shows that the site is attaining the annual $PM_{2.5}$ NAAQS. *See* Table 1.

Comment: The commenter asserts that by not using the monitoring data from site Id. No. 24–510–0040 (Oldtown), EPA's attainment determination is inconsistent with the 1992 EPA Guidance regarding NAAQS attainment determinations. *See* Memorandum of September 4, 1992 from John Calcagni, Director, Air Quality Management Division, to EPA Air Division Directors, ''Procedures for Processing Requests to Redesignate Areas to Attainment.'' This memorandum explicitly states that data used to demonstrate attainment ''should be the product of ambient monitoring that is representative of the area of highest concentration.''

Response: EPA did use monitoring data from a population oriented monitoring site of expected maximum concentration, i.e., the Fire Station 20 monitoring site (AQS ID: 24–510–0008). As part of this assessment, data for 2008–2010 from Fire Station 20 site show concentration levels that are below the level of the annual $PM_{2.5}$ NAAQS at this maximum concentration site. Because the monitoring site Id. No. 24–510–0040 (Oldtown) is not a population oriented monitor representative of community wide air quality, the data from that site is not eligible for comparison to the annual $PM_{2.5}$ NAAQS. Moreover, monitoring data from site Id. No. 24–510–0040 (Oldtown) is currently used in determining Baltimore Area's compliance with the $PM_{2.5}$ 24-hour NAAQS. Additionally, even if EPA had reviewed data from the Oldtown location for comparison to the annual $PM_{2.5}$ NAAQS, the data for 2008–2010 reflects that the concentration levels at the site are below the level of the annual $PM_{2.5}$ NAAQS at this location. Thus, this would not have changed EPA's action to find that the Baltimore nonattainment area currently is attaining the NAAQS. The Oldtown data is provided in Table 1, but was not used in determining attainment of the Baltimore Area for the annual $PM_{2.5}$ NAAQS.

Comment: The commenter asserts that MDE did not provide reasoned justification that the existing monitoring network was sufficient to capture representative $PM_{2.5}$ concentrations and populations exposures for Baltimore City, after removing the monitor ID 24–510–0035 (FMC-Fairfield), which was originally classified as a neighborhood monitor.

Response: The Baltimore MSA has an adequate $PM_{2.5}$ monitoring network. 40 CFR part 58, appendix D requires two monitors in the Baltimore MSA, which currently has eight monitors in place. Further, the monitoring network meets all relevant criteria specified in part 58 and is in accordance with the monitoring network plans that have

been reviewed and approved by EPA on an annual basis.

The FMC-Fairfield monitor was shut down due to the demolition of the FMC-Fairfield Agricultural Plant. At the time of the FMC-Fairfield closure in 2008, the FMC-Fairfield monitor was showing annual means that attained the annual $PM_{2.5}$ standard. Because the Baltimore MSA already had sufficient number of $PM_{2.5}$ monitors in its network, MDE did not need to relocate the FMC-Fairfield monitor to another site. Also, contrary to commenter's assertion, EPA's supporting documents include sufficient justification for removing the monitor from this location. *See* TSD attachments, ''MDE's Analysis regarding Closure of the FMC $PM_{2.5}$ Monitor'' and ''Notification by Maryland Department of the Environment (MDE) regarding the closure of the FMC $PM_{2.5}$ Monitor.'' MDE explained that the FMC-Fairfield monitoring site was no longer meeting the population-oriented siting requirements that reflect community wide air quality. When originally located, the FMC-Fairfield monitor met these siting requirements. However, conditions around the monitor location changed over time and the 2000 census data shows that the population density around the FMC-Fairfield monitor has declined. FMC-Fairfield, thus, no longer met its intended purpose of providing data for neighborhood scale/population exposure. Data from the monitoring site ID 24–510–0035 (FMC-Fairfield) was comparable to the monitoring site Id. No. 24–510–0008 (Fire Station 20). Since 2008, Fire Station 20 has shown annual $PM_{2.5}$ means below the annual NAAQS.

Comment: The commenter asserts that the monitoring site Id. No. 24–510–0008 (Fire Station 20), which they believe is representative of the communities surrounding the FMC-Fairfield monitoring site, did not satisfy the completeness criteria for the 2010 period.

Response: The commenter's statement that the data at monitor location Id. No. 24–510–0008 (Fire Station 20) does not satisfy the completeness criteria for 2010 is incorrect. As explained in the TSD, the missing data from the primary monitor at this location for the first quarter of 2010 was replaced with data from a collocated monitor at the same site location to meet the completeness monitoring data requirement of 40 CFR part 50, appendix N. Missing data from a primary monitor at a site does not necessarily mean that the data at the monitoring site is incomplete. When data from a collocated monitor is used to substitute for missing data at a primary monitor, the data at the monitor location is considered to be complete if EPA regulations and guidance are followed for performing the necessary data substitution. Specifically, section 3.0 of 40 CFR part 50, appendix N specifies that if a valid 24-hour measurement is not produced from the primary monitor for a particular day, but a valid sample is generated by a collocated monitor, then that collocated value shall be considered part of the site data. In order to replace the missing data, the collocated substitution was followed, in accordance with the procedures explained in ''Guideline on Data Handling Conventions for the PM NAAQS,'' EPA–454/R–99–008 (April 1999). The substitution requires replacing the missing data from the primary monitor with collocated data for the same year and quarter, provided that the site has valid data for at least 50 percent of the scheduled number of samples for each quarter for all three years, and that the emissions and meteorology for the quarters to be substituted are comparable to the emissions and meteorology for the quarters in question. Air quality data from Fire Station 20 monitoring site met these criteria and thus the collocated data sampled at the site was used to complete the missing data from the primary monitor. Therefore, monitoring site Id. No. 24–510–0008 (Fire Station 20) has complete data for the year 2010.

IV. Final Action

First, EPA determines that Baltimore Area has attained the 1997 annual $PM_{2.5}$ NAAQS, based on the complete, quality assured and certified data from 2008–2010, and data available to date in AQS for 2011. Pursuant to 40 CFR 51.1004(c), this determination of attainment will suspend the requirements for Maryland to submit for the Baltimore Area an attainment demonstration and associated RACM/RACT, RFP plan, contingency measures, and other planning SIP revisions related to the attainment of the standard for so long as the Area continues to attain the 1997 annual $PM_{2.5}$ NAAQS. In addition, EPA is finalizing a separate and independent determination that the Baltimore Area attained the 1997 annual $PM_{2.5}$ standard by the applicable attainment date of April 5, 2010, thereby satisfying EPA's obligation pursuant to section 179(c)(1) of the CAA to make a determination of whether the Area attained the standard by the applicable attainment date.

Finalizing this action does not constitute a redesignation of the Baltimore Area to attainment for the 1997 annual $PM_{2.5}$ NAAQS under CAA section 107(d)(3). Further, finalizing this action does not involve approving a maintenance plan for the Baltimore Area, nor does it involve a determination that the Area has met all the requirements for redesignation under the CAA. Therefore, the designation status of the Baltimore $PM_{2.5}$ nonattainment area will remain nonattainment for the 1997 annual $PM_{2.5}$ NAAQS until such time as EPA takes final rulemaking action to determine that such portions meet the CAA requirements for redesignation to attainment.

V. Statutory and Executive Order Reviews

A. General Requirements

This action finalizes attainment determinations based on air quality data and does not impose any additional requirements. For that reason, this action:

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

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 23, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This determination that the Baltimore Area has attained the 1997 p.m.$_{2.5}$ NAAQS may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: May 8, 2012.

W.C. Early,

Acting, Regional Administrator, Region III.

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 V—Maryland

■ 2. Section 52.1081 is amended by adding paragraph (c) to read as follows:

§ 52.1081 Control strategy: Particulate matter.

* * * * *

(c) *Determination of Attainment.* EPA has determined, as of May 22, 2012, based on ambient air quality data of 2008 to 2010 and the preliminary data of 2011, that the $PM_{2.5}$ nonattainment area of Baltimore, Maryland has attained the 1997 annual $PM_{2.5}$ NAAQS. This determination, in accordance with 40 CFR 51.1004(c), suspends the requirements for this area to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning SIPs related to attainment of the standard for as long as this area continues to meet the 1997 annual $PM_{2.5}$ NAAQS.

■ 3. Section 52.1082 is amended by adding paragraph (e) to read as follows:

§ 52.1082 Determinations of attainment.

* * * * *

(e) Based upon EPA's review of the air quality data for the 3-year period 2007 to 2009, EPA determined that the $PM_{2.5}$ nonattainment area of Baltimore, Maryland attained the 1997 annual $PM_{2.5}$ NAAQS by the applicable attainment date of April 5, 2010. Therefore, EPA has met the requirement pursuant to CAA section 179(c) to determine, based on the area's air quality as of the attainment date, whether the area attained the NAAQS. EPA has also determined that the $PM_{2.5}$ nonattainment area of Baltimore, Maryland is not subject to the consequences of failing to attain pursuant to section 179(d).

[FR Doc. 2012–12230 Filed 5–21–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2009–0689; FRL–9674–4]

Approval and Promulgation of Air Quality Implementation Plans; Vermont; Regional Haze

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a revision to the Vermont State Implementation Plan (SIP) that addresses regional haze for the first planning period from 2008 through 2018. The revision was submitted by the Vermont Department of Environmental Conservation (VT DEC) on August 26, 2009, with a supplemental submittal on January 3, 2012. This revision addresses the requirements of the Clean Air Act (CAA) and EPA's regulations that require States to prevent any future, and remedy any existing, manmade impairment of visibility in mandatory Class I Areas caused by emissions of air pollutants from numerous sources located over a wide geographic area (also referred to as the ''regional haze program'').

DATES: *Effective Date:* This rule is effective on June 21, 2012.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R01–OAR–2009–0689. 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, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

Copies of the documents relevant to this action are also available for public inspection during normal business hours, by appointment at the Air Pollution Control Division, Agency of Natural Resources, Building 3 South, 103 South Main Street, Waterbury, VT 05676.

FOR FURTHER INFORMATION CONTACT: Anne McWilliams, Air Quality Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail Code OEP05–02), Boston, MA 02109—3912, telephone number (617) 918–1697, fax number (617) 918–0697, email *mcwilliams.anne@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. The following outline is provided

to aid in locating information in this preamble.

I. Background and Purpose
II. Final Action
III. Statutory and Executive Order Reviews

I. Background and Purpose

On February 28, 2012, EPA published a Notice of Proposed Rulemaking (NPR) for the State of Vermont. See 77 FR 11914. The NPR proposed approval of the Vermont State Implementation Plan (SIP) that addresses regional haze for the first planning period from 2008 through 2018. It was submitted by the VT DEC on August 26, 2009, with a supplemental submittal on January 3, 2012. Specifically, EPA proposed to approve Vermont's August 26, 2009 SIP revision, and its supplement, as meeting the applicable implementing regulations found in 40 CFR 51.308. EPA also proposed to approve Vermont's revised Section 5–221, ''Prohibition of Potentially Polluting Materials in Fuel,'' and incorporate this regulation into the Vermont SIP.

A detailed explanation of the requirements for regional haze SIPs, as well as EPA's analysis of Vermont's Regional Haze SIP submittal was provided in the NPR and is not restated here.

EPA received one comment on the NPR. It was from the U.S. Forest Service in support of the proposed approval of Vermont's Regional Haze SIP submittal.

II. Final Action

EPA is approving Vermont's August 26, 2009 SIP revision and supplemental submittal on January 3, 2012, as meeting the applicable implementing regulations found in 40 CFR 51.308. In addition, EPA is approving Vermont's revised Section 5–221, ''Prohibition of Potentially Polluting Materials in Fuel,'' and incorporating this regulation into the Vermont SIP.

III. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 23, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See Clean Air Act § 307(b)(2), 42 U.S.C. 7607(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: May 8, 2012.

Ira W. Leighton,

Acting Regional Administrator, EPA Region 1.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart UU—Vermont

■ 2. Section 52.2370 is amended by revising the entry for Section 5–221 in paragraph (c) and adding a new entry at the end of the table in paragraph (e) to read as follows:

§ 52.2370 Identification of plan.

* * * * *

(c) *EPA-approved regulations.*

EPA-APPROVED VERMONT REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanations
*	*	*	*	*
Section 5–221	Prohibition of potentially polluting materials in fuel	10/14/2011	5/22/2012 [Insert **Federal Register** page number where the document begins].	Approve revised Section 5–221(1).
*	*	*	*	*

* * * * * (e) *Nonregulatory.*

VERMONT NON-REGULATORY

Name of non-regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/ effective date	EPA-approved date	Explanations
*	*	*	*	*
Vermont Regional Haze SIP and its supplement.	Statewide	8/26/2009; supplement submitted 1/3/2012.	5/22/2012 [Insert **Federal Register** page number where the document begins].	

[FR Doc. 2012–12233 Filed 5–21–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2009–0631; FRL–9674–3]

Approval and Promulgation of Air Quality Implementation Plans; Rhode Island; Regional Haze

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a revision to the Rhode Island State Implementation Plan (SIP) that addresses regional haze for the first planning period from 2008 through 2018. The revision was submitted by the Rhode Island Department of Environmental Management (RI DEM) on August 7, 2009. This revision addresses the requirements of the Clean Air Act (CAA) and EPA's regulations that require States to prevent any future, and remedy any existing, manmade impairment of visibility in mandatory Class I Areas caused by emissions of air pollutants from numerous sources located over a wide geographic area (also referred to as the ''regional haze program'').

DATES: *Effective Date:* This rule is effective on June 21, 2012.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R01–OAR–2009–0631. 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, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

Copies of the documents relevant to this action are also available for public inspection during normal business hours, by appointment at the Office of Air Resources, Department of Environmental Management, 235 Promenade Street, Providence, RI 02908–5767.

FOR FURTHER INFORMATION CONTACT: Anne McWilliams, Air Quality Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail Code OEP05–02), Boston, MA 02109–3912, telephone number (617) 918–1697, fax number (617) 918–0697, email *mcwilliams.anne@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

The following outline is provided to aid in locating information in this preamble.

I. Background and Purpose
II. Final Action
III. Statutory and Executive Order Reviews

I. Background and Purpose

On February 28, 2012, EPA published a Notice of Proposed Rulemaking (NPR) for the State of Rhode Island. See 77 FR 11798. The NPR proposed approval of the Rhode Island State Implementation Plan (SIP) that addresses regional haze for the first planning period from 2008 through 2018. It was submitted by the RI DEM on August 7, 2009. Specifically, EPA proposed to approve Rhode Island's August 7, 2009 SIP revision as meeting the applicable implementing regulations found in 40 CFR 51.308.

A detailed explanation of the requirements for regional haze SIPs, as well as EPA's analysis of Rhode Island's Regional Haze SIP submittal was provided in the NPR and is not restated here.

EPA received comments on the NPR from the U.S. Forest Service and Dominion Energy, Inc. in support of our

proposed approval of Rhode Island's Regional Haze SIP submittal.

II. Final Action

EPA is approving Rhode Island's August 9, 2009 Regional Haze SIP revision as meeting the applicable implementing regulations found in 40 CFR 51.308.

III. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 23, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See Clean Air Act § 307(b)(2), 42 U.S.C. 7607(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: May 8, 2012.

Ira W. Leighton,

Acting Regional Administrator, EPA Region 1.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart OO—Rhode Island

■ 2. Section 52.2070 is amended by adding an entry at the end of the table in paragraph (e) to read as follows:

§ 52.2070 Identification of plan.

* * * * *

(e) *Nonregulatory.*

RHODE ISLAND NON REGULATORY

Name of non regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approved date	Explanations
*	*	*	*	*
Rhode Island Regional Haze SIP.	Statewide	Submitted 8/7/2009	5/22/2012 [Insert **Federal Register** page number where the document begins].	

[FR Doc. 2012–12289 Filed 5–21–12; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2009–0696; FRL–9673–4]

Approval and Promulgation of Air Quality Implementation Plans; Maine; Reasonably Available Control Technology (RACT) for the 1997 8-Hour Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving several State Implementation Plan (SIP) revisions submitted by the State of Maine Department of Environmental Protection. These SIP revisions consist of a demonstration that Maine meets the requirements of reasonably available control technology (RACT) for oxides of nitrogen (NO_X) and volatile organic compounds (VOCs) set forth by the Clean Air Act (CAA) with respect to the 1997 8-hour ozone standard as well as several new and revised VOC regulations. The intended effect of this action is to approve Maine's RACT demonstration for satisfying the State's RACT SIP revision obligation as of September 15, 2006, and to approve Maine's other submitted SIP regulations. This action is being taken in accordance with the CAA.

DATES: *Effective Date:* This rule is effective on June 21, 2012.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R01–OAR–2009–0696. 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, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

Copies of the documents relevant to this action are also available for public inspection during normal business hours, by appointment at the State Air Agency: Bureau of Air Quality Control, Department of Environmental Protection, First Floor of the Tyson Building, Augusta Mental Health Institute Complex, Augusta, ME 04333–0017.

FOR FURTHER INFORMATION CONTACT: Ariel Garcia, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail Code: OEP05–02), Boston, MA 02109–3912, telephone number (617) 918–1660, fax number (617) 918–0660, email *garcia.ariel@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

The following outline is provided to aid in locating information in this preamble.

I. Background and Purpose
II. Final Action
III. Statutory and Executive Order Reviews

I. Background and Purpose

On March 15, 2012 (77 FR 15329), EPA published a Notice of Proposed Rulemaking (NPR) for the State of Maine. The NPR proposed approval of Maine's RACT demonstration for satisfying the State's RACT SIP revision obligation as of September 15, 2006 and proposed approval of Maine's five other submitted SIP regulations aimed at reducing VOC emissions. Amongst Maine's other submitted SIP regulations are two amended regulations and one newly adopted regulation, covering a total of four of the 11 Control Techniques Guidelines (CTGs) issued since 2006. The state must still address the remaining seven CTGs.

A detailed explanation of the applicable NO_X and VOC RACT CAA requirements with respect to the 1997 8-hour ozone standard, as well as EPA's analysis of Maine's RACT SIP submittal and Maine's other VOC regulations were provided in the NPR and will not be restated here. No public comments were received on the NPR.

II. Final Action

EPA is approving Maine's RACT demonstration as meeting the state's SIP revision obligation as of September 15, 2006 with respect to the 1997 8-hour ozone standard. EPA is also approving and incorporating into the Maine SIP an amendment (A–459–71–D–A, also referred to as ''Amendment #2'') of the Air Emission License A–459–72–B–R issued to the McCain Foods USA, Inc., Tatermeal facility.

In addition, EPA is also approving the following Maine regulations and incorporating them into the Maine SIP: Revised Chapter 131, Cutback Asphalt and Emulsified Asphalt Regulation; revised Chapter 123, Control of Volatile Organic Compounds from Paper, Film and Foil Coating Operations; revised Chapter 129, Surface Coating Facilities; revised Chapter 152, Control of Volatile Organic Compounds from Consumer Products; and newly adopted Chapter 161, Graphic Arts—Lithography and Letterpress Printing.

III. Statutory and Executive Order Reviews

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

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

Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 23, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See CAA section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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: May 8, 2012.

Ira W. Leighton,

Acting Regional Administrator, EPA Region 1.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart U—Maine

■ 2. Section 52.1020 is amended by:

■ a. Amending the table in paragraph (c) entitled ''EPA-Approved Maine Regulations'' by revising entries for Chapters 123, 129, 131, and 152, and adding a new entry in numerical order for Chapter 161.

■ b. Amending the table in paragraph (d) entitled ''EPA-Approved Maine Source Specific Requirements'' by adding a new entry at the end of the table for McCain Foods.

■ c. Amending the table in paragraph (e) entitled ''Maine Non Regulatory'' by adding a new entry at the end of the table for Reasonably Available Control Technology Demonstration (RACT).

The revisions and additions read as follows:

§ 52.1020 Identification of plan.

* * * * *

(c) *EPA approved regulations.*

EPA-APPROVED MAINE REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanations
* *	*	*	* *	*
Chapter 123	Control of Volatile Organic Compounds from Paper, Film, and Foil Coating Operations.	05/18/2010	05/22/2012 [Insert **Federal Register** page number where the document begins].	
* *	*	*	* *	*
Chapter 129	Surface Coating Facilities	04/16/2011	05/22/2012 [Insert **Federal Register** page number where the document begins].	
* *	*	*	* *	*
Chapter 131	Cutback Asphalt and Emulsified Asphalt.	09/15/2009	05/22/2012 [Insert **Federal Register** page number where the document begins].	
* *	*	*	* *	*
Chapter 152	Control of Volatile Organic Compounds from Consumer Products.	12/15/2007	05/22/2012 [Insert **Federal Register** page number where the document begins].	
* *	*	*	* *	*
Chapter 161	Graphic Arts—Offset Lithography and Letterpress Printing.	04/06/2010	05/22/2012 [Insert **Federal Register** page number where the document begins].	
* *	*	*	* *	*

(d) *EPA-approved State Source specific requirements.*

EPA-APPROVED MAINE SOURCE SPECIFIC REQUIREMENTS

Name of source	Permit No.	State effective date	EPA approval date	Explanations
* *	*	*	* *	*
McCain Foods USA, Inc., Tatermeal Facility.	Amendment #2 of Air Emission License A–459–72–B–R.	03/19/2003	05/22/2012 [Insert **Federal Register** page number where the document begins].	

(e) *Nonregulatory.*

MAINE NON REGULATORY

Name of non regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA-approved date	Explanations
* *	*	*	* *	*
Reasonably Available Control Technology Demonstration (RACT) for the 1997 8-hour Ozone National Ambient Air Quality Standard.	Statewide	Submitted 08/27/2009	05/22/2012 [Insert **Federal Register** page number where the document begins].	

[FR Doc. 2012–12226 Filed 5–21–12; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 65

[Docket ID FEMA–2012–0003; Internal Agency Docket No. FEMA–B–1253]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the Base (1% annual-chance) Flood Elevations (BFEs) is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified BFEs for new buildings and their contents.

DATES: These modified BFEs are currently in effect on the dates listed in the table below and revise the Flood Insurance Rate Maps (FIRMs) in effect prior to this determination for the listed communities.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Deputy Associate Administrator for Mitigation reconsider the changes. The modified BFEs may be changed during the 90-day period.

ADDRESSES: The modified 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 modified BFEs are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified BFE determinations are available for inspection is provided.

Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. 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. The changes in BFEs are in accordance with 44 CFR 65.4.

National Environmental Policy Act. This interim 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 interim 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 interim rule involves no policies that have federalism implications under Executive Order 13132, Federalism.

Executive Order 12988, Civil Justice Reform. This interim rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

■ 1. The authority citation for part 65 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.

§ 65.4 [Amended]

■ 2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location and case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Florida: Sumter	Unincorporated areas of Sumter County (11–04–4816P).	September 22, 2011; September 29, 2011; *The Sumter County Times.*	The Honorable Don Burgess, Chairman, Sumter County Board of Commissioners, 7375 Powell Road, Wildwood, FL 34785.	January 27, 2011	120296
Georgia: Bryan	City of Richmond Hill, (11–04–4401P).	December 7, 2011; December 14, 2011; *The Bryan County News.*	The Honorable E. Harold Fowler,Mayor, City of Richmond Hill, 40 Richard Davis Drive, Richmond Hill, GA 31324.	November 29, 2011	130018

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: May 3, 2012.

Sandra K. Knight,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2012–12290 Filed 5–21–12; 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: 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
Fremont County, Colorado, and Incorporated Areas Docket No.: FEMA–B–1194			
Abbey Drainageway	Approximately 0.48 mile upstream of the Arkansas River confluence.	+5,274	City of Canon City, Unincorporated Areas of Fremont County.
	Approximately 1,400 feet upstream of Central Avenue	+5,396	
Fourmile Creek	Approximately 1,280 feet upstream of the Arkansas River confluence.	+5,257	City of Canon City, Unincorporated Areas of Fremont County.
	Approximately 1.39 miles upstream of U.S. Route 50	+5,361	
Mudd Gulch	Approximately 1,200 feet upstream of the Arkansas River confluence.	+5,239	City of Canon City, Unincorporated Areas of Fremont County.
	Approximately 0.64 mile upstream of Fourmile Parkway	+5,514	

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
Mudd Gulch Split Flow	At the upstream side of the railroad	+5,235	Unincorporated Areas of Fremont County.
	Approximately 0.67 mile upstream of the Arkansas River confluence.	+5,250	

* 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 Canon City
Maps are available for inspection at City Hall, 128 Main Street, Canon City, CO 81212.

Unincorporated Areas of Fremont County
Maps are available for inspection at the Fremont County Courthouse, 615 Macon Avenue, Canon City, CO 81212.

Troup County, Georgia, and Incorporated Areas
Docket No.: FEMA–B–1072

Shoal Creek	Approximately 2,800 feet downstream of Hammett Road	+650	City of LaGrange.
	Approximately 1,500 feet upstream of Hammett Road	+669	

* 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 LaGrange
Maps are available for inspection at City Hall, 200 Ridley Avenue, LaGrange, GA 30240.

Essex County, Massachusetts (All Jurisdictions)
Docket Nos.: FEMA–B–1061 and B–1139

Atlantic Ocean	Along the shoreline, approximately 350 feet east of the end of 55th Street.	+18	City of Newburyport.
	Along the shoreline, approximately 575 feet north of the intersection of Northern Boulevard and 82nd Street.	+22	
Atlantic Ocean	Along the shoreline, approximately 850 feet east of the intersection of Page Road and Phillips Street.	+16	City of Gloucester, Town of Ipswich, Town of Manchester-by-the-Sea, Town of Marblehead, Town of Nahant, Town of Newbury, Town of Rowley, Town of Swampscott.
	Along the shoreline, approximately 3,000 feet south of the intersection of Lynnway and Nahant Road.	+17	
Atlantic Ocean	Along the shoreline, approximately 150 feet south of State Beach Road.	+12	Town of Salisbury.
	Along the shoreline, approximately 60 feet east of the intersection of Liberty Street and North End Boulevard.	+20	
Argilla Brook (backwater effects from Merrimack River).	At the confluence with Johnson Creek	+21	Town of Groveland.
	Approximately 530 feet upstream of Main Street	+21	
Backwater Effects from Harris Brook.	From I–93 to 300 feet west of I–93, and from Hampshire Road to 300 feet north of Hampshire Road at the corporate limits.	+111	City of Methuen.
Bartlett Brook	At the confluence with the Merrimack River	+53	City of Methuen.
	Approximately 700 feet upstream of State Route 113	+53	
Boston Brook	Approximately 2,000 feet downstream of Sharpners Pond Road.	+82	Town of Middleton.
	Approximately 180 feet downstream of Sharpners Pond Road.	+84	
Castle Neck River (backwater effects from Atlantic Ocean).	Approximately 1.6 miles upstream of the confluence with Ipswich Bay, at the confluence with Hog Island Channel.	+9	Town of Ipswich.
Ipswich River	Approximately 150 feet northeast of the Eastern end of Sargent Street.	+38	City of Beverly.

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 1,000 feet north of the intersection of Dodge Street and Norwoods Pond Road.	+38	
Ipswich River	Approximately 800 feet downstream of I–95	+41	Town of Middleton.
	Approximately 1,250 feet upstream of I–95	+41	
Jackman Brook (backwater effects from Parker River).	Just upstream of Parish Road	+18	Town of Georgetown.
	Approximately 50 feet upstream of Parish Road	+18	
Johnson Creek (backwater effects from Merrimack River).	At the confluence with the Merrimack River	+21	Town of Groveland.
	Approximately 900 feet upstream of Main Street	+21	
Long Causeway Brook	Approximately 800 feet north of the intersection of State Route 1A and North Edge Road.	+21	Town of Ipswich.
	Approximately 4,500 feet southwest of the intersection of State Route 1A and North Edge Road.	+21	
Merrimack River	Approximately 100 feet upstream of Groveland Street	+20	Town of Groveland.
	Approximately 0.67 mile upstream of Groveland Street	+21	
Merrimack River	Immediately upstream of I–93	+52	City of Methuen.
	Approximately 1.42 mile upstream of the confluence with Fish Brook.	+56	
Nichols Brook (backwater effects from Ipswich River).	At the confluence with the Ipswich River	+41	Town of Middleton, Town of Topsfield.
Shawsheen River	Approximately 900 feet east of the intersection of I–495 and State Route 28.	+36	City of Lawrence, Town of Andover, Town of North Andover.
	Approximately 2,500 feet southwest of Burtt Road and Biotechnology Drive.	+77	
World End Pond	Approximately 2,500 feet upstream of the confluence with the Ipswich River.	+41	City of Methuen.
	From approximately 1,000 feet north of the intersection of Hayes Street and Pond Street to 2,800 feet north of Hayes Street and Pond Street, and from the end of Argilla Road to 1,300 feet west of Argilla Road at the corporate limits.	+116	

* 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 Beverly
Maps are available for inspection at City Hall, 191 Cabot Street, Beverly, MA 01915.

City of Gloucester
Maps are available for inspection at City Hall, 9 Dale Avenue, Gloucester, MA 01930.

City of Lawrence
Maps are available for inspection at City Hall, 200 Common Street, Lawrence, MA 01840.

City of Methuen
Maps are available for inspection at the Searles Building, 41 Pleasant Street, Methuen, MA 01844.

City of Newburyport
Maps are available for inspection at City Hall, 60 Pleasant Street, Newburyport, MA 01950.

Town of Andover
Maps are available for inspection at the Town Offices, 36 Bartlet Street, Andover, MA 01810.

Town of Georgetown
Maps are available for inspection at the Town Hall, 1 Library Street, Georgetown, MA 01833.

Town of Groveland
Maps are available for inspection at the Town Hall, 183 Main Street, Groveland, MA 01834.

Town of Ipswich
Maps are available for inspection at the Town Hall, 25 Green Street, Ipswich, MA 01938.

Town of Manchester-by-the-Sea
Maps are available for inspection at the Town Hall, 10 Central Street, Manchester-by-the-Sea, MA 01944.

Town of Marblehead
Maps are available for inspection at Abbot Hall, 188 Washington Street, Marblehead, MA 01945.

Town of Middleton
Maps are available for inspection at Memorial Hall, 48 South Main Street, Middleton, MA 01949.

Town of Nahant

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

Maps are available for inspection at the Town Hall, 334 Nahant Road, Nahant, MA 01908.

Town of Newbury

Maps are available for inspection at the Municipal Offices, 25 High Road, Newbury, MA 01951.

Town of North Andover

Maps are available for inspection at the Town Hall, 120 Main Street, North Andover, MA 01845.

Town of Rowley

Maps are available for inspection at the Town Hall, 139 Main Street, Rowley, MA 01969.

Town of Salisbury

Maps are available for inspection at the Town Hall, 5 Beach Road, Salisbury, MA 01952.

Town of Swampscott

Maps are available for inspection at the Town Hall, 22 Monument Avenue, Swampscott, MA 01907.

Town of Topsfield

Maps are available for inspection at the Town Hall, 8 West Common Street, Topsfield, MA 01983.

Benton County, Tennessee, and Incorporated Areas
Docket No.: FEMA–B–1202

Big Sandy River Drainage Canal.	Approximately 1.7 miles upstream of State Route 69A	+375	Unincorporated Areas of Benton County.
	Approximately 0.5 mile upstream of U.S. Route 641	+375	
Burnside Creek	Approximately 150 feet downstream of Eva Road	+376	City of Camden, Unincorporated Areas of Benton County.
	Approximately 0.4 mile upstream of Flatwoods Road	+441	
Cane Creek	At the Cypress Creek confluence	+376	City of Camden, Unincorporated Areas of Benton County.
	Approximately 0.6 mile upstream of Post Oak Road	+435	
Charlie Creek	At the Cane Creek confluence	+377	City of Camden, Unincorporated Areas of Benton County.
	Approximately 1,000 feet upstream of State Route 69A	+448	
Cypress Creek	At the Cane Creek confluence	+376	City of Camden, Unincorporated Areas of Benton County.
	Approximately 0.5 mile upstream of Old State Route 69	+409	

* 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 Camden

Maps are available for inspection at City Hall, 110 U.S. Route 641 South, Camden, TN 38320.

Unincorporated Areas of Benton County

Maps are available for inspection at the Benton County Courthouse, 1 East Court Square, Room 104, Camden, TN 38320.

Kaufman County, Texas, and Incorporated Areas
Docket No.: FEMA–B–1144

Brooklyn Branch	At the confluence with Mustang Creek	+457	City of Forney.
	Approximately 1,382 feet upstream of Ridgecrest Road	+471	
Buffalo Creek	Just upstream of Union Pacific Railroad	+389	City of Forney, Unincorporated Areas of Kaufman County.
	Just upstream of FM 740	+403	
Cedar Creek	Approximately 2.9 miles downstream of U.S. Route 175	+342	City of Mabank, Unincorporated Areas of Kaufman County.
	Approximately 1 mile downstream of State Highway 274	+342	
Duck Creek	Approximately 925 feet downstream of Country Road 337	+458	Unincorporated Areas of Kaufman County.
	Approximately 1,755 feet upstream of FM 2728	+485	

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
East Fork Trinity River	Just upstream of Union Pacific Railroad	+389	City of Dallas, City of Heath, Unincorporated Areas of Kaufman County.
	Approximately 0.85 mile upstream of the Rockwell-Forney Dam.	+398	
Mustang Creek	Approximately 0.51 mile upstream of Shady Brook Lane	+413	City of Forney, Unincorporated Areas of Kaufman County.
	Approximately 0.51 mile upstream of Ridgecrest Road	+480	
Unnamed Tributary to Kings Creek.	Approximately 1,600 feet upstream of the confluence with Kings Creek (Upper Reach).	+486	City of Terrell, Unincorporated Areas of Kaufman County.
	Approximately 0.91 mile upstream of the confluence with Kings Creek (Upper Reach).	+506	

* 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 Dallas
Maps are available for inspection at 320 East Jefferson Boulevard, Room 307, Dallas, TX 75203.

City of Forney
Maps are available for inspection at City Hall, 101 West Main Street, Forney, TX 75126.

City of Heath
Maps are available for inspection at City Hall, 200 Laurence Drive, Heath, TX 75032.

City of Mabank
Maps are available for inspection at City Hall, 129 East Market Street, Mabank, TX 75147.

City of Terrell
Maps are available for inspection at City Hall, 201 East Nash Street, Terrell, TX 75160.

Unincorporated Areas of Kaufman County
Maps are available for inspection at the Kaufman County Courthouse, 100 West Mulberry Street, Kaufman, TX 75142.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: May 3, 2012.

Sandra K. Knight,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2012–12292 Filed 5–21–12; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 120213130–2435–02]

RIN 0648–XA973

Fisheries of the Northeastern United States; Final 2012 Spiny Dogfish Fishery Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: This rule implements a catch limit, commercial quota, and possession limit for the spiny dogfish fishery for the 2012 fishing year. The action was developed by the Mid-Atlantic and New England Fishery Management Councils pursuant to the fishery specification requirements of the Spiny Dogfish Fishery Management Plan. The final management measures are supported by the best available scientific information and reflect recent increases in spiny dogfish biomass. The action is expected to result in positive economic impacts for the spiny dogfish fishery while maintaining the conservation objectives of the Spiny Dogfish Fishery Management Plan.

DATES: This rule is effective June 21, 2012, through April 30, 2013.

ADDRESSES: An environmental assessment (EA) was prepared that describes the action and other considered alternatives and provides a thorough analysis of the impacts of the proposed measures and alternatives. Copies of the EA and the Initial Regulatory Flexibility Analysis (IRFA), are available on request from Dr. Christopher M. Moore, Executive Director, Mid Atlantic Fishery Management Council, Suite 201, 800 N. State St., Dover, DE 19901. The EA/IRFA is also accessible via the Internet at *http://www.nero.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Tobey Curtis, Fishery Policy Analyst, (978) 281–9273; fax: (978) 281–9135.

SUPPLEMENTARY INFORMATION:

Background

Spiny dogfish (*Squalus acanthias*) were declared overfished by NMFS in 1998. Consequently, the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) required NMFS to implement measures to end overfishing and rebuild the spiny dogfish stock. The Mid-Atlantic Fishery Management Council

(MAFMC) and the New England Fishery Management Council (NEFMC) developed a joint fishery management plan (FMP) that was implemented in 2000. As a result of the conservation measures in the FMP, the spiny dogfish stock was declared to be successfully rebuilt in 2010.

The regulations implementing the FMP at 50 CFR part 648, subpart L, outline the process for specifying an annual catch limit (ACL), commercial quota, possession limit, and other management measures for a period of 1–5 years. The annual quota is allocated to two semi-annual quota periods, as follows: Period 1, May 1 through October 31 (57.9 percent); and Period 2, November 1 through April 30 (42.1 percent).

The MAFMC's Scientific and Statistical Committee (SSC) reviews the best available information on the status of the spiny dogfish population and makes recommendations on acceptable biological catch (ABC). This recommendation is then used as the basis for catch limits and other management measures developed by the MAFMC's Spiny Dogfish Monitoring Committee and Joint Spiny Dogfish Committee (which includes members of the NEFMC). The MAFMC and NEFMC then review the recommendations of the committees and make their specification recommendations to NMFS. NMFS reviews those recommendations, and may modify them if necessary to ensure that they are consistent with the FMP and other applicable law. NMFS then publishes proposed measures for public comment. NMFS proposed the specifications set here in the **Federal Register** on March 19, 2012 (77 FR 15991), with a 30-day public comment period. NMFS received six comments, which are addressed below.

A detailed description of how the 2012 spiny dogfish ABC and associated specification measures were derived, and the range of alternatives analyzed, are provided in the proposed rule and in its supplementary materials (see **ADDRESSES**), and are not repeated here. The final approved specifications for the 2012 spiny dogfish fishery are described below.

Final Measures

NMFS is implementing the following specifications for the spiny dogfish fishery for the 2012 fishing year:

1. The spiny dogfish annual catch limit (ACL) is 44.737 million lb (20,292 mt);

2. The spiny dogfish commercial quota is 35.694 million lb (16,191 mt); and,

3. The spiny dogfish possession limit remains at 3,000 lb (1,361 kg) per trip.

Based on the percentage allocations specified in the FMP, quota Period 1 (May 1 through October 31) is allocated 20.667 million lb (9,374 mt), and quota Period 2 (November 1 through April 30) is allocated 15.027 million lb (6,816 mt). The significant quota increase from fishing year 2011 quota, in conjunction with the status quo possession limit, should help avoid prolonged fishery closures, extend the fishing season, reduce regulatory discards, and maximize revenues for vessels that land spiny dogfish.

Comments and Responses

NMFS received six comments to the proposed specifications. These commenters offered five distinct comments.

Comment 1: Two Massachusetts-based commercial fishing organizations commented that they support the proposed spiny dogfish commercial quota and possession limit.

Response: NMFS agrees that the final commercial quota and status quo possession limit meet the objectives of the Spiny Dogfish FMP and will maximize landings for the fishery during the 2012 fishing year.

Comment 2: The North Carolina Division of Marine Fisheries commented that it supports the proposed quota, but recommended that the possession limit be increased to 4,000 lb (1,815 kg), consistent with the MAFMC's recommendation.

Response: NMFS disagrees that the spiny dogfish possession limit should be increased. NMFS considers the 3,000 lb (1,361 kg) possession limit to be the most appropriate spiny dogfish possession limit for the 2012 fishing year. As noted above, NMFS believes that the status quo possession limit in conjunction with the increased quota has the greatest likelihood of prolonging the fishing season, and of preventing mid-season fishery closures and their associated negative economic impacts. NMFS expects these specifications will distribute spiny dogfish landings and revenues across the fishing year, rather than increasing per-trip revenues under a shorter fishing season. The Atlantic States Marine Fisheries Commission (Commission) has also implemented this possession limit in state waters for 2012.

Comment 3: One fishing industry commenter argued that the science used in the spiny dogfish stock assessment and for setting specifications is flawed. The commenter suggested that spiny dogfish biomass has been underestimated, and that catch limits for female spiny dogfish should be between 66 and 75 million lb (30,000–34,000 mt), while catch limits for male spiny dogfish should be between 70 and 100 million lb (32,000–45,000 mt). The commenter further argued that the high biomass of male dogfish contributes to predation on spiny dogfish pups and more valuable groundfish species, and suggested that a male-only spiny dogfish fishery should be implemented.

Response: National Standard 2 of the Magnuson-Stevens Act requires that fishery management measures be based upon the best available scientific information. The final catch limits and specifications being implemented by this rule represent the best available scientific information. They are based on the results of peer-reviewed stock assessments, the recommendations of the SSC, and the goals of the FMP. A description of how the 2012 spiny dogfish catch limits were calculated is given in the proposed rule for this action. There is no scientific justification for specifying the catch limits at the levels recommended by the commenter, and such high limits would be inconsistent with the requirements of the FMP. The issue of a male-only spiny dogfish fishery is beyond the scope of this rule, and would require an amendment to the FMP. NMFS notes that the MAFMC and NEFMC are currently developing Amendment 3 to the Spiny Dogfish FMP, but have removed from the range of alternatives consideration of male-only spiny dogfish management measures.

Comment 4: One comment submitted by a conservation organization opposed the proposed spiny dogfish commercial quota, and recommended that the quota only be increased to 30 million lb (13,608 mt), consistent with the Commission's initial 2012 quota recommendation. The commenter cited numerous concerns with the status of the spiny dogfish stock, including vulnerable life history traits, poor pup production, projected future declines in spawning stock biomass, declines in the average size of pups and mature females, skewed sex ratios, and several sources of uncertainty in the stock assessment. The commenter argued that the proposed quota represents an unnecessarily high increase that is not in the best long-term interests of the fishery. Additionally, the commenter suggested that the MAFMC's risk policy used to calculate the spiny dogfish ABC (i.e., using the catch level that corresponds to a 40-percent probability of overfishing) should be more precautionary given the stock's inherent vulnerability. For comparison, the commenter noted that the Atlantic

Highly Migratory Species Fishery Management Plan for coastal sharks uses a 70-percent probability of success to select management measures, and there should be less than a 20-percent chance of a management measure resulting in a stock decline.

Response: NMFS agrees that the commercial quota of 35.694 million lb (16,191 mt) recommended by both Councils represents a dramatic increase from earlier quota levels that favors short-term yield over long-term fishery stability. NMFS also acknowledges that all of the other listed concerns with spiny dogfish stock status are valid. Most importantly, spiny dogfish spawning stock biomass is projected to decline significantly between 2014 and 2020 due to poor pup production. However, while the proposed quota represents the upper limit of the range of acceptable quota alternatives, it is not expected to result in overfishing. If spiny dogfish biomass declines in future years, harvest levels will have to be appropriately reduced in those years. While a 30-million-lb (13,608-mt) quota may be a more precautionary and stabilizing recommendation, the quota set here still reflects the best available scientific information, and is consistent with the recommendations of the SSC and the requirements of the FMP and Magnuson-Stevens Act. Therefore, there is no compelling biological or legal justification to reject the commercial quota recommendation of both Councils.

Comment 5: One public commenter argued that the spiny dogfish quota should be reduced by 50 percent, to 10 million lb (4,536 mt). No justification was provided for this reduction.

Response: NMFS disagrees that such a reduction in spiny dogfish harvest levels is necessary at this time. Spiny dogfish spawning stock biomass has been increasing in recent years, and is currently above target levels. The proposed increase in quota is supported by the best available scientific information and follows the ABC and specification process defined in the FMP.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has made a determination that this rule is consistent with the Spiny Dogfish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

The Office of Management and Budget has determined that this rule is not significant for the purposes of Executive Order 12866.

Pursuant to section 604 of the Regulatory Flexibility Act (RFA), NMFS has prepared a Final Regulatory Flexibility Analysis (FRFA) in support of this action. The FRFA incorporates the IRFA, a summary of the significant issues raised by the public comments in response to the IRFA, NMFS' responses to those comments, relevant analyses contained in the action and its EA, and a summary of the analyses completed to support the action in this rule. A copy of the analyses done in the action and EA are available from the Council (see **ADDRESSES**). A summary of the IRFA was published in the proposed rule for this action and is not repeated here. A description of why this action was considered, the objectives of, and the legal basis for this rule is contained in the preamble to the proposed rule and this final rule and is not repeated here.

A Summary of the Significant Issues Raised by the Public in Response to the IRFA, a Summary of the Agency's Assessment of Such Issues, and a Statement of Any Changes Made in the Proposed Rule as a Result of Such Comments

Six comments were received on the proposed rule. For a summary of the comments, and NMFS's responses to them, see the Comments and Responses section above. None of the comments raised issues or concerns related to the IRFA, and no changes were made to the rule as a result of the comments.

Description and Estimate of Number of Small Entities To Which the Rule Would Apply

The increase in the spiny dogfish commercial quota would impact vessels that hold Federal open access commercial spiny dogfish permits, and participate in the spiny dogfish fishery. According to MAFMC's analysis, 2,942 vessels were issued spiny dogfish permits in 2010. However, only 326 vessels landed any amount of spiny dogfish. While the fishery extends from Maine to North Carolina, most active vessels were from (in descending order) Massachusetts, New Jersey, New Hampshire, Rhode Island, New York, North Carolina, and Virginia.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

This action does not introduce any new reporting, recordkeeping, or other compliance requirements. This rule does not duplicate, overlap, or conflict with other Federal rules.

Description of the Steps the Agency Has Taken To Minimize the Significant Economic Impact on Small Entities Consistent With the Stated Objectives of Applicable Statutes

The purpose of this action is to increase spiny dogfish catch limits and landings, consistent with the best available science, thereby extending the duration of the fishing season and increasing revenue relative to the status quo. The action is expected to maximize the short-term profitability for the spiny dogfish fishery during the 2012 fishing year, without jeopardizing the long-term sustainability of the stock. Therefore, the economic impacts resulting from the action are expected to be positive, and there were no other alternatives considered that could have further increased the economic yield from the fishery while remaining constant with the Magnuson-Stevens Act and the goals of the FMP.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a letter to permit holders that also serves as small entity compliance guide (the guide) was prepared. Copies of this final rule are available from the Northeast Regional Office, and the guide, i.e., permit holder letter, will be sent to all holders of permits for the spiny dogfish fishery. The guide and this final rule will be available upon request, and posted on the Northeast Regional Office's Web site at *www.nero.noaa.gov.*

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 16, 2012.

Alan D. Risenhoover,

Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2012–12366 Filed 5–21–12; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 77, No. 99

Tuesday, May 22, 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.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Regulations, Small Business Innovation Research (SBIR) Program and Small Business Technology Transfer (STTR) Program

AGENCY: U.S. Small Business Administration.

ACTION: Notice of Webinar and Roundtable Meetings.

SUMMARY: The U.S. Small Business Administration (SBA) announces that it is holding a public Webinar and Roundtable Meetings regarding its proposal to amend its regulations governing size and eligibility for the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Programs. The proposed rule would implement provisions of the National Defense Authorization Act for Fiscal Year 2012. The proposed rule addresses ownership, control and affiliation for participants in the SBIR and STTR Programs. This includes participants that are majority owned by multiple venture capital operating companies, private equity firms or hedge funds. The Webinar and Roundtable Meetings will provide a basic overview of and respond to questions regarding the proposed rule. The Webinar and Roundtable Meetings will be summarized and become part of the administrative record.

DATES: The Webinar is scheduled for May 24, 2012, the Roundtable Meetings are scheduled for June 8, 2012, in Washington, DC and June 19, 2012, in Austin, TX. These Roundtable Meetings will be conducted by SBA's Office of Advocacy. For additional information, see Section II.

ADDRESSES: The phone number and corresponding Web address for the Webinar will be provided to participants upon registration.

FOR FURTHER INFORMATION CONTACT: Office of Investment and Innovation at *SBIRComments@sba.gov.*

SUPPLEMENTARY INFORMATION:

I. Background Information

On May 15, 2012, SBA published a proposed rule to amend its regulations governing size and eligibility for the SBIR and STTR Programs. This proposed rule is an integral part of the implementation of the National Defense Authorization Act for Fiscal Year 2012. The proposed rule may be viewed at *http://www.regulations.gov/#!documentDetail;D=SBA-2012-0008-0001.*

In order to familiarize the public with the content of the proposed rule, SBA will host a Webinar and Roundtable Meetings. Interested parties may choose to attend the Webinar or the Roundtable Meetings listed in Section II. The Webinar and Roundtable Meetings will be summarized and become part of the administrative record.

II. Webinar and Roundtable Meetings Schedule

	Date and time	Registration closing date
Webinar	May 24, 2012, 3 p.m.–5 p.m. EST	May 23, 2012, 11:59 p.m. EST.
Roundtable Meetings:		
Washington, DC	June 8, 2012, 1 p.m.–3 p.m. EST	June 5, 2012, 11:59 p.m. EST.
Austin, TX	June 19, 2012, 10 a.m.–2 p.m. EST	June 14, 2012, 11:59 p.m. EST.

III. Registration

If you are interested in attending the Webinar or the Roundtable Meetings, you must pre-register by the registration closing date by sending an email to *SBIRComments@sba.gov.* You must include in the subject line the date of the Webinar or Roundtable Meeting for which you wish to participate, and in the body of the email, please provide the following: Participant's Name, Title, Organization Affiliation, Address, Telephone Number, Email Address, and Fax Number. Please also note if you need accommodation because of a disability. You must submit your email by the applicable registration closing date listed in Section II of this notice. Due to technological constraints, participation is limited to 125 registrants for the Webinar. If demand exceeds capacity for the Webinar, SBA may consider holding additional Webinars. SBA will announce any additional Webinars through a **Federal Register** notice and on its Web site for the SBIR and STTR Programs at *www.sbir.gov.*

SBA will confirm the registration via email along with instructions for participation. SBA will post any presentation materials associated with the Webinars on the day of the Webinar at *www.sbir.gov.* Participants are responsible for ensuring their computer systems are compatible with the Webinar software.

If there are specific questions you would like SBA to address during the Webinar or Roundtable Meetings, please send your question(s) to SBA no later than the registration closing date listed in Section II. Because the rule is in the proposed rulemaking stage, SBA will not be able to answer questions that are outside the scope of the proposed rule.

All participants are encouraged to submit comments regarding the proposed rule at *http://www.regulations.gov/#!documentDetail;D=SBA–2012–0008–0001* or hand delivery/courier to Carl Jordan, Office of Size Standards or Edsel Brown, Assistant Director, Office of Technology, US Small Business Administrator, 409 Third Street SW., Washington, DC 20416.

Sean Greene,

Associate Administrator for Investment and Special Advisor for Innovation.

[FR Doc. 2012–12463 Filed 5–21–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0488; Directorate Identifier 2011–NM–106–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Airbus Model A300 B4–600 and A300 B4–600R, Model A300, and Model A310 series airplanes. This proposed AD was prompted by reports of fatigue cracking in the crossbeams at the junction of the actuator beam of the lower deck cargo door. This proposed AD would require repetitive inspections of the crossbeams of certain fuselage frames, and repair if necessary. We are proposing this AD to detect and correct cracking of the crossbeams at the junction of the actuator beam of the lower deck cargo door, which could result in failure to withstand ultimate load conditions, and consequent reduced structural integrity of the airplane.

DATES: We must receive comments on this proposed AD by July 6, 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.

For service information identified in this proposed 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*. 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 Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket 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: 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:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2012–0488; Directorate Identifier 2011–NM–106–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the aviation authority for the Member States of the European Community, has issued EASA Airworthiness Directive 2011–0086, dated May 12, 2011 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> Some operators have reported cracked crossbeams at the junction with the lower deck cargo door actuator beam. The investigation results indicate that these cracks initiated in the fastener hole, propagated in a vertical direction and were due to fatigue.
>
> This condition, if not corrected, could lead, in case of cracks propagation in a crossbeam (upper and lower web), to the floor grid being unable to withstand ultimate load condition.
>
> For the reasons described above, this [EASA] AD requires repetitive [high frequency eddy current] inspections [for cracks] of certain crossbeams including those previously repaired by the Structure Repair Manual (SRM) or Repair Approval Sheet (RAS).

The required actions include repairing any cracking. As an option, modifying the crossbeams terminates the repetitive inspections. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Airbus has issued the following Service Bulletins:

- A300–53–0389, Revision 02, dated April 27, 2011;
- A310–53–2133, Revision 02, dated April 27, 2011; and
- A300–53–6166, Revision 01, dated May 21, 2010.

Airbus has also issued the following Mandatory Service Bulletins:

- A300–53–0390, dated January 15, 2010;
- A310–53–2134, dated January 15, 2010; and
- A300–53–6168, dated January 15, 2010.

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 Proposed 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 proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between This Proposed AD and the MCAI or Service Information

Where the service information identified in the ''Relevant Service Information'' section specifies to contact the manufacturer for instructions on certain cracking conditions, this proposed AD would require repairing those conditions using a method approved by the FAA or EASA (or its delegated agent). In light of the type of repair that would be required to address the unsafe condition, and consistent

with existing bilateral airworthiness agreements, we have determined that, for this proposed AD, a repair approved by the FAA or the EASA (or its delegated agent) would be acceptable for compliance with this proposed AD.

Although the MCAI allows further flight after cracks are found during compliance with the required action, this proposed AD would require repair of any cracked/damaged frames before further flight. This difference has been coordinated with the EASA.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 152 products of U.S. registry. We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $12,920, or $85 per product.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this proposed 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 proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

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

3. Will not affect intrastate aviation in Alaska; and

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

We prepared a regulatory evaluation of the estimated costs to comply with this proposed 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.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new AD:

The Boeing Company: Docket No. FAA–2012–0488; Directorate Identifier 2011–NM–106–AD.

(a) Comments Due Date

We must receive comments by July 6, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Model A300 B2–1A, B2–1C, B2K–3C, B2–203, B4–2C, B4–103, and B4–203; Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes; Model A300 B4–605R and B4–622R airplanes; and Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes; certificated in any category; except those identified in paragraph (c)(1), (c)(2), or (c)(3) of this AD, as applicable.

(1) Airplanes on which Airbus Service Bulletin A300–53–6166 (Airbus Modification 13434) has been embodied in service (for Model A300 B4–600 and A300 B4–600R series airplanes).

(2) Airplanes on which Airbus Service Bulletin A300–53–0389 (Airbus Modification 13434) has been embodied in service (for Model A300 series airplanes).

(3) Airplanes on which Airbus Service Bulletin A310–53–2133 (Airbus Modification 13434) has been embodied in service (for Model A310 series airplanes).

(d) Subject

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

(e) Reason

This AD was prompted by reports of fatigue cracking in the crossbeams at the junction of the actuator beam of the lower deck cargo door. We are issuing this AD to detect and correct cracking of the crossbeams at the junction of actuator beam of the lower deck cargo door, which could result in failure to withstand ultimate load conditions, and consequent reduced structural integrity 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) Repetitive High Frequency Eddy Current Inspections

(1) For airplanes on which the crossbeams at frames (FR) 22/23 and FR 61/62 have not been repaired as specified in an Airbus structural repair manual or repair approval sheet as of the effective date of this AD: Before the accumulation of 10,000 total flight cycles since first flight of the airplane, or within 600 flight cycles after the effective date of this AD, whichever occurs later; perform a high frequency eddy current (HFEC) inspection for cracking of the crossbeam fuselage frame stations FR 22/23 and FR 61/62, in accordance with the Accomplishment Instructions of the applicable service bulletin identified in paragraph (g)(1)(i), (g)(1)(ii), or (g)(1)(iii) of this AD. Repeat the inspection thereafter at intervals not to exceed 600 flight cycles until the modification specified in paragraph (i) of this AD has been done.

(i) Airbus Mandatory Service Bulletin A300–53–0390, dated January 15, 2010 (for Model A300 series airplanes).

(ii) Airbus Mandatory Service Bulletin A310–53–2134, dated January 15, 2010 (for Model A310 series airplanes).

(iii) Airbus Mandatory Service Bulletin A300–53–6168, dated January 15, 2010 (for Model A300–600 series airplanes).

(2) For airplanes on which the crossbeams at FR 22/23 and FR 61/62 have been repaired as specified in an Airbus structural repair manual or repair approval sheet as of the effective date of this AD: Before the accumulation of 10,000 total flight cycles since first flight of the airplane, or within 600 flight cycles after the effective date of this AD, whichever occurs later; repair in accordance with a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA) (or its delegated agent).

(h) Corrective Action

If any crack is found during any inspection required by paragraph (g) of this AD: Before further flight repair any crack using a method approved by the Manager, International Branch, ANM–116; or EASA (or its delegated agent).

(i) Optional Terminating Action

Modifying the crossbeam fuselage frame stations FR 22/23 and FR 61/62, including doing rotating probe inspections for cracks of fastener holes in accordance with the Accomplishment Instructions of the applicable service bulletin identified in paragraph (i)(1), (i)(2), or (i)(3) of this AD, and repairing any crack using a method approved by the Manager, International Branch, ANM–116; or EASA (or its delegated agent), terminates the repetitive inspections required by paragraph (g)(1) of this AD.

(1) Airbus Service Bulletin A300–53–0389, Revision 02, dated April 27, 2011 (for Model A300 series airplanes).

(2) Airbus Service Bulletin A310–53–2133, Revision 02, dated April 27, 2011 (for Model A310 series airplanes).

(3) Airbus Service Bulletin A300–53–6166, Revision 01, dated May 21, 2010 (for Model A300–600 series airplanes).

(j) 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.

(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.

(k) Related Information

Refer to EASA Airworthiness Directive 2011–0086, dated May 12, 2011; and the applicable service bulletin identified in paragraphs (k)(1), (k)(2), (k)(3), (k)(4), (k)(5), and (k)(6) of this AD for related information.

(1) Airbus Service Bulletin A300–53–0389, Revision 02, dated April 27, 2011.

(2) Airbus Service Bulletin A310–53–2133, Revision 02, dated April 27, 2011.

(3) Airbus Service Bulletin A300–53–6166, Revision 01, dated May 21, 2010. (4) Airbus Mandatory Service Bulletin A300–53–0390, dated January 15, 2010.

(5) Airbus Mandatory Service Bulletin A310–53–2134, dated January 15, 2010.

(6) Airbus Mandatory Service Bulletin A300–53–6168, dated January 15, 2010.

Issued in Renton, Washington, on May 10, 2012.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–12339 Filed 5–21–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0528; Directorate Identifier 2011–SW–068–AD]

RIN 2120–AA64

Airworthiness Directives; Eurocopter Deutschland Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Eurocopter Deutschland GmbH Model MBB–BK117 C–2 helicopters with certain Generator Control Units (GCU) installed. This proposed AD is prompted by reports of internal short circuits in certain GCUs. The proposed actions are intended to replace any affected GCUs to prevent a short circuit, which could result in a loss of electrical generating power, loss of systems required for continued safe flight and landing, and subsequent loss of control of the helicopter.

DATES: We must receive comments on this proposed AD by July 23, 2012.

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

- *Federal eRulemaking Docket:* Go to *http://www.regulations.gov.* Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments 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 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address 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 proposed AD, the economic 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 service information identified in this proposed AD, contact American Eurocopter Corporation, 2701 N. Forum Drive, Grand Prairie, TX 75052, telephone (972) 641–0000 or (800) 232–0323, fax (972) 641–3775, or at *http://www.eurocopter.com/techpub.* 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.

FOR FURTHER INFORMATION CONTACT: George Schwab, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Safety Management Group, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5114; email *george.schwab@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued AD No.: 2011–0149R1, dated September 30, 2011 (AD

2011–0149R1), to correct an unsafe condition for the Eurocopter Deutschland GmbH Model MBB–BK117 C–2 helicopters. EASA advises that during an acceptance test procedure of a GCU, a short circuit caused by a manufacturing discrepancy occurred within the unit. According to EASA, all part number (P/N) 51530–021EI ''no MOD,'' ''MOD A,'' and ''MOD B'' GCUs are potentially affected by this discrepancy. To address this potential unsafe condition, EASA issued AD No.: 2011–0149, dated August 19, 2011, to identify and replace each affected GCU with an airworthy GCU. Since issuing that AD, Eurocopter Deutschland GmbH demonstrated that helicopters modified in accordance with Eurocopter Deutschland GmbH Alert Service Bulletin (ASB) MBB BK117 C–2–24A–008, Revision 1, dated August 29, 2011, have a much lower risk of losing electrical generating power from a faulty generator control unit. EASA then revised AD No.: 2011–0149 and issued AD 2011–0149R1 to allow an extended compliance time for helicopters modified in accordance with the Eurocopter Deutschland ASB.

FAA's Determination

These helicopters have been approved by the aviation authority of Germany and are approved for operation in the United States. Pursuant to our bilateral agreement with Germany, EASA, its technical representative, has notified us of the unsafe condition described in its AD. We are proposing this AD because we evaluated all known relevant information and determined that an unsafe condition is likely to exist or develop on other products of the same type design.

Related Service Information

Eurocopter Deutschland GmbH has issued ASB MBB–BK117 C–2–24A–010 Revision 2, dated September 14, 2011, which specifies removing any GCU with P/N 51530–021EI with no modification (MOD), MOD A, or MOD B, and replacing it with a GCU P/N 51530–021EI MOD C or later MOD. EASA classified this ASB as mandatory and issued AD 2011–0149R1 to ensure the continued airworthiness of these helicopters.

Proposed AD Requirements

This proposed AD would require replacement of the GCU with an airworthy GCU.

Differences Between This Proposed AD and the EASA AD

The EASA AD allows a compliance time of 500 flight hours for helicopters previously modified by Eurocopter Deutschland GmbH ASB MBB BK117 C–2–24A–008 Revision 1, while the proposed AD requires compliance within the next 300 hours time-in-service for all affected helicopters.

Costs of Compliance

We estimate that this proposed AD would affect 104 helicopters of U.S. Registry. We estimate that operators may incur the following costs in order to comply with this AD. Replacing a GCU with an airworthy GCU will require about 2 work hours at an average labor rate of $85 per hour. Required parts will cost $7,130, for a total cost per helicopter of $7,300.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

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

3. Will not affect intrastate aviation in Alaska 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 proposed 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.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new Airworthiness Directive (AD):

Eurocopter Deutschland GmbH Helicopters: Docket No. FAA–2012–0528; Directorate Identifier 2011–SW–068–AD.

(a) Applicability

This AD applies to Model MBB–BK117 C–2 helicopters with a generator control unit (GCU), part number (P/N) 51530–021EI with no modification (MOD), MOD A, or MOD B installed, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as an internal short circuit in certain GCUs. This condition could result in loss of electrical generating power, resulting in the loss of systems required for continued safe flight and landing, and subsequent loss of control of the helicopter.

(c) 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.

(d) Required Actions

(1) Within the next 300 hours time-in-service or 6 months, whichever occurs first, replace all GCUs with no MOD, MOD A, or MOD B with an airworthy GCU.

(2) Do not install a GCU P/N 51530–021–EI with no MOD, MOD A, or MOD B on any helicopter.

(e) Alternative Methods of Compliance (AMOC)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: George Schwab, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Safety Management Group, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5114; email *george.schwab@faa.gov.*

(2) For operations conducted under 14 CFR part 119 operating certificate or under 14 CFR 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.

(f) Additional Information

(1) Eurocopter Deutschland GmbH Alert Service Bulletin MBB–BK117 C–2–24A–010 Revision 2, dated September 14, 2011, which is not incorporated by reference, contains additional information about the subject of this AD.

(2) For service information identified in this AD, contact American Eurocopter Corporation, 2701 N. Forum Drive, Grand Prairie, TX 75052, telephone (972) 641–0000 or (800) 232–0323, fax (972) 641–3775, or at *http://www.eurocopter.com/techpub.* You may review a copy of the service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

(3) The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No.: 2011–0149R1, dated September 30, 2011.

(g) Subject

Joint Aircraft Service Component (JASC) Code: 2436: DC Generator Control Unit.

Issued in Fort Worth, Texas, on May 10, 2012.

Kim Smith,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2012–12349 Filed 5–21–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0530; Directorate Identifier 2011–SW–075–AD]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for Bell Helicopter Textron (BHT) Model 412, 412EP, and 412CF helicopters. This proposed AD is prompted by a reported failure of a collective lever. These proposed actions are intended to detect a crack in the collective lever, which could lead to failure of the collective lever and subsequent loss of control of the helicopter.

DATES: We must receive comments on this proposed AD by July 23, 2012.

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

- *Federal eRulemaking Docket:* Go to *http://www.regulations.gov.* Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments 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 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address 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 proposed AD, the economic 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 service information identified in this AD, contact Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, TX 76101, telephone (817) 280–3391, fax (817) 280–6466, or at *http://www.bellcustomer.com/files/.* 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.

FOR FURTHER INFORMATION CONTACT: Martin Crane, Aerospace Engineer, FAA, Rotorcraft Certification Office, Rotorcraft Directorate, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5170, email *martin.r.crane@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

Discussion

BHT has received a report of a fractured collective lever part number (P/N) 412–010–408–101. Their investigation revealed that residual stresses induced during manufacturing may have contributed to the fatigue fracture of the collective lever. This condition, if not corrected, could lead to failure of the collective lever, and subsequent loss of control of the helicopter.

FAA's Determination

We are proposing this AD because we evaluated all known relevant information and determined that an unsafe condition is likely to exist or develop on other products of the same type design.

Related Service Information

We reviewed BHT ASB 412–11–148 and ASB 412CF–11–47, which describe procedures for repetitively inspecting the collective control with a magnifying glass and a strong light source and, if necessary, a fluorescent penetrant inspection. If there is a crack, the ASBs require replacing the collective lever.

Proposed AD Requirements

This proposed AD requires, within 25 hours time-in-service (TIS), cleaning the collective lever and inspecting it for cracks with a 10X or higher power magnifying glass. If there is a crack in the collective lever paint finish, this proposed AD requires removing the collective lever from the swashplate and performing a fluorescent penetrant inspection. If there is a crack in the collective lever, this proposed AD requires replacing the collective lever with an airworthy collective lever before further flight. Additionally, this AD requires repeating this inspection every 100 hours time-in-service (TIS).

Differences Between This Proposed AD and the Service Information

The BHT ASBs require compliance within 100 hours of flight time for the initial inspection; the proposed AD requires compliance within 25 hours TIS. If a crack is found, the BHT ASBs require reporting the defect to Bell Product Support Engineering; the proposed AD does not. The BHT ASBs allow a portion of the collective lever to be inspected by a mirror and light only without a magnifying glass; the proposed AD does not.

Costs of Compliance

We estimate that this proposed AD will affect 83 helicopters of U.S. Registry. We estimate that operators may incur the following costs in order to comply with this proposed AD. Inspecting the collective lever requires one work-hour at an average labor rate of $85 per hour, for a cost per helicopter of $85 and a total cost to the U.S. operator fleet of $7,055 per inspection cycle. Replacing a cracked collective lever requires 10 work-hours at an average labor rate of $85 per hour and required parts will cost $12,883, for a total cost of $13,733 per helicopter.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

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

3. Will not affect intrastate aviation in Alaska 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 proposed 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.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bell Helicopter Textron: Docket No. FAA–2012–0530; Directorate Identifier 2011–SW–075–AD.

(a) Applicability

This AD applies to Model 412 and 412EP helicopters, serial numbers (S/N) 33001 through 33213, 34001 through 34036, and 36001 and higher; and Model 412CF helicopters, S/N 46400 and higher; with a collective lever part number (P/N) 412–010–408–101 installed, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as a cracked collective lever, which could result in failure of the collective lever and subsequent loss of control of the helicopter.

(c) 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.

(d) Required Actions

Within 25 hours time-in-service (TIS) or 30 days, whichever occurs first, and thereafter at intervals not to exceed 100 hours TIS:

(1) Using cleaning compound (C–318) or equivalent, thoroughly clean the collective lever.

(2) Using a 10X or higher power magnifying glass, inspect the collective lever in the areas shown in Figure 1 of Bell Helicopter Textron Alert Service Bulletin (ASB) 412–11–148, Revision A, dated December 12, 2011 or Bell Helicopter Textron ASB 412CF–11–47, Revision A, dated December 12, 2011, as appropriate for your model helicopter.

(3) If there is a crack in the paint, remove the collective lever from the swashplate assembly.

(i) Remove paint and primer from the area around the crack.

(ii) Fluorescent penetrant inspect the area of the crack.

(4) If there is a crack in the collective lever, before further flight, replace the collective lever with an airworthy collective lever.

(e) Alternative Methods of Compliance (AMOC)

(1) The Manager, Rotorcraft Certification Office, FAA, may approve AMOCs for this AD. Send your proposal to: Martin Crane, Aerospace Engineer, FAA, Rotorcraft Certification Office, Rotorcraft Directorate, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5170, email *martin.r.crane@faa.gov.*

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR 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.

(f) Additional Information

For service information identified in this AD, contact Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, TX 76101, telephone (817) 280–3391, fax (817) 280–6466, or at *http://www.bellcustomer.com/files/*. You may review a copy of information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

(g) Subject

Joint Aircraft Service Component (JASC) Code: 6230: Main Rotor Mast/Swashplate.

Issued in Fort Worth, Texas, on May 10, 2012.

Kim Smith,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2012–12350 Filed 5–21–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0501; Directorate Identifier 2009–SW–083–AD]

RIN 2120–AA64

Airworthiness Directives; Agusta S.p.A. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for Agusta S.p.A. (Agusta) Model A109E and Model A109S helicopters with certain lower semichannel assemblies installed. This proposed AD results from reported cases of damage to the main drive shaft caused by improperly secured metallic spacers on some A109 model helicopters. This proposed AD would require a one-time inspection of the lower semichannel assemblies to determine if metallic spacers are installed. If the metallic spacers are installed, this proposed AD would require an inspection for the correct installation of the metallic spacers on the semichannels and for the correct seating of the gaskets. If the metallic spacers are not installed with rivets, the lower semichannel assemblies would be required to be modified, and the main drive shaft would be inspected for damage. The actions specified by this proposed AD are intended to detect missing spacer rivets, which could allow the metallic spacers to rotate and lead to damage and failure of the main drive shaft, and subsequent loss of helicopter control.

DATES: We must receive comments on this proposed AD by July 23, 2012.

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

- *Federal eRulemaking Docket:* Go to *http://www.regulations.gov.* Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments 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 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address 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 proposed AD, the economic 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 service information identified in this proposed AD, contact Agusta Westland, Customer Support & Services, Via Per Tornavento 15, 21019 Somma Lombardo (VA) Italy, ATTN: Giovanni Cecchelli; telephone 39–0331–711133; fax 39 0331 711180; or at *http://www.agustawestland.com/technical-bullettins.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: Jim Grigg, Manager, Aircraft Certification, FAA, Rotorcraft Directorate, Safety Management Group, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5126, fax (817) 222–5961; email: *jim.grigg@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Emergency AD 2007–0192–E, dated July 13, 2007 (EAD 2007–0192–E), to correct an unsafe condition for the Agusta Model A109E, ''up to S/N 11694 included,'' except serial numbers (S/N) 11633 and 11634; Model A109S, ''up to S/N 22034 included,'' except S/Ns 22026 and 22033; and Model A109LUH, ''from S/N 13653 up to S/N 13668 included, from S/N 13752 up to S/N 13761 included, and from S/N 13801 up to 13811 included''; with lower semichannel assemblies, part number (P/N) 109–0641–10–213 or 109–0642–01–171, installed. EASA advises that some cases of interference between the metallic spacer, P/N 109–0642–01–195, and the main drive shaft, P/N 109–0415–06–103, have been detected on the Model A109LUH helicopter, a military version of the Model A109 helicopter that is not type certificated in the U.S., and that this interference has damaged the main drive shaft. EASA advises that this condition, if not corrected, could lead to failure of the main drive shaft ''with significant effects on the safety of the helicopter.''

FAA's Determination

These helicopters have been approved by the aviation authority of Italy and are approved for operation in the United States. Pursuant to our bilateral agreement with Italy, EASA, its technical representative, has notified us of the unsafe condition described in its AD. We are proposing this AD because we evaluated all known relevant information and determined that an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Related Service Information

Agusta has issued Mandatory Alert Bollettino Tecnico No. 109EP–79, dated July 12, 2007 (BT 109EP–79), which applies to certain S/Ns of the model A109E helicopter, and Mandatory Alert Bollettino Tecnico No. 109S–15, dated July 12, 2007 (BT 109S–15), which applies to certain S/Ns of the model A109S helicopter. Both BT 109EP–79 and BT 109S–15 specify performing an inspection on the left side and right side lower semichannel assemblies to determine if metallic spacers are installed. If the metallic spacers are installed, BT 109EP–79 and BT 109S–15 specify inspecting the metallic spacers for correct installation, inspecting the gaskets for correct seating, modifying

the semichannel assemblies by installing missing rivets, and inspecting the main drive shaft for damage if the metallic spacers are installed without rivets.

Proposed AD Requirements

Within 50 hours time-in-service, this proposed AD would require you to do the following:

- Perform a one-time inspection of the lower semichannel assemblies to determine if the metallic spacers are installed.
- If the metallic spacers are installed, determine correct installation of the metallic spacers and correct seating of the gaskets.
- If the metallic spacers are installed without rivets, modify the lower semichannel assemblies by installing rivets. Also, inspect the main drive shaft for nicks, scratches, or other damage in the area of the semichannel. If damage exceeds allowable damage tolerances, replace the main drive shaft with an airworthy main drive shaft.

Differences Between This Proposed AD and the EASA AD

This proposed AD differs from the EASA AD as follows:

- This proposed AD is not applicable to A109LUH model helicopters because they are not type certificated for use in the United States;
- This proposed AD does not require compliance ''not later than September 30, 2007'' because that date has passed;
- This proposed AD uses the term ''hours time-in-service'' rather than ''flight hours'' when referring to compliance times; and
- This proposed AD does not contain the steps necessary to install the main drive shaft.

Costs of Compliance

We estimate that this proposed AD would affect about 90 helicopters of U.S. registry. We also estimate an average labor rate of $85 per work hour. Based on these assessments, we calculate the following costs:

- Inspecting the lower semichannel assembly for metallic spacers would take about 15 minutes for a labor cost of $21 per helicopter. No parts would be needed, so the total cost for the 90-helicopter fleet would be $1,890.
- Inspecting for missing rivets would take about three work-hours for a total labor cost of $255 per helicopter. Parts would cost $10, increasing the per-helicopter cost to $265.
- Removing, inspecting for damage, and reinstalling the main drive shaft would take four work-hours for a labor cost of $340. No parts would be required.
- Replacing the main drive shaft. This task also would take four work-hours, so that labor costs would again total $340. Parts would cost $20,824 for a total per-helicopter cost of $21,164.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska 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 proposed 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.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new Airworthiness Directive (AD):

Agusta S.p.A.: Docket No. FAA–2012–0501; Directorate Identifier 2009–SW–083–AD.

(a) Applicability

This AD applies to Model A109E helicopters, up to and including serial number (S/N) 11694, except 11633 and 11634; and Model A109S helicopters, up to and including S/N 22034, except S/N 22026 and 22033; with lower semichannel assemblies, part number (P/N)109–0641–10–213 or 109–0642–01–171, installed; certificated in any category.

Note to paragraph (a) of this AD: The lower semichannel assemblies are sub-components of the forward firewall assembly.

(b) Unsafe Condition

This AD results from reported cases of damage to the main drive shaft caused by improperly secured metallic spacers on some A109 model helicopters. The actions specified by this AD are intended to detect missing spacer rivets, which could allow the metallic spacers to rotate and lead to damage and failure of the main drive shaft, and subsequent loss of control of the helicopter.

(c) 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.

(d) Required Actions

Within 50 hours time-in-service:

(1) Inspect the left-side and right-side lower semichannel assemblies by referring to Figures 1 and 2, and in accordance with Paragraph 3. of the Compliance Instructions in the Agusta Bollettino Tecnico (BT) No. 109EP–79 for the Model A109E helicopter, or BT No. 109S–15 for the Model A109S helicopter, both dated July 12, 2007, to determine if metallic spacers, P/N 109–0642–01–195, are installed. If metallic spacers are not installed, no further actions are required.

(2) For each semichannel assembly with a metallic spacer, remove the semichannel assembly from the helicopter firewall and note whether it is the left-side or right-side semichannel assembly.

(3) Inspect each removed semichannel assembly and determine whether there is a fixing rivet, P/N MS20427M3–5, MS20426T3–5, or A298A04TW02, installed that holds the spacer to the lower semichannel assembly and whether the gasket is properly seated.

(4) For each semichannel assembly without a fixing rivet on each side of the lower

semichannel assembly or those where the gasket is improperly seated, separate the lower semichannel from the upper semichannel, noting the orientation of each spacer and gasket. Modify the lower semichannel assembly by installing a fixing rivet on each side of the lower semichannel assembly, and reattaching the lower and upper semichannel assemblies in accordance with paragraphs 4.2 through 4.7 of the appropriate BT for your model helicopter. Paragraph 4.2 of the BT states ''remove the fixing rivets''; this AD changes that provision to ''remove the screws, P/N MS27039–08–05.''

(5) Inspect each main drive shaft for a nick, a scratch, or other damage in the semichannel area. If a nick, a scratch, or other damage is found that exceeds those allowable damage tolerances in the maintenance manual, replace the main drive shaft with an airworthy main drive shaft.

(e) Alternative Methods of Compliance (AMOC)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Jim Grigg, Manager, Aircraft Certification, FAA, Rotorcraft Directorate, Safety Management Group, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5126, fax (817) 222–5961; email: *jim.grigg@faa.gov*.

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR 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.

(f) Additional Information

(1) For service information identified in this AD, contact Agusta Westland, Customer Support & Services, Via Per Tornavento 15, 21019 Somma Lombardo (VA) Italy, ATTN: Giovanni Cecchelli; telephone 39–0331–711133; fax 39–0331–711180; or at *http://www.agustawestland.com/technical-bullettins*. You may review a copy of the service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

(2) The subject of this AD is addressed in the European Aviation Safety Agency (EASA) AD 2007–0192–E, dated July 13, 2007.

(g) Subject

Joint Aircraft Service Component (JASC) Code: 7100, powerplant system.

Issued in Fort Worth, Texas, on May 9, 2012.

Kim Smith,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2012–12354 Filed 5–21–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0529; Directorate Identifier 2011–SW–050–AD]

RIN 2120–AA64

Airworthiness Directives; Agusta S.p.A. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Agusta S.p.A. (Agusta) Model AW139 helicopters. This proposed AD is prompted by the discovery of improper installation of solder splices on the co-pilot audio system causing intermittent noise through the audio system during flight. The proposed actions are intended to prevent degradation and complete loss of communications between the pilot and co-pilot during flight, impairing the co-pilot's capability to react immediately to operational difficulties, which could lead to subsequent loss of control of the helicopter.

DATES: We must receive comments on this proposed AD by July 23, 2012.

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

- *Federal eRulemaking Docket:* Go to *http://www.regulations.gov*. Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments 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 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address 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 proposed AD, the economic 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 service information identified in this proposed AD, contact Agusta Westland, Customer Support & Services, Via Per Tornavento 15, 21019 Somma Lombardo (VA) Italy, Attn: Giovanni Cecchelli; telephone 39–0331–711133; fax 39 0331 711180; or at *http://www.agustawestland.com/technical-bullettins*. You may review copies of the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: John VanHoudt, Aerospace Engineer, FAA, Rotorcraft Directorate, Regulations and Policy Group, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5167, email *john.vanhoudt@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued AD No.: 2011–0140, dated July 20, 2011 (2011–0140), to correct an unsafe condition for certain Agusta AW139 helicopters. EASA advises that some occurrences of intermittent noise in the co-pilot audio system have been reported. The technical investigation carried out by Agusta showed that some of the solder splices on the audio panel were the

possible cause of these malfunctions. This condition, if not detected and corrected, could impair the co-pilot's capability to react immediately to operational difficulties. The EASA AD requires inspecting the solder splices and related wires for their condition and for proper installation, and if required, replacing the solder splices.

FAA's Determination

These helicopters have been approved by the aviation authority of Italy and are approved for operation in the United States. Pursuant to our bilateral agreement with Italy, EASA, their technical representative, has notified us of the unsafe condition described in its AD. We are proposing this AD because we evaluated all information provided by EASA and determined that an unsafe condition is likely to exist or develop on other helicopters of the same type design.

Related Service Information

Agusta has issued Bollettino Tecnico (BT) No. 139–249, dated July 13, 2011 (BT 139–249), which specifies performing an inspection and manual pull-test of the solder splices and replacing any splices which fail the inspection or pull-test. EASA classified this BT as mandatory and issued 2011–0140 to ensure the continued airworthiness of these helicopters.

Proposed AD Requirements

This proposed AD would require, within 500 hours time-in-service (TIS) or 5 months or when an ''AVIONICS FAULT'' crew alerting system (CAS) message is displayed, whichever occurs first, replacing all solder splices identified in BT 139–249. The actions would be required to be accomplished by following specified portions of the service bulletin described previously.

Differences Between This Proposed AD and the EASA AD

The EASA AD requires performing a visual inspection and manual pull-test of the solder splices, while this proposed AD does not. The EASA AD requires compliance within 600 flight hours or 6 months, while this proposed AD would require compliance within 500 hours TIS or 5 months.

Costs of Compliance

We estimate that this proposed AD would affect 32 helicopters of U.S. Registry. We estimate that operators may incur the following costs in order to comply with this AD. Replacing the solder splices will require approximately 110 work-hours at an average labor cost of $85 per hour and required parts will cost $200, for a total cost per helicopter of $9,550 and a total cost to the U.S. operator fleet of $305,600.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska 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 proposed 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.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Agusta S.P.A. Helicopters: Docket No. FAA–2012–0529; Directorate Identifier 2011–SW–050–AD.

(a) Applicability

This AD applies to Agusta S.p.A. Model AW139 helicopters, serial numbers 31248, 31249, 41001 through 41023, 41201 through 41234, 41236, 41237 through 41255 (except 41240, 41242, 41246, 41249, 41251, and 41252), and 41257, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as intermittent noise through the audio system during flight caused by improper installation of solder splices on the co-pilot's audio panel. This condition could result in degradation and complete loss of communications between the pilot and co-pilot during flight, impairing the co-pilot's capability to react immediately to operational difficulties, which could lead to subsequent loss of control of the helicopter.

(c) 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.

(d) Required Action

Within 500 hours time-in-service or 5 months, or in the event of an AVIONICS FAULT crew alerting system (CAS) message, whichever occurs first, replace the co-pilot audio panel solder splices, listed in Tables 1 and 2 of Agusta Bollettino Tecnico No. 139–249, dated July 13, 2011 (ABT), in accordance with paragraphs 7.1 through 7.11. and Figures 12, 14, and 15 of the ABT.

(e) Alternative Methods of Compliance (AMOC)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: John VanHoudt, Aerospace Engineer, FAA, Rotorcraft Directorate, Regulations and Policy Group, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5167, email *john.vanhoudt@faa.gov.*

(2) For operations conducted under 14 CFR part 119 operating certificate or under 14 CFR 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.

(f) Additional Information

The subject of this AD is addressed in European Aviation Safety Agency (Italy) AD No.: 2011–0140, dated July 20, 2011.

(g) Subject

Joint Aircraft System Component (JASC) Code: 2397: Communications System Wiring.

Issued in Fort Worth, Texas, on May 10, 2012.

Kim Smith,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2012–12401 Filed 5–21–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91, 119, 120, 121, 135, and 136

[Docket No. FAA–2012–0374]

Living History Flight Experience (LHFE)—Exemptions for Passenger Carrying Operations Conducted for Compensation and Hire in Other Than Standard Category Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The FAA is announcing public meetings to gather additional technical input on the subject of exemptions relating to the LHFE. Input gathered will aid in developing future FAA guidance for evaluating LHFE petitions for exemption. Prior to the public meetings, the FAA is seeking public comment on the guidance.

DATES: The public meetings will be held on June 26, 27, and 28, 2012, from 8:00 a.m. until 4:30 p.m. Note that the meetings may be adjourned early if scheduled speakers complete their presentations early. The deadline to submit a request to make an oral statement is June 18, 2012. The written comment period will close on June 18, 2012.

ADDRESSES: The public meetings will be held in the FAA Headquarters building auditorium on the third floor, 800 Independence Ave. SW., Washington, DC 20591. Due to limited space, attendees are required to please reply (RSVP) to *9-AFS-LHFE@faa.gov.* Seating will be on a first-come-first-serve basis. If computer access is not possible, please RSVP via mail, fax or hand delivery via the methods listed directly below:

- *Mail or Hand Delivery:* RSVP to Flight Standards Service, General Aviation and Commercial Division, AFS–800, ATTN: LHFE (RSVP), 800 Independence Ave. SW., Washington, DC 20591.
- *Fax:* RSVP to AFS–800, Attn: LHFE (RSVP) at 202–385–9597.

Written comments (identified by docket number FAA–2012–0374) may be submitted using any of the following methods:

○ *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the instructions for sending comments electronically.

○ *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.

○ *Fax:* Fax comments to Docket Operations at 202–493–2251.

○ *Hand Delivery:* Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Written comments to the docket will receive the same consideration as statements made at the public meeting. For more information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov,* including any personal information provided by the commenter. Using the search function of the FAA's docket Web site, anyone can find and read the comments received into any of the agency's dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement may be reviewed in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478) or at *http://DocketsInfo.dot.gov.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time or in Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Requests to present a statement at the public meetings and questions regarding the logistics of the meetings should be directed to Ms. Keira Jones, Office of Rulemaking (ARM–101), Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–4025, facsimile (202) 267–5075.

Technical questions should be directed to the General Aviation and Commercial Division, AFS–800, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 385–9600, facsimile (202) 385–9597; email *9-AFS-LHFE@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA has historically found an overwhelming public interest in preserving United States (U.S.) aviation history, including former military aircraft transferred to private individuals or organizations for the purpose of restoring and flying these aircraft. The FAA has further determined that, with appropriate conditions and limitations imposed for public safety purposes, access to these aircraft can include allowing the public to experience flight. Because the regulations (14 CFR) do not otherwise allow such operations, the FAA established through its mid-1990s Living History Flight Experience (LHFE) policy that exemptions are an appropriate way to preserve aviation history and keep historic airplanes operational when comparable airplanes manufactured under a standard airworthiness certificate do not exist. The LHFE policy provided a way for the private owner/operators of historically significant, American-manufactured large, crew-served, piston-powered, multi-engine, World War II bomber aircraft to conduct limited passenger carrying flights, for compensation, as a way to generate funds needed to maintain and preserve these historically significant aircraft for future generations.

Because this policy generated a number of petitions for exemption, the FAA affirmed that the regulatory scheme adopted in 14 CFR establishes appropriate safety standards for aircraft operators and crewmembers. Those requesting an exemption from a particular standard or set of standards must demonstrate that: (1) The flight cannot be performed in full compliance with regulations, (2) there is an overriding public interest in conducting passenger flights on the aircraft, and (3) the measures to be taken establish an appropriate level of safety for the flight. Because of this, the FAA limited the scope of its nostalgia flight exemption to World War II (WWII) or earlier vintage airplanes (i.e., manufactured before December 31, 1947). The reasoning behind this limitation addressed both public interest (e.g., the unique opportunity to experience flight in a B–

17 or B–24 while such aircraft can still be safely maintained) and public safety (e.g., older and slower multi-engine which airplanes allow time for appropriate corrective measures in the event of an in-flight emergency, and crews must meet FAA qualification and training requirements). In addition, the FAA determined that it would not be prudent to grant exemptions from the FAA regulations to operators of supersonic jets because the speed of supersonic jets makes it likely that any in-flight emergency may result in serious injuries or fatalities. The recent crash of a supersonic jet at an air show that was piloted by two highly qualified and well-trained flight crewmembers clearly demonstrates the need to reevaluate LHFE.

However, even after defining the guidelines for approving LHFE exemptions, the number of petitions for exemptions outside this scope—e.g., for former military turbojet-powered aircraft such as the L–29, L–39, TS–11, Alfa Jet, and others that remain in active military service—led the FAA to issue further guidance in 2006 on Exemptions for Passenger-Carrying Operations Conducted for Compensation and Hire in Other Than Standard Category Aircraft (71 FR 15087). However, the FAA also noted that in expanding requests beyond the original intent, i.e., going from a passenger in a B–17 to manipulating the controls of a fighter jet to conducting simulated aerial combat fights in the interest of ''the historical experience,'' requires the agency to reevaluate its policy. The FAA noted that the clear market orientation of these requests undermines arguments of a public interest goal in preserving unique historical aircraft.

Nevertheless, the 2006 policy agreed to consider any request for exemption for passenger-carrying flights in non-standard category aircraft, especially former military turbine-engine-powered aircraft, on a case-by-case basis, including consideration of non-American manufactured aircraft. However, some petitioners are now creating business models (as indicated above) that, if authorized by the FAA, would offer civilians an opportunity to conduct such aerial combat flights with hands-on flight experience in these aircraft. The FAA did not contemplate or intend operations of this nature when it originally developed the LHFE policy and, since issuance of the original policy and its subsequent revisions, additional issues (e.g., airworthiness and maintenance concerns) continue to emerge. Because of the high risks associated with the industry's expanded business model, the FAA has determined that a comprehensive evaluation of this policy is necessary and seeks public input.

Purpose of the Public Meetings

The purpose of the public meetings is for the FAA to hear the public's views and obtain information relevant to the policy under consideration. The FAA will consider comments made at the public meetings (as well as comments submitted to the docket) before making a final decision on issuance of the policy.

Persons wishing to attend this one-time meeting are required to register in advance. Your registration must detail whether you wish to make a statement during the public meeting. If you do wish to make a statement, your registration must indicate which of the following policy topics/questions you wish to speak about and what organization you represent. Due to limited space, attendees are required to reply (RSVP) to: *9-AFS-LHFE@faa.gov.* If computer access is not possible, please RSVP via mail, fax or hand delivery via the methods listed above in the **ADDRESSES** section.

In addition to the information sought during the public meeting, the FAA seeks information on the following questions. In order for the FAA to consider expansion of the policy, we must have sufficient data that provides an equivalent level of safety, address public interest, along with full background documentation. It is foreseen that additional limitations will be required for any expansion to the LHFE policy due to some additions that have been requested (i.e., replica, turbojet and supersonic aircraft), and not previous contemplated in the original LHFE policy. Again, the FAA requests that all comments be accompanied by full documentation.

General Policy

(a) If changes are made to the LHFE policy that excludes certain aircraft which are currently allowed in an exemption, how should the FAA possibly grandfather such operations?

(b) If LHFE is not limited to original factor built aircraft with operational history or if replica, reproduction, or look a like aircraft are to be considered under an expanded LHFE, what are the safety mitigations and limitations that should be considered and why.

(c) Should the operational history of the model be considered? Should the civil and public/military accident rate be considered when reviewing petitions for LHFE?

(d) Should the LHFE policy be limited to U.S. manufactured aircraft (as originally intended) with significant U.S. aviation history? If the FAA is to expand the scope of LHFE, the following issues must be addressed:

i. The operational history of former U.S. military aircraft is accessible to the FAA while that of foreign aircraft may not be accessible.

ii. The FAA has little or no information on the ''standard'' to which the non-U.S. aircraft were built.

(e) Should the FAA exclude jets, turbojets and/or supersonic aircraft? If not, the following issues must be addressed:

i. High performance aircraft increase the level of complexity for the operation of these aircraft.

ii. High performance aircraft add an increased level of complexity to the maintenance of these aircraft.

iii. The FAA must consider the higher level of risk brought on by the higher energy aircraft and ejection seats. What are the industry standards for the FAA to evaluate on the inherent risks?

iv. Should the FAA permit turboprop powered aircraft to hold LHFE status?

(f) Should the FAA permit single engine aircraft to hold LHFE status considering policy was originally developed based on the operation of large, multi-engine, crew served aircraft?

(g) Should the FAA permit aircraft that were once operated by the military as single seat aircraft LHFE status if a second seat has been added? Does this configuration still meet the intent of LHFE?

(h) The original concept of the exemptions was to permit the public to experience something that could not be experienced in a ''standard category'' aircraft. With that in mind, should the FAA permit LHFE in aircraft for which a standard category aircraft is available and where comparable experience can be obtained.

(i) The original concept of the exemptions was to permit the public to experience something that could not be experienced in a ''standard'' aircraft. With that in mind, should the FAA permit LHFE in aircraft for which there is a standard version of the same? How do we phase out or grandfather those that were inadvertently included as LHFE?

(j) Should the FAA establish an Organizational Delegation Authority-like process where an authorized industry entity evaluates an organization's request (training, certification, airworthiness, etc.) and makes recommends to the FAA.

Issuance, General

(k) Older aircraft require a rather large commitment on the part of the operator. Sometimes it may be more than the operator realizes. Should the FAA require a ''fitness'' standard that considers the following?

i. Can the operator operate the aircraft?

1. How much experience is enough to demonstrate the operator has the ability to operate the specific type? Or should the FAA consider their ability to operate a similar aircraft?

ii. Can the operator maintain the aircraft?

1. Have they satisfactorily maintained this or a similar aircraft?

(l) The FAA feels that an operator's compliance history should be considered. If the operator or its principals have a history of non-compliance, should the FAA deny the petition?

i. Should the FAA require a ''violation free'' time period? If so, how long should it be? What about non-aviation history (i.e., convicted felon)?

(m) In part 119 operations, a new operator or one proposing to conduct operations with a significantly different aircraft may be asked to conduct proving or validation flights/testing to demonstrate their ability to conduct the operations proposed.

i. How much proving or validation flights/testing should be required if the petitioner does not have experience with the specific aircraft?

ii. How much proving or validation flight/testing should be required if the petitioner does not have experience with a similar aircraft?

(n) How can the FAA determine ''Operational Control''? The exemptions are designed to permit not-for-profit organizations to support the continued operation of LHFE aircraft. Who owns the aircraft? Who operates the aircraft? Who is responsible for the operation of the aircraft? Who really benefits?

(o) Should the FAA require that LHFE holders carry insurance?

Issuance, Limitations

(p) Should passengers be permitted to occupy a crew seat/position considering the following current policy?

i. The current LHFE policy states: ''No persons other than the assigned flight crew members may be permitted on the pilot station of the airplane during flight operations.''

ii. The FAA has always interpreted this statement as prohibiting the passengers from manipulating the controls of a single pilot aircraft but several LHFE holders have complained that the FAA misapplied the meaning as applied to single pilot aircraft.

(q) Formation flight is already prohibited by § 91.111(b) but the FAA feels that ''air combat maneuvering'' at any distance creates an unacceptable level of risk (formation is popularly defined as flight within 500 feet). Considering this, should such flights be prohibited or severely restricted to ensure the safety of the aircraft occupants and persons and property on the ground?

(r) Should the FAA prohibit or severely restrict aerobatics in LHFE aircraft considering the following?

i. Older aircraft, mitigation of risk requires that the aircraft be operated ''gently.''

ii. Aerobatic training and rides are available in properly certificated aircraft.

iii. Pilot qualification. The FAA has no clear way to qualify or evaluate aerobatic qualifications. Is an ICAS ACE evaluation adequate?

iv. If the FAA permits aerobatics, are the current weather minimums adequate (1500 ft ceiling and three miles visibility) or are they too low?

v. Many of the aircraft manuals restrict aerobatics to much higher altitudes such as those listed in the P–47 aircraft.

(s) Should the FAA limit, restrict, or prohibit low passes while conducting LHFE flights?

(t) Should the FAA require approved seats for the pilots and passengers?

(u) What emergency equipment should the FAA require on LHFE aircraft?

(v) Should the FAA require operators to have evacuation plans and drills?

(w) If the FAA allows ''high performance'' jets, should the operator be required to have arresting gear?

i. If the FAA requires the availability of arresting gear, will the military approve?

(x) Considering the following, should the FAA include flight training requirements in the LHFE exemption?

i. Flight training is available via deviation for experimental aircraft.

ii. Flight training is available in limited aircraft via exemption.

(y) In addition to the LHFE exemption, should the FAA require the operator to obtain a 14 CFR 91 Sightseeing ride Letter of Authorization?

(z) In nearly every flight operation where passengers are carried for compensation or hire, pilots are required to participate in a drug and alcohol testing program. Should the FAA require drug and alcohol training and testing for LHFE operators?

Weather Minimums

(aa) Weather minimums.

i. Should the weather minimums be raised for all LHFE flights or should the FAA require the pilot in command (PIC) of LHFE aircraft to be instrument rated and current?

ii. Since § 91.515 requires large aircraft to remain at least 1,000 feet above ground level, and the minimum distance below clouds in class C, D, and E airspace is 500 feet, is a 1500 foot ceiling appropriate or should the FAA require more appropriate weather minimums for these aircraft?

iii. If the FAA allows passengers to manipulate the controls of the LHFE aircraft, what should be the minimum weather?

iv. If the FAA allows aerobatic flight in LHFE aircraft, what should be the minimum weather?

Pilot Qualification/Currency

(bb) Pilot qualification/experience minimums.

i. Is an unrestricted pilot qualification required?

(cc) Pilot and crew training requirements.

i. Are the current LHFE training requirements adequate?

Maintenance/Inspection

(dd) Should the operator be required to demonstrate their ability to maintain the aircraft?

(ee) Are the current LHFE maintenance and inspection requirements adequate?

i. An experimental airworthiness certificate assumes a higher level of risk is acceptable for the pilot. However, is the higher level of risk acceptable for a paying passenger or should the FAA change the conditions and limitations, or the operating limitations, to mitigate the risks? If so, what should such changes look like?

(ff) Should the FAA require that the interior and exterior entrances be marked as exit doors?

i. Should the markings be in contrasting colors?

ii. Should the markings have a minimum legibility requirement such as 36 inches?

iii. Should the FAA require that the handles be marked in a contrasting color?

(gg) Should aircraft that have been modified by the addition of a second seat be required to provide a means for the passenger to exit the aircraft without the pilot exiting first?

(hh) Safety of the public is the FAA's primary goal. Since LHFE aircraft are all older aircraft, how should the FAA

determine which aircraft can be operated under LHFE? Some of the LHFE aircraft range from complete restorations (from the data plate up) to aircraft that have serious corrosion or other structural issues.

i. How should the FAA identify which aircraft are eligible for LHFE status?

ii. How does the FAA or operator ensure an equal level of safety?

(ii) Should the FAA allow aircraft that previously held a standard certificate, but later ''decertified'' and now hold an experimental certificate, be allowed to operate under an LHFE exemption?

i. Aircraft that no longer conform to their type certificate data sheet create an issue for the FAA since it can be difficult to determine an equal level of safety for a decertified aircraft. With this in mind, should such aircraft be allowed to operate under LHFE status?

Participation at the Public Meetings

Commenters who wish to present oral statements at the June 26, 27, and 28, 2012, public meetings should submit requests to the FAA no later than June 18, 2012.

Requests should be submitted as described in the **FOR FURTHER INFORMATION CONTACT** section of this document and should include a written summary of oral remarks to be presented and an estimate of time needed for the presentation. Preferably, please submit requests via email to: *9-AFS-LHFE@faa.gov.* Requests received after the dates specified above will be scheduled if there is time available during the meetings; however, the speakers' names may not appear on the written agendas. To accommodate as many speakers as possible, the amount of time allocated to each speaker may be less than the amount of time requested to ensure various views can be heard. See ''Public Meeting Procedures'' below.

The FAA may have available a projector and a computer capable of accommodating Word and PowerPoint presentations from a compact disk (CD) or USB memory device. Persons requiring any other kind of audiovisual equipment should notify the FAA when requesting to be placed on the agenda.

Sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting.

Public Meeting Procedures

A panel of representatives from the FAA and other government agencies will be present. An FAA representative will facilitate the meetings in accordance with the following procedures:

(1) The meetings are designed to facilitate the public comment process. The meetings will be informal and non-adversarial. No individual will be subject to cross-examination by any other participant. Government representatives on the panel may ask questions to clarify statements and to ensure an accurate record. Any statement made during the meetings by a panel member should not be construed as an official position of the government.

(2) There will be no admission fees or other charges to attend or to participate in the public meetings. The meetings will be open to all persons, subject to availability of space in the meeting room. The FAA will make every effort to accommodate all persons wishing to attend. The FAA asks that participants sign in between 7:30 and 8:00 a.m. on the days the meetings are being attended. The FAA will try to accommodate all speakers; however if available time does not allow this, speakers will be scheduled on a first-come-first-served basis. The FAA reserves the right to exclude some speakers, if necessary, to obtain balanced viewpoints. The meetings may adjourn early if scheduled speakers complete their statements in less time than is scheduled for the meetings.

(3) The FAA will prepare agendas of speakers and presenters and make the agendas available at the meetings.

(4) Speakers may be limited to 3-minute statements. If possible, the FAA will notify speakers if additional time is available.

(5) The FAA will review and consider all material presented by participants at the public meetings. Position papers or materials presenting views or information related to the draft policy may be accepted at the discretion of the presiding officer and will be subsequently placed in the public docket. The FAA requests that presenters at the meetings provide at least 10 copies of all materials for distribution to the panel members. Presenters may provide other copies to the audience at their discretion.

(6) Each person presenting comments is asked to submit data to support the comments. The FAA will protect from disclosure all proprietary data submitted in accordance with applicable laws.

Issued in Washington, DC, on May 16, 2012.

John M. Allen,

Director, Flight Standards Service.

[FR Doc. 2012–12383 Filed 5–21–12; 8:45 am]

BILLING CODE 4910–13–P

NATIONAL MEDIATION BOARD

29 CFR Part 1206

[Docket No. C–7034]

RIN 3140–ZA01

Representation Procedures and Rulemaking Authority

AGENCY: National Mediation Board.

ACTION: Proposed rule; notice of public hearing.

SUMMARY: The National Mediation Board (NMB or Board) extends an invitation to interested parties to attend an open public hearing with the Board and its staff on June 19, 2012. During the hearing, the NMB invites interested persons to share their views on the proposed rule changes related to the amendments to the Railway Labor Act (RLA) in the Federal Aviation Administration Modernization and Reform Act of 2012.

DATES: The hearing will be held on Tuesday, June 19, 2012 from 9 a.m. to 4 p.m. A second day may be scheduled for Wednesday, June 20, 2012 if necessary. Due to time and seating considerations, individuals desiring to attend the hearing, or to make a presentation before the Board, must notify the NMB staff, no later than 4 p.m. EDT on Friday, June 1, 2012.

ADDRESSES: The hearing will be held in the Margaret A. Browning Hearing Room (Room 11000), National Labor Relations Board, 1099 14th Street NW., Washington, DC 20570. Requests to attend the hearing must be addressed to Mary Johnson, General Counsel, National Mediation Board, 1301 K Street NW., Suite 250–East, Washington, DC 20005. Written requests may also be made electronically to *legal@nmb.gov.* All communications must include Docket No. C–7034.

FOR FURTHER INFORMATION CONTACT: Mary Johnson, General Counsel, National Mediation Board, 202–692–5050, *infoline@nmb.gov.*

SUPPLEMENTARY INFORMATION: The National Mediation Board will hold an open public hearing on Tuesday, June 19, 2012, from 9 a.m. until 4 p.m. The purpose of the hearing will be to solicit views of interested persons concerning proposed rule changes. On Tuesday,

May 15, 2012, the NMB issued a Notice of Proposed Rulemaking (NPRM) (77 FR 28536), proposing to amend its rules in response to amendments to the RLA contained in the Federal Aviation Administration Modernization and Reform Act of 2012, Public Law 112–095 (FAA Reauthorization). These rule changes are proposed to be codified at 29 CFR part 1206. In addition to the comment procedure outlined in the NPRM, the NMB is providing another opportunity for interested persons to provide their views to the Board on this important matter.

The FAA Reauthorization amendments include a requirement that the Board change its rules according to the informal rulemaking procedures in the Administrative Procedure Act (APA), 5 U.S.C. 553, and ''after the opportunity for a public hearing.'' Because the language in the amendment does not trigger the stricter requirements in sections 556 and 557 of the APA, this hearing will comply with those informal rulemaking procedures under the APA. *See, e.g. United States* v. *Allegheny-Ludlum Steel Corp.,* 406 US 742 (1972); *Siegal* v. *Atomic Energy Comm'n,* 400 F.2d 778, 785 (D.C. Cir. 1968) (holding that formal rulemaking procedures are only required where ''the agency statute, in addition to providing a hearing, prescribes explicitly that it be 'on the record.' '').

Individuals desiring to attend the hearing must notify the NMB staff, in writing, at the above listed physical or email address by the deadline posted. If the individual desires to make a presentation to the Board at the hearing, he or she is required to submit a brief outline of the presentation when making the request. In addition, a full written statement must be submitted no later than 4 p.m. on Friday, June 15, 2012. In lieu of making an oral presentation, individuals may submit a written statement for the record.

To attend the hearing, all potential attendees must include in their request: (1) their full name and (2) organizational affiliation (if any). Attendees are reminded to bring a photo identification card with them to the public hearing in order to gain admittance to the building. Due to the time and potential space limitations in the hearing room, the NMB will notify individuals of their attendance and/or speaking status (*i.e.,* preliminary time for their presentation) prior to the hearing. Time allocation for oral presentations will depend upon the number of individuals who desire to make presentations to the Board. Individuals should be prepared to summarize their written statements at the hearing.

Agenda: The hearing will be limited to issues related to the NMB's proposed rule changes appearing in the **Federal Register** on May 15, 2012 at 77 FR 28536–28538.

Dated: May 17, 2012.

Mary Johnson,

General Counsel, National Mediation Board.

[FR Doc. 2012–12412 Filed 5–21–12; 8:45 am]

BILLING CODE 7550–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2012–0352]

RIN 1625–AA00

Safety Zone; City of Tonawanda July 4th Celebration, Niagara River, Tonawanda, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone on the Niagara River, Tonawanda, NY. This proposed rule is intended to restrict vessels from a portion of the Niagara River during the City of Tonawanda July 4th Celebration fireworks display. The safety zone established by this proposed rule is necessary to protect spectators, participants, and vessels from the hazards associated with firework display.

DATES: Comments and related material must be received by the Coast Guard on or before June 21, 2012.

ADDRESSES: You may submit comments identified by docket number USCG–2012–0352 using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email LT Christopher Mercurio, Chief of Waterway Management, U.S. Coast Guard Sector Buffalo; telephone 716–843–9343, email *SectorBuffaloMarineSafety@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:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2012–0352), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via *http://www.regulations.gov*) or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via *www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* type the docket number USCG–2012–0352 in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received

during the comment period and may change the rule based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number USCG–2012–0352 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one using one of the four methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

Between 9:15 p.m. and 9:45 p.m. on July 4, 2012 a fireworks display will take place on the Niagara River near Tonawanda-Tonawanda Island, NY. The Captain of the Port Buffalo has determined that fireworks launched proximate to watercraft presents significant hazards to public spectators and participants. Such hazards include premature detonations, dangerous detonations, dangerous projectiles, and falling or burning debris.

Discussion of Proposed Rule

The proposed safety zone would be effective and enforced from 8:45 p.m. until 10:15 p.m. on July 4, 2012. The proposed safety zone would encompass all waters of Niagara River, Tonawanda, NY within a 1400 FT radius of position 43°01′39.59″ N and 78°53′07.48″ W (NAD 83).

Entry into, transiting, or anchoring within the proposed safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his on-scene representative. The Captain of the Port or his on-scene representative may be contacted via VHF Channel 16.

We believe this proposed temporary safety zone is necessary to ensure the safety of spectators and vessels during the City of Tonawanda July 4th Celebration.

Regulatory Analyses

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

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed 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 proposed rule would not have a significant economic impact on a substantial number of small entities.

This proposed temporary final rule may affect the following entities, some of which might be small entities: the owners of operators of vessels intending to transit or anchor in a portion of the Niagara River near Tonawanda-Tonawanda Island, New York between 8:45 p.m. to 10:15 p.m. on July 4, 2012.

This proposed safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: this proposed rule will be in effect for only 90 minutes and the proposed safety zone will allow vessels to move freely around the safety zone on the Niagara River. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed 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 proposed rule so that they can better evaluate its effects on them and participate in the rulemaking process. If this proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact LT Christopher Mercurio, Chief of Waterway Management, U.S. Coast Guard Sector Buffalo; telephone 716–843–9343, email *SectorBuffaloMarineSafety@uscg.mil.* The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

Collection of Information

This proposed rule would call 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 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 proposed 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 proposed rule would not result in such expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would 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 proposed 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 proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed 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 proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this proposed 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 proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed 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 preliminary 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. This proposed rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. Because it involves the establishment of a safety zone.

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

We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

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 proposes to amend 33 CFR parts 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Add § 165.T09–0352 to read as follows:

§ 165.T09–0352 Safety Zone; City of Tonawanda July 4th Celebration, Niagara River, Tonawanda, NY.

(a) *Location.* The safety zone will encompass all waters of the Niagara River, Tonawanda, NY within a 1400 FT radius of position 43°01′39.59″ N and 78°53′07.48″ W (NAD 83).

(b) *Effective and Enforcement Period.* This regulation is effective and will be enforced on July 4, 2012 from 8:45 p.m. until 10:15 p.m.

(c) *Regulations.*

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

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

(3) The ''on-scene representative'' of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Buffalo to act on his behalf. The on-scene representative of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Buffalo to act on his behalf.

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

Dated: May 3, 2012.

S. M. Wischmann,

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

[FR Doc. 2012–12317 Filed 5–21–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2012–0313]

RIN 1625–AA00

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

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend 33 CFR 165.941 by adding three permanent safety zones within the Captain of the Port Detroit Zone. This action is necessary to provide for the safety of life and property on navigable waters during each event. This action is intended to restrict vessel traffic in portions of the Captain of the Port Detroit Zone.

DATES: Comments and related materials must be received by the Coast Guard on or before June 21, 2012.

ADDRESSES: You may submit comments identified by docket number USCG–2012–0313 using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email ENS Benjamin Nessia, Response Department, Marine Safety Unit Toledo, Coast Guard; telephone (419) 418–6040, email *Benjamin.B.Nessia@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:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2012–0313), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via *http://www.regulations.gov*) or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via *www.regulations.gov*, it will be considered received by the Coast Guard when the comment is successfully transmitted. If you submit a comment via fax, hand delivery, or mail, it will be considered as having been received by the Coast Guard when the comment is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov*, type the docket number USCG–2012–0313 in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, type the docket number USCG–2012–0313 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

Public Meeting

We do not now plan to hold a public meeting, but you may submit a request for one using one of the four methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

Currently, 33 CFR 165.941 permanently lists fifty-six permanent safety zones within the Captain of the Port Detroit Zone. Each of these fifty-six permanent safety zones corresponds to an annually recurring fireworks display. A recent survey within the Captain of the Port Detroit Zone revealed four additional recurring events that we believe require a safety zone because these events will present dangers to the boating public. The likely combination of large numbers of inexperienced recreational boaters, congested waterways, darkness punctuated by bright flashes of light, alcohol use, and debris falling into the water could easily result in serious injuries or fatalities. Three of these four additional fireworks displays recur within a single month each year. The other one of these events, the Put-In-Bay Chamber of Commerce Fireworks, recurs four times a year—twice in June and twice in September.

Each of these additional fireworks events typically recurs during the same week of its respective month, but the exact date and times of each of these events differs each year.

Discussion of Proposed Rule

To mitigate the dangers presented by these four recurring fireworks displays, the Captain of the Port Detroit has determined that four safety zones are necessary. Thus, the Coast Guard proposes to amend 33 CFR 165.941 by adding four permanent safety zones. These proposed safety zones would be enforced in the following locations and at the following times:

The proposed safety zone for the Catawba Island Club Fireworks, Catawba Island, OH, would encompass all waters of Lake Erie within a 250-yard radius of the fireworks launch site located at position 41–34′–18.10″ N, 082–51′–18.70″ W (NAD 83). This proposed zone would be enforced one evening during the last week in May.

The proposed safety zone for the Put-In-Bay Chamber of Commerce Fireworks, Put-In-Bay, OH, would encompass all the waters of Lake Erie within a 1000-foot radius of the fireworks launch site located at position 41–39′–19″ N, 082–48′–57″ W (NAD 83). This proposed zone would be enforced one evening during the third week in June, one evening during the last week in June, one evening during the first week in September, and one evening during the second week in September.

The proposed safety zone for the Bay Point Fireworks Display, Marblehead, OH, would encompass all the waters of Lake Erie within a 250-yard radius of the fireworks launch site located at position 41°30′29.23″ N, 082°43′8.45″ W (NAD 83). This proposed zone would be enforced one evening during the first week in July.

The proposed safety zone for the Marysville Days Fireworks, Marysville, MI, would encompass all waters of the St. Clair River bounded by the arc of a circle with a 600-foot radius with its center in approximate position 42°54′25″ N, 082°27′58″ W (NAD 83). This proposed zone would be enforced one evening during the last week in June.

The Captain of the Port Detroit will use all appropriate means to notify the public when the safety zones in this proposal will be enforced. Consistent with 33 CFR 165.7(a), such means of may include, among other things, publication in the **Federal Register**, Broadcast Notice to Mariners, Local Notice to Mariners, or, upon request, by facsimile (fax). Also, the Captain of the Port will issue a Broadcast Notice to Mariners notifying the public if enforcement of a safety zone in this section is cancelled prematurely.

Entry into, transiting, or anchoring within each of these proposed safety zones during a period of enforcement is prohibited unless authorized by the Captain of the Port Detroit, or his designated representative. The Captain of the Port or his designated representative may be contacted via VHF Channel 16.

Regulatory Analyses

We developed this proposed 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 proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). We conclude that this proposed 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 established by this proposed rule would be relatively small and enforced for 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 any 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. 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 proposed 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 proposed rule would not have a significant economic impact on a substantial number of small entities.

This proposed 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 the above portions of Lake Erie and the Saint Clair River during the period that any of the proposed safety zones is being enforced.

These proposed safety zones will not have a significant economic impact on a substantial number of small entities for all of the reasons discussed in the above Regulatory Planning and Review section. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed 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 proposed rule so that they can better evaluate its effects on them and participate in the rulemaking process. If this proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact ENS Benjamin Nessia, Response Department, Marine Safety Unit Toledo, Coast Guard; telephone (419) 418–6040, email *Benjamin.B.Nessia@uscg.mil*. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

Collection of Information

This proposed rule would call 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 proposed 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 proposed rule would not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

This proposed 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 proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed 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 proposed 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 proposed 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 proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed 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 preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves the establishment of safety zones and thus, is categorically excluded under paragraph (34)(g) of the Instruction. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

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 proposes to amend 33 CFR Part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

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

2. In § 165.941(a), add paragraphs (57) through (60) to read as follows:

(57) Catawba Island Club Fireworks; Catawba Island, OH.

(i) *Location.* All waters of Lake Erie within a 250-yard radius of the fireworks launch site located at position 41–34′–18.10″ N, 082–51′–18.70″ W (NAD 83).

(ii) *Expected date.* This safety zone will be enforced one evening during the last week in May.

(58) Put-In-Bay Chamber of Commerce Fireworks, Put-In-Bay, OH.

(i) *Location.* All waters of Lake Erie within a 1000-foot radius of the fireworks launch site located at position 41–39′–19″ N, 082–48′–57″ W (NAD 83). This area is located in the Put-In-Bay Harbor.

(ii) *Expected dates.* This safety zone will be enforced one evening during the third week in June, one evening during the last week in June, one evening during the first week in September, and one evening during the second week in September.

(59) Bay Point Fireworks Display, Marblehead, OH:

(i) *Location.* All waters of Lake Erie within a 250-yard radius of the fireworks launch site located at position 41°30′29.23″ N, 082°43′8.45″ W (NAD 83).

(ii) *Expected date.* This safety zone will be enforced one evening during the first week in July.

(60) Marysville Days Fireworks, Marysville, MI:

(i) *Location.* All waters of the St. Clair River within a 600 foot radius of the fireworks launch site located on land at position 42°54′25″ N, 082°27′58″ W (NAD 83).

(ii) *Expected date.* This safety zone will be enforced one evening during the LAST week in June.

Dated: May 7, 2012.

J.E. Ogden,

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

[FR Doc. 2012–12307 Filed 5–21–12; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2010–0930, FRL–9675–7]

Approval and Promulgation of Implementation Plans; State of Idaho; Regional Haze State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve portions of a State Implementation Plan (SIP) revision submitted by the State of Idaho on October 25, 2010, as meeting the requirements of the Clean Air Act (CAA or the Act) and federal regional haze program requirements. In a previous action on June 22, 2011, EPA approved portions of the October 25, 2010, SIP submittal as meeting the requirements for interstate transport for visibility of the CAA and certain requirements of the regional haze program including the requirements for best available retrofit technology (BART). This **Federal Register** notice addresses the requirements of the Act and EPA's rules that require states to prevent any future and remedy any existing anthropogenic impairment of visibility in mandatory Class I areas caused by emissions of air pollutants from numerous sources located over a wide geographic area (also referred to as the ''regional haze program'').This action proposes to approve the remaining regional haze SIP elements for which EPA previously took no action in the June 22, 2011, notice.

DATES: Written comments must be received at the address below on or before June 21, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2010–0930 by one of the following methods:

- *www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Email: R10-Public_Comments@epa.gov.*
- *Mail:* Steve Body, EPA Region 10, Suite 900, Office of Air, Waste and Toxics, 1200 Sixth Avenue, Seattle, WA 98101
- *Hand Delivery:* EPA Region 10, 1200 Sixth Avenue, Suite 900, Seattle, WA 98101. Attention: Steve Body, Office of Air, Waste and Toxics, AWT–107. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R10–OAR–2010–0930. 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.

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 form. Publicly available docket materials are available either electronically at *www.regulations.gov* or in hard copy at the Office of Air, Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle, WA 98101. EPA requests that if at all possible, you contact the individual listed below to view a hard copy of the docket.

FOR FURTHER INFORMATION CONTACT: Steve Body at telephone number (206) 553–0782, *body.steve@epa.gov,* or the above EPA, Region 10 address.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean the EPA. Information is organized as follows:

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I. Background for EPA's Proposed Action

In the CAA Amendments of 1977, Congress established a program to protect and improve visibility in the national parks and wilderness areas. See CAA section 169A. Congress amended the visibility provisions in the CAA in 1990 to focus attention on the problem of regional haze. See CAA section 169B. EPA promulgated regulations in 1999 to implement sections 169A and 169B of the Act. These regulations require states to develop and implement plans to ensure reasonable progress toward improving visibility in mandatory Class

I Federal areas [1] (Class I areas). 64 FR 35714 (July 1, 1999); see also 70 FR 39104 (July 6, 2005) and 71 FR 60612 (October 13, 2006).

On behalf of the State of Idaho, the Idaho Department of Environmental Quality submitted its Regional Haze State Implementation Plan (Regional Haze SIP submission or SIP submittal) to EPA on October 25, 2010. In a previous action EPA approved certain provisions in Idaho's Regional Haze SIP submission. 76 FR 36329. This previous action approved the provisions addressing Best Available Retrofit Technology (BART) (40 CFR 51.308(e), calculation of baseline and natural conditions (40 CFR 51.308(d)(2)) and state wide emission inventory of pollutants that are reasonably anticipated to cause or contribute to visibility impairment in any mandatory Class I area. In that same action, EPA also approved portions of the October 25, 2010 SIP submittal as meeting the requirements for interstate transport for visibility of CAA section 110(a)(2)(D)(i)(II).

In this action, EPA is proposing to approve the provisions of Idaho's Regional Haze SIP submission that address the remaining regional haze requirements for establishing Reasonable Progress Goals (RPGs) and the Long Term Strategy (LTS).

A. Definition of Regional Haze

Regional haze is impairment of visual range or colorization caused by emission of air pollution produced by numerous sources and activities, located across a broad regional area. The sources include but are not limited to, major and minor stationary sources, mobile sources, and area sources including non-anthropogenic sources. These sources and activities may emit fine particles ($PM_{2.5}$) (*e.g.,* sulfates, nitrates, organic carbon, elemental carbon, and soil dust), and their precursors (*e.g.,* sulfur dioxide (SO_2), nitrogen oxides (NO_X), and in some cases, ammonia (NH_3) and volatile organic compounds (VOC)). Atmospheric fine particulate reduces clarity, color, and visual range of visual scenes. Visibility reducing fine particulate is primarily composed of sulfate, nitrate, organic carbon compounds, elemental carbon, and soil dust, and impairs visibility by scattering and absorbing light. Fine particulate can also cause serious health effects and mortality in humans, and contributes to environmental effects such as acid deposition and eutrophication. See 64 FR at 35715.

Data from the existing visibility monitoring network, the ''Interagency Monitoring of Protected Visual Environments'' (IMPROVE) monitoring network, show that visibility impairment caused by air pollution occurs virtually all the time at most national parks and wilderness areas. The average visual range in many Class I areas in the Western United States is 100–150 kilometers, or about one-half to two-thirds the visual range that would exist without manmade air pollution.[2] Id. Visibility impairment also varies day-to-day and by season depending on variation in meteorology and emission rates.

B. Regional Haze Rules and Regulations

In section 169A of the 1977 CAA Amendments, Congress created a program for protecting visibility in the nation's national parks and wilderness areas. This section of the CAA establishes as a national goal the ''prevention of any future, and the remedying of any existing, impairment of visibility in Class I areas which impairment results from manmade air pollution.'' CAA section 169A(a)(1). On December 2, 1980, EPA promulgated regulations to address visibility impairment in Class I areas that is ''reasonably attributable'' to a single source or small group of sources, i.e., ''reasonably attributable visibility impairment'' (RAVI). 45 FR 80084. These regulations represented the first phase in addressing visibility impairment. EPA deferred action on regional haze that emanates from a variety of sources until monitoring, modeling and scientific knowledge about the relationships between pollutants and visibility impairment were improved.

Congress added section 169B to the CAA in 1990 to address regional haze issues. EPA promulgated a rule to address regional haze on July 1, 1999 (64 FR 35713) (the regional haze rule or RHR). The RHR revised the existing visibility regulations to integrate into the regulation, provisions addressing regional haze impairment and established a comprehensive visibility protection program for Class I areas. The requirements for regional haze, found at 40 CFR 51.308 and 51.309, are included in EPA's visibility protection regulations at 40 CFR 51.300–309. Some of the main elements of the regional haze requirements are summarized in section III of this rulemaking. The requirement to submit a regional haze SIP applies to all 50 states, the District of Columbia and the Virgin Islands.[3] 40 CFR 51.308(b) requires states to submit the first implementation plan addressing regional haze visibility impairment no later than December 17, 2007.

C. Roles of Agencies in Addressing Regional Haze

Successful implementation of the regional haze program will require long-term regional coordination among states, tribal governments and various Federal agencies. As noted above, pollution affecting the air quality in Class I areas can be transported over long distances, even hundreds of kilometers. Therefore, to effectively address the problem of visibility impairment in Class I areas, states need to develop strategies in coordination with one another, taking into account the effect of emissions from one jurisdiction on the air quality in another.

Because the pollutants that lead to regional haze impairment can originate from across state lines, even across international boundaries, EPA has encouraged the States and Tribes to address visibility impairment from a regional perspective. Five regional planning organizations [4] (RPOs) were created nationally to address regional haze and related issues. One of the main objectives of the RPOs is to develop and analyze data and conduct pollutant transport modeling to assist the States or Tribes in developing their regional haze plans.

The Western Regional Air Partnership (WRAP),[5] one of the five RPOs

[1] Areas designated as mandatory Class I Federal areas consist of national parks exceeding 6000 acres, wilderness areas and national memorial parks exceeding 5000 acres, and all international parks that were in existence on August 7, 1977. 42 U.S.C. 7472(a). In accordance with section 169A of the CAA, EPA, in consultation with the Department of Interior, promulgated a list of 156 areas where visibility is identified as an important value. 44 FR 69122 (November 30, 1979). The extent of a mandatory Class I area includes subsequent changes in boundaries, such as park expansions. 42 U.S.C. 7472(a). Although states and tribes may designate as Class I additional areas which they consider to have visibility as an important value, the requirements of the visibility program set forth in section 169A of the CAA apply only to ''mandatory Class I Federal areas.'' Each mandatory Class I Federal area is the responsibility of a ''Federal Land Manager.'' 42 U.S.C. 7602(i). When we use the term ''Class I area'' in this action, we mean a ''mandatory Class I Federal area.''

[2] *Id.*

[3] Albuquerque/Bernalillo County in New Mexico must also submit a regional haze SIP to completely satisfy the requirements of section 110(a)(2)(D) of the CAA for the entire State of New Mexico under the New Mexico Air Quality Control Act (section 74–2–4).

[4] See *http://www.epa.gov/air/visibility/regional.html* for description of the regional planning organizations.

[5] The WRAP Web site can be found at *http://www.wrapair.org.*

nationally, is a voluntary partnership of State, Tribal, Federal, and local air agencies dealing with air quality in the West. WRAP member States include: Alaska, Arizona, California, Colorado, Idaho, Montana, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming. WRAP Tribal members include Campo Band of Kumeyaay Indians, Confederated Salish and Kootenai Tribes, Cortina Indian Rancheria, Hopi Tribe, Hualapai Nation of the Grand Canyon, Native Village of Shungnak, Nez Perce Tribe, Northern Cheyenne Tribe, Pueblo of Acoma, Pueblo of San Felipe, and Shoshone-Bannock Tribes of Fort Hall.

As a result of the regional planning efforts in the West, all states in the WRAP region contributed information to a Technical Support System (TSS) which provides an analysis of the causes of haze, and the levels of contribution from all sources within each state to the visibility degradation of each Class I area. The WRAP States consulted in the development of reasonable progress goals, using the products of this technical consultation process to co-develop their reasonable progress goals for the Western Class I areas. The modeling done by the WRAP relied on assumptions regarding emissions over the relevant planning period and embedded in these assumptions were anticipated emissions reductions in each of the States in the WRAP, including reductions from BART and other measures to be adopted as part of the State's long term strategy for addressing regional haze. The reasonable progress goals in the draft and final regional haze SIPs that have now been prepared by States in the West accordingly are based, in part, on the emissions reductions from nearby States that were agreed on through the WRAP process.

II. Requirements for Regional Haze SIPs

A. The CAA and the Regional Haze Rule

Regional haze SIPs must assure reasonable progress towards the national goal of achieving natural visibility conditions in Class I areas. Section 169A of the CAA and EPA's implementing regulations require states to establish long-term strategies for making reasonable progress toward meeting this goal. Implementation plans must also give specific attention to certain stationary sources that were in existence on August 7, 1977, but were not in operation before August 7, 1962, and require these sources, where appropriate, to install BART controls for the purpose of eliminating or reducing visibility impairment. The specific regional haze SIP requirements are discussed in further detail below.

B. Determination of Baseline, Natural, and Current Visibility Conditions

The RHR establishes the deciview (dv) as the principal metric for measuring visibility. This visibility metric expresses uniform changes in haziness in terms of common increments across the entire range of visibility conditions, from pristine to extremely hazy conditions. Visibility is determined by measuring the visual range (or deciview), which is the greatest distance, in kilometers or miles, at which a dark object can be viewed against the sky. The deciview is a useful measure for tracking progress in improving visibility, because each deciview change is an equal incremental change in visibility perceived by the human eye. Most people can detect a change in visibility at one deciview.[6]

The deciview is used in expressing reasonable progress goals (which are interim visibility goals towards meeting the national visibility goal), defining baseline, current, and natural conditions, and tracking changes in visibility. The regional haze SIPs must contain measures that ensure ''reasonable progress'' toward the national goal of preventing and remedying visibility impairment in Class I areas caused by manmade air pollution by reducing anthropogenic emissions that cause regional haze. The national goal is a return to natural conditions, i.e., manmade sources of air pollution would no longer impair visibility in Class I areas.

To track changes in visibility over time at each of the 156 Class I areas covered by the visibility program (40 CFR 81.401–437), and as part of the process for determining reasonable progress, states must calculate the degree of existing visibility impairment at each Class I area at the time of each regional haze SIP submittal and periodically review progress every five years midway through each 10-year implementation period. To do this, the RHR requires states to determine the degree of impairment (in deciviews) for the average of the 20% least impaired (''best'') and 20% most impaired (''worst'') visibility days over a specified time period at each of their Class I areas. In addition, states must also develop an estimate of natural visibility conditions for the purpose of comparing progress toward the national goal. Natural visibility is determined by estimating the natural concentrations of pollutants that cause visibility impairment and then calculating total light extinction based on those estimates. EPA has provided guidance to states regarding how to calculate baseline, natural and current visibility conditions in documents titled, EPA's *Guidance for Estimating Natural Visibility Conditions Under the Regional Haze Rule,* September 2003, (EPA–454/B–03–005 located at *http://www.epa.gov/ttncaaa1/t1/memoranda/rh_envcurhr_gd.pdf*), (hereinafter referred to as ''EPA's 2003 Natural Visibility Guidance''), and *Guidance for Tracking Progress Under the Regional Haze Rule* (EPA–454/B–03–004 September 2003 located at *http://www.epa.gov/ttncaaa1/t1/memoranda/rh_tpurhr_gd.pdf*)), (hereinafter referred to as ''EPA's 2003 Tracking Progress Guidance'').

For the first regional haze SIPs that were due by December 17, 2007, ''baseline visibility conditions'' were the starting points for assessing ''current'' visibility impairment. Baseline visibility conditions represent the degree of visibility impairment for the 20% least impaired days and 20% most impaired days for each calendar year from 2000 to 2004. Using monitoring data for 2000 through 2004, states are required to calculate the average degree of visibility impairment for each Class I area, based on the average of annual values over the five-year period. The comparison of initial baseline visibility conditions to natural visibility conditions indicates the amount of improvement necessary to attain natural visibility, while the future comparison of baseline conditions to the then current conditions will indicate the amount of progress made. In general, the 2000–2004 baseline time period is considered the time from which improvement in visibility is measured.

C. Consultation With States and Federal Land Managers

The RHR requires that states consult with Federal Land Managers (FLMs) before adopting and submitting their SIPs. 40 CFR 51.308(i). States must provide FLMs an opportunity for consultation, in person and at least 60 days prior to holding any public hearing on the SIP. This consultation must include the opportunity for the FLMs to discuss their assessment of visibility impairment in any Class I area and to offer recommendations on the development of the reasonable progress goals and on the development and implementation of strategies to address visibility impairment. Further, a state must include in its SIP a description of

[6] The preamble to the RHR provides additional details about the deciview. 64 FR 35714, 35725 (July 1, 1999).

how it addressed any comments provided by the FLMs. Finally, a SIP must provide procedures for continuing consultation between the state and FLMs regarding the state's visibility protection program, including development and review of SIP revisions, five-year progress reports, and the implementation of other programs having the potential to contribute to impairment of visibility in Class I areas.

D. Best Available Retrofit Technology

Section 169A of the CAA directs states to evaluate the use of retrofit controls at certain larger, often uncontrolled, older stationary sources in order to address visibility impacts from these sources. Specifically, section 169A(b)(2)(A) of the CAA requires States to revise their SIPs to contain such measures as may be necessary to make reasonable progress towards the natural visibility goal, including a requirement that certain categories of existing major stationary sources [7] built between 1962 and 1977, to procure, install, and operate the ''Best Available Retrofit Technology'' (''BART'') as determined by the state. States are directed to conduct BART determinations for such sources that may be anticipated to cause or contribute to any visibility impairment in a Class I area. The regional haze SIP must include source-specific BART emission limits and compliance schedules for each source subject to BART. Once a State has made its BART determination, the BART controls must be installed and in operation as expeditiously as practicable, but no later than five years after the date EPA approves the regional haze SIP. See CAA section 169A(g)(4)); 40 CFR 51.308(e)(1)(iv).

EPA previously approved Idaho's BART determination for the sources subject to BART in its jurisdiction. See 76 FR 36329.[8] Please refer to that action for details of the BART requirements and EPA's rationale for approval of the BART provisions in the Idaho Regional Haze SIP submission.

E. Determination of Reasonable Progress Goals

The vehicle for ensuring continuing progress towards achieving the natural visibility goal is the submission of a series of regional haze SIPs from the states that establish two reasonable progress goals (RPGs) (i.e., two distinct goals, one for the ''best'' and one for the ''worst'' days) for every Class I area for each (approximately) 10-year implementation period. The RHR does not mandate specific milestones or rates of progress, but instead calls for states to establish goals that provide for ''reasonable progress'' toward achieving natural (i.e., ''background'') visibility conditions. In setting RPGs, states must provide for an improvement in visibility for the most impaired days over the (approximately) 10-year period of the SIP, and ensure no degradation in visibility for the least impaired days over the same period.

States have significant discretion in establishing RPGs, but are required to consider the following factors established in section 169A of the CAA and in EPA's RHR at 40 CFR 51.308(d)(1)(i)(A): (1) The costs of compliance; (2) the time necessary for compliance; (3) the energy and non-air quality environmental impacts of compliance; and (4) the remaining useful life of any potentially affected sources. States must demonstrate in their SIPs how these factors are considered when selecting the RPGs for the best and worst days for each applicable Class I area. States have considerable flexibility in how they take these factors into consideration, as noted in EPA's *Guidance for Setting Reasonable Progress Goals under the Regional Haze Program,* July 1, 2007, Memorandum from William L. Wehrum, Acting Assistant Administrator for Air and Radiation, to EPA Regional Administrators, EPA Regions 1–10 (pp. 4–2, 5–1) (''EPA's Reasonable Progress Guidance''). In setting the RPGs, states must also consider the rate of progress needed to reach natural visibility conditions by 2064 (referred to as the ''uniform rate of progress'' (URP) or the ''glidepath'') and the emission reduction measures needed to achieve that rate of progress over the 10-year period of the SIP. Uniform progress towards achievement of natural conditions by the year 2064 represents a rate of progress which states are to use for analytical comparison to the amount of progress they expect to achieve. In setting RPGs, each state with one or more Class I areas (''Class I state'') must also consult with potentially ''contributing states,'' i.e., other nearby states with emission sources that may be affecting visibility impairment at the state's Class I areas. See 40 CFR 51.308(d)(1)(iv).

F. Long Term Strategy

Consistent with the requirement in section 169A(b) of the CAA that states include in their regional haze SIP a 10 to 15 year strategy for making reasonable progress, 40 CFR 51.308(d)(3) of the RHR requires that states include a LTS in their regional haze SIPs. The LTS is the compilation of all control measures a state will use during the implementation period of the specific SIP submittal to meet applicable RPGs. The LTS must include ''enforceable emissions limitations, compliance schedules, and other measures as necessary to achieve the reasonable progress goals'' for all Class I areas within, or affected by emissions from, the state. See 40 CFR 51.308(d)(3).

When a state's emissions are reasonably anticipated to cause or contribute to visibility impairment in a Class I area located in another state, the RHR requires the impacted state to coordinate with the contributing states in order to develop coordinated emissions management strategies. See 40 CFR 51.308(d)(3)(i). In such cases, the contributing state must demonstrate that it has included, in its SIP, all measures necessary to obtain its share of the emissions reductions needed to meet the RPGs for the Class I area. The RPOs have provided forums for significant interstate consultation, but additional consultations between states may be required to sufficiently address interstate visibility issues. This is especially true where two states belong to different RPOs.

States should consider all types of anthropogenic sources of visibility impairment in developing their LTS, including stationary, minor, mobile, and area sources. At a minimum, states must describe how each of the following seven factors listed below are taken into account in developing their LTS: (1) Emissions reductions due to ongoing air pollution control programs, including measures to address RAVI; (2) measures to mitigate the impacts of construction activities; (3) emissions limitations and schedules for compliance to achieve the RPG; (4) source retirement and replacement schedules; (5) smoke management techniques for agricultural and forestry management purposes including plans as currently exist within the state for these purposes; (6) enforceability of emissions limitations and control measures; and (7) the anticipated net effect on visibility due to projected changes in point, area, and mobile source emissions over the period addressed by the LTS. See 40 CFR 51.308(d)(3)(v).

[7] The set of ''major stationary sources'' potentially subject to BART is listed in CAA section 169A(g)(7).

[8] Upon EPA's final action, The Amalgamated Sugar Company (TASCO) filed a petition for review in the 9th Circuit Court of Appeals challenging EPA's approval of Idaho's BART determination for TASCO. See *Amalgamated Sugar* v. *EPA*, Ninth Circuit Petition No. 11–72445. The case is pending before the 9th Circuit.

G. Coordinating Regional Haze and Reasonably Attributable Visibility Impairment

As part of the RHR, EPA revised 40 CFR 51.306(c) regarding the LTS for RAVI to require that the RAVI plan must provide for a periodic review and SIP revision not less frequently than every three years until the date of submission of the state's first plan addressing regional haze visibility impairment, which was due December 17, 2007, in accordance with 40 CFR 51.308(b) and (c). On or before this date, the state must revise its plan to provide for review and revision of a coordinated LTS for addressing RAVI and regional haze, and the state must submit the first such coordinated LTS with its first regional haze SIP. Future coordinated LTS's, and periodic progress reports evaluating progress towards RPGs, must be submitted consistent with the schedule for SIP submission and periodic progress reports set forth in 40 CFR 51.308(f) and 51.308(g), respectively. The periodic review of a state's LTS must report on both regional haze and RAVI impairment and must be submitted to EPA as a SIP revision.

H. Monitoring Strategy and Other Implementation Plan Requirements

Section 51.308(d)(4) of the RHR includes the requirement for a monitoring strategy for measuring, characterizing, and reporting of regional haze visibility impairment that is representative of all mandatory Class I Federal areas within the state. The strategy must be coordinated with the monitoring strategy required in section 51.305 for RAVI. Compliance with this requirement may be met through ''participation'' in the IMPROVE network, i.e., review and use of monitoring data from the network. The monitoring strategy is due with the first regional haze SIP, and it must be reviewed every five years. The monitoring strategy must also provide for additional monitoring sites if the IMPROVE network is not sufficient to determine whether RPGs will be met.

The SIP must also provide for the following:

- Procedures for using monitoring data and other information in a state with mandatory Class I areas to determine the contribution of emissions from within the state to regional haze visibility impairment at Class I areas both within and outside the state;
- Procedures for using monitoring data and other information in a state with no mandatory Class I areas to determine the contribution of emissions from within the state to regional haze visibility impairment at Class I areas in other states;
- Reporting of all visibility monitoring data to the Administrator at least annually for each Class I area in the state, and where possible, in electronic format;
- Developing a statewide inventory of emissions of pollutants that are reasonably anticipated to cause or contribute to visibility impairment in any Class I area. The inventory must include emissions for a baseline year, emissions for the most recent year for which data are available, and estimates of future projected emissions. A state must also make a commitment to update the inventory periodically; and
- Other elements, including reporting, recordkeeping, and other measures necessary to assess and report on visibility.

The RHR requires control strategies to cover an initial implementation period extending to the year 2018, with a comprehensive reassessment and revision of those strategies, as appropriate, every 10 years thereafter. Periodic SIP revisions must meet the core requirements of section 51.308(d) with the exception of BART. The requirement to evaluate sources for BART applies only to the first regional haze SIP. Facilities subject to BART must continue to comply with the BART provisions of section 51.308(e), as noted above. Periodic SIP revisions will assure that the statutory requirement of reasonable progress will continue to be met. Each state also is required to submit a report to EPA every five years that evaluates progress toward achieving the RPG for each Class I area within the state and outside the state if affected by emissions from within the state. 40 CFR 51.308(g). The first progress report is due five years from submittal of the initial regional haze SIP revision. At the same time a 5-year progress report is submitted, a state must determine the adequacy of its existing SIP to achieve the established goals for visibility improvement. See 40 CFR 51.308(h).

III. EPA's Analysis of the Idaho Regional Haze SIP

A. Affected Class I Areas

There are five mandatory Class I areas, or portions of such areas, within Idaho. Craters of the Moon National Monument, Sawtooth Wilderness Area, and Selway-Bitterroot Wilderness Area lie completely within Idaho State borders. Idaho is responsible for developing reasonable progress goals for these Class I areas. Hells Canyon Wilderness Area is a shared Class I area with Oregon, and Yellowstone National Park is a shared Class I area with Wyoming. See 40 CFR 81.410. Through agreement with Idaho, Oregon and Wyoming respectively will address reasonable progress goals, monitoring, and other core requirements for these Class I areas. Idaho consulted with Oregon and Wyoming to determine Idaho's contribution to regional haze in those Class I areas and to determine appropriate measures for Idaho's long-term strategy. See the Idaho Regional Haze SIP submittal, chapter 13, section 13.2; see, also the WRAP Technical Support Document, February 28, 2011 [9] (WRAP TSD) supporting this action and 76 FR 36329.

The Idaho SIP submittal addresses the three Class I areas that are completely within the State border and, as appropriate, the Class I areas with shared jurisdiction with Oregon and Wyoming and Class I areas in neighboring states and the visibility impacts of Idaho sources on Class I areas in neighboring states.

B. Baseline and Natural Conditions

EPA previously evaluated and approved Idaho's identification of baseline and natural conditions for Craters of the Moon National Monument, Sawtooth Wilderness Area, and Selway-Bitterroot Wilderness Area, and the statewide emissions inventory of pollutants that are from Idaho that impact nearby Class I areas. See 76 FR 1579, Jan. 11, 2011 and 76 FR 36329, June 22, 2011 (proposed and final rule respectively). However, that discussion is relevant when evaluating the States' Reasonable Progress Goals which we are proposing to approve today. Thus, the discussion below summarizes EPA's previous explanation of the baseline and natural conditions in these Class I areas.

Idaho established baseline and natural visibility conditions as well as the uniform rate of progress (URP) to achieve natural visibility conditions in 2064 for all three of the Class I areas within its borders. While Idaho is responsible for establishing baseline and natural conditions for these three areas, the SIP submittal also included these conditions for Hells Canyon Wilderness Area and Yellowstone National Park, as determined by WRAP and established by Oregon and Wyoming.

Baseline visibility was calculated from monitoring data collected by IMPROVE monitors for the most-impaired (20% worst) days and the least-impaired (20% best) days. Idaho

[9] EPA evaluated the technical work products of the WRAP used by Idaho in support if this Regional Haze SIP submittal. The results of that evaluation are included in the document ''WRAP Technical Support Document'' or WRAP TSD.

used the WRAP derived natural visibility conditions. In general, WRAP based their natural condition estimates on EPA guidance, *Guidance for Estimating Natural Visibility Conditions Under the Regional Haze Program (EPA–45/B–03–0005 September 2003)* but incorporated refinements which EPA believes provides results more appropriate for western states than the general EPA default approach. See WRAP TSD section 2.E.

Craters of the Moon National Monument: An IMPROVE monitor is located in Craters of the Moon National Monument. Based on baseline 2000 to 2004 data, the average 20% worst days visibility is 14 dv and the average 20% best days visibility is 4.3 dv. Natural visibility for the average 20% worst days is 7.53 dv.

Sawtooth Wilderness Area: Sawtooth Wilderness Area has an IMPROVE monitor located within the Wilderness Area. Based on baseline 2000 to 2004 data, the average 20% worst days visibility is 13.78 dv and the average 20% best days visibility is 3.99 dv. Natural visibility for the average 20% worst days is 6.42 dv.

Selway-Bitterroot Wilderness Area: Selway-Bitterroot Wilderness Area visibility is represented by an IMPROVE monitor located 20 km east of the Wilderness Area in Sula, Montana. This site also represents visibility in the Anaconda-Pintler Wilderness Area in Montana. Based on baseline 2000 to 2004 data, the average 20% worst days visibility is 13.41 dv and the average 20% best days visibility is 2.58 dv for both areas. Natural visibility for the Selway-Bitteroot and the Anaconda-Pintler Wilderness Areas average 20% worst days is 7.43 dv.

C. Idaho Emission Inventories

EPA previously evaluated and approved Idaho's emissions inventory of pollutants that impact the three Class I areas in Idaho, as well as the impacts of emissions from Idaho on nearby Class I areas in other states and the sources of visibility impairment in the Class I areas located in Idaho. See 76 FR 1579, and 76 FR 36329. As explained in more detail in the notices for that rulemaking, in general, smoke from wild and prescribed fire, as measured by organic and elemental carbon, dominates visibility impairment in Idaho Class I areas, with the exception of Craters of the Moon National Monument where ammonium nitrate dominates at 39%. Smoke is the second largest contributor to impairment at Craters of the Moon National Monument at 37%, followed by sulfate at 13%. Smoke represents 84% of impairment at the Sawtooth Wilderness Area, followed by sulfate at 7% and nitrate at 2%. Smoke represents 60% impairment at the Selway-Bitterroot Wilderness Area, followed by sulfate at 19% and nitrate at 7%. See Tables 7–2, 7–20, and 7–31 in the SIP submittal. Chapter 9 of the SIP submission demonstrates that generally half of the sulfate and 25% of the nitrate contributing to impairment in Idaho Class I areas originates from outside the United States.

D. Sources of Visibility Impairment in Idaho Class I Areas

Idaho used a two-step process to identify the contribution of each source or source category to existing visibility impairment. First, ambient pollutant concentration by species (sulfate, nitrate, organic carbon, fine particulate, etc) was determined from the IMPROVE sampler representing each Class I area. These concentrations were then used to determine the extinction coefficient and distribute existing impairment among the measured pollutant species. Extinction was then converted to deciview values. Second, the Comprehensive Air Quality Model with Extensions (CAMx) and Particulate Matter Source Apportionment Technology (PSAT) models were used to determine which sources and source categories contributed to the ambient concentration of each pollutant species. Thus, impairment was distributed by source and source category.

The WRAP and Western States selected CAMx in conjunction with PSAT first to determine source contribution to ambient sulfate and nitrate concentrations and then to decide which geographic source regions contribute to haze at specific Class I areas. Description of these tools and our evaluation of them are described in more detail in section 6 of the WRAP TSD.

Figure 7–1 in the Idaho Regional Haze SIP submittal presents the light extinction for the base year at each Class I area by visibility impairing pollutant species for the average of the 20% worst days. In addition the SIP submission identifies in Figures 7.2 through Figure 7.52, light extinction by pollutant species for the average of the 20% worst and average of the 20% best days for each of the Class I areas.

To determine potential impacts of emission sources in Idaho on Class I areas in other states, Idaho used the WRAP analysis of interstate impacts. Ambient sulfate and nitrate concentrations for the 20% worst and best days for baseline (2002–2004) and 2018 at each western Class I area is distributed among all states in the WRAP. The SIP submittal provides an analysis of the Class I areas in nearby states. See chapter 9.3 of the Idaho Regional Haze SIP submission. The Class I areas are:

Shared Class I Areas With Oregon and Wyoming

- Hells Canyon Wilderness Area: Idaho contributes 9.6% of the sulfate, 35% of the nitrate, 63% of the organic and elemental carbon, 42% of the fine particulate and 44% of the coarse particulate in the Hells Canyon Wilderness Area.
- Yellowstone National Park: Idaho contributes 8% of the sulfate, 24% of the nitrate, 15% of the organic carbon, 17% of the elemental carbon, 28% of the fine and coarse particulate in Yellowstone National Park.

Class I Areas outside Idaho: See section 9.3 of the SIP submittal for a detailed presentation of the contribution of Idaho sources on Class I areas outside Idaho.

- Glacier National Park in Montana: Idaho is ranked 3rd behind Montana and Washington in contribution of visibility impairing pollutants on the 20% worst days.
- Cabinet Mountain Wilderness Area in Montana: Idaho is ranked 3rd behind Oregon and Washington in contribution to visibility impairing pollutants on the 20% worst days.
- Bob Marshall Wilderness Area in Montana: Idaho is ranked 3rd behind Montana and Washington in contribution to visibility impairing pollutants on the 20% worst days.
- Gates of the Mountain Wilderness in Montana: Idaho is ''ranked 3rd'' behind Montana and Washington in contribution to visibility impairing pollutants on the 20% worst days.
- North Absaroka Wilderness in Wyoming: Idaho is ranked 2nd behind Wyoming in contribution to visibility impairing pollutants on the 20% worst days.
- Bridger Wilderness in Wyoming: Idaho is ranked 2nd behind Wyoming in contribution to visibility impairing pollutants on the 20% worst days.
- Eagle Cap Wilderness Area Oregon: Idaho is ranked 3rd behind Oregon and Washington in contribution to visibility impairing pollutant on the 20% worst days.
- Jarbidge Wilderness Area in Nevada: Idaho is ranked 1st in contribution of sulfate and nitrate to the Jarbidge Wilderness area.

E. Best Available Retrofit Technology

EPA previously reviewed and approved Idaho's BART determinations for all sources subject to BART in Idaho.

See 76 FR 36329. As explained in the **Federal Register** notice the State made BART determinations for the following sources:

- Amalgamated Sugar: Paul Facility
- Amalgamated Sugar: Twin Falls
- Amalgamated Sugar: Nampa
- NuWest/Agrium
- J.R. Simplot Don Plant
- Monsanto/P4 Production
- Potlatch Pulp and Paper

BART for all but two of the BART-eligible sources (Amalgamated Sugar Nampa and Monsanto/P4 Production) is existing control because they were determined to not cause or contribute to visibility impairment in any Class I area. At Amalgamated Sugar, Nampa, the Riley Boiler is the only emission unit at the facility that is subject to BART. BART for the Riley Boiler was determined to be Low NO_X Burners with overfire air for NO_X, wet flue gas desulfurization for SO_2 and the existing baghouse for particulate matter.

BART for Monsanto/P4 Production SO_2 emissions is the hydro-sonic wet scrubbers to remove sub-micron particles and lime-concentrated dual-alkai (LCDA) scrubbers on their calciner kiln which reduced emissions from 12,252 tons per year (tpy) in 2004 to a permitted potential to emit of 626 tpy.

F. Determination of Reasonable Progress Goals

1. Idaho's Reasonable Progress Analysis

The RHR requires States to show ''reasonable progress'' toward natural visibility conditions over the time period of the SIP, with 2018 as the first milestone year. The RHR at 40 CFR 51.308(d)(1) also requires that the State establish a goal, expressed in deciviews (dv), for each Class I area within the State that provides for reasonable progress towards achieving natural visibility conditions by 2064. As such the State must establish a Reasonable Progress Goal (RPG) for each Class I area that provides for visibility improvement for the most-impaired (20% worst) days and ensures no degradation in visibility for the least-impaired (20% best) days in 2018.

RPGs are estimates of the progress to be achieved by 2018 through implementation of the LTS which includes anticipated emission reductions from all State and Federal regulatory requirements implemented between the baseline and 2018, including but not limited to BART and any additional controls for non-BART sources or emission activities including any Federal requirements that reduce visibility impairing pollutants. As explained above, the rate needed to achieve natural conditions by 2064 is referred to as the uniform rate of progress or URP.

If the State establishes a reasonable progress goal that provides for a slower rate of improvement than the rate that would be needed to attain natural conditions by 2064, the State must demonstrate based on the factors in 40 CFR 51.308(d)(1)(i)(A), that the rate of progress for the implementation plan to attain natural conditions by 2064 is not reasonable; and the progress goal adopted by the State is reasonable. The State must provide to the public for review as part of its implementation plan an assessment of the number of years it would take to attain natural conditions if visibility continues at the rate of progress selected by the state. 40 CFR 51.308(d)(B)(ii).

The primary tool relied upon by Idaho for determining regional haze improvements by 2018 and for establishing the RPGs, was the CMAQ modeling conducted by WRAP. The CMAQ model was used to estimate 2018 visibility conditions in Idaho and all Western Class I areas, based on application of the regional haze strategies included in this plan.

WRAP developed air quality modeling inputs including annual meteorology and emissions inventories for: (1) A 2002 actual emissions base case, (2) a planning case to represent the 2000–04 regional haze baseline period using average emissions for key emissions categories, and (3) a projected 2018 case to determine improvements achievable by 2018. EPA approves the use of the CMAQ model to determine future visibility conditions in Idaho Class I areas. A more detailed description of the CMAQ modeling performed by WRAP can be found in the WRAP TSD.

In setting the RPGs for its Class I areas, Idaho considered a number of factors including the statutory four factors: Cost of compliance, time necessary for compliance, the non-air environmental and energy impacts, and remaining useful life of any potentially affected sources. 40 CFR 51.308(d)(1)(i)(A). Based on these four factors, Idaho considered whether it was reasonable to control anthropogenic sources of visibility impairing emissions under its regulatory jurisdiction. Idaho focused its evaluation of sources for the purpose of achieving further reasonable progress on SO_2 and NO_X because these pollutants have the greatest visibility impairing characteristics and because organic and elemental carbon primarily originates from wildfire. In consideration of the amount of SO_2 and NO_X emitted, Idaho identified the following source categories subject to the statutory four-factor analysis: (1) External combustion boilers; (2) elemental phosphorus production; (3) sulfuric acid processing plants; (4) pulp and paper processing; (5) cement manufacturing; (6) sugar beet processing; and (7) natural gas compressing stations. Idaho's four-factor analysis of the significant stationary source categories is summarized below.

The External Combustion Boilers source category includes boilers used to generate steam or hot water in manufacturing, material processing, mining, refining, and/or electricity. SOx and NO_X are the visibility impairing pollutants of concern for this category. Tables 11–2 and 11–3 in the Idaho SIP submittal show a total of 3,118 tpy of SO_2 and 4,647 tpy of NO_X in the emission inventory for this category. SIP submittal Table 11–7 presents a number of control options for each visibility impairing pollutant for different fuels. See section 11.4.1 of the SIP submittal for additional detail regarding the State's analysis of this source category.

Sulfuric Acid Contact Processing emits sulfur dioxide as the only visibility impairing pollutant of concern from this type of facility. Idaho SIP submittal Table 11–2 shows a total of 364 tpy of SO_2 in the emission inventory for this category. SIP submittal Table 11–8 presents the cost for two control technologies: increased absorption efficiency to New Source Performance Standards and tail gas treatment. See SIP submittal section 11.4.3 for additional detail regarding the State's analysis of this source category.

Cement manufacturing emits NO_X which is the only visibility impairing pollutant of concern. Idaho has only one cement plant, Ash Grove Cement in Inkom, Idaho. Both SO_2 and NO_X emissions from the rotary kiln have emission limits established in its PSD permit. Sulfur dioxide is limited to 76 tpy from Kiln #1 and 21 tpy from kiln #2. See Table 4–2 of the Permit to Operate issued December 23, 2010, by the Idaho Department of Environmental Quality (IDEQ). Table 11–3 Idaho SIP shows a total of 461 tpy of NO_X in the emission inventory for this category. Table 11–9 of the SIP submittal presents the estimated costs for compliance for the control options. See SIP Submittal section 11.4.4 for additional detail regarding the State's analysis of this source category.

Interstate Transport of Natural Gas (natural gas fueled internal combustion engines for compressing stations on the interstate natural gas pipeline) emits NO_X which is the only visibility impairing pollutant of concern from the

compressing stations. Table 11–3 in the Idaho SIP shows a total of 2,590 tpy of NO_X in the emission inventory for this category. Table 11–10 of the SIP submittal presents the costs of control options for both reciprocating engines and gas turbines. See SIP submittal section 11.4.6 for additional detail regarding the State's analysis of this source category.

In spite of the relatively low cost effectiveness for controls in these source categories, Idaho concludes that additional control measures for these source categories are not reasonable at this time. Idaho recognized that according to the modeling, the Class I areas are not expected to achieve the URP for 2018. Nevertheless, Idaho also concludes that the goals established for each of Idaho's Class I areas for the first planning cycle of 2018 are reasonable. These conclusions are based upon the significant impact of wildfire on all of Idaho's Class I areas and the amount of sulfate and nitrate originating outside the United States. As discussed previously in this notice, wildfire significantly contributes to impairment in all three Class I areas. More specifically, anthropogenic and non-anthropogenic fire contributes between 37% and 84% to visibility impairment in the Class I areas in Idaho. Non-anthropogenic fire emissions are 85% and anthropogenic fire emissions are 15% of total fire emissions in Idaho. (Calculated from Table 8–4 of the SIP submission.) Idaho concluded that additional controls on individual sources, even if cost effective, will not alter the magnitude of the visibility impact attributable to wildfire. Additionally, Idaho further refined its analysis and considered a URP individually for sulfate and nitrate impairment. This analysis found that due to the anticipated reductions of SO_2 and NO_X emissions in both Idaho and neighboring states which will result from required controls on point sources, the remaining sulfate and nitrate emissions are near to or exceed URP for those pollutants. Idaho concluded that additional controls on SO_2 or NO_2 sources are not helpful in achieving the URP.

Idaho also qualitatively considered two new developments in emission source projections since the WRAP modeling was completed that result in lower emissions than the emission estimates used in the WRAP modeling. When the WRAP modeling was performed, it was assumed that a new coal-fired power plant would be built and operating in Jerome, Idaho by 2018 and the expected emissions from this proposed plant were incorporated into the model projections. Subsequently, the Idaho Governor issued a moratorium on new coal-fired power plants. Thus the estimated emissions associated with the new facility will not occur. Also, requirements for new controls on marine vessels operating within 200 miles of the West Coast were not included in the projected improvements in visibility. Both of these actions are likely to result in lower emissions than were used in the model and achieve better visibility in future years than the model predicts.

2. Reasonable Progress Goals and Demonstration of Reasonable Progress

After conducting the CMAQ modeling, Idaho established RPGs for each Class I area and, based on the RPG and linear progress to natural conditions, it determined the number of years needed to achieve natural conditions. The results follow:

Craters of the Moon National Monument;

- Baseline 20% worst days: 14 dv
- 2018 RPG 20% worst days: 13.06 dv
- 2018 URP 20% worst days: 12.49 dv
- Baseline 20% best days: 04.31 dv
- 2018 RPG 20% best days: 03.89 dv
- Years needed to achieve natural conditions: 112 yrs

Sawtooth Wilderness Area;

- Baseline 20% worst days: 13.78 dv
- 2018 RPG 20% worst days: 13.22 dv
- 2018 URP 20% worst days: 12.06 dv
- Baseline 20% best days: 03.99 dv
- 2018 RPG 20% best days: 03.78 dv
- Years needed to achieve natural conditions: 161 yrs

Selway-Bitterroot Wilderness Area;

- Baseline 20% worst days: 13.41 dv
- 2018 RPG 20% worst days: 12.94 dv
- 2018 URP 20% worst days: 12.02 dv
- Baseline 20% best days: 02.58 dv
- 2018 RPG 20% best days: 02.48 dv
- Years needed to achieve natural conditions: 221

Idaho concludes, after considering the contribution of visibility impairment coming from natural sources rather than anthropogenic sources, the emissions reductions of SO_2 and NO_X that can be expected from anthropogenic sources, the four-factor analysis, and ''on-the-books'' controls and long term strategies, that no additional control is reasonable at this time and that Idaho's visibility goals are reasonable. The focus should be on sources that could be controlled. Thus, in its evaluation of potential sources or source categories for reasonable progress the state primarily considered point sources. Idaho determined that the key pollutants contributing to visibility impairment are SO_2, NO_X and organic and elemental carbon. Idaho also only considered controls for SO_2 and NO_X emissions which are typically associated with anthropogenic sources. Idaho determined that the major source of organic and elemental carbon was natural fire and after reviewing the WRAP modeling results, Idaho found that particulate matter (PM) emissions from point sources only contribute a minimal amount to the visibility impairment in the Class I areas in Idaho. Idaho concluded that little gain would be achieved from further reduction in sulfur dioxide, organic carbon and nitrogen oxides from point sources in Idaho at this time.

3. EPA's Determination Whether the SIP Meets 40 CFR 51.308(d)

In a previous action, EPA approved Idaho's determination of baseline and natural visibility conditions in each Class I area in Idaho. See 78 FR 36329. The linear progress from baseline visibility to natural visibility in 2064 defines the URP. ''2018 URP'' is the rate of progress to be achieved by 2018 in order to stay on track to achieve natural conditions by 2064. EPA independently evaluated whether there are reasonable control measures available for sources located within Idaho's regulatory jurisdiction that would achieve further progress toward achieving the 2018 URP.

We began this analysis using a screening methodology called ''Q/d'' to determine which stationary (point) sources would be candidates for controls under reasonable progress. The value Q/d is the ratio of the mathematical sum of actual SO_2, NO_X and PM emissions in tons per year, denoted as ''Q'' divided by the distance (in kilometers, denoted as ''d'') of the point source to the nearest Class I area. A high Q/d would indicate the likelihood of the source causing or contributing to impairment in that Class I area.

To determine the Q/d value that would provide assurance that a source would, or would not cause or contribute to impairment in any Class I area, we considered the modeled visibility impacts from the CALPUFF modeling used to determine the BART eligible sources subject to BART in EPA Region 10 and the distance of the source to the nearest Class I area. There were 19 BART eligible sources used in this analysis. See memorandum to the files from Keith Rose, EPA Region 10, dated March 21, 2012. All sources with a Q/d ratio of less than 26.1 had visibility impacts of less than 0.5 dv. The resultant average of the range is about 0.3 dv, which is a more conservative

reasonable progress threshold than the 0.5 dv that was used in determining which sources would be subject-to-BART under the federal BART regulations. Since the threshold is more conservative than the subject-to-BART threshold, we believe that a Q/d value of 20 is reasonable for determining which sources the State should consider for the reasonable progress analysis.

The evaluation of potential RP sources involved all Idaho's stationary sources with actual SO_2, NO_X, or PM_{10} emissions greater than 40 tpy. We identified 24 sources (both BART eligible and non-BART eligible) as exceeding the 40 tpy threshold. Of the 24 sources, 17 are not BART eligible and all had Q/d ratios of less than 20. The source with the highest ratio had a Q/d value of 17.

EPA does not believe these 17 non-BART sources would cause or contribute to impairment in any Class I area. Therefore, EPA does not believe that additional analysis of the 17 non-BART sources would result in an outcome different from Idaho's conclusion that additional control of these non-BART sources is not reasonable at this time. Thus, EPA agrees with Idaho's conclusion that additional controls of non-BART point sources for reasonable progress purposes are not reasonable at this time, because even though there are cost effective controls identified, visibility improvement is anticipated to be relatively small. This includes those point sources in the four categories that Idaho identified above for the four-factor analysis: (1) External combustion boilers; (2) sulfuric acid contact processing; (3) cement manufacturing; and (4) natural gas compressing stations.

It should be noted that while elemental phosphorus production was identified by Idaho as a potential source category for the reasonable progress analysis, the only source is Monsanto/P4, a source subject to BART, for which a control technology evaluation was conducted and a BART determination made. Implementation of BART for Monsanto/P4 will result in an approximate 9,000 tpy reduction in SO_2, roughly over half the total statewide point source SO_2 emissions in 2002. The BART evaluation for NO_X determined there are no feasible NO_X controls for this process.

Idaho identified sugar beet processing as a potential source for further four-factor analysis. The boilers used in sugar beet processing are addressed in the evaluation of external boilers. Likewise, Idaho identified pulp and paper as a potential source for further four-factor analysis. The only pulp mill in Idaho is the Potlatch Pulp & Paper Mill located in Lewiston, Idaho. The Potlatch facility is a BART-eligible source and was addressed in our previous Federal Register action dated June 22, 2011 (76 FR 36329).

EPA also considered control measures for anthropogenic fire; prescribed forest fire and agricultural fire. Idaho operates a robust enhanced smoke management program for prescribed forest fire and agricultural burning. The agricultural smoke management program was previously approved by EPA. See 73 FR 44915. There are no other source categories that appear to emit visibility impairing pollutants sufficient to warrant consideration for additional control.

The Idaho SIP results in improvement in visibility on the 20% worst days and no degradation in visibility on the 20% best days, however the URP for 2018 is not expected to be achieved in any Class I area in Idaho. Nevertheless, as explained below, EPA proposes to approve the State's determination that it is not reasonable to achieve the UPR in 2018 and that these RPGs for the Class I areas in Idaho presented in the SIP submittal are reasonable.

a. Findings from the statutory four-factor analysis. As discussed above, based on the general level of review for the major source categories, Idaho determined it was not reasonable to control additional source categories at this time.

b. Evidence that natural sources affect the ability to achieve the 2018 URP goal. Idaho's analysis in the SIP for natural emission sources supports the finding that the contributions of natural sources, such as natural wildfire and windblown dust, and the pollutants associated with these sources (organic carbon, elemental carbon, fine particulate, and coarse particulate) are the primary reason for not achieving the 2018 URP for Idaho Class I areas. For example, the state found that 82% of the organic carbon emissions and 72% of the elemental carbon emissions were from natural fire and that natural fire and windblown dust together contribute over 40% and 60% of $PM_{2.5}$ and PM emissions. See Table 11–1 of the SIP submittal.

c. Sources outside the modeling domain. Sources of SO_2 and NO_X emissions outside the modeling domain contribute from 45 to 51% of the SO_2 emissions, and from 25 to 37% of the NO_X emissions that impact visibility in Class I areas in Idaho. See Table 12–2. These sources are not under the jurisdiction of Idaho nor surrounding States, and therefore will not be significantly controlled by 2018.

d. Not reasonable to meet URP. 40 CFR 51.308(d)(1)(ii) provides that: If the state establishes a RPG that provides for a slower rate of improvement in visibility than the rate that would be needed to attain natural conditions by 2064, the state must demonstrate based on the four-factors that the rate of progress for the implementation plan to attain natural conditions by 2064 is not reasonable and that the progress goal adopted by the state is reasonable. This demonstration is twofold. Idaho demonstrated that achieving the URP is not reasonable due to the overwhelming visibility impacts of wildfire and emissions from sources outside the modeling domain, both uncontrollable source categories. Idaho's analysis also uses an approach based on looking at each pollutant species, showing that URP is achieved or almost achieved for SO_2 and NO_X. This approach goes beyond what was contemplated by the RHR and but even without using the pollutant species approach, the State's RPGs are reasonable because of the source category analysis and the contribution from sources outside the modeling domain and from non-anthropogenic sources. Although Idaho is anticipated to achieve reasonable and significant reductions of NO_X and SO_2 during the first planning period, reaching the URP is not reasonable since the visibility benefits from potential SO_2 and NO_X controls on other source categories is minimal, and the majority of visibility impairment is due to uncontrollable emissions.

As explained in the EPA's RPG Guidance, the 2018 URP estimate is not a presumptive target and the State's RPGs may be lesser, greater or equivalent to the glide path. The glide path to 2064 represents a rate of progress which states must use for analytical comparison to the amount of progress they expect to achieve. EPA believes the RPGs established by Idaho for the Class I areas in Idaho, although not achieving the URP, are reasonable because of the significant visibility improvement expected from BART controls for SO_2 and NO_X. Idaho determined that other measures needed to reach the URP are not reasonable at this time because of the overwhelming influence of natural fire to visibility impairment and the fact that additional control measures on sources of sulfate and nitrate are not estimated to contribute substantial visibility improvement by the end of the first planning period. Consequently, we propose to find that the State has demonstrated that its 2018 RPGs are

reasonable and consistent with 40 CFR 51.308(d)(1) and 51.308(d)(1)(ii).

G. Long Term Strategy

The Long Term Strategy required by 40 CFR 51.308(d)(3) is a compilation of all existing and anticipated new air pollution control measures (both those identified in this plan as well as measures resulting from other air pollution requirements.) The LTS must include ''enforceable emission limitations, compliance schedules, and other measures as necessary to achieve the reasonable progress goals'' for all Class I areas within or effected by emissions from the State. 40 CFR 51.308(d)(3). In developing a LTS, Idaho identified existing programs and rules, additional new controls that may be needed for other CAA requirements, and additional measures which may be required to achieve reasonable progress in Class I areas in Idaho.

Idaho adequately addressed the RHR requirements in developing its LTS. The LTS provides sufficient documentation to ensure that Idaho will meet its emission reduction obligations for all Class I areas it affects in the first planning period. Idaho relied on monitoring, emission inventories and modeling information from the WRAP as the technical basis for its LTS. Coordination and consultation occurred with other states through the WRAP, in which all western states participated in developing the technical analysis upon which their SIPs are based. The state's analysis included identifying all anthropogenic sources of visibility impairment including major and minor stationary sources, mobile sources, and area sources. The anticipated net effect on visibility over the first planning period due to changes in point, area and mobile source emissions is an improvement in visibility in all Class I areas in Idaho.

Idaho has a number of ongoing programs and regulations that directly protect visibility or provide for improved visibility by generally reducing emissions:

• Prevention of Significant Deterioration/New Source Review Regulations

Two primary regulatory programs for addressing visibility impairment from industrial sources are the BART and Prevention of Significant Deterioration/New Source Review (PSD/NSR) rules. The PSD/NSR rules protect visibility in Class I areas from emissions from new industrial sources and major modifications to existing sources. Idaho's regulations (IDAPA58.01.01.200 through 228) and SIP require visibility impact assessment and mitigation associated with emissions from new and modified major stationary sources through protection of air quality related values (AQRVs). AQRVs are scenic and environmentally related resources that may be adversely affected by a change in air quality, including visibility, odor, noise, vegetation, and soils. These requirements were approved by EPA in 1983. Idaho's continued implementation of PSD/NSR requirements with FLM involvement for Class I area impact review will assist in maintaining the least impaired days from further degradation and assure that no Class I area experiences degradation in visibility resulting from expansion or growth of stationary sources in the state.

• Regional Haze BART Controls

The RHR includes the requirements for states to implement BART for eligible sources within the State that may reasonably cause or contribute to any impairment of visibility in any mandatory Class I area. 40 CFR 51.308(e). The installation of BART emission limits is an integral part of the state's LTS. Idaho regulations in IDAPA 58.01.01 contain the requirements for BART under the regional haze rule including measures necessary to address RAVI. Idaho has completed analysis of the identified BART-eligible sources in Idaho and has determined BART emission limits for all BART-subject sources. Each source subject to BART is required to install and operate BART five years after the EPA approval of the implementation plan. Once controls are implemented, facilities subject to BART must ensure that control equipment is properly operated and maintained. EPA previously approved the BART portions of the Idaho Regional Haze plan. 76 FR 36329.

• Local, State and Federal Mobile Source Control Programs

Estimated mobile source emissions show decreases in NO_X, SO_2, and VOCs in Idaho during the period 2002–2018. These declines in emissions are due to numerous rules already in place, most of which are federal regulations. The Federal Motor Vehicle Control Program (FMVCP) is the federal certification program that requires all new cars sold in 49 states to meet specific emission standards. As part of the FMVCP, all new cars must meet their applicable emission standards on a standard test cycle called the Federal Test Procedure (FTP). These standards vary according to vehicle age, with the newer vehicles required to be considerably cleaner than older models. The result of this decline over time in allowable emissions from newly manufactured vehicles has been a drop in overall emissions from the vehicle fleet, as older, dirtier vehicles are replaced with newer, cleaner vehicles.

EPA's Tier 2 emission standards for passenger cars, light trucks and larger passenger vehicles are focused on reducing emissions most responsible for ozone and particulate matter. The control equipment introduced to meet these standards will result in reductions in visibility impairing pollutants. Various federal rules establishing emission standards and fuel requirements for diesel on-road and non-road equipment are expected to significantly reduce emissions of particulate matter, nitrogen oxides, and sulfur oxides from emission sources over the first planning period.

• Implementation of Programs to Meet PM_{10} NAAQS

Northern Ada County (Boise) and Portneuf Valley (Pocatello) are PM_{10} maintenance areas. See 68 FR 61106 and 71 FR 39574. These areas previously exceeded the PM_{10} NAAQS primarily due to residential wood combustion and road dust. To control the PM_{10} emissions and bring the area into attainment, Idaho put in place strict controls that regulate wood burning and control road dust in these communities.

• Measures To Mitigate Impacts of Construction Activities

In developing its LTS, Idaho considered the impact of construction activities on visibility in the Class I areas in Idaho. State regulations IDAPA 58.01.01.651 and 652 require that entities that cause or permit bulk materials to be handled, transported, or stored or who engage in industrial activities or construction projects shall take reasonable precautions to prevent particulate matter from being airborne. In determining 'reasonable precautions' the rule specifically identifies activities and proximity to any Class I area. Types of precautions include: use of water or chemicals, application of dust suppressants, use of control equipment, covering truck loads, paving of roads, and prompt removal of material.

• Emission Limitations and Schedules for Compliance

Emission limits and compliance schedules for stationary sources are specified under Idaho and federal regulations in accordance with the Act. Additionally as discussed above, the BART provisions previously approved by EPA establish federally enforceable emission limitations and compliance schedule for BART sources. Idaho

anticipates that future SIP updates may identify additional emission controls that could be implemented in the future and commits to include limits and compliance schedules as appropriate in future Regional Haze plan updates.

• Source Retirement and Replacement Schedules

Idaho's continued implementation of NSR and PSD requirements, with the FLMs Review of impacts to Class I areas, will assure that there is no degradation of visibility in Idaho Class I areas on the least impaired days from expansion or growth of stationary sources in the State. Idaho will track source retirement and replacement and include known retirement schedules in periodic revisions to its Regional Haze SIP.

• Smoke Management Techniques for Agricultural and Forestry Burning

Smoke from wildland and prescribed fire is a major contributor to visibility impairment in Idaho's Class I Areas. Idaho's implementation of effective smoke management techniques through regulation and an enhanced smoke management plan will mitigate impacts of planned burning on visibility in the Class I areas. For example, Idaho regulates agricultural burning through its crop residue burning regulations. See IDAPA 58.01.01.617–623. In accordance with these regulations, Idaho requires permits and daily burn approval for crop residue burning. Idaho regulates prescribed fire through IDAPA 58.01.01.614 and works cooperatively with the Montana/Idaho Airshed Group to address air quality impacts from wildland fire. The Montana/Idaho Airshed Group is composed of Federal, State, Tribal and private land managers dedicated to the preservation of air quality in Idaho and Montana. The Airshed Group manages prescribed fire throughout Idaho and Montana by daily authorization of individual burns.

• Enforceability of Emission Limitations and Control Measures

The BART emission limits and control measures are enforceable as a matter of state law by virtue of IDAPA 58.01.01.655 through 668, and are federally enforceable when approved as part of its SIP. As previously mentioned, EPA approved Idaho's BART emission limits and controls on June 22, 2011. 76 FR 36329.

Idaho projected the emissions inventory changes to the point, area and mobile sources by 2018. The changes are predicted based on the WRAP's most recent emissions inventory and include the BART and LST components known at the time of the inventory development. Amore detailed discussion of the reductions may be found in section 8 of the SIP Submittal.

H. Monitoring Strategy and Other Implementation Plan Requirements

The primary monitoring network for regional haze in Idaho is the IMPROVE network. As discussed above, there are currently IMPROVE sites at Craters of the Moon National Monument, Sawtooth Wilderness Area and Selway-Bitterroot Wilderness Area. IMPROVE monitoring data from 2000–2004 serves as the baseline for the regional haze program, and is relied upon in the Idaho Regional Haze submittal. Idaho commits to rely on the IMPROVE network for complying with the regional haze monitoring requirement in EPA's RHR for the current and future regional haze implementation periods. See section 4.4 of the SIP submittal. Data produced by the IMPROVE monitoring network will be used for preparing the five-year progress reports and the 10-year SIP revisions, each of which relies on analysis of the preceding five years of data.

I. Consultation With States and Federal Land Managers

Through the WRAP, member states and Tribes worked extensively with the FLMs from the U.S. Departments of the Interior and Agriculture to develop technical analyses that support the regional haze SIPs for the WRAP states. The proposed Regional Haze plan for Idaho was provided to the FLM for comment between June 3, 2010 and August 5, 2010. See section 13.1 of the SIP submittal. Idaho also consulted with the States of Washington, Oregon, Nevada, Wyoming and Montana. Idaho also commits to continued consultation with the FLMs and the other states as part of the continued implementation of the plan and for future progress reports and revisions. This continuing consultation process will provide the opportunity for on-going opportunities to address a host of items including, for example, the implementation of emission control programs, changes to the monitoring strategy or monitoring locations, status of state actions to meet commitments for future assessments or rulemaking, and work on the five-year reviews and ten-year revisions. Additionally, Idaho consulted with the tribes during development of their plan through the WRAP activities and direct outreach to the tribes. Accordingly, Idaho adequately addressed the consultation requirements in the RHR and appropriately documented its consultation with FLMs and other states.

J. Periodic SIP Revisions and Five-Year Progress Reports

Section 51.308(f) of the RHR requires that the regional haze plans be revised and submitted to EPA by July 31, 2018 and every 10 years thereafter. 40 CFR 51.308(g) requires the state to submit a progress report to EPA every five years evaluating progress towards the reasonable progress goals for each Class I area in the State and each Class I area located outside the State which may be affected by emissions from within the State. Idaho has committed to evaluate and reassess its Regional Haze plan and to provide a Regional Haze SIP revision by July 31, 2018 for the next 10 year planning cycle. See section 13.5 of the SIP submission. Idaho has also committed to submitting the five-year review and report on the Regional Haze plan. See section 13.1 of the SIP submittal.

IV. What action is EPA proposing?

On June 22, 2011, EPA approved portions of the Idaho Regional Haze Plan submitted October 25, 2011, including Idaho's emission inventory, determination of baseline and natural condition and the BART controls and emission limits. Today, for the reasons explained above, EPA is proposing to approve the remaining parts of the Idaho Regional Haze submittal as meeting the requirements set forth in section 169A and 169B of the Act and in 40 CFR 51.300–308 regarding regional haze.

V. Scope of Action

Idaho has not demonstrated authority to implement and enforce IDAPA chapter 58 within ''Indian Country'' as defined in 18 U.S.C. 1151.[10] Therefore, EPA proposes that this SIP approval not extend to ''Indian Country'' in Idaho. See CAA sections 110(a)(2)(A) (SIP shall include enforceable emission limits), 110(a)(2)(E)(i) (State must have adequate

[10] ''Indian country'' is defined under 18 U.S.C. 1151 as: (1) All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation, (2) all dependent Indian communities within the borders of the United States, whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State, and (3) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same. Under this definition, EPA treats as reservations trust lands validly set aside for the use of a Tribe even if the trust lands have not been formally designated as a reservation. In Idaho, Indian country includes, but is not limited to, the Coeur d'Alene Reservation, the Duck Valley Reservation, the Reservation of the Kootenai Tribe, the Fort Hall Indian Reservation, and the Nez Perce Reservation as described in the 1863 Nez Perce Treaty.

authority under State law to carry out SIP), and 172(c)(6) (nonattainment SIPs shall include enforceable emission limits). This is consistent with EPA's previous approval of Idaho's PSD program, in which EPA specifically disapproved the program for sources within Indian Reservations in Idaho because the State had not shown it had authority to regulate such sources. See 40 CFR 52.683(b). It is also consistent with EPA's approval of Idaho's title V air operating permits program. See 61 FR 64622, 64623 (December 6, 1996) (interim approval does not extend to Indian Country); 66 FR 50574, 50575 (October 4, 2001) (full approval does not extend to Indian Country).

VI. Statutory and Executive Order Reviews

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

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

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the rule neither imposes substantial direct compliance costs on tribal governments, nor preempts tribal law. Therefore, the requirements of section 5(b) and 5(c) of the Executive Order do not apply to this rule. Consistent with EPA policy, EPA nonetheless provided a consultation opportunity to Tribes in Idaho, Oregon, and Washington in letters dated January 14, 2011. EPA received one request for consultation, and we have followed-up with that Tribe.

List of Subjects in 40 CFR Part 52

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

Dated: May 15, 2012.

Michelle L. Pirzadeh,

Acting Regional Administrator, Region 10.

[FR Doc. 2012–12411 Filed 5–21–12; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 77, No. 99

Tuesday, May 22, 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 COMMERCE

International Trade Administration

[A–588–857]

Welded Large Diameter Line Pipe From Japan: Notice of Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On January 31, 2012, the U.S. Department of Commerce (''the Department'') published a notice of initiation of an administrative review of the antidumping duty order on welded large diameter line pipe from Japan. The review covers five producers/exporters of welded large diameter line pipe from Japan, which are, JFE Steel Corporation, Nippon Steel Corporation, Sumitomo Corporation, Sumitomo Metal Industries, Ltd., and Sumitomo Metals Pipe & Tube Company. Based on a withdrawal of the request for review from United States Steel Corporation (hereafter ''U.S. Steel''), a domestic producer of welded large diameter line pipe, we are now rescinding this administrative review in full.

DATES: *Effective Date:* May 22, 2012.

FOR FURTHER INFORMATION CONTACT: John Drury, 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) 482–0195 or (202) 482–3019, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 1, 2011, the Department published in the **Federal Register** the notice of opportunity to request an administrative review of the antidumping duty order on welded large diameter line pipe from Japan for the period December 1, 2010, through November 30, 2011. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review,* 76 FR 74773 (December 1, 2011). On January 3, 2012, the Department received a request from U.S. Steel that the Department conduct an administrative review covering five producers/exporters of welded large diameter line pipe from Japan. On January 31, 2012, the Department published in the **Federal Register** the notice of initiation of the 2010–2011 administrative review of welded large diameter line pipe from Japan. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part,* 77 FR 4759 (January 31, 2012).

On March 20, 2012, the Department received notices on behalf of Sumitomo Corporation as well as Sumitomo Metal Industries, Ltd. and its wholly owned subsidiary Sumitomo Metals Pipe & Tube Company informing the Department that neither had made any exports, sales or entries of subject merchandise into the United States for the period of review (''POR'').

On March 21, 2012, the Department released the results of a data query to the United States Customs and Border Protection (''CBP'') regarding imports into the United States of welded large diameter line pipe from Japan during the POR. We did not receive any comments from parties.

On April 30, 2012, U.S. Steel withdrew its request for administrative review for all companies.

Period of Review

The POR is December 1, 2010, through November 30, 2011.

Rescission of Antidumping Duty Administrative Review

19 CFR 351.213(d)(1) of the Department's regulations provides that the Department will rescind an administrative review if the party that requested the review withdraws its request for review within 90 days of the date of publication of the notice of initiation of the requested review. As U.S. Steel has withdrawn its request for review of all companies within 90 days of the date of publication of the notice of initiation of review, the Department is rescinding the review consistent with 19 CFR 351.213(d)(1).

Assessment Instructions

The Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. For companies for which this review is rescinded, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of this notice.

Notification to Importers

This notice serves as a 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 doubled antidumping duties.

Notification Regarding Administrative Protective Orders

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). 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 terms of an APO is a sanctionable violation.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: May 8, 2012.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2012–12407 Filed 5–21–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–868, A–201–842]

Large Residential Washers From the Republic of Korea and Mexico: Postponement of Preliminary Determinations of Antidumping Duty Investigations

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

FOR FURTHER INFORMATION CONTACT: David Goldberger (Republic of Korea) (202) 482–4136 or Brian Smith (Mexico) (202) 482–1766; AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Postponement of Preliminary Determinations

On January 19, 2012, the Department of Commerce (the Department) initiated antidumping duty investigations of imports of large residential washers from the Republic of Korea (Korea) and Mexico. *See Large Residential Washers From the Republic of Korea and Mexico: Initiation of Antidumping Duty Investigations,* 77 FR 4007 (January 26, 2012). The notice of initiation stated that we would issue our preliminary determinations no later than 140 days after the date of initiation. Currently, the preliminary determinations in these investigations are due on June 7, 2012.

On May 10, 2012, Whirlpool Corporation (hereafter, the petitioner) made timely requests, pursuant to section 733(c)(1)(A) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.205(e), for a 50-day postponement of the preliminary determinations in the investigations. The petitioner stated that a postponement of these preliminary determinations is necessary because of the complexities of the investigations, the novelty of the issues raised, and because the Department is still involved in gathering and analyzing data from the respondents.

Under section 733(c)(1)(A) of the Act, if the petitioner makes a timely request for an extension of the period within which the preliminary determination must be made under subsection (b)(1), then the Department may postpone making the preliminary determination under subsection (b)(1) until not later than the 190th day after the date on which the administering authority initiated the investigation. Therefore, for the reasons stated above and because there are no compelling reasons to deny its requests, the Department is postponing the preliminary determinations in these investigations until July 27, 2012, which is 190 days from the date on which the Department initiated these investigations.

The deadline for the final determinations will continue to be 75 days after the date of the preliminary determinations, unless extended.

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: May 16, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2012–12402 Filed 5–21–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA712

Endangered Species; File No. 16306

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that the Maine Department of Marine Resources, (Gail Wippelhauser, Ph.D., Responsible Party), 21 State House Station, Augusta, ME 04333, has been issued a permit to take shortnose sturgeon for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376; and

Northeast Region, NMFS, 55 Great Republic Drive, Gloucester, MA 01930; phone (978) 281–9328; fax (978) 281–9394.

FOR FURTHER INFORMATION CONTACT: Colette Cairns or Malcolm Mohead, (301) 427–8401.

SUPPLEMENTARY INFORMATION: On September 21, 2011, notice was published in the **Federal Register** (76 FR 58471) that a request for a scientific research permit to take shortnose sturgeon had been submitted by the above-named organization. The requested permit has been issued under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

The Maine Department of Marine Resources was issued a five-year permit to determine movement, natal river origin, and other vital population parameters of shortnose sturgeon in Maine waters. Researchers will capture adult and juvenile shortnose sturgeon, and lethally collect early life-stage shortnose sturgeon. Individuals will be measured, weighed, photographed, PIT tagged, Floy/T-bar tagged, tissue sampled, and boroscoped; subsets of fish will be apical spine sampled, anesthetized, lavaged, blood sampled, fin ray sectioned, or implanted or fitted with an internal or external telemetry tag.

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of such endangered or threatened species, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: May 16, 2012.

Tammy C. Adams,

Acting Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2012–12364 Filed 5–21–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XT12

Petition To List 83 Species of Coral as Threatened or Endangered Under the Endangered Species Act (ESA)

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of details of public listening sessions and scientific workshops.

SUMMARY: We, NMFS, announced in an April 17, 2012, **Federal Register** notice, public listening sessions and science workshops related to our status review of 82 coral species in response to a petition from the Center for Biological Diversity (CBD) to list 83 coral species as threatened or endangered under the Endangered Species Act (ESA). The purposes of the listening sessions are to

explain to the public the process and information we are using to decide whether listing one or more of the 82 corals species is warranted, and to allow opportunity for the public to provide us with additional information that may further inform that decision. The purpose of the science workshops is to provide the opportunity for additional individual expert advice and public input on the science relevant to our decision concerning the 82 species of coral being considered for listing under the ESA.

DATES: The public listening sessions and science workshops will be held in June 2012. For specific dates and times, see **SUPPLEMENTARY INFORMATION.**

ADDRESSES: A public listening session and a science workshop will be held in Hawaii, and another public listening session and another science workshop will be held in Florida. For specific locations, see **SUPPLEMENTARY INFORMATION.** You may obtain a copy of the Status Review Report of 82 Candidate Coral Species Petitioned Under the U.S. Endangered Species Act (Status Review Report) and the draft Management Report for 82 Corals Status Review under the Endangered Species Act: Assessment of Existing Regulatory Mechanisms and Conservation Efforts (draft Management Report) by visiting the Internet at: *http://www.nmfs.noaa.gov/stories/2012/04/4_13_12corals_petition.html.*

The two reports may also be viewed, by appointment, during regular business hours, at: NMFS, Pacific Islands Regional Office, 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI, 96814; or NMFS, Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701.

FOR FURTHER INFORMATION CONTACT: For listening sessions: Chelsey Young, NMFS, Pacific Islands Regional Office, 808–944–2137; Lance Smith, NMFS, Pacific Island Regional Office, 808–944–2258; Jennifer Moore, NMFS, Southeast Regional Office, 727–824–5312. For science workshops: Samuel Pooley, NMFS, Pacific Islands Fisheries Science Center, 808–983–5301; Margaret Miller, NMFS, Southeast Fisheries Science Center, 305–361–4561.

SUPPLEMENTARY INFORMATION:

Background

These public listening sessions and science workshops are not part of the usual rulemaking process and are unique to NMFS's response to the petition to list 83 coral species. Thus, the additional outreach conducted in this case does not establish precedent for any other ESA-listing process.

We will hold one public listening session and one science workshop in each of two NMFS regions: the Southeast and Pacific Islands.

Speaker Sign Up

Doors will open for speaker registration one hour before the listening sessions and science workshops begin, though sign-up will continue throughout these meetings. If there are more speakers signed up than time allows for, we will select speakers from the registration list randomly. Registered speakers will be asked to indicate their full name, contact information, any organization(s) they are representing, and a brief summary of the information provided. Because it is possible that the schedule may not accommodate all registered speakers, we also encourage attendees to submit written information at the listening sessions and science workshops.

Listening Sessions

June 25, 2012: 6–9 p.m.; Pagoda Hotel; 1525 Rycroft Street; Honolulu, HI; telephone: (808) 941–6611.

June 28, 2012: 4–7 p.m.; Nova Southeastern University, Oceanographic Center, Center of Excellence in Coral Reef Ecosystems Science, 8000 North Ocean Drive; Dania Beach, FL; telephone: (954) 262–3600.

NMFS staff will provide a moderator for meeting management. Note-takers will document the listening sessions, and audio recordings will be used to assist in clarifying speaker information for the final record.

NMFS staff will provide a brief PowerPoint presentation that will cover the ESA status review process, the Status Review Report, and the draft Management Report. There will then be an interactive, time-limited, question-and-answer period during which attendees may ask NMFS staff about information presented. Finally, registered speakers will be provided with an opportunity to speak and provide information. Each registered speaker will be limited to 5 minutes. Attendees may also submit written information.

Science Workshops

June 18, 2012: 8:30 a.m.–4:30 p.m.; East-West Center; Jefferson Hall (Imin Conference Center), University of Hawaii campus, 1601 East-West Road, Honolulu, HI; telephone: (808) 983–5303.

June 27, 2012: 8:30 a.m.–5:30 p.m.; Nova Southeastern University, Oceanographic Center, Center of Excellence in Coral Reef Ecosystems Science, 8000 North Ocean Drive, Dania Beach, FL; telephone: (954) 262–3600.

Science Workshop Topics

The science workshops in the Pacific Islands (HI) and Southeast (FL) regions will follow a similar format. Each will begin with a brief presentation on the Status Review Report, followed by sessions that expand specific elements of the Status Review Report. The science workshops will focus on two themes: ''Climate Change and Climate Impacts on Coral Reef Ecosystems,'' and ''Coral Reef Ecology and Adaptation.'' The Pacific Islands science workshop will include two Panel sessions, and the Southeast science workshop will include three sessions.

Speaker Time Limits and Opportunities for Public Input

After the presentation on the Status Review Report, there will be an interactive, time-limited, question-and-answer period during which attendees may ask NMFS staff about information presented.

After each thematic session, there will be a 45- to 60-minute period during which registered speakers will be given an opportunity to ask additional questions of the panelists or to present additional information.

During registration, speakers should sign up to speak under one or more thematic sessions. Each registered speaker will be limited to 5 minutes. Attendees may also submit written information.

Questions

Questions to panelists should be limited to those necessary to clarify the panelist's presentation. Questions seeking consensus among panelists or registered speakers will not be entertained.

Workshop Rapporteur

NOAA scientific experts knowledgeable of coral reef ecosystems and climate will prepare a summary of the workshop, noting the main points raised by the panelists and the registered speakers. This summary and any written information submitted by the panelists, registered speakers, or other attendees will be part of the record of the workshop.

Authority: 16 U.S.C. 1531 *et seq.*

Dated: May 16, 2012.

Alan D. Risenhoover,

Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2012–12368 Filed 5–21–12; 8:45 am]

BILLING CODE 3510–22–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (CNCS), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. Sec. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed.

Currently, CNCS is soliciting comments concerning its proposed data collection for the Social Innovation Fund (SIF) National Evaluation. Research questions for the evaluation are categorized into 5 major topic areas:

- Documenting SIF's outcomes for people served;
- Strengthening the evidence base;
- Expanding the reach of programs that work;
- Using intermediaries to strengthen the capacity of nonprofits to implement and expand programs; and
- Assessing SIF's influence on policy, funding and practice.

The evaluation seeks to understand whether and how the SIF has met its intended goals by assessing the extent to which: (1) Outcomes for those in need have improved; (2) the evidence base has been strengthened; (3) nonprofit capacity to implement and expand programs has increased; and, (4) SIF has influenced the use of evidence, the flow of capital and the scaling of promising program models within the public, philanthropic and nonprofit sectors. The evaluation will focus on the initial group of 11 intermediaries (grantees) and 138 community nonprofits (subgrantees) funded by the SIF in 2010. These intermediaries and their subgrantees will be providing information for the SIF National Evaluation.

Copies of the information collection request can be obtained by contacting the office listed in the addresses section of this notice.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by July 23, 2012.

ADDRESSES: You may submit comments, identified by the title of the information collection activity, by any of the following methods:

(1) *By mail sent to:* Corporation for National and Community Service, Attention: Joscelyn Silsby, Project Director, SIF Evaluation, Office of Strategy and Strategic Initiatives, Corporation for National and Community Service, 1201 New York Avenue NW., Room 10906A Washington, DC, 20525.

(2) By hand delivery or by courier to the CNCS mailroom at Room 8100 at the mail address given in paragraph (1) above, between 9:00 a.m. and 4:00 p.m. Eastern Time, Monday through Friday, except Federal holidays.

(3) *By fax to:* (202) 606–3464 Attention: Joscelyn Silsby, Project Director, SIF Evaluation.

(4) Electronically through the CNCS email system: *jsilsby@cns.gov*. Individuals who use a telecommunications device for the deaf (TTY–TDD) may call 1–800–833–3722 between 8:00 a.m. and 8:00 p.m. Eastern Time, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Joscelyn Silsby (202–606–6772), or by email at *jsilsby@cns.gov*.

SUPPLEMENTARY INFORMATION: CNCS is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, 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 expected to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (e.g., permitting electronic submissions of responses).

Background

During 2010, 11 intermediaries received SIF grants across the three priority areas. As of July 1, 2011, the 2010 intermediaries had funded 138 sub grantees in 31 states and the District of Columbia. These intermediaries and sub grantees will be providing the information for the SIF National Evaluation. Some of the information will be collected electronically and other information will be collected from intermediaries and subgrantees through telephone or in-person interviews.

The following data collection activities are planned for Year 2 of the evaluation:

- Intermediaries will provide data on the 138 sub grantees to document the changes in outputs and outcomes that occur as a result of SIF, beginning in the fall of 2012. This will be an annual data collection and will be conducted in 2013, 2014, and 2015. The information that will be collected includes characteristics of the populations served, the number of clients receiving each type of service, how new and underserved populations are reached, how people's lives have potentially changed with SIF-funded services, total funding available for subgrantee programs (including matching funds), cost of providing services (including direct costs and indirect costs), and number of full-time equivalent (FTE) staff members.
- Conduct brief telephone surveys with 138 sub grantees to obtain contextual and explanatory information (clarification of the data received from the annual program activity data collection). This data collection will occur in 2012, 2013, and 2015.
- Conduct in-depth discussions over the telephone with 11 grantees in 2013. These discussions will focus on the capacity strengthening needs of the sub grantees and how the grantees are or are planning to meet those needs as well as program expansion strategies the subgrantees are or will be implementing.
- Conduct in-person discussions with selected sub grantees to better understand the implementation of the SIF. This will result in development of 15 case studies. The first set of case studies will focus on understanding the types of strategies used by intermediaries and subgrantees to expand program reach and the subgrantee capacities that are needed or are in place to do this effectively.

Current Action

This is a new information collection request.

Type of Review: New.

Agency: Corporation for National and Community Service.

Title: Social Innovation Fund (SIF) National Evaluation.

OMB Number: TBD.

Agency Number: NA.

Affected Public: The affected public will be the intermediaries and the subgrantees who received SIF funding from CNCS, stakeholders (representatives from partnering organizations, volunteers, and perhaps local evaluators).

Total Respondents: 250.

Frequency: The annual program activity data collection instrument will be completed once annually during 2012, 2013, 2014, and 2015. Telephone surveys with subgrantees will occur in 2012, 2013, and 2015. Site visits and discussions will occur once in 2013 and 2015 with approximately 15 subgrantees (program director and staff), and stakeholders to develop case studies focused on program expansion strategies and capacity strengthening work.

Average Time per Response: Average response time of the 11 grantees to compile the data for each sub grantee for the annual program activity data collection instrument will be 3 hours per subgrantee. The follow-up survey with sub grantees will be 30 minutes; interviews with SIF intermediaries will take 1.5 hours; and the discussions with SIF Program directors and staff, and stakeholders for the case studies will be 1 hour per respondent.

Estimated Total Burden Hours: 589.5 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Data collection activity	Respondents	Number of respondents	Frequency of response	Burden hours per Response	Total annual burden hours
Annual program activity data collection instrument.	SIF intermediaries	138	1	3.0	414
Follow-up telephone surveys	SIF subgrantees	138	1	0.5	69
In-depth interviews	SIF intermediaries	11	1	1.5	16.5
Case studies of 15 sub grantee programs.	SIF Program director and staff, and stakeholders.	90	1	1	90
Total		250		6.0	589.5

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: May 16, 2012.

Marlene Zakai,

Deputy Chief of Staff, Management.

[FR Doc. 2012–12394 Filed 5–21–12; 8:45 am]

BILLING CODE 6050–$$–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Information Collection; Submission for OMB Review, Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (CNCS), has submitted a public information collection request (ICR) entitled National Performance Measurement Assessment for review and approval in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, (44 U.S.C. Chapter 35). Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Joscelyn Silsby, at (202) 606–6772, or email to *jsilsby@cns.com.* Individuals who use a telecommunications device for the deaf (TTY–TDD) may call 1–800–833–3722 between 8:00 a.m. and 8:00 p.m. Eastern Time, Monday through Friday.

ADDRESSES: Comments may be submitted, identified by the title of the information collection activity, to the Office of Information and Regulatory Affairs, Attn: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service, by any of the following two methods within 30 days from the date of publication in the **Federal Register**:

(1) *By fax to:* (202) 395–6974, Attention: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service; and

(2) *Electronically by email to: smar@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Comments

A 60-day public comment Notice was published in the **Federal Register** on March 16, 2012. This comment period ended May 15, 2012. No public comments were received from this Notice.

Description: CNCS is seeking approval for two surveys and an interview protocol that will be used to assess the National Performance Measurement Pilot. The purpose of this data collection is for CNCS to understand how grantees have selected, implemented, and reported program performance using pilot measures developed for programs receiving AmeriCorps grants in 2010 and 2011. CNCS will use the results of this assessment to inform the ongoing development of AmeriCorps grantee measures as well as new performance measurement efforts within other CNCS programs. Completion of this information collection is considered completely voluntary and is *not* required to be considered for or to obtain grant funding support from any CNCS program.

Type of Review: New.

Agency: Corporation for National and Community Service.

Title: National Performance Measurement Assessment.

OMB Number: New.

Agency Number: None.

Affected Public: AmeriCorps State and National State Service Commissions and grantees.

Estimated Number of Total Respondents: 214.

Frequency: All respondents will receive and be asked to complete the online survey. A randomly selected subset of 36 respondents will be asked to participate in follow-up interviews.

Average Time Per Response: 1 hour 20 minutes.

Estimated Total Burden Hours: 303.8.

Total Burden Cost (capital/startup): N/A.

Total Burden Cost (operating/maintenance): N/A.

Dated: May 14, 2012.

Marlene Zakai,

Deputy Chief of Staff for Management.

[FR Doc. 2012–12300 Filed 5–21–12; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0163; Docket 2012–0076; Sequence 6]

Submission for OMB Review; Small Business Size Representation

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat will be submitting to the Office of Management and Budget (OMB) a request for approval of a previously approved information collection requirement regarding small business size representation. A notice was published in the **Federal Register** at 77 FR 13329, on March 6, 2012. No comments were received.

DATES: Submit comments on or before: June 21, 2012.

ADDRESSES: Submit comments identified by Information Collection 9000–0163, Small Business Size Representation, by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 9000–0163, Small Business Size Representation''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 9000–0163, Small Business Size Representation'' on your attached document.
- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street NE., Washington, DC 20417. ATTN: Hada Flowers/IC 9000–0163, Small Business Size Representation.

Instructions: Please submit comments only and cite Information Collection 9000–0163, Small Business Size Representation, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Karlos Morgan, Procurement Analyst, Office of Governmentwide Acquisition Policy, GSA (202) 501–0044 or *karlos.morgan@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

Federal Acquisition Regulation (FAR) 19.301 and the FAR clause at 52.219–28, Post-Award Small Business Program Representation implement the Small Business Administration (SBA) Final Rule (71 FR 66434), Small Business Size Regulations; Size for Purposes of Governmentwide Acquisition Contracts, Multiple Award Schedule Contracts and Other Long-Term Contracts; 8(a) Business Development/Small Disadvantaged Business; Business Status Determinations. FAR 19.301 and the FAR clause at 52.219–28, requires that contractors represent size status by updating their representations and certifications at the prime contract level in the Online Representations and Certifications Application (ORCA)., and notify the contracting office that it has made the required representation.

The purpose of implementing small business rerepresentation in the FAR is to ensure that small business size status is accurately represented and reported over the life of long-term contracts. The FAR also provides for provisions designed to ensure more accurate reporting of size status for contracts that are novated, merged or acquired by another business. This information is used by the SBA, Congress, Federal agencies and the general public for various reasons such as determining if agencies are meeting statutory goals, set-aside determinations, and market research.

B. Annual Reporting Burden

Respondents: 10,000.

Responses per Respondent: 1.

Hours per Response: 0.5.

Total Burden Hours: 5,000.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street NE., Washington, DC 20417, telephone (202) 501–4755. Please cite OMB Control No. 9000–0163, Small Business Size Rerepresentation, in all correspondence.

Dated: May 16, 2012.

Laura Auletta,

Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2012–12331 Filed 5–21–12; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF EDUCATION

Notice of Submission for OMB Review; Federal Student Aid; Direct Loan Income Contingent Repayment Plan Alternative Documentation of Income

SUMMARY: This form serves as the means by which a borrower who is repaying Direct Loan Program loans under the Income-Contigent Repayment (ICR) Plan or the Income-Based Repayment (IBR) Plan provides the U.S. Department of Education (the Department) with alternative documentation of the borrower's income. For additional information, see the Abstract below.

DATES: Interested persons are invited to submit comments on or before June 21, 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 04793. 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: Direct Loan Income Contingent Repayment Plan Alternative Documentation of Income.

OMB Control Number: 1845–0016.

Type of Review: Revision.

Total Estimated Number of Annual Responses: 294,924.

Total Estimated Number of Annual Burden Hours: 73,731.

Abstract: This form serves as the means by which a borrower who is repaying Direct Loan Program loans under the Income-Contigent Repayment (ICR) Plan or the Income-Based Repayment (IBR) Plan provides the U.S. Department of Education (the Department) with alternative documentation of the borrower's income. If the borrower's adjusted gross income (AGI) is not available from the IRS, or if the Department believes that the borrower's most recently reported AGI does not accurately reflect the borrower's current income. Under the Direct Loan Program regulations, a borrower's AGI is used to calculate the monthly loan repayment amount under the ICR and IBR plans.

Dated: May 17, 2012.

Darrin A. King,

Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2012–12416 Filed 5–21–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Annual Updates to the Income Contingent Repayment (ICR) Plan Formula for 2012; William D. Ford Federal Direct Loan Program

AGENCY: Federal Student Aid, Department of Education.

ACTION: Notice.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.063.

SUMMARY: The Secretary announces the annual updates to the ICR plan formula for 2012. Under the William D. Ford Federal Direct Loan (Direct Loan) Program, borrowers may choose to repay their loans (Direct Subsidized Loans, Direct Unsubsidized Loans, Direct PLUS Loans made to graduate or professional students, and Direct Consolidation Loans) under the ICR plan, which bases the repayment amount on the borrower's income, family size, loan amount, and the interest rate applicable to each loan. Each year, we adjust the formula for calculating a borrower's ICR payment to reflect changes due to inflation. This notice contains the adjusted income percentage factors for 2012, examples of how the calculation of the monthly ICR amount is performed, a constant multiplier chart for use in performing the calculations, and charts showing sample repayment amounts based on the adjusted ICR plan formula. The adjustments to the income percentage factors for the ICR plan formula, contained in this notice, are effective for the period from July 1, 2012 to June 30, 2013.

FOR FURTHER INFORMATION CONTACT: Ian Foss, U.S. Department of Education, 830 First St. NE., Room 114I1, Washington, DC 20202. Telephone: (202) 377–3681 or by email: *ian.foss@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.

Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT** in this section of the notice.

SUPPLEMENTARY INFORMATION: Direct Loan Program borrowers may choose to repay their Direct Subsidized Loans, Direct Unsubsidized Loans, Direct PLUS Loans made to graduate or professional students, and Direct Consolidation Loans under the ICR plan. This notice contains the following four attachments:

- *Attachment 1—Income Percentage Factors for 2012*
- *Attachment 2—Constant Multiplier Chart for Use in Calculating the Monthly ICR Amount*
- *Attachment 3—Examples of the Calculations of Monthly Repayment Amounts*
- *Attachment 4—Charts Showing Sample Repayment Amounts for Single and Married Borrowers*

In Attachment 1, we have updated the income percentage factors to reflect changes based on inflation. Specifically, we have revised the table of income percentage factors by changing the dollar amounts of the incomes shown by a percentage equal to the estimated percentage change in the Consumer Price Index for all urban consumers from December 2011 to December 2012. In Attachment 2, we provide a constant multiplier chart for a 12-year loan amortization. Further, in Attachment 3, we provide examples of monthly repayment amount calculations. Finally, in Attachment 4, we provide two charts that show sample repayment amounts for single and married or head-of-household borrowers at various income and debt levels based on the updated income percentage factors.

The updated income percentage factors reflected in Attachment 1 may cause a borrower's payments to be lower than they were in prior years (even if the borrower's income remains the same as the prior year). However, the revised repayment amount more accurately reflects the impact of inflation on a borrower's current ability to repay.

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.

Program Authority: 20 U.S.C. 1087 *et seq.*

Dated: May 17, 2012.

James W. Runcie,

Chief Operating Officer, Federal Student Aid.

Attachment 1—Income Percentage Factors for 2012

INCOME PERCENTAGE FACTORS FOR 2012

[Based on annual income]

Single		Married/head of household	
Income	% Factor	Income	% Factor
$10,470	55.00	$10,470	50.52
14,406	57.79	16,520	56.68
18,537	60.57	19,687	59.56
22,761	66.23	25,737	67.79
26,797	71.89	31,884	75.22
31,884	80.33	40,048	87.61
40,048	88.77	50,225	100.00
50,226	100.00	60,409	100.00
60,409	100.00	75,682	109.40
72,603	111.80	101,129	125.00
92,966	123.50	136,758	140.60
131,671	141.20	191,263	150.00
150,973	150.00	312,539	200.00
268,909	200.00		

Attachment 2—Constant Multiplier Chart for use in Calculating the Monthly ICR Amount

CONSTANT MULTIPLIER CHART FOR 12-YEAR AMORTIZATION

Interest rate (%)	Annual constant multiplier
3.500	0.102174
4.000	0.105063
4.500	0.108001
5.000	0.110987
5.500	0.114021
6.000	0.117102
6.800	0.122130
7.000	0.123406
7.900	0.129237
8.000	0.129894
8.250	0.131545

Attachment 3—Examples of the Calculations of Monthly Repayment Amounts

General notes about the examples in this attachment:

- The interest rates used in the examples are for illustration only. Actual interest rates vary depending on loan type and when a loan was first disbursed.
- In the examples, the Poverty Guideline amounts used are from the 2012 U.S. Department of Health and Human Services (HHS) Poverty Guidelines for the 48 contiguous States and the District of Columbia, as published in the **Federal Register** on January 26, 2012 (77 FR 4034). Different Poverty Guidelines apply to residents of Alaska and Hawaii.
- The ''constant multiplier'' included in each example is a factor used to calculate amortized payments at a given interest rate over a fixed period of time. Refer to the constant multiplier chart provided in Attachment 2 to this notice to determine the constant multiplier that should be used for a specific interest rate. If an interest rate is not listed in the constant multiplier chart in Attachment 2, use the next highest rate for estimation purposes.
- All examples use an income percentage factor corresponding to the borrower's adjusted gross income (AGI). If the AGI is not listed in the income percentage factors table in Attachment 1, calculate the applicable income percentage factor for the AGI by following the instructions under the Interpolation heading later in this attachment.
- For married borrowers, the outstanding balance on the loans of each borrower and both borrowers' AGIs are added together to determine the ICR payment amount. The amount of each payment applied to each borrower's Direct Loan debt is the proportion of the payments that equals the same proportion as that borrower's debt to the total outstanding balance. Each borrower is billed separately. For example, if a married couple has a total outstanding Direct Loan debt of $60,000, $40,000 of which belongs to one spouse, and $20,000 of which belongs to the other spouse, 67 percent of the monthly ICR payment would be apportioned to the spouse with the outstanding debt of $40,000, with the remaining 33 percent of the monthly ICR payment being apportioned to the spouse with $20,000 of debt. To take advantage of a joint ICR payment, married couples need not file taxes jointly; they may file separately and subsequently provide the other spouse's tax information.

Example 1. This example assumes that the borrower is single with no dependents, and has $15,000 in Direct Subsidized and Unsubsidized Loans. The interest rate on these loans is 6.80 percent, and the borrower has an AGI of $40,048.

Step 1: Determine the total annual payment amount based on what the borrower would pay over 12 years using standard amortization. To do this, multiply the loan balance by the constant multiplier for the applicable interest rate. In this example, the interest rate is 6.80 percent, for which the constant multiplier is 0.122130.

- 0.122130 × $15,000 = $1,831.95
- *Step 2:* Multiply the result of Step 1 by the income percentage factor shown in the income percentage factors table (see Attachment 1 to this notice) that corresponds to the AGI and then divide the result by 100:
- 88.77 × $1,831.95 ÷ 100 = $1,626.22

Step 3: Determine 20 percent of the borrower's discretionary income (discretionary income is AGI minus the U.S. Department of Health and Human Services (HHS) Poverty Guideline amount for the borrower's family size

and state of residence). To do this, subtract the Poverty Guideline amount for a family of one, for this example, from the borrower's AGI and multiply the result by 20 percent:

- $40,048 − $11,170 = $28,878
- $28,878 × 0.20 = $5,775.60

Step 4: Compare the amount from Step 2 with the amount from Step 3. The lower of the two will be the annual payment amount. In this example, the borrower will be paying the amount calculated under Step 2 ($1,626.22). To determine the monthly repayment amount, divide the annual amount by 12.

- $1,626.22 ÷ 12 = $135.52

Example 2. In this example, the borrower is married and has no dependents, other than a spouse. The borrower has a Direct Loan balance of $10,000, and the spouse has a Direct Loan balance of $15,000. The interest rate on all of the loans is 6.80 percent.

The borrower and spouse have a combined AGI of $75,682 and are repaying their loans jointly under the ICR plan (for general information regarding joint ICR payments for married couples, see the fifth bullet under the heading entitled ''General notes about the examples'' in this attachment).

Step 1: Add the borrower's and the borrower's spouse's Direct Loan balances together to determine their combined aggregate loan balance:

- $10,000 + $15,000 = $25,000

Step 2: Determine the combined total annual payment amount for these borrowers based on what both borrowers would pay over 12 years using standard amortization. To do this, multiply the combined loan balance by the constant multiplier for the applicable interest rate. In this example, the interest rate is 6.80 percent, for which the constant multiplier is 0.122130.

- 0.122130 × $25,000 = $3,053.25

Step 3: Multiply the result of Step 2 by the income percentage factor shown in the income percentage factors table in Attachment 1 that corresponds to the borrower's and the borrower's spouse's combined AGI and then divide the result by 100:

- 109.40 × $3,053.25 ÷ 100 = $3,340.26

Step 4: Determine 20 percent of discretionary income. To do this, subtract the Poverty Guideline amount for a family of two, in this example, from the combined AGI and multiply the result by 20 percent:

- $75,682 − $15,130 = $60,552
- $60,552 × 0.20 = $12,110.40

Step 5: Compare the amount from Step 3 with the amount from Step 4. The lower of the two will be the annual payment amount for the borrower and the borrower's spouse. The borrower and the borrower's spouse will jointly pay the amount calculated under Step 3 ($3,340.26). To determine the monthly repayment amount, divide the annual amount by 12.

- $3,340.26 ÷ 12 = $278.36

Example 3. This example assumes that the borrower is single with no dependents and has $15,000 in Direct Subsidized and Unsubsidized Loans. The interest rate on all of the loans is 6.80 percent, and the borrower's AGI is $31,884.

Step 1: Determine the total annual payment amount based on what the borrower would pay over 12 years using standard amortization. To do this, multiply the loan balance by the constant multiplier for the applicable interest rate. In this example, the interest rate is 6.80 percent, for which the constant multiplier is 0.122130.

- 0.122130 × $15,000 = $1,831.95

Step 2: Multiply the result of Step 1 by the income percentage factor shown in the income percentage factors table in Attachment 1 that corresponds to the borrower's income and then divide the result by 100:

- 80.33 × $1,831.95 ÷ 100 = $1,471.61

Step 3: Determine 20 percent of discretionary income (discretionary income is the borrower's AGI minus the HHS Poverty Guideline amount for the borrower's family size). To do this, subtract the Poverty Guideline amount for a family of one, in this example, from AGI and multiply the result by 20 percent:

- $31,884 − $11,170 = $20,714
- $20,714 × 0.20 = $4,142.80

Step 4: Compare the amount from Step 2 with the amount from Step 3. The lower of the two will be the annual payment amount. In this example, the borrower will be paying the amount calculated under Step 2 ($1,471.61). To determine the monthly repayment amount, divide the annual amount by 12.

- $1,471.61 ÷ 12 = $122.63

Example 4. In this example, the borrower is married and has no dependents, other than the spouse. The borrower and spouse have a combined AGI of $40,048 and are repaying their loans under the ICR plan (for general information regarding joint ICR payments for married couples, see the fifth bullet under the heading entitled ''General notes about the examples'' in this attachment). The borrower has a Direct Loan balance of $10,000, $5,000 of which is at an interest rate of 6.80 percent and $5,000 of which is at an interest rate of 7.0 percent. The spouse has a Direct Loan balance of $15,000, $5,000 of which is at an interest rate of 6.80 percent and $10,000 of which is at an interest rate of 7.0 percent.

Step 1: Add the borrower's and the borrower's spouse's Direct Loan balances that have the same interest rate together to determine combined aggregate loan balances by interest rate:

- 6.8 percent: $5,000 + $5,000 = $10,000
- 7.0 percent: $5,000 + $10,000 = $15,000

Step 2: Determine the annual payment based on what would be paid over 12 years using standard amortization for each interest rate-based group of combined aggregate loan balances. To do this, multiply each group of combined aggregate loan balances by the constant multiplier for the applicable interest rate. For 6.80 percent, the constant multiplier is 0.122130. For 7.0 percent, the constant multiplier is 0.123406.

- 0.122130 × $10,000 = $1,221.30
- 0.123406 x $15,000 = $1,851.09

Step 3: Add the products of Step 2 together, multiply that total by the income percentage factor shown in the income percentage factors table in Attachment 1 that corresponds to the borrower's and the borrower's spouse's combined AGI, and then divide the result by 100:

- $1,221.30 + $1,851.09 = $3,072.39
- 87.61 × $3,072.39 ÷ 100 = $2,691.72

Step 4: Determine 20 percent of discretionary income. To do this, subtract the Poverty Guideline amount for a family of two, in this example, from the combined AGI and multiply the result by 20 percent:

- $40,048—$15,130 = $24,918
- $24,918 × 0.20 = $4,983.60

Step 5: Compare the amount from Step 3 with the amount from Step 4. The lower of the two will be the annual payment amount. In this example, the borrower and the borrower's spouse will jointly pay the amount calculated under Step 3 ($2,691.72). To determine the monthly repayment amount, divide the annual amount by 12.

- $2,691.72 ÷ 12 = $224.31

Interpolation. If the borrower's income is not included on the income percentage factor table, calculate the income percentage factor through interpolation. For example, assume that the borrower is single with an income of $30,000.

Step 1: Find the closest income listed that is less than $30,000 and the closest income listed that is greater than $30,000.

Step 2: Subtract the lower amount from the higher amount (for this discussion, we will call the result the ''income interval''):

- $31,884 − $26,797 = $5,087

Step 3: Determine the difference between the two income percentage factors that correspond to the incomes used in Step 2 (for this discussion, we will call the result the ''income percentage factor interval''):

- 80.33 percent − 71.89 percent = 8.44 percent

Step 4: Subtract from the borrower's income the closest income shown on the chart that is less than the borrower's income of $30,000:

- $30,000 − $26,797 = $3,203

Step 5: Divide the result of Step 4 by the income interval determined in Step 2:

- $3,203 ÷ $5,087 = 0.6296

Step 6: Multiply the result of Step 5 by the income percentage factor interval:

- 8.44 percent × 0.6296 = 5.314 percent

Step 7: Add the result of Step 6 to the lower of the two income percentage factors used in Step 3 to calculate the income percentage factor interval for $30,000 in income:

- 5.314 percent + 71.89 percent = 77.20 percent (rounded to the nearest hundredth)

The result is the income percentage factor that will be used to calculate the monthly repayment amount under the ICR plan.

BILLING CODE 4000–01–C

Attachment 4--Charts showing sample repayment amounts for single and married borrowers

Sample First-Year Monthly Repayment Amounts for a Single Borrower at Various Income and Debt Levels																			
	Initial Debt																		
Income	$5,000	$7,500	$10,000	$12,500	$15,000	$17,500	$20,000	$22,500	$25,000	$30,000	$35,000	$40,000	$45,000	$50,000	$60,000	$70,000	$80,000	$90,000	$100,000
$5,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
$6,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
$7,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
$8,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
$9,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
$10,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
$12,500	22	22	22	22	22	22	22	22	22	22	22	22	22	22	22	22	22	22	22
$15,000	30	44	59	64	64	64	64	64	64	64	64	64	64	64	64	64	64	64	64
$17,500	30	46	61	76	91	106	106	106	106	106	106	106	106	106	106	106	106	106	106
$20,000	32	48	64	80	95	111	127	143	147	147	147	147	147	147	147	147	147	147	147
$22,500	34	50	67	84	101	117	134	151	168	189	189	189	189	189	189	189	189	189	189
$25,000	35	53	71	88	106	124	141	159	177	212	231	231	231	231	231	231	231	231	231
$30,000	39	59	79	98	118	138	157	177	196	236	275	314	314	314	314	314	314	314	314
$35,000	43	64	85	106	128	149	170	191	213	255	298	340	383	397	397	397	397	397	397
$40,000	45	68	90	113	135	158	181	203	226	271	316	361	406	451	481	481	481	481	481
$45,000	48	72	96	120	144	168	192	216	240	288	336	384	432	480	564	564	564	564	564
$50,000	51	76	102	127	152	178	203	228	254	305	355	406	457	508	609	647	647	647	647
$60,000	51	76	102	127	153	178	204	229	254	305	356	407	458	509	611	712	814	814	814
$70,000	56	83	111	139	167	195	222	250	278	334	389	445	500	556	667	779	890	981	981
$80,000	59	89	118	148	177	207	236	266	295	354	413	472	531	591	709	827	945	1063	1147
$90,000	62	93	124	155	186	217	248	279	310	372	434	496	558	620	744	868	992	1116	1240
$100,000	64	97	129	161	193	226	258	290	322	387	451	516	580	645	774	903	1032	1161	1290
Sample repayment amounts are based on an interest rate of 6.80%																			

Sample First-Year Monthly Repayment Amounts for a Married or Head-of-Household Borrower at Various Income and Debt Levels																			
	Family Size = 3																		
Income	Initial Debt																		
$5,000	$5,000	$7,500	$10,000	$12,500	$15,000	$17,500	$20,000	$22,500	$25,000	$30,000	$35,000	$40,000	$45,000	$50,000	$60,000	$70,000	$80,000	$90,000	$100,000
$6,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
$7,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
$8,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
$9,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
$10,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
$12,500	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
$15,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
$17,500	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
$20,000	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15
$22,500	32	48	57	57	57	57	57	57	57	57	57	57	57	57	57	57	57	57	57
$25,000	34	51	68	85	99	99	99	99	99	99	99	99	99	99	99	99	99	99	99
$30,000	37	56	74	93	111	130	148	167	182	182	182	182	182	182	182	182	182	182	182
$35,000	41	61	81	102	122	142	163	183	203	244	265	265	265	265	265	265	265	265	265
$40,000	45	67	89	111	134	156	178	200	223	267	312	349	349	349	349	349	349	349	349
$45,000	48	71	95	119	143	167	191	214	238	286	334	381	429	432	432	432	432	432	432
$50,000	51	76	101	127	152	178	203	228	254	304	355	406	457	507	515	515	515	515	515
$60,000	51	76	102	127	153	178	204	229	254	305	356	407	458	509	611	682	682	682	682
$70,000	54	81	108	135	162	189	216	243	269	323	377	431	485	539	647	754	849	849	849
$80,000	57	86	114	143	171	200	228	257	285	342	399	456	513	570	684	798	912	1015	1015
$90,000	60	90	120	150	180	210	241	271	301	361	421	481	541	601	722	842	962	1082	1182
$100,000	63	95	127	158	190	221	253	285	316	380	443	506	569	633	759	886	1012	1139	1265
Sample repayment amounts are based on an interest rate of 6.80%																			

[FR Doc. 2012–12420 Filed 5–21–12; 8:45 am]

BILLING CODE 4000–01–C

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER06–771–003; ER06–772–003

Applicants: Cross & Company PLLC

Description: Supplemental Information to Triennial Market-Power Filing of ExxonMobil Entities.

Filed Date: 5/7/12

Accession Number: 20120507–5061

Comments Due: 5 p.m. ET 5/29/12

Docket Numbers: ER10–2172–008; ER10–2179–011; ER11–2016–003; ER10–2184–008; ER10–2183–005; ER10–1048–005; ER10–2176–009; ER10–2192–008; ER11–2056–002; ER10–2178–008; ER10–2174–008; ER11–2014–005; ER11–2013–005; ER10–3308–007; ER10–1017–004; ER10–1020–004; ER10–1145–004; ER10–1144–003; ER10–1078–004; ER10–1079–004; ER10–1080–004; ER11–2010–005; ER10–1081–004; ER10–2180–008; ER11–2011–004; ER11–2009–004; ER11–3989–003; ER10–1734–005; ER10–2181–011; ER10–1143–004; ER10–2182–011; ER11–2007–003; ER12–1223–003; ER11–2005–005

Applicants: Baltimore Gas and Electric Company, Wind Capital Holdings, LLC, Harvest WindFarm, LLC, CER Generation II, LLC, Handsome Lake Energy, LLC, Exelon New England Power Marketing, LP, Exelon Framingham, LLC, Exelon New Boston, LLC, Exelon West Medway, LLC, Exelon Wyman, LLC, Exelon Generation Company, LLC, Exelon Energy Company, CER Generation, LLC, PECO Energy Company, Commonwealth Edison Company, Constellation Energy Commodities Group, Constellation NewEnergy, Inc., Calvert Cliffs Nuclear Power Plant, LLC, Exelon Generation Company, LLC, Constellation Energy Commodities Group Maine, LLC, Nine Mile Point Nuclear Station, LLC, Constellation Mystic Power, LLC, Michigan Wind 1, LLC, Tuana Springs Energy, LLC, CR Clearing, LLC, Exelon Wind 4, LLC, Michigan Wind 2, LLC, Criterion Power Partners, LLC, Constellation Power Source Generation, Inc., MXenergy Electric Inc., Wildcat Wind, LLC, Cassia Gulch Wind Park, LLC, Cow Branch Wind Energy, LLC, R.E. Ginna Nuclear Power Plant, LLC

Description: Supplement to Notification of Change in Status of Baltimore Gas and Electric Company, *et al.*

Filed Date: 5/14/12

Accession Number: 20120514–5183

Comments Due: 5 p.m. ET 6/4/12

Docket Numbers: ER12–1780–000; ER10–3121–004; ER11–2234–001; ER11–2235–001; ER11–2236–001; ER11–2237–001; ER11–2238–001; ER12–178–001; ER11–2239–001; ER11–2240–001; ER11–2241–001; ER11–2242–001; ER11–2243–001; ER11–2244–001; ER11–2245–001; ER11–2246–001; ER11–2247–001; ER11–2248–001; ER11–2249–001; ER10–3247–005; ER10–2231–002; ER10–1714–003; ER10–1511–003

Applicants: PPL Ironwood, LLC, PPL Ironwood, LLC, Lower Mount Bethel Energy, LLC, PPL Brunner Island, LLC, PPL Colstrip I, LLC, PPL Colstrip II, LLC, PPL Electric Utilities Corporation, PPL Energy Supply, LLC, PPL EnergyPlus, LLC, PPL Great Works, LLC, PPL Holtwood, LLC, PPL Maine, LLC, PPL Martins Creek, LLC, PPL Montana, LLC, PPL Montour, LLC, PPL New Jersey Biogas, LLC, PPL New Jersey Solar, LLC, PPL Renewable Energy, LLC, PPL Susquehanna, LLC, Electric Energy, Inc., Kentucky Utilities Company, LG&E Energy Marketing, Inc., Louisville Gas and Electric Company

Description: Market-Based Rate Notice of Change in Status of the PPL Companies.

Filed Date: 5/14/12

Accession Number: 20120514–5194

Comments Due: 5 p.m. ET 6/4/12

Docket Numbers: ER10–2877–001

Applicants: Cobb Electric Membership Corp.

Description: COBB Electric Membership Corp., Amendment to Updated Market Power Analysis.

Filed Date: 4/27/12

Accession Number: 20120427–5423

Comments Due: 5 p.m. ET 5/18/12

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 5:00 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: May 15, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–12309 Filed 5–21–12; 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: EC12–103–000.

Applicants: Emera Incorporated, Algonquin Power & Utilities Corp.

Description: Application under FPA Section 203 of Emera Incorporated and Algonquin Power & Utilities Corp.

Filed Date: 5/14/12.

Accession Number: 20120514–5145.

Comments Due: 5 p.m. ET 6/4/12.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1141–001; ER10–1139–001; ER10–1151–004; ER10–1103–001; ER10–1123–001; ER10–3247–004.

Applicants: Ameren Energy Marketing Company, Ameren Energy Generating Company, Electric Energy Inc., AmerenEnergy Medina Valley Cogen, LLC, AmerenEnergy Resources Generating Company, Ameren Illinois Company, Union Electric Company.

Description: Addendum to Triennial Market Power Update of Ameren Companies.

Filed Date: 5/1/12.

Accession Number: 20120501–5447.

Comments Due: 5 p.m. ET 5/22/12.

Docket Numbers: ER12–1351–001.

Applicants: PJM Interconnection, LLC.

Description: Errata filing to correct Section 3.2 of the PJM OATT Att K Appx & OA Schedule 1 to be effective 4/1/2012.

Filed Date: 5/14/12.

Accession Number: 20120514–5075.

Comments Due: 5 p.m. ET 6/4/12.

Docket Numbers: ER12–1764–000.

Applicants: Amplified Power & Gas, LLC.

Description: Supplement the record Docx 2010 problem to be effective N/A.

Filed Date: 5/14/12.

Accession Number: 20120514–5034.
Comments Due: 5 p.m. ET 6/4/12.

Docket Numbers: ER12–1775–000.
Applicants: Southern Energy Solution Group, LLC.
Description: Southern Energy Initial MBR Filing to be effective 5/9/2012.
Filed Date: 5/14/12.
Accession Number: 20120514–5035.
Comments Due: 5 p.m. ET 6/4/12.

Docket Numbers: ER12–1776–000.
Applicants: The Dayton Power and Light Company.
Description: FERC Electric Tariff, Volume No. 10 to be effective 5/14/2012.
Filed Date: 5/14/12.
Accession Number: 20120514–5039.
Comments Due: 5 p.m. ET 6/4/12.

Docket Numbers: ER12–1777–000.
Applicants: The Dayton Power and Light Company.
Description: FERC Electric Tariff, Volume No. 6 to be effective 5/14/2012.
Filed Date: 5/14/12.
Accession Number: 20120514–5048.
Comments Due: 5 p.m. ET 6/4/12.

Docket Numbers: ER12–1778–000.
Applicants: DPL Energy, LLC.
Description: FERC Rate Schedule No. 1 to be effective 5/14/2012.
Filed Date: 5/14/12.
Accession Number: 20120514–5070.
Comments Due: 5 p.m. ET 6/4/12.

Docket Numbers: ER12–1779–000.
Applicants: Southwest Power Pool, Inc.
Description: Rate Schedule No. 11 Balanced Portfolio Compliance from ER09–659 and EL12–2 to be effective 5/14/2012.
Filed Date: 5/14/12.
Accession Number: 20120514–5093.
Comments Due: 5 p.m. ET 6/4/12.

Docket Numbers: ER12–1780–000.
Applicants: PPL Ironwood, LLC.
Description: Notice of Succession and Change in Status Notice to be effective 5/14/2012.
Filed Date: 5/14/12.
Accession Number: 20120514–5097.
Comments Due: 5 p.m. ET 6/4/12.

Docket Numbers: ER12–1781–000.
Applicants: PJM Interconnection, LLC.
Description: Original Service Agreement No. 3319; Queue No. W4–004A_AT10 to be effective 5/1/2012.
Filed Date: 5/14/12.
Accession Number: 20120514–5108.
Comments Due: 5 p.m. ET 6/4/12.

Docket Numbers: ER12–1782–000.
Applicants: Duke Energy Carolinas, LLC.
Description: Amendment to Formula Transmission Rate to be effective 6/1/2011.
Filed Date: 5/14/12.
Accession Number: 20120514–5123.
Comments Due: 5 p.m. ET 6/4/12.

Docket Numbers: ER12–1783–000.
Applicants: MXenergy Electric Inc.
Description: Cancellation of MBR Tariff to be effective 5/15/2012.
Filed Date: 5/14/12.
Accession Number: 20120514–5124.
Comments Due: 5 p.m. ET 6/4/12.

Docket Numbers: ER12–1784–000.
Applicants: PJM Interconnection, LLC.
Description: Revisions to PJM Tariff, OA and RAA removing Obsolete References to be effective 7/18/2012.
Filed Date: 5/14/12.
Accession Number: 20120514–5125.
Comments Due: 5 p.m. ET 6/4/12.

Docket Numbers: ER12–1785–000.
Applicants: California Independent System Operator Corporation.
Description: 2012–05–14 CAISO Credit Reforms Comp Filing to be effective 4/30/2012.
Filed Date: 5/14/12.
Accession Number: 20120514–5174.
Comments Due: 5 p.m. ET 6/4/12.

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 5:00 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: May 15, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–12312 Filed 5–21–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–1770–000]

DES Wholesale, 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 DES Wholesale, 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 June 5, 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: May 16, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–12310 Filed 5–21–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–1773–000]

Inupiat Energy Marketing, 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 Inupiat Energy Marketing, 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 June 5, 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: May 16, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–12311 Filed 5–21–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PL12–1–000]

The Commission's Role Regarding the Environmental Protection Agency's Mercury and Air Toxics Standards; Policy Statement on the Commission's Role Regarding the Environmental Protection Agency's Mercury and Air Toxics Standards

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

1. The Commission issues this Policy Statement to explain how it will provide advice to the Environmental Protection Agency (EPA) for it to rule on requests for Administrative Orders (AO) to operate in noncompliance with EPA's Mercury and Air Toxics Standards (MATS).[1] As noted below, this Policy Statement does not represent the entirety of the Commission's efforts to monitor the impact of EPA regulations generally on bulk-power system reliability.

I. Introduction

2. On December 21, 2011, the EPA released the MATS final rule pursuant to its authority under Section 112 of the Clean Air Act (CAA).[2] The MATS final rule limits mercury, acid gases and other toxic emissions from power plants. Pursuant to Section 112(i)(3)(A) of the CAA, affected sources are required to comply within three years of the MATS effective date. Pursuant to CAA Section 112(i)(3)(B), some affected sources are eligible for a one-year extension (i.e. for a total of four years).[3]

3. The EPA's Office of Enforcement and Compliance Assurance released a policy memorandum (EPA Policy Memorandum) dated December 16, 2011 describing its intended approach regarding the use of CAA Section 113(a) AOs with respect to sources that must operate in noncompliance with the MATS for up to a year to address a specific and documented reliability concern (i.e. for a total of five years).[4]

4. On January 30, 2012, Commission staff issued a White Paper seeking comment concerning staff's position on how the Commission should advise the EPA on requests for extension of time to comply with EPA's MATS. The Commission has considered all comments received in the formulation of this Policy Statement, which is limited in scope to how the Commission will handle an AO filing under CAA Section 113(a) for noncompliance with the MATS. This Policy Statement does not address the entirety of the Commission's efforts to monitor the impact of EPA regulations generally on bulk-power system reliability.

II. Background

A. Compliance With EPA's Mercury and Air Toxics Standards

5. Under Section 112(i)(3) of the CAA, affected sources must be compliant with MATS within three years, with an extension of up to one year available in certain cases.[5] In addition to the up to four-year compliance period contemplated in Section 112(i)(3), the EPA Policy Memorandum describes a process by which certain affected sources can obtain an AO to operate in noncompliance for an additional year pursuant to Section 113(a) of the CAA. Specifically, the EPA Policy Memorandum contemplates that the EPA will receive AO requests: (1) Concerning electric generating units (EGUs) that may affect reliability due to deactivation; and (2) concerning EGUs

[1] National Emission Standards for Hazardous Air Pollutants from Coal- and Oil-fired Electric Utility Steam Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Institutional Steam Generating Units, *http://www.gpo.gov/fdsys/pkg/FR-2012-02-16/pdf/2012-806.pdf.*

[2] 42 U.S.C. 7412(i)(3)(A) (2006).

[3] *See id.* § 7412(i)(3)(B).

[4] The Environmental Protection Agency's Enforcement Response Policy For Use Of Clean Air Act Section 113(a) Administrative Orders In Relation To Electric Reliability And The Mercury and Air Toxics Standard (Dec. 16, 2011), *http://www.epa.gov/compliance/resources/policies/civil/erp/mats-erp.pdf.*

[5] The EPA Policy Memorandum refers to the date by which affected sources must comply under Section 112(i)(3) of the CAA (which includes the possible one-year extension under Section 112(i)(3)(B)) as the ''MATS Compliance Date.''

that may affect reliability due to delays related to the installation of controls.[6]

6. The EPA Policy Memorandum states that an AO cannot be issued under Section 113(a) prior to the MATS Compliance Date in Section 112(i)(3).[7] However, provided an owner/operator has timely submitted a complete request and provided appropriate cooperation, the EPA expects to give an owner/operator ''as much advance written notice as practicable of the [EPA's] plans with regard to such an AO.''[8]

7. The EPA Policy Memorandum states that in evaluating a request for an AO, the EPA will seek advice, on a case-by-case basis, from the Commission and/or other entities with relevant reliability expertise.[9] However, the EPA's issuance of an AO is not conditioned upon the approval or concurrence of the Commission or any other entity.

1. General Requirements for AO Requests

8. The EPA Policy Memorandum provides that within one year after the MATS effective date, an owner/operator should submit written notice of its compliance plans (Notice of Compliance Plans) with regard to each EGU it owns or operates to the planning authority for the area in which the relevant EGU is located. According to the EPA, the Notice of Compliance Plans should identify: (1) The units the owner/operator plans to deactivate and the anticipated dates of deactivation; and (2) the units for which it intends to install pollution control equipment or otherwise retrofit and the anticipated schedule for completion of that work.

9. The EPA Policy Memorandum states that an owner/operator should, generally no less than 180 days prior to the MATS Compliance Date,[10] submit a written request to the EPA[11] for an enforceable compliance schedule in an AO for the unit. An owner/operator should submit the following information for all AO requests:

(1) Copies of the Notice of Compliance Plans provided to the planning authority or an explanation why it was not practicable to have provided such notice and a demonstration that such notice was provided as soon as it was practicable;

(2) Written analysis of the reliability risk if the EGU were not in operation, which demonstrates that operation of the unit after the MATS Compliance Date is critical to maintaining electric reliability, and that failure to operate the unit would: (a) Result in the violation of at least one of the reliability criteria required to be filed with the Commission, and, in the case of the Electric Reliability Council of Texas, with the Texas Public Utility Commission; or (b) cause reserves to fall below the required system reserve margin;

(3) Written concurrence with the reliability risk analysis, or a separate and equivalent analysis, by the planning authority for the area in which the relevant EGU(s) are located, or, in the alternative, a written explanation of why such concurrence or separate and equivalent analysis cannot be provided, and, where practicable, any related system wide analysis by such entity;

(4) Copies of any written comments from third parties directed to, and received by, the owner/operator in favor of, or opposed to, operation of the unit after the MATS Compliance Date;

(5) A plan to achieve compliance with the MATS no later than one year after the MATS Compliance Date, and, where practicable, a written demonstration of the plan to resolve the underlying reliability problem and the steps and timeframe for implementing it, which demonstrates that such resolution cannot be effected on or before the MATS Compliance Date; and

(6) Identification of the level of operation of the EGU that is required to avoid the documented reliability risk and, consistent with that level, a proposal for operational limits and/or work practices to minimize or mitigate any hazardous air pollutant emissions to the extent practicable during any operation not in full compliance with the MATS.[12]

2. Specific Requirements for AO Requests

10. As stated above, the EPA Policy Memorandum states that the owner/operator of an EGU that wants to obtain an AO must, no less than 180 days prior to the MATS Compliance Date, submit electronically a written request for an enforceable compliance schedule. To request an AO for any EGU that is required to run for reliability purposes that, due to factors beyond the control of the owner/operator, have delays in installation of controls or need to operate because another EGU has had such a delay, the EPA Policy Memorandum states that an owner/operator should: (1) Within a reasonable time of learning of a delay that it believes may result in an EGU being unable to comply by the MATS Compliance Date, provide to the planning authority for the area in which the relevant EGU(s) are located, written notice of the EGU(s) impacted by the delay, the cause of the delay, an estimate of the length of time of the delay, and the timeframe during which the owner/operator contemplates operation in non-compliance with the MATS; (2) within a reasonable time of learning that it is critical to reliability to operate the identified EGU(s) in non-compliance with the MATS after the MATS Compliance Date, submit electronically to the AO Request Recipients a written request for an enforceable compliance schedule in an AO for the EGU(s), which includes information responsive to as many of the general requirements discussed above as it is possible to provide at that time; and (3) at the same time the owner/operator submits its request for an AO, provide notice that it is seeking such an AO to the AO Notice Recipients.

B. Energy Policy Act of 2005 and Mandatory Reliability Standards

11. Section 215 of the Federal Power Act (FPA) requires a Commission-certified Electric Reliability Organization (ERO) to develop mandatory and enforceable Reliability Standards, which provide for the reliable operation of the Bulk-Power System, subject to Commission review

[6] EPA Policy Memorandum at 4.

[7] *Id.* at 5.

[8] *Id.*

[9] The EPA Policy Memorandum states that ''in light of the complexity of the electric system and the local nature of many reliability issues, the EPA will, for purposes of using its Section 113(a) AO authority in this context, rely for identification and/or analysis of reliability risks upon the advice and counsel of reliability experts, including, but not limited to, the Federal Energy Regulatory Commission ('FERC'), Regional Transmission Operators ('RTOs'), Independent System Operators ('ISOs') and other Planning Authorities as identified herein, the North American Electric Reliability Corporation ('NERC') and affiliated regional entities, and state public service commissions ('PSCs') and public utility commissions ('PUCs'). The EPA will work with these and other organizations, as appropriate, to ensure that any claims of reliability risks are properly characterized and evaluated.'' EPA Policy Memorandum at 2.

[10] The EPA Policy Memorandum also has provisions for an owner/operator to, in certain circumstances, provide less notice to the EPA and the Commission.

[11] This request is to be submitted electronically to the Director of the Air Enforcement Division in the EPA's Office of Enforcement and Compliance Assurance and the Regional Administrator of the EPA region in which the EGU is located, with a copy to the Commission. At the same time, an owner/operator should provide notice that it is seeking an AO to: (1) The planning authority, (2) any state public utility commissions or public service commissions with regulatory jurisdiction with regard to the relevant EGU, and (3) any state, tribal or local environmental agency with permitting authority under Titles I and V of the CAA, and any tribal environmental agency that does not have such authority, with jurisdiction over the area in which the EGU is located (collectively, ''AO Notice Recipients'').

[12] EPA Policy Memorandum at 6–7.

and approval.[13] On February 3, 2006, the Commission issued Order No. 672 to implement the requirements of section 215 of the FPA governing electric reliability.[14]

III. Commission Policy for Advice to the EPA Under the EPA's Policy Memorandum

12. The EPA Policy Memorandum indicates that the EPA intends to seek advice, as necessary and on a case-by-case basis from the Commission, among others, as the EPA decides whether it will grant an AO to an owner/operator. The EPA Policy Memorandum makes clear that the EPA decision as to whether to grant an AO to an owner/operator is solely the decision of the EPA and that the concurrence or approval of any entity is not a condition for approval or denial of an AO request.[15] The Commission believes that it is important to provide as much guidance to industry as possible as to how the Commission intends to provide advice to the EPA on any AO request. In developing this process, the Commission considered how to provide a fair and transparent process for communicating the Commission's expertise on reliability issues, while respecting that the EPA will seek the Commission's advice in a timely manner so that EPA can decide whether to grant certain AOs.

A. Commission Process for Advising the EPA Under the EPA's Policy Memorandum

Submittal of Information to the Commission

13. The EPA Policy Memorandum explains that when an owner/operator submits an AO request: (1) for EGUs that may affect reliability due to deactivation; and (2) for EGUs that may affect reliability due to delays related to the installation of controls, the owner/operator must provide a copy of the request to the Commission. This AO request must include an owner/operator's ''written analysis of the reliability risk if the unit were not in operation, which demonstrates that operation of the unit after the MATS Compliance Date is critical to maintaining electric reliability, and that failure to operate the unit would * * * result in the violation of at least one of the reliability criteria required to be filed with [the Commission] * * *.''[16] In addition, the AO request will include the Planning Authority's written concurrence with the owner/operator's analysis, or a written explanation of why the Planning Authority's concurrence cannot be provided.

14. As an initial matter, each AO request should be filed with the Commission. The Commission will treat any AO request filed with the Commission as an informational filing. The Commission will assign each informational filing a separate Administrative Docket (AD) number. The Commission's Office of Electric Reliability will be designated as the lead office tasked with processing an owner/operator's informational filing.

15. Each informational filing should include the same information that the owner/operator submitted to the EPA pursuant to the EPA Policy Memorandum. While the Commission does not propose mandating that Planning Authorities undertake specific types of analyses, the Commission identifies below certain types of information that are already available today and that the Commission commonly reviews when examining potential violations of Reliability Standards.[17] Including this information as part of the materials an owner/operator submits to the EPA, and therefore to the Commission, would aid in the Commission's review of the informational filing. It is essential that the Commission receive enough information to review the claims made by a requesting owner/operator so that the Commission can provide timely comments to the EPA. These types of information include, but are not limited to, system planning and operations studies, system restoration studies or plans, operating procedures, and mitigation plans required by the Reliability Standards.[18] By suggesting what information would aid the Commission in its review, the Commission is not requiring any specific analysis be done or indicating that this information must be submitted or what the EPA should consider, but rather what the Commission would find informative when reviewing potential violations of Reliability Standards.[19]

16. The Commission generally anticipates it would not have to seek additional information. The Commission is concerned that seeking additional information from an owner/operator of an EGU could delay or prevent the Commission from issuing timely comments to the EPA.[20]

B. Scope and Standard of Review for Informational Filings

17. EPA states that the analysis provided in an AO request should demonstrate ''that operation of the unit after the MATS Compliance Date is critical to maintaining electric reliability, and that failure to operate the unit would: (a) result in the violation of at least one of the reliability criteria required to be filed with the Commission, and, in the case of the Electric Reliability Council of Texas, with the Texas Public Utility Commission; or (b) cause reserves to fall below the required system reserve margin.'' Commission review of an informational filing will be conducted pursuant to section 307(a) of the FPA, the Commission's general investigative authority. The review will examine whether, based on the circumstances presented, there might be a violation of a Commission-approved Reliability Standard.[21] In addition, the Commission's comments to the EPA could also identify issues, pursuant to our other areas of authority, raised by the AO request for the EPA to consider as critical to reliability.[22] Further, an

[13] 16 U.S.C. 824o(d)(2).

[14] *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards,* Order No. 672, FERC Stats. & Regs. ¶ 31,204, *order on reh'g,* Order No. 672–A, FERC Stats. & Regs. ¶ 31,212 (2006).

[15] EPA Policy Memorandum at 7.

[16] *Id.*

[17] The Commission does not believe it is necessary to identify specific factors that each planning authority must take into account in assessing system reliability outside of the NERC planning standards. The existing processes used by the Planning Authorities to conduct reliability assessments, which are based on the NERC planning standards and performed under NERC's oversight, appear to be sufficient. We encourage NERC to continue to work closely with the Planning Authorities to ensure that these existing processes adequately assess system reliability in the specific circumstances presented by compliance with EPA regulations. In addition, Commission staff is available to Planning Authorities and participants in these processes for consultation on these matters. Also, we expect Commission staff to monitor these processes through periodic outreach to Planning Authorities.

[18] The Commission reviews power flow, dynamic, or other simulation results that support the Reliability Standards as well as the modeling assumptions used in these simulations. Modeling assumptions may include factors such as the base case used, demand levels, modifications made to the base case, system transfers modeled, scheduled outages modeled, and contingencies tested.

[19] We understand that these types of information are readily available today so that their submission should not impose a burden on the owner/operator.

[20] However, the Commission reserves the right to seek additional information regarding a filing when necessary.

[21] A statement by the Commission indicating that circumstances presented ''might'' result in the violation of a Reliability Standard would not constitute a final determination under section 215 of the FPA that a Reliability Standard has or will be violated. That is, the Commission comments will reflect our preliminary view based on information presented about a possible hypothetical circumstance in the future, not a final agency action triggering civil penalties or other enforcement actions.

[22] For example, the Commission may determine that the potential closure of an EGU could trigger

EGU's continued operation may have reliability impacts beyond those implicated by the Commission's jurisdiction. The EPA should look to NERC and state commissions, among the other entities it has enumerated, for guidance in those areas.[23]

18. The Commission's jurisdiction under section 215 is over the ERO, Regional Entities, and all users, owners and operators of the bulk-power system ''for purposes of approving Reliability Standards established under [section 215] and enforcing compliance with [section 215].'' [24] Further, section 215 states that ''this section does not authorize the ERO or the Commission to order the construction of additional generation or transmission capacity or to set and enforce compliance with standards for adequacy or safety of electric facilities or services.'' [25] In addition, section 215 specifically preserves authority of states over safety, resource adequacy, and even reliability as long as the latter does not conflict with the Commission's Reliability Standards.

19. While our comments to the EPA are largely limited to whether the issue in question may result in the violation of a Reliability Standard, we recognize that the EPA is not so limited in what it may consider in reviewing a request for an AO. Indeed, the EPA Policy Memorandum indicates that the EPA may also seek advice and counsel of reliability experts, including, state public service commissions and public utility commissions, RTOs and ISOs, Planning Authorities, NERC and affiliated regional entities—and we encourage them to do so. Nothing in this Policy Statement precludes NERC, state agencies or others from providing the EPA with information regarding resource adequacy and other local reliability concerns that are not addressed in the Commission's comments to the EPA.

20. The Commission will review the Planning Authority's analysis included in each informational filing to ensure that it was reasonable and sufficiently supported by the information supplied, recognizing the Planning Authority's knowledge of, and expertise on, local and regional conditions. The Commission would focus on whether the Planning Authority's reliability analysis has identified and supported, in a detailed and reasoned fashion, whether there might be a violation of a Commission-approved Reliability Standard.

21. The Commission will advise the EPA, as contemplated by the EPA Policy Memorandum, by submitting written Commission comments to the EPA based on the Commission's review of the information provided in the informational filing.[26] The Commission's comments would provide advice to the EPA on whether, based on the Commission's review of the informational filing, there might be a violation of a Commission-approved Reliability Standard. As noted above, the Commission's comments may also identify issues within its jurisdiction other than a potential violation of a Commission-approved Reliability Standard. The Commission comments will not address the appropriateness of granting or denying an AO.

C. Intervention and Other Procedures

The Commission's process will not provide for entities to intervene in the AD dockets.[27] The EPA Policy Memorandum generally anticipates that an AO request will be filed 180 days prior to the MATS Compliance Date and the Commission is concerned that allowing interventions may inhibit the Commission's ability to timely provide advice to the EPA. In addition, interventions are not available generally in a matter under investigation pursuant to Section 307(a) of the FPA. Yet the lack of a formal intervention procedure does not preclude an interested entity from being heard. The EPA Policy Memorandum requires an owner/operator requesting an AO to submit ''[c]opies of any written comments from third parties directed to, and received by, the owner/operator in favor of, or opposed to, operation of the unit after the MATS compliance date.'' [28] These materials should also be included as part of the informational filing an owner/operator submits to the Commission under the requirements in the EPA Policy Memorandum.[29] While the Commission is not imposing any additional requirements, we anticipate that owners/operators will, consistent with the EPA Policy Memorandum, provide third parties with an opportunity to offer ''written comments * * * in favor of, or opposed to, operation of the unit after the MATS compliance date'' before they submit their AO request.

IV. Conclusion

22. This Policy Statement explains how the Commission plans to advise the EPA under the EPA's Policy Memorandum. The Commission believes the process appropriately takes into account the need for timeliness, fairness, and transparency, while respecting the Commission's jurisdiction over electric reliability. As stated in the EPA Policy Memorandum, whether or to what extent the EPA considers or relies on the Commission's comments, and whether to grant an AO to an owner/operator, will rest entirely with the EPA.

23. Additionally, we emphasize that this Policy Statement does not represent the entirety of the Commission's efforts to monitor the impact of EPA regulations generally on bulk-power system reliability. For example, the Commission intends to continue addressing these issues with state commissions in a regular public forum, the National Association of Regulatory Utility Commissioners/FERC Forum on Reliability and the Environment. The Commission and its staff will also continue to review plans, reports and other information generated by the Planning Authorities, industry and other stakeholders regarding the impact of compliance with EPA regulations. To the extent additional analysis or evidence would aid the Commission's efforts to monitor these issues, we will consider holding additional technical conferences or workshops.[30]

Finally, the Commission will monitor and promptly review proposals from regulated entities that may seek to modify their tariffs in order to reliably and efficiently comply with EPA regulations.

By the Commission.

the Commission's jurisdiction outside of section 215 of the FPA. *See e.g., Exelon Generation Co., LLC,* 132 FERC ¶ 61,219 (2010).

[23] Commission staff will also be available to communicate with the EPA on any reliability-related issues to aid the EPA in its consideration of these issues.

[24] 16 U.S.C. 824o(b).

[25] *Id.* § 824o(i)(2).

[26] The Commission will vote on the Commission comments before submission to the EPA. Commission comments submitted to the EPA will be publicly posted on the Commission's eLibrary system under the applicable AD docket number. Differing views by any Commissioner will also be submitted to the EPA in writing and will be publicly posted on the Commission's eLibrary system.

[27] While the Commission will not seek comments on these informational filings, if comments are received by the Commission, these would be placed in the associated AD docket. Because these would be informational dockets, while the Commission may consider these comments, it would not be required to do so. Due to the nature of the Commission's comments as non-final agency action and the limited time for the Commission to act, the Commission does not anticipate responding to any comments that may be submitted in an AD docket.

[28] EPA Policy Memorandum at 7.

[29] *Id.* at 5, 6.

[30] The Commission held a technical conference on these issues on November 30, 2011, in Docket No. AD12–1–000.

Issued: May 17, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–12342 Filed 5–21–12; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2011–0254; FRL–9517–6]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Miscellaneous Metal Parts and Products (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before June 21, 2012.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2011–0254, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 28221T, 1200 Pennsylvania Avenue NW., Washington, DC 20460; and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; email address: *williams.learia@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On May 9, 2011 (76 FR 26900), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2011–0254, which is available for public viewing online at *http://www.regulations.gov,* or in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1752.

Use EPA's electronic docket and comment system at *http://www.regulations.gov* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted either electronically or in paper, will be made available for public viewing at *http://www.regulations.gov,* as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: NESHAP for Miscellaneous Metal Parts and Products (Renewal).

ICR Numbers: EPA ICR Number 2056.04, OMB Control Number 2060–0486.

ICR Status: This ICR is scheduled to expire on July 31, 2012. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A, and any changes, or additions to the Provisions specified at 40 CFR part 63, subpart MMMM.

Owners or operators of the affected facilities must submit initial notification, performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required semiannually.

All reports are sent to the delegated state or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA regional office. This information is being collected to assure compliance with 40 CFR part 63, subpart MMMM, as authorized in section 112 and 114(a) of the Clean Air Act. The required information consists of emissions data and other information that have been determined to be private.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. The OMB Control Numbers for the EPA regulations are listed in 40 CFR part 9 and 48 CFR chapter 15, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 226 hours per response. ''Burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and either transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners or operators of miscellaneous metal parts and products.

Estimated Number of Respondents: 4,992.

Frequency of Response: Initially, occasionally, and semiannually.

Estimated Total Annual Hour Burden: 2,254,948.

Estimated Total Annual Cost: $217,117,118, which includes $216,067,118 in labor costs, no capital/startup costs, and $1,050,000 in operation and maintenance (O&M) costs.

Changes in the Estimates: There is an adjustment decrease in the labor hours for the respondent as compared to the

most recently approved ICR. This decrease is not due to any program changes. The decrease reflects a correction in the ''person-hours per occurrence'' estimate for magnet wire facilities in Table 1 based on comments received from industry consultation. The per-person burden hour estimate for line items ''5.1 Gather information and monitor'' and ''6.1 Process/compile and review'' in the previous ICR were incorrectly based on burden estimates for the entire industry sector rather than a single magnet wire facility, and therefore were inflated by a factor of ten.

There is an increase in the total O&M costs in this ICR as compared to the previous ICR. This change reflects an update in the respondent universe for the magnet wire industry. Based on comments received from consultation, EPA updated the number of magnet wire facilities from 10 to 11 in order to reflect more accurately the potential respondent universe.

In addition, there is an increase in burden costs to both the respondent and the Agency due to an adjustment in labor rates. This ICR uses the most recent labor rates from the U.S. Bureau of Labor Statistics in calculating the labor costs.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2012–12321 Filed 5–21–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2006–0947; FRL 9516–8]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; CAIR To Reduce Interstate Transport of Fine Particle Matter and Ozone (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA)(44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Comments may be submitted on or before June 21, 2012.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2006–0947, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *a-and-r-Docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Air and Radition Docket (Mail Code 28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Karen VanSickle, Clean Air Markets Division, (6204J), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 202–343–9220; fax number: 202–343–2361; email address: *vansickle.karen@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On 01/12/2012 (77 FR 1930), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received one non-substantial comment during the comment period. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under EPA Docket ID No. EPA–HQ–OAR–2006–0947, which is available for online viewing at *http://www.regulations.gov,* or in person viewing at the Air and Radiation Docket, in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket is (202) 566–1742. Use EPA's electronic docket and comment system at *http://www.regulations.gov,* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov.*

Title: CAIR to Reduce Interstate Transport of Fine Particle Matter and Ozone (Renewal).

ICR numbers: EPA ICR No. 2152.05, OMB Control No. 2060–0570.

ICR Status: This ICR is currently scheduled to expire on May 31, 2012. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: In 2005, the United States Environmental Protection Agency (EPA) promulgated the Clean Air Interstate Rule (CAIR) to Reduce Interstate Transport of Fine Particle Matter and Ozone. CAIR combined its reporting requirements with existing requirements from the Emission Reporting Requirements for Ozone State Implementation Plan (SIP) Revisions Relating to Statewide Budgets for NO_X Emissions to Reduce Regional Transport of Ozone (NO_X SIP Call) and the Acid Rain Program (ARP) under Title IV of the CAA Amendments of 1990. These other requirements have approved ICRs in place. The ARP is covered under OMB Control Number 2060–0258. The NO_X SIP Call, OMB Control Number 2060–0445, was revised in 2008 and sources previously subject to the NO_X SIP Call requirements are now covered under CAIR. In 2009 an administrative change was made to include Delaware and New Jersey in the Clean Air Interstate Rule, OMB Control Number 2060–0584 in this ICR. This ICR is being submitted to account for the incremental burden associated with CAIR. As such, the supporting statement references the burden analysis included in the ICRs for the NO_X SIP Call and ARP and estimates the change in burden resulting from CAIR beyond the scope of these ICRs. This ICR details the ongoing burdens associated with CAIR. These

changes can be logically divided into two categories: (1) Annualized startup/capital and operational costs associated with CAIR affected units that are not also affected by the ARP program and (2) incremental operational costs for ARP affected units that are also subject to the CAIR program. The previous 2009–2011 ICR period contained a number of one-time costs and burdens associated with facilities/units either transitioning into the CAIR program from the NO_X SIP Call program or facilities/units previously affected by ARP that were required to make changes as part of CAIR. These one-time costs and burdens were fully realized in the 2009–2011 period.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 22 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Sources subject to the CAIR program.

Estimated Number of Respondents: 1,077.

Frequency of response: Quarterly.

Estimated Total Annual Hour Burden: 265,292 hours.

Estimated Total Annual Costs: $40,819,163, which included $22,539,614 in capital and O&M costs.

Changes in the Estimates: There is a decrease of 141,747 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This change from the previous ICR is due to three major differences. (1) The previous ICR included a number of one-time transition burdens associated with the incorporation of NO_X SIP Call sources and incremental changes for ARP sources. Those one time burdens were fully accounted for in the previous ICR and are not included in the 2012–2014 period. (2) The previous ICR also included a State and local reporting burden associated with annual and triennial emissions inventory reporting. This reporting requirement was removed with changes to 40 CFR 51.125 published in 76 FR 48353 on August 8, 2011. (3) The overall number of facilities slightly declined despite the previous administrative change to include Delaware and New Jersey.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2012–12322 Filed 5–21–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL9675–2]

Clean Water Act Section 303(d): Withdrawal of Nine Total Maximum Daily Loads (TMDLs)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Withdrawal of Nine TMDLs.

SUMMARY: The EPA hereby withdraws nine final Total Maximum Daily Loads (TMDLs) for Chloride, Sulfate, and Total Dissolved Solids (TDS) for the Bayou de L'Outre Watershed in Arkansas. The EPA withdraws the Bayou de L'Outre TMDLs due to the discovery of inconsistencies in the values used to derive the flow and load duration curves, resulting in the calculation of TMDLs which do not accurately reflect the loading capacity of the segments. This action does not affect seven other final TMDLs published under the same **Federal Register** notice (see 76 FR 52947) which pertain to segments 08040203–010, 08040204–006, and 08040206–015, –016, –716, –816, –916. The Agency hereby withdraws the final TMDLs pertaining to segments 08040202–006, –007, and –008 with respect to Chlorides, Sulfates and TDS.

Public Participation: EPA received five comment letters from representatives of Clean Harbors Environmental Services, Clean Harbors Environmental Services—El Dorado, El Dorado Water Utility, Great Lakes Chemical Corporation—Chemtura, and Lion Oil Company in support of the withdrawal of nine TMDLs pertaining to Bayou de L'Outre. The Agency did not receive any adverse comments relating to the withdrawal action.

SUPPLEMENTARY INFORMATION: The TMDLs were developed under EPA Contract Number 68–C–02–108. The **Federal Register** notice of availability, seeking public comments on the draft TMDLs, was published on December 17, 2007 (see 72 FR 71409). Public comments were received by January 16, 2008, and a response to each comment was provided. The **Federal Register** notice of availability for the final TMDLs was published on August 24, 2011 (see 76 FR 52947). The nine pollutant pairs for Bayou de L'Outre subject to withdrawal are as follows.

Segment (Reach)	Waterbody name	Pollutant
08040202–006	Bayou de L'Outre	Chloride, Sulfate, TDS.
08040202–007	Bayou de L'Outre	Chloride, Sulfate, TDS.
08040202–008	Bayou de L'Outre	Chloride, Sulfate, TDS.

The 2008 Arkansas Clean Water Act (CWA) Section 303(d) list of impaired waters is the current EPA approved list, and includes the three Bayou de L'Outre segments addressed by this action. This action does not affect the listing of the aforementioned segments.

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.

Dated: May 9, 2012.

William K. Honker,

Acting Director, Water Quality Protection Division, EPA Region 6

[FR Doc. 2012–12360 Filed 5–21–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2011–0787; FRL–9674–8]

Final National Recommended Ambient Water Quality Criteria for Carbaryl—2012

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of final criteria.

SUMMARY: Pursuant to section 304(a) of the Clean Water Act (CWA), the Environmental Protection Agency (EPA) is announcing the availability of final national recommended water quality criteria for the protection of aquatic life from effects of carbaryl (EPA–820–R–12–007). The final criteria document incorporates the latest scientific knowledge on the toxicity of carbaryl to aquatic life. On November 1, 2011, EPA published draft national recommended water quality criteria for carbaryl and provided the public an opportunity to provide scientific views. EPA developed the aquatic life criteria based on EPA's *Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses (1985), (EPA/R–85–100).* EPA's recommended section 304(a) water quality criteria provides guidance to States and authorized Tribes in adopting water quality standards for protecting aquatic life and human health. These criteria are intended to protect aquatic life and do not evaluate human health toxicity data. EPA's recommended water quality criteria provide technical information for states and authorized tribes in adopting water quality standards, but by themselves have no binding legal effect. EPA's national recommended final acute and chronic ambient water quality criteria (AWQC) for protecting freshwater organisms from potential effects of carbaryl is 2.1 µg/L. For the protection of estuarine/marine organisms from potential effects of carbaryl, EPA is recommending a final acute AWQC of 1.6 µg/L. At the present time, there are insufficient data to calculate a chronic AWQC for estuarine/marine organisms.

ADDRESSES: Scientific views received from the public on the draft carbaryl criteria and the draft and final carbaryl criteria documents are available from the EPA Docket Center and are identified by Docket ID No. EPA–HQ–OW–2011–0787. They may be accessed online at:

- *www.regulations.gov:* Follow the on-line instructions.
- *Email: OW-Docket@epa.gov.*
- *Mail:* US Environmental Protection Agency; EPA Docket Center (EPA/DC) Water Docket, MC 2822T; 1200 Pennsylvania Avenue NW., Washington, DC 20460.
- *On Site:* EPA Docket Center, 1301 Constitution Ave. NW., EPA West, Room 3334, Washington DC. This Docket Facility is open from 8:30 a.m. until 4:30 p.m., EST, Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Office of Water is (202) 566–2426.

For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

FOR FURTHER INFORMATION CONTACT: Diana Eignor, Health and Ecological Criteria Division (4304T), U.S. EPA, 1200 Pennsylvania Ave. NW., Washington, DC 20460; (202) 566–1143; *eignor.diana@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What are water quality criteria?

Water quality criteria are either narrative descriptions of water quality or scientifically derived numeric values that protect aquatic life or human health from the deleterious effects of pollutants in ambient water.

Section 304(a)(1) of the Clean Water Act requires EPA to develop and publish and, from time to time, revise, criteria for the protection of water quality and human health that accurately reflect the latest scientific knowledge. Water quality criteria developed under section 304(a) are based solely on data and scientific judgments on the relationship between pollutant concentrations and environmental and human health effects. Section 304(a) criteria do not reflect consideration of economic impacts or the technological feasibility of meeting the chemical concentrations in ambient water.

Section 304(a) criteria provide guidance to States and authorized Tribes in adopting water quality standards that ultimately provide a basis for assessing water body health and controlling discharges or releases of pollutants. Under the CWA and its implementing regulations, States and authorized Tribes are to adopt water quality criteria to protect designated uses (e.g., public water supply, aquatic life, recreational use, or industrial use). EPA's recommended water quality criteria do not substitute for the CWA or regulations, nor are they regulations themselves. Thus, EPA's recommended criteria do not impose legally binding requirements. States and authorized Tribes have the discretion to adopt, where appropriate, other scientifically defensible water quality criteria that differ from these recommendations.

II. What is carbaryl and why are we concerned about it?

Carbaryl is a member of the N-methyl carbamate class of pesticides, which share a common mechanism of toxicity by affecting the nervous system via cholinesterase inhibition. Carbaryl has many trade names, but is most commonly known as Sevin®. It is an insecticide, a molluscide, and is used to thin fruit in orchards. It is registered in the United States for controlling insect pests on over 115 agricultural and non-crop use applications, including home and garden uses (U.S. EPA 2007; U.S. EPA 2010). In a 2006 report, the US Geological Survey National Water Quality Assessment Program reported carbaryl as the second most frequently found insecticide in water, with detections in approximately 50% of urban streams (U.S.G.S. 2006). EPA has previously developed 304(a) criteria for the other three currently registered insecticides found most frequently in U.S. waters.

III. What are the final carbaryl criteria?

EPA is today publishing final national recommended water quality criteria for protecting aquatic life for carbaryl. EPA developed these final criteria using EPA's *Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses* (1985), (EPA/R–85–100). The document has a new format that follows the approach in the EPA's *Guidelines for Ecological Risk Assessment (EPA/630/R–95/002F).* EPA obtained toxicity data for developing the water quality criteria from peer-reviewed open literature studies and from studies submitted to the Office of Pesticide Programs for the registration and reregistration of pesticides. To ensure the quality of the information, EPA subjected the toxicity data and other information on the effects of carbaryl to both internal and external peer review. EPA also provided an opportunity for the public to provide scientific views on the draft recommended carbaryl criteria document. EPA received three comments in response to its solicitation. EPA reviewed the comments received and concluded that they did not warrant modification of the draft criteria for carbaryl. The comments and EPA responses can be found in the docket.

The final criteria statement is as follows: The available data for carbaryl, evaluated in accordance with EPA's guidelines for deriving aquatic life criteria (Stephan et al. 1985) [referenced in the criteria document], indicate that freshwater aquatic animals would have an appropriate level of protection if the following are attained:

1. The one-hour average concentration of carbaryl does not exceed 2.1 µg/L more than once every three years on

average, the criterion maximum concentration or CMC (acute criterion).

2. The four-day average concentration of carbaryl does not exceed 2.1 µg/L more than once every three years on average, the criterion continuous concentration or CCC (chronic criterion).

The available data for carbaryl indicates that, estuarine/marine aquatic animals would have an appropriate level of protection if the following is attained:

1. The one-hour average concentration of carbaryl does not exceed 1.6 µg/L more than once every three years on average (except where a locally important species may be more sensitive).

At the present time, there are insufficient data to calculate a chronic AWQC for estuarine/marine organisms.

IV. What is the relationship between the water quality criteria and State or Tribal water quality standards?

Water quality standards consist of three principal elements: designated uses, water quality criteria to protect those uses, and antidegradation requirements, providing for protection of existing water uses and high quality waters. As part of the water quality standards triennial review process defined in Section 303(c)(1) of the CWA, the States and authorized Tribes are responsible for developing, maintaining and revising water quality standards. Section 303(c)(1) requires States and authorized Tribes to review and modify, if appropriate, their water quality standards at least once every three years.

States and authorized Tribes must adopt water quality criteria into their water quality standards that protect designated uses. States may develop their criteria based on EPA's recommended section 304(a) water quality criteria or other scientifically defensible methods. A State's criteria must contain sufficient parameters or constituents to protect the designated uses. Consistent with 40 CFR 131.21, new or revised water quality criteria adopted into law by States and authorized Tribes on or after May 30, 2000 are the applicable water quality standards for CWA purposes only after EPA approval.

States and authorized Tribes may develop site-specific criteria for particular waterbodies as appropriate. EPA has published procedures for developing site-specific criteria, described in the *Guidelines for Deriving Numerical Aquatic Site-Specific Water Quality Criteria by Modifying National Criteria* (USEPA, 1984f). A site-specific criterion is intended to come closer than the national criterion to providing the intended level of protection to the aquatic life at the site, usually by taking into account the biological and/or chemical conditions (i.e., the species composition and/or water quality characteristics) at the site. If data in the national criterion document and/or from other sources indicated that the selected resident species range of sensitivity is *different* from that for the species in the national criterion document, States and authorized Tribes can use the *Resident Species Procedure* (Section 3.7.6 of the WQS Handbook). This procedure was first published in the 1983 *Water Quality Standards Handbook* (USEPA, 1983a) and expanded upon in the *Guidelines for Deriving Numerical Aquatic Site-Specific Water Quality Criteria by Modifying National Criteria* (USEPA, 1984f) and later detailed in the *''Interim Guidance on Determination and Use of Water Effect Ratio for Metals''* (EPA 1994).

V. Where can I find more information about water quality criteria and water quality standards?

For more information about water quality criteria and Water Quality Standards refer to the following: *Water Quality Standards Handbook* (EPA 823–B94–005a; August 1994); *Advanced Notice of Proposed Rule Making (ANPRM),* (63 FR 36742; July 7, 1998); *Water Quality Criteria and Standards Plan—Priorities for the Future* (EPA 822–R–98–003; April 1998); *Guidelines and Methodologies Used in the Preparation of Health Effects Assessment Chapters of the Consent Decree Water Criteria Documents* (45FR79347; November 1980); *Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health* (EPA–822–B–00–004; October 2000); *Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses* (EPA 822/R–85–100; 1985); *National Strategy for the Development of Regional Nutrient Criteria* (EPA 822–R–98–002; June 1998); and *EPA Review and Approval of State and Tribal Water Quality Standards* (65 FR 24641; April 27, 2000).

You can find these publications through EPA's National Service Center for Environmental Publications (NSCEP, previously NCEPI) or on the Office of Science and Technology's Home-page (*http://www.epa.gov/waterscience*).

References

U.S. EPA. 2007. Risks of carbaryl use to the federally-listed California red legged frog. Office of Pesticide Programs, Washington, DC, *http://www.epa.gov/espp/litstatus/effects/redleg-frog/carbaryl/determination.pdf.*

U.S. EPA. 2010. Registration Review—Preliminary Problem Formulation for Ecological Risk and Environmental Fate, Endangered Species, and Drinking Water Assessments for Carbaryl. September 3, 2010. EPA–HQ–OPP–2010–0230–0004.

U.S.G.S. 2006. The Quality of our Nation's Waters: Pesticides in the Nation's Streams and Ground Water, 1992–2001. Circular 1291. U.S. Geological Survey. Reston, VA.

Dated: May 14, 2012.

Nancy K. Stoner,

Acting Assistant Administrator, Office of Water.

[FR Doc. 2012–12369 Filed 5–21–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9674–9]

Notice of Proposed Administrative Settlement Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement concerning the Malone Service Company Superfund Site, Texas City, Galveston County, Texas.

The settlement requires the six (6) settling parties to pay a total of $32,722 as payment of response costs to the Hazardous Substances Superfund. The settlement includes a covenant not to sue pursuant to Section 107 of CERCLA, 42 U.S.C. § 9607.

For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to this notice and will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at 1445 Ross Avenue, Dallas, Texas 75202–2733.

DATES: Comments must be submitted on or before June 21, 2012.

ADDRESSES: The proposed settlement and additional background information relating to the settlement are available for public inspection at 1445 Ross Avenue, Dallas, Texas 75202–2733. A copy of the proposed settlement may be obtained from Kevin Shade at 1445 Ross Avenue, Dallas, Texas 75202–2733 or by calling (214) 665–2708. Comments should reference the Malone Service Company Superfund Site, Texas City, Galveston County, Texas and EPA Docket Number 06–09–11, and should be addressed to Kevin Shade at the address listed above.

FOR FURTHER INFORMATION CONTACT: I-Jung Chiang, Assistant Regional Counsel, 1445 Ross Avenue, Dallas, Texas 75202–2733 or call (214) 665–2160.

Dated: May 9, 2012.

Samuel Coleman,

Acting Regional Administrator

[FR Doc. 2012–12361 Filed 5–21–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9674–6]

Standards of Performance for New Stationary Sources, National Emission Standards for Hazardous Air Pollutants, and the Stratospheric Ozone Protection Program: Recent Posting to the Applicability Determination Index (ADI) Database System of Agency Applicability Determinations, Alternative Monitoring Decisions, and Regulatory Interpretations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability.

SUMMARY: This notice announces applicability determinations, alternative monitoring decisions, and regulatory interpretations that EPA has made under the New Source Performance Standards (NSPS); the National Emission Standards for Hazardous Air Pollutants (NESHAP); and the Stratospheric Ozone Protection Program.

FOR FURTHER INFORMATION CONTACT: An electronic copy of each EPA response letter posted on the Applicability Determination Index (ADI) database system is available on the Internet through the Office of Enforcement and Compliance Assurance (OECA) Web site at: *http://www.epa.gov/compliance/monitoring/programs/caa/adi.html.* The document may be located by control number, date, author, subpart, or subject search. For questions about the ADI or this notice, contact Maria Malave at EPA by phone at: (202) 564–7027, or by email at: *malave.maria@epa.gov.* For technical questions about the individual applicability determinations or monitoring decisions, refer to the contact person identified in the individual EPA response letters and memoranda, or in the absence of a contact person, refer to the author of the document.

SUPPLEMENTARY INFORMATION:

Background

The General Provisions to the NSPS in 40 Code of Federal Regulations (CFR) part 60 and the General Provisions to the NESHAP in 40 CFR part 61 provide that a source owner or operator may request a determination of whether certain intended actions constitute the commencement of construction, reconstruction, or modification. EPA's written responses to these inquiries are commonly referred to as applicability determinations. See 40 CFR 60.5 and 61.06. Although the part 63 NESHAP [which includes Maximum Achievable Control Technology (MACT) standards] and section 111(d) of the Clean Air Act (CAA) regulations contain no specific regulatory provision providing that sources may request applicability determinations, EPA also responds to written inquiries regarding applicability for the part 63 and section 111(d) programs. The NSPS and NESHAP also allow sources to seek permission to use monitoring or recordkeeping that are different from the promulgated requirements. See 40 CFR sections 60.13(i), 61.14(g), 63.8(b)(1), 63.8(f), and 63.10(f). EPA's written responses to these inquiries are commonly referred to as alternative monitoring decisions. Furthermore, EPA responds to written inquiries about the broad range of NSPS and NESHAP regulatory requirements as they pertain to a whole source category. These inquiries may pertain, for example, to the type of sources to which the regulation applies, or to the testing, monitoring, recordkeeping, or reporting requirements contained in the regulation. EPA's written responses to these inquiries are commonly referred to as regulatory interpretations.

EPA currently compiles Agency-issued NSPS and NESHAP applicability determinations, alternative monitoring decisions, and regulatory interpretations, and posts them on the web-based Applicability Determination Index (ADI) at *www.epa.gov/compliance/monitoring/programs/caa/adi.html.* The ADI is an electronic index containing over three thousand EPA letters and memoranda pertaining to the applicability, monitoring, recordkeeping, and reporting requirements of the NSPS, NESHAP, and stratospheric ozone regulations (at 40 CFR part 82). The letters and memoranda may be searched by date, office of issuance, subpart, citation, control number, or by keywords.

Today's notice comprises a summary of forty-four such documents added to the ADI on April 25, 2012. The subject and header of each letter and memorandum are listed in this notice, as well as a brief abstract of the letter or memorandum. Complete copies of these documents may be obtained from the ADI through the OECA Web site at: *www.epa.gov/compliance/monitoring/programs/caa/adi.html.*

Summary of Headers and Abstracts

The following table identifies the database control number for each document posted on the ADI database system on April 25, 2012; the applicable category; the subpart(s) of 40 CFR part 60, 61, or 63 (as applicable) covered by the document; and the title of the document, which provides a brief description of the subject matter. We have also included an abstract of each document identified with its control number after the table. These abstracts are provided solely to alert the public to possible items of interest and are not intended as substitutes for the full text of the documents. This notice does not change the status of any document with respect to whether it is ''of nationwide scope or effect'' for purposes of section 307(b)(1) of the Clean Air Act. For example, this notice does not make an applicability determination for a particular source into a nationwide rule. Neither does it purport to make any document that was previously non-binding into a binding document.

ADI DETERMINATIONS UPLOADED ON APRIL 25, 2012

Control No.	Categories	Subparts	Title
A110002	Asbestos NESHAP	M	Demolition of Residential Structures.

ADI DETERMINATIONS UPLOADED ON APRIL 25, 2012—Continued

Control No.	Categories	Subparts	Title
1000027	NSPS	Da	Utility Boiler Combustion Determination.
1000028	NSPS	VVa	Alternative Monitoring Plan.
1000029	NSPS	NNN	Alternative Monitoring Plan.
1000030	NSPS	Ce, Ec	Applicability of Exemptions Under Subpart Ce.
1000031	NSPS	WWW	Control System Operation and Monitoring Deadlines.
1000032	NSPS	VVa	Alternative Monitoring Plan.
1000033	NSPS	AAa	Alternative Monitoring Plan.
1000034	NSPS	NNN	Alternative Monitoring and Performance Test Waiver Request.
1000035	NSPS	H	Alternative Quality Assurance Proposal.
1000036	NSPS	Db	Opacity Monitoring Alternative.
1000037	NSPS	Db	Alternative Monitoring Plan.
1000038	NSPS	WWW	Gas Collection and Control System Design Plan Change.
1000039	NSPS	OOO	Performance Test Waiver.
1000040	NSPS	KKKK	Alternative Monitoring Plan.
1000041	NSPS	H	Alternative Quality Assurance Procedure.
1000042	NSPS	LL, Y	Test Waivers and Reductions in Test Duration.
1000043	NSPS	UUU	Performance Test Waiver.
1000044	NSPS	BBBB, Cb, Eb.	Resource Recovery Facility Capacity Increase.
M100029	MACT	RRR	Alternative Testing, Monitoring, and Recordkeeping Requirements.
1000045	NSPS	J	Emergency Flare at Hydrogen Reformer Facility.
1000047	NSPS	WWW	Effect of Permit on Design Capacity.
1000048	NSPS	KKK	Alternative Monitoring.
1000049	NSPS	DD	Single Source Determination for Grain Elevators.
M100031	MACT	T	Alternative Monitoring Method.
M100032	MACT	GGG	Time Period Adjustment for Periodic Reports.
1000050	NSPS	A	Rationale for Including Labor Costs in Reconstruction under NSPS.
M110001	MACT	RRRR	Surface Coating of Metal Furniture.
1100002	NSPS	Db	Alternative Testing Frequency.
M110002	MACT	JJJJ	Restricted HAP Emissions at Single Coating Line.
1100003	NSPS	VVV	Coating of Paper Substrate.
1100004	NSPS	F, GG	Alternative Test Frequency Requirement.
M110003	MACT	X	Recycling of Lead-Containing Cathode Ray Tube Glass.
1100006	NSPS	OOO	Performance Test Waiver.
M110005	MACT	MMMM	Alternative Monitoring Method.
M110006	MACT	EEE	Alternative Monitoring Method.
1100007	NSPS	KKK	Criteria for Natural Gas Processing Plant.
M110007	MACT	HHHHHH	Spray-Applied Coating Operations.
M110008	MACT	EEEE	Application of NESHAP standards to Tanks.
1100008	NSPS	Dc	Physically Derating Boilers.
1100009	NSPS	Db	Alternative Test Frequency Requirements.
1100010	NSPS	Dc	Alternative Recordkeeping and Reporting.
1100011	NSPS	J	Alternative Monitoring Plan.
1100012	NSPS	J	Alternative Monitoring Plan.

Abstracts

Abstract for [A110002]

Q: Does the EPA consider the residential structures in Youngstown, Ohio to be affected by any part of the Asbestos NESHAP? Additional detailed discussion was provided by an enclosure with a copy of a recent EPA letter to the Ohio Environmental Protection Agency, available under ADI Control Number A110001.

A: EPA has consistently interpreted the Asbestos NESHAP, subpart M, as applying to the mass demolition of residential structures. While the regulation has a residential building exemption provision, EPA has interpreted this exemption as being inapplicable when numerous residential buildings are being demolished for reasons of public health, welfare, and safety, as part of a single project, or if such residences meet the definition of an installation.

Abstract for [1000027]

Q: Is a utility boiler that is capable of combusting more than 250 mmBtu per hour heat input from natural gas as well as landfill gas subject to NSPS subpart Da if it primarily burns landfill gas?

A: Yes. The utility boiler is subject to NSPS subpart Da since it is capable of combusting more than 250 mmBtu per hour heat input of fossil fuel and meets the other applicability criteria in section 60.40Da(a).

Abstract for [1000028]

Q: Does EPA approve the use of sensory means (i.e., visual, audible, or olfactory) as an acceptable alternative to the use of EPA Method 21 for the identification of leaks from equipment in acetic acid and/or acetic anhydride service for equipment subject to 40 CFR part 60, subpart VVa at the BAE Systems Ordnance Systems, Inc. facility in Hawkins County, Tennessee?

A: Yes. EPA finds that the proposed alternative is acceptable. Monitoring results indicate that leaks from equipment in acetic acid and/or acetic anhydride service are more easily identified through sensory means than by using Method 21 because of the physical properties (i.e., high boiling

point, high corrosivity, and low odor threshold) of acetic acid and acetic anhydride.

Abstract for [1000029]

Q: Does EPA approve an alternative monitoring procedure (AMP) that consists of monitoring the inlet scrubbing liquid temperature, flow rate, and acid content in lieu of the requirements in section 60.663(e)(1) for an acid scrubber at the Eastman Chemical Company in Kingsport, Tennessee subject to NSPS subpart NNN?

A: Yes. EPA conditionally approves the AMP request consisting of monitoring the inlet scrubbing liquid temperature and flow rate and identifying exceedances of these parameters based on a three-hour rolling average period, and acid content for the acid scrubber subject to NSPS subpart NNN.

Abstract for [1000030]

Q: Is guidance that EPA provided to the Department of Health and Human Services on the applicability of exemptions in NSPS subpart Ec for two types of units, including a unit that combusts both non-infectious animal waste and waste used in research and, a unit when a portion of the medical/infectious waste combusted also meets the definition of pathological waste, in an April 15, 1999, letter still valid?

A: Yes. Since the definitions of terms used in the exemptions in NSPS subpart Ec did not change when the rule was revised on October 6, 2009, the guidance on these two units provided in the April 15, 1999, letter is still valid.

Abstract for [1000031]

Q1: Does the Pecan Row Landfill located in Valdosta, Georgia have 60 days after waste has been in place for 5 years if active, or 2 years if closed, or at final grade to begin monitoring and operating each early installed well, which is the deadline for installing wells pursuant to section 60.7(55(b) of 40 CFR part 60, subpart WWW?

A1: Yes. The 60 days timeline for installing wells is also the deadline for starting operational parameter monitoring for these wells, since 40 CFR part 60, subpart WWW does not require that monitoring be conducted prior to the gas collection well installation deadline.

Q2: If monitoring of these wells is already being conducted on a monthly basis prior to the 5-year/2-year timeline and exceedances of the pressure, temperature, and oxygen and/or nitrogen concentration are measured, when does the Pecan Row Landfill have to initiate corrective action and re-monitoring as prescribed in 40 CFR section 60.755(a)(3) and 40 CFR section 60.755(a)(5)?

A2: Only monitoring results obtained on or after the gas collection well installation deadline would trigger the requirement for corrective action under 40 CFR part 60, subpart WWW. When exceedances of operating parameter limits in 40 CFR part 60, subpart WWW are detected during the monitoring required under 40 CFR section 60.755(a)(3) and 40 CFR section 60.755(a)(5), a first attempt at correcting the exceedance must be made within five calendar days.

Abstract for [1000032]

Q: Does EPA approve the proposed sensory means (i.e., visual audible, or olfactory) in lieu of EPA Method 21 for the identification of leaks from equipment in propionic acid service, acetic acid/acetic anhydride service, diketene service, acetic acid service, and methyl iodide service for equipment subject to 40 CFR part 60, subpart VVa at the Eastman Chemical Company in Kingsport, Tennessee?

A: Yes. EPA approves the proposal for equipment in propionic acid service, acetic acid/acetic anhydride service, diketene service, and acetic acid service, sensory means (*i.e.,* visual, audible, or olfactory) to identify equipment leaks where 40 CFR part 60, subpart VVa requires the use of EPA Method 21, because of their physical properties (i.e., high boiling point, high corrosivity, and low odor threshold). For indoor equipment in methyl iodide service, the use of a system of continuous monitors which was approved by EPA as alternative monitoring under 40 CFR part 60, subpart VV is acceptable as an alternative under 40 CFR part 60, subpart VVa.

Abstract for [1000033]

Q: Does EPA approve an alternative opacity monitoring proposal (AMP) submitted for two electric arc furnaces subject to 40 CFR part 60, subpart AAa at Nucor Steel, Inc. in Tuscaloosa, Alabama?

A: Yes. EPA conditionally approves the AMP request to adjust dampers in the direct-shell evacuation (DEC) system based upon the amount of visible flame detected in the DEC ductwork is an alternative to using a fixed damper position since emissions are likely to vary significantly over each 30 to 40 minute scrap melting batch cycle. Since the AMP is likely to improve the performance of the particular Matter (PM) control system, it is acceptable provided the optical set point for the camera is based upon conditions during a performance test where compliance with the applicable PM and opacity limits is demonstrated.

Abstract for [1000034]

Q: Does EPA approve an alternative monitoring proposal (AMP) to use monitoring and testing provisions from NSPS subpart RRR at 40 CFR section 60.703(c)(1) and (c)(2) as alternative monitoring for the provisions of NSPS subpart NNN at 40 CFR section 60.663(c)(1) and (c)(2) and an initial performance test waiver requested for three distillation columns subject to 40 CFR part 60, subpart NNN at the BP Amoco Chemical Company facility in Decatur, Alabama?

A: Yes. Pursuant to 40 CFR Section 60.13(i), EPA approves the AMP and PT waiver, which are consistent with previous EPA AMP approvals for NSPS subpart NNN facilities.

Abstract for [1000035]

Q: Does EPA approve a proposal to substitute quarterly cylinder gas audits for annual relative accuracy test audits on the sulfur dioxide continuous emission monitor (CEMS) installed at the convertor inlet in order to address safety concerns at the Lucite sulfuric acid plant in Memphis, Tennessee?

A: EPA cannot make a determination until the necessary information listed in the EPA response letter is provided.

Abstract for [1000036]

Q: Does EPA approve an alternative opacity monitoring proposal (AMP) for rental package boilers subject to 40 CFR part 60, subpart Db to provide a backup source of steam in the event of a shutdown or reduced capacity at other boilers at the Rayoneir Performance Fibers, LLC facility in Fernandina Beach, Florida?

A: EPA conditionally approves the AMP request for use of visible emission observations using EPA Method 9 in lieu of opacity monitoring for any of the rental package boilers provided they have an annual capacity factor of 10 percent or less, which is the criteria for infrequent operation.

Abstract for [1000037]

Q: Does EPA approve an alternative opacity monitoring proposal (AMP) for a boiler at a new medium density fiberboard plant to monitor control device operating parameters for the scrubber located downstream of the boiler, instead of a continuous opacity monitory system (COMS) subject to NSPS subpart Db at the Uniboard USA,

LLC facility located in Moncure, North Carolina?

A: No. EPA does not approve the AMP request because NSPS subpart Db allows a particulate matter (PM) continuous emission monitoring system to be used as an alternative to a COMS. Therefore, the proposal to monitor scrubber operating parameters in lieu of installing COMS is not acceptable.

Abstract for [1000038]

Q: Does EPA approve a proposed gas collection and control system (GCCS) design plan change, consisting of three potential control options, in order to meet the design considerations in 40 CFR part 60, subpart WWW, for the Sampson County Disposal (SCD) Municipal Solid Waste Landfill in Roseboro, North Carolina?

A: Yes. EPA approves the proposed GCCS design plan because it does not conflict with any of the design requirements of NSPS subpart WWW. The analysis provided by SCD demonstrates that the proposed approach for controlling emissions when new waste is placed on top of waste that has been in place for five years or more will be more effective than the two other potential control options evaluated.

Abstract for [1000039]

Q: Does EPA approve a waiver request to conduct a particulate emission test on the dust collector that controls emissions from the new crusher subject to 40 CFR part 60, subpart OOO at Industrial Materials, Incorporated?

A: EPA conditionally approves the waiver of particulate concentration testing request for the crusher. The proposed waiver would be acceptable if no visible emissions are detected during any of the 240 individual readings made during the initial opacity performance test conducted on the crusher. This determination is based upon the opacity test results and the margin of compliance during previous testing conducted on the aragonite screening operation that uses the same type of control device.

Abstract for [1000040]

Q: Does EPA approve a proposal to extend a previous custom fuel monitoring plan to four new stationary gas turbines subject to 40 CFR part 60, subpart KKKK at BMW Manufacturing Company, LLC located in Spartanburg, South Carolina?

A: Yes. EPA approves the proposal to use the existing custom fuel monitoring schedule for the new turbines based upon the low sulfur content found in 63 fuel samples analyzed between January 2003 and July 2009.

Abstract for [1000041]

Q: Does EPA approve a proposal to substitute quarterly cylinder gas audits for annual relative accuracy test audits (RATA) on the sulfur dioxide (SO_2) continuous emission monitor system (CEMS) installed at the convertor inlet to address concerns regarding the high SO_2 concentration at the convertor inlet for the Lucite sulfuric acid plant in Memphis, Tennessee?

A: No. EPA does not approve the proposed alternative because it does not allow for a comprehensive assessment of the CEMS performance. Although the proposed alternative is not acceptable, the response provides details regarding another alternative quality assurance testing procedure that allows the company to determine the RATA of the convertor inlet CEMS without sampling the gas stream at this site, that would be acceptable to EPA and addresses Lucite concerns with high SO_2 concentration at the convertor inlet.

Abstract for [1000042]

Q: Does EPA approve the Tennessee Department of Environment and Conservation's (TDEC) request for authority to approve shorter visible emission observation times for 40 CFR part 60, subpart LL facilities when no opacity readings are above the standard and no more than three readings are equal to the standard during the first hour of observations and for authority to waive visible emission testing requirements if no opacity is detected on the exterior of the building during a 75-minute observation period for 40 CFR part 60, subpart LL facilities located inside buildings?

A: Yes. EPA approves the request for authority to approve shorter VE observation times and to waive, pursuant to 40 CFR part 60.8(b)(4), the requirement to conduct VE testing inside buildings is acceptable under the terms outlined in TDEC's June 29, 2009, request letter. This response is based on a previous determination for a facility located in Tennessee and the similarity between these proposals and provisions in NSPS subpart OOO, requiring that future requests be submitted to EPA for individual reviews will slow down approval without adding any value to the process. Therefore, the TDEC request for authority to process such requests in the future is acceptable.

Abstract for [1000043]

Q: Does EPA approve a proposed performance test waiver for two spray dryers in accordance with 40 CFR part 60, subpart UUU at the Stonepeak Ceramics, Incorporated facility located in Crossville, Tennessee?

A: Yes. EPA approves the request because the results of particulate matter (PM) testing conducted on Spray Dryer No. 1 and opacity observations made on Spray Dryers No. 1 through No. 3 provide adequate assurance of compliance with the PM limit for Spray Dryers No. 2 and No. 3.

Abstract for [1000044]

Q: What NSPS regulation(s) will the Bay County Resource Recovery Facility in Panama City, Florida be subject to after its charging capacity is increased from 245 to 255 tons per day?

A: Based upon the documentation provided, EPA cannot conclusively determine which of two potentially NSPS subparts applicable to large municipal waste combustors (i.e., subpart Cb applies if constructed on or before September 20, 1994, or subpart Eb applies if constructed after September 20, 1994, or for which modification or reconstruction is commenced after June 19, 1996), the facility will be subject to following the throughput increase. In order to determine whether a modification has occurred under NSPS and determine rule applicability, it will be necessary to determine whether the cost of the changes made in order to achieve the throughput increase constitute a capital expenditure. The facility would be subject to NSPS subpart Ec if the cost of the changes constitutes a capital expenditure, and the facility would be subject to NSPS subpart Cb if the cost of the changes does not constitute a capital expenditure.

Abstract for [M100029]

Q1: Does EPA approve Aleris International's request under 40 CFR part 63, subpart RRR to use the weight into the feed hopper as the weight fed into the chip dryer during testing at IMCO Recycling of Michigan LLC located in Coldwater, Michigan?

A1: Yes. EPA approves Aleris International's request for determining the chip dryer feed/charge weight during testing for the hopper feeder and chip dryer under MACT subpart RRR since their existing configuration does not allow separate weighing of the feed/charge into the chip dryer.

Q2: Does EPA approve Aleris International's request under 40 CFR part 63, subpart RRR to maintain records of the chip dryer feed weight using shift length recordkeeping at IMCO Recycling of Michigan LLC located in Coldwater, Michigan?

A2: No. EPA does not approve Aleris International's request under MACT subpart RRR for shift length recordkeeping for normal operations The recordkeeping method to measure the chip dryer feed/charge weight in twelve-hour shift blocks during normal operations is appropriate for unblended truckloads only.

Abstract for [1000045]

Q: Will EPA confirm that Linde's new flare located at the hydrogen reformer facility at the Citgo refinery in Romeoville, Illinois is not subject to the NSPS subpart J because it is an ''emergency flare?''

A: No. EPA cannot confirm that Linde's flare is not subject to 40 CFR part 60, subpart J. Linde would need to provide additional information, as indicated in the EPA response letter, before EPA can conclude that the gases released from safety relief valves during upsets at the plant are process gas or fuel gas, and if they are fuel gas, whether they are limited to extraordinary situations.

Abstract for [1000047]

Q: How is ''design capacity'' as defined in 40 CFR section 60.751, determined for the Marquette County Solid Waste Landfill in Marquette, Michigan?

A: EPA has determined Marquette Landfill's current design capacity must include the capacity of Cells 0A, 0B, 1, 2, 3 and 4 designated under Marquette's most recent operating and construction permits issued by the State, plus any in-place waste not accounted for in these permits per 40 CFR section 60.751.

Abstract for [1000048]

Q: Does EPA approve waivers for the Reference Methods for testing flare tip heat content and testing flare tip velocity for the non-assisted flare in accordance with 40 CFR part 60, subpart KKK at the Velma Gas Plant located near Velma, Oklahoma?

A: Yes. EPA accepts the use of Gas Processors Association Method 2261 for determining compliance with the 200 BTU/cf standard at 40 CFR section 60.18(c)(3)(ii). Based on the engineering analysis provided, EPA grants a performance test waiver under 40 CFR section 60.78(b)(4) for the determination of exit velocity under 40 CFR section 60.18(f)(4).

Abstract for [1000049]

Q1: Should two grain elevators being operated at two different locations approximately 2.1 miles apart and owned by DeBruce Grain Inc. (DeBruce), in Abilene, Kansas be permitted and regulated as one facility under NSPS, and does 40 CFR part 60, subpart DD apply?

A1: The Kansas Department of Health and Environment may reasonably use its discretionary permitting authority to find that these two facilities could be treated as one source for purposes of a NSR/PSD and Title V permitting. However, EPA concludes that 40 CFR part 60, subpart DD does not apply to either of the two DeBruce facilities because neither exceeds the 2.5 million bushel storage capacity threshold.

Abstract for [M100031]

Q: Will EPA approve modifications to the EPA 2009 approved alternative monitoring plan in accordance with 40 CFR part 63, subpart T for two continuous web cleaning lines to address changes to the 84 inches and 60 inches lines at the Alcoa Mill Products Davenport facility (Alcoa) in Bettendorf, Iowa?

A: Yes. EPA conditionally approves revisions to the 2009 alternative monitoring plan to replace specific monitoring requirements on the 84 inches and 60 inches lines, provided the conditions in the response letter are met.

Abstract for [M100032]

Q: Does EPA approve modifications to adjust the semiannual reporting periods to coincide with the facilities Title V and Miscellaneous Organic NESHAP reporting periods for Sigma-Aldrich Manufacturing, LLC located in St. Louis, Missouri in accordance with 40 CFR section 63.9(i)?

A: Yes. EPA will approve reporting periods to allow for the submission of the Title V semi-annual report to be submitted on or before the first of April and October for each respective reporting period.

Abstract for [1000050]

Q: What is the rationale of including labor costs in the fixed capital cost associated with reconstruction under NSPS?

A: In order to have a fair comparison of costs between the reconstructed facility and the comparable new facility, any labor costs associated with refurbishing the old parts and installing the new and refurbished parts of the reconstructed existing facility must be included with the cost of the reconstructed facility's new components. Labor costs, similar to those associated with giving the reconstructed facility its new life, would be included in the cost of a comparable new facility. Adequate comparison of the costs on both sides of the equation is impossible without the inclusion of labor costs on the ''reconstructed'' side.

Abstract for [M110001]

Q: Is Connecticut (CT) Acquisitions LLC DBA Danver (Danver) located in Wallingford, CT, subject to 40 CFR part 63, subpart RRRR if it uses only coatings, thinners, and cleaning materials that contain no organic hazardous air pollutants (HAP)?

A: No. EPA determined that the operations at Danver currently meet the criteria in 40 CFR section 63.4881(c)(1), i.e., surface coatings that use only coatings, thinners, and cleaning materials that contain no organic HAP, and are currently not subject to 40 CFR part 63, subpart RRRR.

Abstract for [1100002]

Q1: Does EPA approve a request to seek alternative Cylinder Gas Audit (CGA) and Relative Accuracy Test Audit (RATA) frequency requirements for NO_X, CO, and O_2 in accordance with 40 CFR part 60, Appendix F at Dalkia Energy Services (Dalkia) located in Cambridge, Massachusetts?

A1: Yes. EPA approves Dalkia's request to omit a NO_X, CO, and O_2 CGA test during any calendar quarter in which the unit is operated less than 168 unit operating hours under 40 CFR section 60.13(i)(2). EPA also approves Dalkia's request to conduct a RATA once every four quality assurance operating quarters instead of once every four calendar quarters (where a quality assurance (QA) operating quarter is defined as one in which the unit operates 168 unit operating hours or more).

Q2: Does EPA approve Dalkia's request to extend the annual RATA due date?

A2: Yes. EPA approves the alternative frequency requirements for RATAs that allow Dalkia to follow the grace period provisions of 40 CFR part 75, Appendix B, section 2.2.4 for CGAs and 40 CFR part 75, Appendix B, section 2.3.3 for RATAs.

Abstract for [M110002]

Q: Does EPA consider a single coating line operated at InteliCoat's facility in South Hadley, Massachusetts a new facility; and if so, can Intelicoat restrict hazardous air pollutant emissions to below major source thresholds so it is no longer subject to 40 CFR part 63, subpart JJJJ, NESHAP for paper and other web coating?

A: No. EPA has determined that InteliCoat's single coating line would remain an existing affected source subject to NESHAP subpart JJJJ because it did not obtain federally enforceable

restrictions on its potential to emit hazardous air pollutants by the first substantive compliance date of subpart JJJJ, *i.e.,* December 5, 2005. This determination is consistent with the 1995, ''Once In Always In'' EPA policy.

Abstract for [1100003]

Q: Does 40 CFR part 60, subpart VVV apply to a new coating line at Koch Membrane Systems (KMS) located in Wilmington, Massachusetts if the line coats a paper substrate?

A: No. EPA has determined that NSPS subpart VVV will not apply because KMS coating line will not meet the definition of polymeric coating of supporting substrates. KMS applies polymer to a supporting web determined to be ''paper'' due to its characteristics, which is a substrate not regulated under this rule.

Abstract for [1100004]

Q: Will EPA approve alternate Relative Accuracy Test Audit (RATA) frequency requirements under 40 CFR part 75, Appendix B for the NO_X and CO Continuous Emissions Monitoring Systems (CEMS) of the combined-cycle gas turbine under 40 CFR part 60, Appendix F, for Pawtucket Power Associates (PPA) located in Pawtucket, Rhode Island?

A: Yes. Pursuant to 40 CFR 60.13(i)(2, EPA approves PPA's request to follow the 40 CFR part 75, Appendix B RATA timing requirements for both the NO_X and CO CEMS.

Abstract for [M110003]

Q1: Does EPA consider a facility that recycles lead-containing cathode ray tube glass with uncontrolled lead emissions, almost seven times below the emission standard, subject to 40 CFR part 63, subpart X?

A1: Yes. EPA has determined that this facility is subject to 40 CFR part 63, subpart X based on the description of the process and the lead emission rate. The process is considered to be recycling of ''scrap lead and lead compounds'' which are regulated under this rule.

Abstract for [1100006]

Q1: Will EPA approve a performance test (PT) waiver for installations of new quarry belt conveyors conveying sand with sufficient surface moisture, such that particulate matter emissions are not generated in accordance with 40 CFR part 60, subpart OOO for Unimin's non-metallic mineral processing facility near Kasota, Minnesota?

A1: Yes. EPA approves the PT waiver for installations of new quarry belt conveyors conveying the saturated material mined from below the water table, such that there are no emissions greater than zero percent opacity and the sand contains sufficient surface moisture.

Q2: Can existing Method 9 test results be used in lieu of future Method 9 performance test requirements?

A2: Yes. EPA will allow existing Method 9 test results to be used in lieu of future test requirements as long as the moisture content of the material on the conveyors remains as stated.

Abstract for [M110005]

Q1: Does EPA approve an alternate monitoring plan (AMP) to replace the requirement for collecting the facial velocity of air through all natural draft openings using a flow sensor, with measurement of static pressure within the duct from the permanent total enclosure (PTE) to the regenerative thermal oxidizer (RTO) in order to demonstrate continuous compliance with the PTE requirements under 40 CFR part 63, subpart MMMM, Miscellaneous Metal Part MACT, at the YUSA Corporation in Washington Court House, Ohio?

A1: Yes. EPA approves the AMP allowing continuous measurement of static pressure, and the correlation of these measurements with flow rate during a Method 204 certification test, in order to demonstrate that the average facial velocity through the natural draft openings of the PTE remains above 200 feet per minute and to determine continuous compliance with subpart MMMM.

Abstract for [M110006]

Q1: Does EPA approve an alternative monitoring request to establish the ash feed rate operating parameter limit (OPL) equal to the total waste feed rate to the incineration system that consists of two kilns, a secondary combustion chamber (SCC), and a waste fired boiler (WFB), in accordance with 40 CFR part 63, subpart EEE, at Clean Harbors El Dorado, LLC in El Dorado, Arkansas?

A1: No. EPA does not approve the request because the facility needs to establish separate ash feed rate limit for each kiln, SCC, and WFB.

Q2: Does EPA approve a waiver of the minimum combustion temperature OPL in the kilns?

A2: No. EPA does not approve a waiver of the minimum combustion temperature OPL in the kiln. It has to establish separate minimum combustion temperature OPL for each kiln.

Q3: Does EPA approve a waiver of the feedrate limits for the liquid waste fed to the kilns?

A3: No. EPA does not approve a waiver of the feedrate limits for the liquid waste fed to the kilns, as that facility must establish limits on the maximum pumpable and total (*i.e.,* pumpable and nonpumpable) hazardous waste feedrate for each location where hazardous waste is fed.

Q4: Does EPA approve a waiver of the monitoring requirements for the minimum blowdown rate and the liquid level for the High Energy Scrubber (HES), given that the gases enter the HES prior to the baghouse, which is the primary particulate matter and metals removal device?

A4: No. EPA does not approve a waiver of the monitoring requirements for the minimum blowdown rate and the liquid level for HES, which is required under 40 CFR sections 63.1209(m)(1)(i)(B)(1) and (n)(3) to ensure that the solids content of the scrubber liquid does not exceed levels established during the performance test.

Q5: Does EPA approve a waiver of the maximum inlet temperature OPL for the baghouse that is operated after a wet pollution control system required under 40 CFR sections 63.1209(k)(1) and (n)(1)?

A5: No. EPA does not approve a waiver of the maximum inlet temperature OPL for the baghouse, which must be determined on a hourly rolling average.

Abstract for [1100007]

Q1: Does the fuel gas treatment unit at Atlas Pipeline Mid-Continent, LLC Compressor Station have to sell the extracted natural gas liquids to be considered a ''natural gas processing plant'' in accordance with 40 CFR part 60, subpart KKK?

A1: No. EPA has determined that a facility does not have to sell liquids to be considered a ''natural gas processing plant.''

Q2: Does the facility have to operate at a specific temperature to be considered ''engaged in the extraction of natural gas liquids''?

A2: No. EPA has determined there is no temperature criteria in the rule stating that a facility has to operate at a specific temperature to be considered ''engaged in the extraction of natural gas liquids''.

Abstract for [M110007]

Q: Does EPA consider Rocky Mountain Reconditioning (RMR) to be subject to 40 CFR part 63, subpart HHHHHH if it performs touch up and repairs that only spray-applies coatings with a hand-held device with a paint cup capacity that is equal to or less than

3.0 fluid ounces, and uses hand-held non-refillable aerosol containers?

A: No. EPA does not consider RMR to be affected by 40 CFR part 63, subpart HHHHHH because the definition of ''spray-applied coating operations'' excludes coatings applied from a hand-held device with a paint cup capacity that is equal to or less than 3.0 fluid ounces, according to 40 CFR section 63.11180.

Abstract for [M110008]

Q: Which tanks are subject to 40 CFR part 63, subpart EEEE at the Great Plains Synfuels Plant located in Beulah, North Dakota operated by Dakota Gasification Company (DGC), if tar oil produced at the facility is sold such that it no longer meets the exclusion to the definition of ''organic liquid'', according to 40 CFR section 63.2406 for onsite fuels?

A: EPA has determined that tanks in the distribution area where the tar oil is shipped would be subject to the 40 CFR part 63, subpart EEEE. EPA was unable to determine whether tanks and separators upstream of the distribution area, which produces tar oil, are subject to the 40 CFR part 63, subpart EEEE without additional information (e.g., tank identification, process flow diagrams), as described in the EPA response letter.

Abstract for [1100008]

Q1: Does EPA concur with the Minnesota Pollution Control Agency that Children's Health Care's physical changes will result in derating the boilers in accordance with 40 CFR part 60, subpart Dc?

A1: Yes. EPA provides concurrence that the derate method proposed for the boilers is acceptable, because it will consist of a permanent physical change that cannot be easily undone and prevents boilers from operating at a capacity greater than the derated value, and would require a reduction of their capacity.

Q2: Does EPA concur with the Minnesota Pollution Control Agency that the derated boilers will not be subject to 40 CFR part 60, subpart Dc?

A2: Yes. EPA provides concurrence that the derated boilers will not be subject to 40 CFR part 60, subpart Db if the proposed procedures specified in the EPA response letter are followed, including demonstration of the maximum heat input capacity by operating the boiler at maximum capacity for a 24-hour period.

Abstract for [1100009]

Q: Does EPA approve adopting 40 CFR part 75 quality assurance (QA) test schedules and grace periods as opposed to current schedule requirements for Cylinder Gas Audits (CGAs) and Relative Test Accuracy Audits (RATAs) under 40 CFR part 60, Appendix F for the NO_X, CO, and O_2 Continuous Emission Monitoring Systems (CEMS) at Mystic Station in Charlestown, MA?

A: Yes. EPA approves Mystic Station's request to omit a NO_X, CO, and O_2 CGA during any calendar quarter in which the unit is operated less than 168 unit operating hours. EPA also approves Mystic's request to conduct a RATA once every four QA operating quarters. Regardless of operation, Mystic Station shall conduct a CGA for NO_X, CO, and O_2 at least once every four calendar quarters as well as a RATA at least once every eight calendar quarters. EPA also allows Mystic to follow the grace period provisions of 40 CFR part 75, Appendix B, section 2.2.4 for CGAs and 40 CFR part 75, Appendix B, section 2.3.3 for RATAs.

Abstract for [1100010]

Q1: Does EPA approve a plan for Veterans Affairs, Edith Nourse Rogers Memorial Hospital in Bedford, Massachusetts (VA Bedford) to track monthly natural gas and oil usage for its three dual-fuel boilers, as opposed to daily records of fuel consumption under 40 CFR section 60.48c(g)(1)?

A1: Yes. EPA approves a decrease in fuel usage recordkeeping from daily records to monthly records for VA Bedford's three boilers conditioned on VA Bedford's use of natural gas as the primary fuel and distillate oil with sulfur content no greater than 0.5 percent.

Q2: May VA Bedford submit annual reports for its three dual-fueled boilers as opposed to semiannual reports required under 40 CFR section 60.48c(j)?

A2: No. EPA does not approve a decrease in the reporting frequency under 40 CFR part 60, subpart Dc because the facility received four shipments of diesel fuel in 2007, and two shipments of diesel fuel in 2009. Therefore, because more than one shipment was received in each of those recent years, VA Bedford must continue to submit the required semiannual reports.

Abstract for [1100011]

Q1: Does EPA approve an alternative monitoring plan for a Cumene Depropanizer Off Gas Vent Stream subject to 40 CFR part 60, subpart J at the Citgo Corpus Christi East Refinery located in Corpus Christi, Texas?

A1: No. EPA finds that the alternative monitoring plan from March 24, 2006, is no longer valid since an exemption provided in the rule applies to the stream. The Cumene Depropanizer Off Gas is a fuel gas that meets the exemption requirement of 40 CFR section 60.105(a)(4)(iv)(C). Therefore, the fuel gas combustion device does not need to meet the monitoring requirements of either 40 CFR section 60.105(a)(3) or 40 CFR section 60.105(a)(4).

Abstract for [1100012]

Q1: Does EPA approve an alternative monitoring request for Hydrar Process Unit Vent Streams subject to 40 CFR part 60, subpart J for the Citgo Corpus Christi East Refinery located in Corpus Christi, Texas?

A1: No. EPA does not approve the alternative monitoring request since the specified Hydrar vent stream fuels are fuel gases that meet the exemption requirement of 40 CFR section 60.105(a)(4)(iv)(C). Therefore, the fuel gas combustion device does not need to meet the monitoring requirements of either 40 CFR section 60.105(a)(3) or 40 CFR section 60.105(a)(4) for these specified vent streams.

Dated: May 7, 2012.

Lisa C. Lund,

Director, Office of Compliance.

[FR Doc. 2012–12296 Filed 5–21–12; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Federal Advisory Committee Act; Technological Advisory Council

AGENCY: Federal Communications Commission.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice advises interested persons that the Federal Communications Commission's (FCC) Technological Advisory Council will hold a meeting on Wednesday, June 27, 2012 in the Commission Meeting Room, from 1 p.m. to 4 p.m. at the Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

DATES: June 27, 2012.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Walter Johnston, Chief, Electromagnetic Compatibility Division, 202–418–0807; *Walter.Johnston@FCC.gov.*

SUPPLEMENTARY INFORMATION: The FCC Technological Advisory Council proposed a new work agenda for the

2012 year at the last meeting held on March 28, 2012. This meeting will discuss progress towards meeting the work objectives identified in the 2012 work agenda and any issues that have been uncovered by TAC members while undertaking this work. The FCC will attempt to accommodate as many people as possible. However, admittance will be limited to seating availability. Meetings are also broadcast live with open captioning over the Internet from the FCC Live Web page at *http://www.fcc.gov/live/*. The public may submit written comments before the meeting to: Walter Johnston, the FCC's Designated Federal Officer for Technological Advisory Council by email: *Walter.Johnston@fcc.gov* or U.S. Postal Service Mail (Walter Johnston, Federal Communications Commission, Room 2–A665, 445 12th Street SW., Washington, DC 20554). Open captioning will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request. Requests for such accommodations should be submitted via email to *fcc504@fcc.gov* or by calling the Office of Engineering and Technology at 202–418–2470 (voice), (202) 418–1944 (fax). Such requests should include a detailed description of the accommodation needed. In addition, please include your contact information. Please allow at least five days advance notice; last minute requests will be accepted, but may be impossible to fill.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2012–12408 Filed 5–21–12; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting; Open Commission Meeting; Thursday, May 24, 2012

Date: May 17, 2012.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below Thursday, May 24, 2012, which is scheduled to commence at 10:30 a.m. in Room TW–C305, at 445 12th Street SW., Washington, DC. Then Commissions is waving the sunshine period prohibition contained in section 1.1203 of the Commission's rule, 47 CFR 1.1203, until 5:00 p.m. on Friday, May 18, 2012. Thus presentation with respect to the items listed below will be permitted until that time.

Item Nos.	Bureau	Subject
1	Public Safety and Homeland Security	*Title:* Utilizing Rapidly Deployable Aerial Communications Architecture in Response to an Emergency (PS Docket No. 11–15) *Summary:* The Commission will consider a Notice of Inquiry examining the role of deployable aerial communications architecture (DACA) in facilitating emergency response by rapidly restoring communications capabilities in the immediate aftermath of a catastrophic event.
2	Office of Engineering and Technology	*Title:* Amendment of the Commission's Rules to Provide for the Operation of Medical Body Area Networks (ET Docket No. 08–59) *Summary:* The Commission will consider a Report and Order and Further Notice of Proposed Rulemaking to establish service rules and an allocation for Medical Body Area Networks and seek comment on the selection of an MBAN coordinator.
3	Wireless Tele-Communications	*Title:* Improving Spectrum Efficiency Through Flexible Channel Spacing and Bandwidth Utilization for Economic Area-based 800 MHz Specialized Mobile Radio Licensees (WT Docket No. 12–64); Request for Declaratory Ruling that the Commission's Rules Authorize Greater than 25 kHz Bandwidth Operations in the 817–824/862–869 MHz Band (WT Docket No. 11–110) *Summary:* The Commission will consider a Report and Order that will provide EA-based 800 MHz licensees with the flexibility to better utilize spectrum to transition networks from legacy 2G technologies to advanced wireless technologies.

The meeting site is fully accessible to people using wheelchairs or other mobility aids. Sign language interpreters, open captioning, and assistive listening devices will be provided on site. Other reasonable accommodations for people with disabilities are available upon request. In your request, include a description of the accommodation you will need and a way we can contact you if we need more information. Last minute requests will be accepted, but may be impossible to fill. Send an email to: *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

Additional information concerning this meeting may be obtained from Audrey Spivack or David Fiske, Office of Media Relations, (202) 418–0500; TTY 1–888–835–5322. Audio/Video coverage of the meeting will be broadcast live with open captioning over the Internet from the FCC Live Web page at *www.fcc.gov/live*.

For a fee this meeting can be viewed live over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. To purchase these services call (703) 993–3100 or go to *www.capitolconnection.gmu.edu*.

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, Best Copy and Printing, Inc. (202) 488–5300; Fax (202) 488–5563; TTY (202) 488–5562. These copies are available in paper format and alternative media, including large print/type; digital disk; and audio and video tape. Best Copy and Printing, Inc. may be reached by email at *FCC@BCPIWEB.com*.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director

[FR Doc. 2012–12543 Filed 5–18–12; 4:15 pm]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

DATE AND TIME: Thursday, May 24, 2012 at 10:00 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 May 10, 2012.

Draft Advisory Opinion 2012–15: American Physical Therapy Association.

Draft Advisory Opinion 2012–17: Red Blue T, LLC, ArmourMedia, Inc., and m-Qube, Inc.

Draft Advisory Opinion 2012–20: Markwayne Mullin.

Audit Division Recommendation Memorandum on The Legacy Committee Political Action Committee (A09–22).

Audit Division Recommendation Memorandum on The National Right to Life Political Action Committee (NRLPAC) (A09–19).

Rulemaking Priorities for 2012.

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.

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Shawn Woodhead Werth,

Secretary and Clerk of the Commission.

[FR Doc. 2012–12370 Filed 5–18–12; 11:15 am]

BILLING CODE 6715–01–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:* Recordkeeping Requirements Associated with Changes in Foreign Investments (Made Pursuant to Regulation K).

Agency form number: FR 2064.

OMB control number: 7100–0109.

Frequency: On-occasion.

Reporters: State member banks, Edge and agreement corporations, and bank holding companies.

Annual reporting hours: 320 hours.

Estimated average hours per response: 2 hours.

Number of respondents: 40.

General description of report: The recordkeeping requirements of this information collection are mandatory (Section 5(c) of the BHC Act (12 U.S.C. 1844(c); Sections 7 and 13 of the International Banking Act of 1978 (12 U.S.C. 3105 and 3108(a)); Section 25 of the Federal Reserve Act (FRA) (12 U.S.C. 601–604a); Section 25A of the FRA (12 U.S.C. 611–631); and Regulation K (12 CFR 211.8(c)–211.10(a)). Since the Federal Reserve does not collect any records, no issue of confidentiality under the Freedom of Information Act (FOIA) arises. FOIA will only be implicated if the Board's examiners retain a copy of the records in their examination or supervision of the institution, and would be exempt from disclosure pursuant to FOIA (5 U.S.C. 552(b)(4), (b)(6), and (b)(8)).

Abstract: Internationally active U.S. banking organizations are required to maintain adequate internal records to allow examiners to review for compliance with the investment provisions of Regulation K. For each investment made under Subpart A of Regulation K, records should be maintained regarding the type of investment, for example, equity (voting shares, nonvoting shares, partnerships, interests conferring ownership rights, participating loans), binding commitments, capital contributions, and subordinated debt; the amount of the investment; the percentage ownership; activities conducted by the company and the legal authority for such activities; and whether the investment was made under general consent, prior notice, or specific consent authority. With respect to investments made under general consent authority, information also must be maintained that demonstrates compliance with the various limits set out in Section 211.9 of Regulation K.

2. *Report title:* Notice Requirements in Connection with Regulation W (12 CFR Part 223 Transactions Between Member Banks and Their Affiliates).

Agency form number: Reg W.

OMB control number: 7100–0304.

Frequency: Event-generated.

Reporters: Insured depository institutions and uninsured member banks.

Estimated Annual reporting hours: 100 hours.

Estimated average hours per response: Loan participation renewal notice, 2 hours; Acquisition notice, 6 hours; Internal corporate reorganization transactions notice, 6 hours; and Section 23A additional exemption notice, 10 hours.

Number of respondents: Loan participation renewal notice, 1; Acquisition notice, 1; Internal corporate reorganization transactions notice, 12; and Section 23A additional exemption notice, 2.

General description of report: This information collection is required to evidence compliance with sections 23A and 23B of the Federal Reserve Act (12 U.S.C. 371c and 371c–1). Confidential and proprietary information collected for the purposes of the Loan Participation Renewal notice (12 CFR 223.15(b)(4)) may be protected under the authority of section (b)(4) of FOIA [5 U.S.C. 552(b)(4)]. That section of FOIA exempts commercial or financial information deemed competitively sensitive from disclosure. Respondents who desire that the information on this notice be kept confidential in accordance with section (b)(4) can request confidential treatment under the Board's rules at 12 CFR 261.15. In addition, information that is obtained as part of an examination of a financial institution is exempt from disclosure

under exemption (b)(8) of FOIA. 5 U.S.C. 552(b)(8).

Abstract: On December 12, 2002, the Federal Reserve published a **Federal Register** notice [1] adopting Regulation W (Reg W) to implement sections 23A and 23B. Reg W was effective April 1, 2003. The Board issued Reg W for several reasons. First, the regulatory framework established by the Gramm-Leach-Bliley Act [2] emphasized the importance of sections 23A and 23B as a means to protect depository institutions from losses in transactions with affiliates. Second, adoption of a comprehensive rule simplified the interpretation and application of sections 23A and 23B, ensured that the statute is consistently interpreted and applied, and minimized burden on banking organizations to the extent consistent with the statute's goals. Third, issuing a comprehensive rule allowed the public an opportunity to comment on Federal Reserve interpretations of sections 23A and 23B.

The information collection requirements associated with Regulation W comprise four notices: (1) The Loan Participation Renewal notice (12 CFR 223.15(b)(4)), which is a condition to an exemption for renewals of loan participations involving problem loans; (2) the Acquisition notice (12 CFR 223.31(d)(4)), which is a condition to an exemption for a depository institution's acquisition of an affiliate that becomes an operating subsidiary of the institution after the acquisition; (3) the Internal Corporate Reorganization Transactions notice (12 CFR 223.41(d)(2)),which is a condition to an exemption for internal corporate reorganization transactions; and (4) the Section 23A Additional Exemption notice (12 CFR 223.43(b)), which provides procedures for requesting additional exemptions from the requirements of section 23A. These notifications are event-generated and must be provided to the appropriate federal banking agency and, if applicable, the Federal Reserve Board within the time periods established by the law and regulation.

Current Actions: On March 14, 2012, the Federal Reserve published a notice in the **Federal Register** (77 FR 15108) requesting public comment for 60 days on the extension, without revision, of the FR 2064 and Reg W. The comment period for this notice expired on May 14, 2012. The Federal Reserve did not receive any comments.

[1] (67 FR 76603)

[2] Public Law 106–102, 113 Stat. 1338 (1999).

Board of Governors of the Federal Reserve System, May 17, 2012.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2012–12328 Filed 5–21–12; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Corporation To Do Business Under Section 25A of the Federal Reserve Act

The company listed in this notice has applied to the Board for approval, pursuant to Section 25A of the Federal Reserve Act (Edge Corporation) 12 U.S.C. Sec. 611 *et seq.,* and all other applicable statutes and regulations to establish an Edge Corporation. The Edge Corporation will operate as a subsidiary of the applicant. The factors that are to be considered in acting on the application are set forth in the Board's Regulation K (12 CFR 211.4).

The application 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 office of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in Section 25A of the Federal Reserve Act.

Unless otherwise noted, comments regarding this application may be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 6, 2012.

A. Federal Reserve Bank of San Francisco (Kenneth Binning, Vice President, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:

1. *Silicon Valley Bank,* Santa Clara, California; to establish SVC International Finance, Inc., Santa Clara, California, as an Edge Corporation, and thereby engage in making investments in foreign organizations.

Board of Governors of the Federal Reserve System, May 17, 2012.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2012–12348 Filed 5–21–12; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank 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 applications will also 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 BHC Act (12 U.S.C. 1842(c)). 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 4 of the BHC Act (12 U.S.C. 1843). 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 June 15, 2012.

A. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) P.O. Box 442, St. Louis, Missouri 63166–2034:

1. *Mathias Bancshares, Inc.,* Springdale, Arkansas; to acquire 100 percent of Decatur State Bank, Decatur, Arkansas.

Board of Governors of the Federal Reserve System, May 17, 2012.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2012–12347 Filed 5–21–12; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Interest Project (SIP): Initial Review

The meeting announced below concerns Identifying Barriers to Receiving Breast and Cervical Cancer Screening Among Muslim Women Living in the United States, SIP12–052, Panel B, initial review.

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the aforementioned meeting:

Time and Date: 11:00 a.m.–5:30 p.m., June 25, 2012 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters To Be Discussed: The meeting will include the initial review, discussion, and evaluation of ''Identifying Barriers to Receiving Breast and Cervical Cancer Screening Among Muslim Women Living in the United Sates, SIP12–052, Panel B, initial review.''

Contact Person for More Information: M. Chris Langub, Ph.D., Scientific Review Officer, CDC, 4770 Buford Highway NE., Mailstop F–46, Atlanta, Georgia 30341, Telephone: (770) 488–3585, *EEO6@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: May 15, 2012.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2012–12352 Filed 5–21–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket No. CDC–2012–0005]

Recommendations for the Identification of Hepatitis C Virus (HCV) Chronic Infection

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), located within the Department of Health and Human Services (HHS) announces draft recommendations for identification of persons with HCV chronic infection, available for public comment. The recommendations are intended to increase the proportion of persons with chronic HCV who are diagnosed, provided appropriate prevention services, and linked to needed care and treatment. Public comment will be used to inform the final recommendations. The *Recommendations* may be found at *http://www.regulations.gov,* Docket No. CDC–2012–0005.

DATES: Written comments must be received on or before June 8th, 2012.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2012–0005, by any of the following methods:

- *Internet:* Access the Federal eRulemaking portal at *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Division of Viral Hepatitis, National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention, Centers for Disease Control and Prevention, 1600 Clifton Road, NE., Mailstop G–37, Atlanta, Georgia 30333.

Instructions: All submissions received must include the agency name and docket number for this notice. All relevant comments will be posted without change to *http://www.regulations.gov* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov,* Docket No. CDC–2012–0005.

FOR FURTHER INFORMATION CONTACT: Rebecca Morgan, Division of Viral Hepatitis, National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention, Centers for Disease Control and Prevention, 1600 Clifton Road, Mailstop G–37, Atlanta, Georgia 30333. You may also call 404–718–8596 or send an email to *HCV_BC@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Hepatitis C virus infection is a contagious liver disease that ranges in severity from a mild illness lasting a few weeks to a serious, lifelong illness. It results from infection with the hepatitis C virus (HCV), which is spread primarily through contact with the blood of an infected individual. In approximately 75%–85% of persons, HCV persists as a chronic infection, which places infected persons at risk for liver cirrhosis, liver cancer or hepatocellular carcinoma (HCC), and complications involving other organ systems that develop over the decades following onset of infection. HCV infection status is determined by a blood test.

In the United States an estimated 2.7–3.9 million persons are living with HCV infection. Cirrhosis, HCC and HCV-related mortality have been increasing among persons infected with HCV, and these outcomes are projected to increase significantly in the coming decades. HCV-infected persons who are aware of their infection can benefit from health services to prevent additional harm to the liver (e.g., hepatitis A virus and hepatitis B virus vaccination), medical monitoring, and behavioral changes (e.g., reductions in alcohol use). Further, anti-viral therapies can clear HCV from the system (i.e., a virologic cure) and halt disease progression for many patients living with HCV infection.

CDC is seeking public comment on these *Recommendations,* particularly concerning the following questions:

(1) Are there other data, evidence, or studies to consider regarding:

a. The burden of HCV infection morbidity, and mortality in the populations for whom testing is recommended?

b. The number of persons living with HCV who are unaware of their infection status?

c. The benefits and harms of HCV testing, care and treatment?

d. The cost effectiveness of the proposed recommendations?

e. Settings in a community where testing should be targeted?

(2) Are there other factors, e.g., other scientific studies not referenced, which should be considered in the development of the *Recommendations*?

(3) Are there any other comments about the utility of the information?

Dated: May 15, 2012.

Tanja Popovic,

Deputy Associate Director for Science, Centers for Disease Control and Prevention.

[FR Doc. 2012–12323 Filed 5–18–12; 11:15 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Child Care and Development Fund Annual Aggregate Report—ACF–800.

OMB No.: 0970–0150.

Description: Section 658K of the Child Care and Development Block Grant Act of 1990 (P.L. 101–508, 42 U.S.C. 9858) requires that States and Territories submit annual aggregate data on the children and families receiving direct services under the Child Care and Development Fund. The implementing regulations for the statutorily required reporting are at 45 CFR 98.70. Annual aggregate reports include data elements represented in the ACF–800 reflecting the scope, type, and methods of child care delivery. This provides ACF with the information necessary to make reports to Congress, address national child care needs, offer technical assistance to grantees, meet performance measures, and conduct research.

Consistent with the statute and regulations, ACF requests extension of the ACF–800.

Respondents: States, the District of Columbia, and Territories including Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Marianna Islands.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ACF–800	56	1	40	2,240

Estimated Total Annual Burden Hours: 2,240.

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. 2012–12302 Filed 5–21–12; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Award of a Single Source Cooperative Agreement Grant to the Congressional Hunger Center in Washington, DC

AGENCY: Office of Policy, Research and Evaluation, ACF, HHS.

ACTION: The Administration for Children and Families (ACF) announces the award of a single source cooperative agreement to the Congressional Hunger Center in Washington, DC to support a Bill Emerson National Hunger Fellow.

C.F.D.A. Number: 93.647.

Statutory Authority: The award is authorized under Section 1110 of the Social Security Act, 42 U.S.C. § 613.

SUMMARY: The Administration for Children and Families (ACF), Office of the Assistant Secretary (OAS), announces the award of a single source cooperative agreement for $3,000 with the Congressional Hunger Center (CHC) in Washington, DC, to support a Bill Emerson National Hunger Fellow who will work on hunger and obesity issues for young children. The Fellow will work closely with the ACF health team on strengthening its strategic vision to improve health and nutrition in children's programs. The Fellow will work with the team to examine programs in the Office of Child Care (OCC), OCC Tribal Maternal, Infant, and Early Childhood Home Visiting (TMIECHV) Grant Program under the Affordable Care Act (ACA), and the Office of Head Start, and will communicate with other agencies on child-focused nutrition programs. There is currently no individual in ACF designated to work specifically on these nutrition- and hunger-related issues. Additionally, the Fellow will work with the ACF health team to synthesize ideas emergent from this investigative work to further develop strategies for integrating hunger- and obesity-prevention strategies into ACF's childhood programming.

DATES: March 1, 2012—February 28, 2013.

FOR FURTHER INFORMATION CONTACT: George Askew, MD, FAAP, Senior Policy Advisor, Office of the Assistant Secretary, 901 D Street SW., Washington, DC 20447. Telephone: 202–401–1399; Email: *george.askew@acf.hhs.gov*.

George Askew,

Senior Policy Advisor, Office of the Assistant Secretary.

[FR Doc. 2012–12297 Filed 5–21–12; 8:45 am]

BILLING CODE 4184–07–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Submission for OMB Review; Comment Request; Stress and Cortisol Measurement Substudy for the National Children's Study

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institute of Child Health and Human Development (NICHD), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on February 17, 2012, pages 9666–9668 (Volume 77, Number 33) of the **Federal Register** and allowed 60 days for public comment. One comment was received. The commenter questioned the value of the National Children's Study overall and suggested that the NCS be eliminated. The NCS is implemented to meet the requirements of the Children's Health Act of 2000 (Pub. L. 106–310). The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health 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.

Proposed Collection: Title: Stress and Cortisol Measurement Substudy for the National Children's Study (NCS). *Type of Information Collection Request:* New. Need and Use of Information Collection: The Children's Health Act of 2000 (Pub. L. 106–310) states:

(a) PURPOSE.—It is the purpose of this section to authorize the National Institute of Child Health and Human Development* to conduct a national longitudinal study of environmental influences (including

physical, chemical, biological, and psychosocial) on children's health and development.

(b) IN GENERAL.—The Director of the National Institute of Child Health and Human Development* shall establish a consortium of representatives from appropriate Federal agencies (including the Centers for Disease Control and Prevention, the Environmental Protection Agency) to—

(1) Plan, develop, and implement a prospective cohort study, from birth to adulthood, to evaluate the effects of both chronic and intermittent exposures on child health and human development; and

(2) Investigate basic mechanisms of developmental disorders and environmental factors, both risk and protective, that influence health and developmental processes.

(c) REQUIREMENT.—The study under subsection (b) shall—

(1) Incorporate behavioral, emotional, educational, and contextual consequences to enable a complete assessment of the physical, chemical, biological, and psychosocial environmental influences on children's well-being;

(2) Gather data on environmental influences and outcomes on diverse populations of children, which may include the consideration of prenatal exposures; and

(3) Consider health disparities among children, which may include the consideration of prenatal exposures.

To fulfill the requirements of the Children's Health Act, the Stress and Cortisol Measurement Substudy will develop an optimized, item-reduced measure of self-reported stress that is supported empirically through convergent validity analysis of stress biomarkers. Specifically, key moderators of stress biomarkers will be evaluated to inform the efficiency and quality of measurements during pregnancy. Development of a scientifically robust maternal stress measure would measure chronic stress more efficiently, would not require biospecimen collection and biomarker analyses, and would thereby reduce participant burden and NCS Vanguard (Pilot) and NCS Main Study costs. With this information collection request, the NCS seeks to obtain OMB's clearance to conduct a substudy aimed at developing a validated questionnaire that will reflect specific biological and physiological measures of maternal stress.

Background: The National Children's Study is a prospective, national longitudinal study of the interaction between environment, genetics on child health and development. The Study defines ''environment'' broadly, taking a number of natural and man-made environmental, biological, genetic, and psychosocial factors into account. By studying children through their different phases of growth and development, researchers will be better able to understand the role these factors have on health and disease. Findings from the Study will be made available as the research progresses, making potential benefits known to the public as soon as possible. The National Children's Study is led by a consortium of federal partners: The U.S. Department of Health and Human Services (including the *Eunice Kennedy Shriver* National Institute of Child Health and Human Development and the National Institute of Environmental Health Sciences of the National Institutes of Health and the Centers for Disease Control and Prevention), and the U.S. Environmental Protection Agency.

To conduct the detailed preparation needed for a study of this size and complexity, the NCS was designed to include a preliminary pilot study known as the Vanguard Study. The purpose of the Vanguard Study is to assess the feasibility, acceptability, and cost of the recruitment strategy, study procedures, and outcome assessments that are to be used in the NCS Main Study. The Vanguard Study begins prior to the NCS Main Study and will run in parallel with the Main Study. At every phase of the NCS, the multiple methodological studies conducted during the Vanguard phase will inform the implementation and analysis plan for the Main Study.

In this information collection request, the NCS requests approval from OMB to perform a multi-center substudy, called the Stress and Cortisol Measurement Substudy. This substudy aims to determine the most reliable, acceptable, and cost-efficient approach for assessing maternal stress. Maternal stress is of particular interest to the NCS due to studies that have shown an association between maternal stress and negative health outcomes, including preterm birth which is one of the most important problems in maternal-child health in the U.S. Stress factors are also more prevalent in the population of socio-demographically disadvantaged women who are at an increased risk for preterm birth. Maternal stress is associated with additional health outcomes, such as still-birth, low birth weight, problems in offspring brain function and behavior (including lower IQ and impaired executive function), immune-related problems such as allergies and asthma, congenital malformations, infections, and numerous disorders of organ systems.

Development of a scientifically robust and validated questionnaire to reflect specific physiological measures of stress would allow us to measure chronic stress more efficiently, would not require biospecimen collection and biomarker analyses, and would thereby reduce participant burden and Study costs. To develop this instrument, the NCS will collect several types of information from substudy participants through medical record abstraction, questionnaires (a series of validated stress measures), physiological measures (heart rate and self-reported stress), and several types of biospecimens.

Frequency of Response: Annual [As needed].

Affected Public: Pregnant women and their children.

Type of Respondents: Pregnant women who are not geographically eligible to enroll in the NCS Vanguard Study.

Annual reporting burden: See Table 1. The annualized cost to respondents is estimated at: $73,500 (based on $10 per hour). There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN AND COST SUMMARY, STRESS AND CORTISOL MEASUREMENTS

Data collection activity	Type of respondent	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per response (in hours)	Estimated total annual burden hours	Estimated total annual respondent cost
Screening	Members of NCS target population (not NCS participants).	2,100	1	5/60	175	$1,750
Saliva Self-Collection Demonstration.	Members of NCS target population (not NCS participants).	700	1	15/60	175	1,750

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN AND COST SUMMARY, STRESS AND CORTISOL MEASUREMENTS—Continued

Data collection activity	Type of respondent	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per response (in hours)	Estimated total annual burden hours	Estimated total annual respondent cost
Urine Self-Collection Instructions.	Members of NCS target population (not NCS participants).	700	1	5/60	58	583
Ecological Momentary Assessment Training.	Members of NCS target population (not NCS participants).	700	1	30/60	350	3,500
Visit 1 Stress Questionnaire	Members of NCS target population (not NCS participants).	700	1	60/60	700	7,000
Adult Blood	Members of NCS target population (not NCS participants).	700	2	30/60	700	7,000
Adult Urine	Members of NCS target population (not NCS participants).	700	1	15/60	175	1,750
Adult Hair	Members of NCS target population (not NCS participants).	700	2	15/60	350	3,500
Adult Saliva	Members of NCS target population (not NCS participants).	700	28	3/60	980	9,800
Demographic and Health Interview.	Members of NCS target population (not NCS participants).	700	1	60/60	700	7,000
Participant Contact Information Sheet.	Members of NCS target population (not NCS participants).	700	1	5/60	58	583
Take-Home Questionnaire	Members of NCS target population (not NCS participants).	700	1	30/60	350	3,500
Time Diary	Members of NCS target population (not NCS participants).	700	72	2/60	1,680	16,800
Heart Monitoring	Members of NCS target population (not NCS participants).	700	1	2/60	23	233
Visit 2 Stress Questionnaire	Members of NCS target population (not NCS participants).	700	1	45/60	525	5,250
Stressful Life Events Schedule Checklist.	Members of NCS target population (not NCS participants).	700	1	30/60	350	3,500
Total		2,100			7,350	73,500

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to Office of Management and Budget, Office of Information and Regulatory Affairs, Attn: NIH Desk Officer, by Email to *OIRA_submission@omb.eop.gov,* or by fax to 202–395–6974. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Ms. Jamelle E. Banks, Public Health Analyst, Office of Science Policy, Analysis and Communication, National Institute of Child Health and Human Development, 31 Center Drive Room 2A18, Bethesda, Maryland 20892, or call a non-toll free number (301) 496–1877 or Email your request, including your address to *banksj@mail.nih.gov.*

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

Dated: May 16, 2012.

Jamelle E. Banks,

Project Clearance Liaison, Office of Science Policy, Analysis and Communications, National Institute of Child Health and Human Development.

[FR Doc. 2012–12367 Filed 5–21–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications/contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications/contract proposals the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; Tools To Probe DNA Repair and Damage Signaling Networks.

Date: June 6, 2012.

Time: 11:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6116 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: David G. Ransom, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Blvd., Room 8133, Bethesda, MD 20892–8328, 301–451–4757, *david.ransom@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to scheduling conflicts.

Name of Committee: National Cancer Institute Special Emphasis Panel; Cancer Prevention Research Small Grant Program (R03).

Date: June 28, 2012.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel Conference & Center, 5701 Marinelli Road, North Bethesda, MD.

Contact Person: Clifford W Schweinfest, Ph.D., Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Blvd., Room 8050a, Bethesda, MD 20892–8329, 301–402–9415, *schweinfestcw@mail.nih.gov.*

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/sep/sep.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: May 16, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–12387 Filed 5–21–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review Amended; Notice of Meeting

Notice is hereby given of a change in the meeting of the Neurotransporters, Receptors, and Calcium Signaling Study Section, June 7, 2012, 8:00 a.m. to June 7, 2012, 5:00 p.m., Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC, 20015 which was published in the **Federal Register** on May 8, 2012, 77FR 27073–27075.

The meeting will be held on June 7, 2012. The meeting location has been changed to the Mayflower Renaissance 1127 Connecticut Ave. NW., Washington, DC 20036. The meeting is closed to the public.

Dated: May 16, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–12363 Filed 5–21–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2012–0019]

Privacy Act of 1974; U.S. Customs and Border Protection, DHS/CBP–006—Automated Targeting System, System of Records

AGENCY: Privacy Office, DHS.

ACTION: Notice of Privacy Act system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security proposes to update and expand an existing Department of Homeland Security system of records notice titled, U.S. Customs and Border Protection, DHS/CBP–006—Automated Targeting System (ATS) 72 FR 43650, August 6, 2007. The Department of Homeland Security (DHS) and U.S. Customs and Border Protection (CBP) have designed ATS to efficiently perform risk assessments on information pertaining to international travelers and import and export shipments attempting to enter or leave the United States. ATS uses a rule-managed technology that facilitates the targeting of high-risk travelers and cargo.

DHS/CBP is publishing this System of Records Notice (SORN) to update ATS and to update and expand the categories of individuals, categories of records, routine uses, access provisions, and sources of data stored in ATS. Elsewhere in the **Federal Register**, the Department of Homeland Security is concurrently issuing a Notice of Proposed Rulemaking exempting this system of records from certain provisions of the Privacy Act. This updated and expanded system will be included in the Department of Homeland Security's inventory of record systems.

DATES: Submit comments on or before June 21, 2012. This system will be effective June 21, 2012.

ADDRESSES: You may submit comments, identified by docket number DHS–2012–0019 by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 703–483–2999.
- *Mail:* Mary Ellen Callahan, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For general questions please contact: Laurence E. Castelli (202–325–0280), CBP Privacy Officer, Office of

International Trade, U.S. Customs and Border Protection, Mint Annex, 799 Ninth Street NW., Washington, DC 20229. For privacy issues please contact: Mary Ellen Callahan (703–235–0780), Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, the Department of Homeland Security proposes to update and expand an existing Department of Homeland Security SORN titled, U.S. Customs and Border Protection, DHS/CBP–006—Automated Targeting System (ATS) 72 FR 43650, August 6, 2007.

This SORN is being updated and expanded to inform the public about changes to the Automated Targeting System (ATS) categories of individuals, categories of records, routine uses, access provisions, and sources of data. DHS/CBP is updating and expanding the categories of individuals, categories of records, and sources of records stored in ATS because it has certain data that it must ingest for performance purposes. The Privacy Impact Assessment (PIA), which DHS will publish on its Web site (*http://www.dhs.gov/privacy*) concurrently with the publication of this SORN in the **Federal Register**, provides a full discussion of the functional capabilities of ATS and its modules. DHS and CBP have previously exempted portions of ATS from the notification, access, amendment, and public accounting provisions of the Privacy Act because it is a law enforcement system. DHS and CBP, however, will consider each request for access to records maintained in ATS to determine whether or not information may be released. DHS and CBP further note that despite the exemption taken on this system of records they are providing access and amendment to passenger name records (PNR) collected by CBP pursuant to its statutory authority, 49 U.S.C. 44909, as implemented by 19 CFR 122.49d, Importer Security Filing (10+2 documentation) information, and any records that were ingested by ATS where the source system of records already provides access and/or amendment under the Privacy Act.

ATS provides the following basic functionalities to support CBP in identifying individuals and cargo that need additional review across the different means or modes of travel to and from the United States:

• *Comparison:* ATS compares information on travelers and cargo coming into and going out of the country against law enforcement and intelligence databases to identify individuals and cargo requiring additional scrutiny. For example, ATS compares information on individuals (identified as passengers, travelers, crewmembers, or persons appearing on documents supporting the movement of cargo) trying to enter the country or trying to enter merchandise into the country against the Terrorist Screening Database (TSDB), which ATS ingests from the DHS Watchlist Service (WLS), and outstanding wants and warrants.

• *Rules:* ATS compares existing information on individuals and cargo entering and exiting the country with patterns identified as requiring additional scrutiny. The patterns are based on CBP officer experience, analysis of trends of suspicious activity, and raw intelligence corroborating those trends. For example, ATS might compare information on cargo entering the country against a set of scenario-based targeting rules that indicate a particular type of fish rarely is imported from a given country.

• *Federated Query:* ATS allows users to search data across many different databases and correlate it across the various systems to provide a person centric view of all data responsive to a query about the person's identity from the selected databases.

In order to do the above, ATS pulls data from many different source systems. In some instances ATS is the official record for the information, while in other instances ATS ingests and maintains the information as a copy or provides a pointer to the information in the underlying system. Below is a summary:

• *Official Record:* ATS maintains the official record for Passenger Name Records (PNR) collected by CBP pursuant to its statutory authority, 49 U.S.C. 44909, as implemented by 19 CFR 122.49d; for Importer Security Filing (10+2 documentation) information, which provides advanced information about cargo and related persons and entities for risk assessment and targeting purposes; for results of Cargo Enforcement Exams; for the combination of license plate, Department of Motor Vehicle (DMV) registration data and biographical data associated with a border crossing; for law enforcement and/or intelligence data, reports, and projects developed by CBP analysts that may include public source and/or classified information; and information obtained through memoranda of understanding or other arrangements because the information is relevant to the border security mission of the Department.

• *Ingestion of Data:* ATS maintains copies of key elements of certain CBP databases in order to minimize the processing time for searches on the operational systems and to act as a backup for certain operational systems, including, but not limited to: Automated Commercial Environment (ACE), Automated Commercial System (ACS), Automated Export System (AES), Advance Passenger Information System (APIS), Border Crossing Information (BCI), Consular Electronic Application Center (CEAC), Enforcement Integrated Database (EID)[which includes the Enforcement Case Tracking System (ENFORCE)], Electronic System for Travel Authorization (ESTA), Global Enrollment System (GES), Non-Immigrant Information System (NIIS), historical National Security Entry-Exit Registration System (NSEERS), Seized Asset and Case Tracking System (SEACATS), U.S. Immigration and Customs Enforcement (ICE) Student Exchange and Visitor Information System (SEVIS), Social Security Administration (SSA) Death Master File, TECS, Terrorist Screening Database (TSDB) through the DHS Watchlist Service (WLS), and WebIDENT. If additional data is ingested and that additional data does not require amendment of the categories of individuals or categories of records in this SORN, the PIA for ATS will be updated to reflect that information. The updated PIA can be found at *www.dhs.gov/privacy.*

• *Pointer System:* ATS accesses and uses additional databases without ingesting the data, including, but not limited to: CBP Border Patrol Enforcement Tracking System (BPETS), Department of State Consular Consolidated Database (CCD), commercial data aggregators, CBP's Enterprise Geospatial Information Services (eGIS), DHS/USVISIT IDENT, National Law Enforcement Telecommunications System (Nlets), DOJ's National Crime Information Center (NCIC), the results of queries in the FBI's Interstate Identification Index (III), and the National Insurance Crime Bureau's (NICB's) private database of stolen vehicles. If additional data is ingested and that additional data does not require amendment of the categories of individuals or categories of records in this SORN, the PIA for ATS will be updated to reflect that information. The updated PIA can be found at www.dhs.gov/privacy.

DHS/CBP has reorganized the ATS routine uses to provide greater uniformity across DHS systems. Consistent with DHS's information sharing mission, information stored in

ATS may be shared with other DHS components, as well as appropriate federal, state, local, tribal, foreign, or international government agencies. This sharing will only take place after DHS determines that the recipient has a need to know the information to carry out functions consistent with the routine uses set forth in this SORN.

DHS has exempted the system from the notification, access, amendment, and certain accounting provisions of the Privacy Act of 1974 because of the law enforcement nature of ATS. Despite the exemptions taken on this system of records, CBP and DHS are not exempting the following records from the access and amendment provisions of the Privacy Act: passenger name records (PNR) collected by CBP pursuant to its statutory authority, 49 U.S.C. 44909, as implemented by 19 CFR 122.49d, Importer Security Filing (10+2 documentation) information, and any records that were ingested by ATS where the source system of records already provides access and/or amendment under the Privacy Act. A traveler may obtain access to his or her PNR and request amendment as appropriate, but records concerning the targeting rules, the responses to rules, case events, law enforcement and/or intelligence data, reports, projects developed by CBP that may include public source and/or classified information, information obtained through memoranda of understanding or other arrangements because the information is relevant to the border security mission of the Department, or records exempted from access by the system from which ATS ingested or accessed the information, will not be accessible to the individual.

II. Privacy Act

The Privacy Act embodies fair information principles in a statutory framework governing the means by which the United States Government collects, maintains, uses, and disseminates individuals' records. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency for which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass United States citizens and lawful permanent residents. As a matter of policy (*Privacy Policy Guidance Memorandum 2007–1,* most recently updated January 7, 2009), DHS extends administrative Privacy Act protections to all persons, regardless of citizenship, where a system of records maintains information on U.S. citizens, lawful permanent residents, and visitors. Individuals may request access to their own records that are maintained in a system of records in the possession or under the control of DHS by complying with DHS Privacy Act regulations, 6 CFR Part 5.

The Privacy Act requires each agency to publish in the **Federal Register** a description denoting the type and character of each system of records that the agency maintains, and the routine uses that are contained in each system in order to make agency record keeping practices transparent, to notify individuals regarding the uses to which their records are put, and to assist individuals with more easily finding such files within the agency. Below is the description of the U.S. Customs and Border Protection DHS/CBP–006 Automated Targeting System system of records.

In accordance with 5 U.S.C.552a(r), DHS has provided a report of this system of records to the Office of Management and Budget and to Congress.

System of Records

DHS/CBP–006.

SYSTEM NAME:

U.S. Customs and Border Protection Automated Targeting System.

SECURITY CLASSIFICATION:

Unclassified, sensitive, classified.

SYSTEM LOCATION:

Records are maintained at the CBP Headquarters in Washington, DC, and can be accessed from field offices and from locations abroad where ATS users are stationed.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

ATS handles information relating to the following individuals:

A. Persons, including operators, crew, and passengers, who seek to, or do in fact, enter, exit, or transit through the United States or through other locations where CBP maintains an enforcement or operational presence by land, air, or sea.

B. Crew members traveling on commercial aircraft that fly over the United States.

C. Persons who engage in any form of trade or other commercial transaction related to the importation or exportation of merchandise, including those required to submit an Importer Security Filing.

D. Persons who are employed in any capacity related to the transit of merchandise intended to cross the United States border.

E. Persons who serve as booking agents, brokers, or other persons who provide information on behalf of persons seeking to enter, exit, or transit through the United States, or on behalf of persons seeking to import, export or ship merchandise through the United States.

F. Owners of vehicles that cross the border.

G. Persons whose data was received by the Department as the result of memoranda of understanding or other information sharing agreement or arrangement because the information is relevant to the border security mission of the Department.

H. Persons who were identified in a narrative report, prepared by an officer or agent, as being related to or associated with other persons who are alleged to be involved in, who are suspected of, or who have been arrested for violations of the laws enforced or administered by DHS.

I. Persons who may pose a threat to the United States.

CATEGORIES OF RECORDS IN THE SYSTEM:

ATS contains various types of data to support its targeting missions, incorporating information germane to the identification of individuals, including, but not limited to:

- Name
- Addresses (home, work, and/or destination, as appropriate)
- Telephone and fax numbers
- Tax ID number (e.g., Employer Identification Number (EIN) or Social Security Number (SSN), where available)
- Date and place of birth
- Gender
- Nationality
- Country of Residence
- Citizenship
- Alias
- Physical characteristics, including biometrics where available (e.g., height, weight, race, eye and hair color, scars, tattoos, marks, fingerprints)
- Familial relationships and other contact information
- Property information
- Occupation and employment information
- Biographical and biometric information from or associated with online immigrant and non-immigrant visa applications, including (as available):
  - U.S. sponsor's name, address, and phone number
  - U.S. contact name, address, and phone number

- Employer name, address, and phone number
- Email address, IP Address, applicant ID
- Marital Status
- Alien number
- Social Security Number
- Tax Identification Number
- Organization Name
- U.S. Status
- Income information for Joint Sponsors
- Education, military experience, relationship information
- Responses to vetting questions pertaining to admissibility or eligibility

- Information from documents used to verify the identity of individuals (*e.g.,* driver's license, passport, visa, alien registration, citizenship card, border crossing card, birth certificate, certificate of naturalization, re-entry permit, military card) including the:
  - type
  - number
  - date of issuance
  - place of issuance

The system contains travel information pertaining to individuals, including:

- The combination of license plate, Department of Motor Vehicle (DMV) registration data and biographical data associated with a border crossing
- Information derived from an ESTA application including responses to vetting questions pertaining to admissibility (where applicable)
- Travel itinerary
- Date of arrival or departure, and means of conveyance with associated identification (*e.g.,* Vehicle Identification Number, year, make, model, registration)
- Passenger Name Record (PNR):
  1. PNR record locator code
  2. Date of reservation/issue of ticket
  3. Date(s) of intended travel
  4. Name(s)
  5. Available frequent flier and benefit information (*i.e.,* free tickets, upgrades)
  6. Other names on PNR, including number of travelers on PNR
  7. All available contact information (including originator of reservation)
  8. All available payment/billing information (*e.g.,* credit card number)
  9. Travel itinerary for specific PNR
  10. Travel agency/travel agent
  11. Code share information (*e.g.,* when one air carrier sells seats on another air carrier's flight)
  12. Split/divided information (*e.g.,* when one PNR contains a reference to another PNR)
  13. Travel status of passenger (including confirmations and check-in status)
  14. Ticketing information, including ticket number, one way tickets and Automated Ticket Fare Quote (ATFQ) fields
  15. Baggage information
  16. Seat information, including seat number
  17. General remarks including Other Service Indicated (OSI), Special Service Indicated (SSI) and Supplemental Service Request (SSR) information
  18. Any collected APIS information (*e.g.,* Advance Passenger Information (API)) that is initially captured by an air carrier within its PNR, such as passport number, date of birth and gender)
  19. All historical changes to the PNR listed in numbers 1 to 18

Note: Not all air carriers maintain the same sets of information for PNR, and a particular individual's PNR likely will not include information for all possible categories. In addition, PNR does not routinely include information that could directly indicate the racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, health, or sex life of the individual. To the extent PNR does include terms that reveal such personal matters, DHS employs an automated system that filters certain of these terms and only uses this information in exceptional circumstances where the life of an individual could be imperiled or seriously impaired.

The system contains information collected for the importation or exportation of cargo and/or property, including:

- Bill of lading
- Commodity type
- License number and license country for Office of Defense Trade Controls registrants
- Inspection and examination results

The system contains Importer Security Filing (ISF) information, which must contain the following items, in addition to the Vessel Stow Plan (VSP) and the Container Status Message (CSM):

- Manufacturer (or supplier)
- Seller (*i.e.,* full name and address or widely accepted business number such as a Data Universal Numbering System (DUNS) number)
- Buyer (*i.e.,* full name and address)
- Ship to party (full name and/or business name and address)
- Container stuffing location
- Consolidator (stuffer)
- Importer of record number/Foreign Trade Zone applicant identification number
- Consignee number(s)
- Country of origin
- Commodity: Harmonized Tariff Schedule of the United States (HTSUS) number

Alternatively, for shipments consisting entirely of Freight Remaining on Board (FROB) or shipments consisting of goods intended to move through the United States, ISF Importers, or their agents, must submit the following five elements, unless an element is specifically exempted:

- Booking party (*i.e.,* name and address)
- Foreign port of unlading
- Place of delivery
- Ship to party
- Commodity HTSUS number

The system contains assessments and other information obtained in accordance with the terms of memoranda of understanding or other arrangement because the information is relevant to the border security mission of the Department.

The system also contains information created by CBP, including:

- Admissibility determinations
- Results of Cargo Enforcement Exams
- Law enforcement or intelligence information regarding an individual
- Risk-based rules developed by analysts to assess and identify high-risk cargo, conveyances, or travelers that should be subject to further scrutiny or examination
- Assessments resulting from the rules, with a record of which rules were used to develop the assessment
- Operational and analytical reports and/or projects developed that may include public source information and/or classified information obtained by users/analysts for reference or incorporation into the report or project.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

ATS derives its authority from 19 U.S.C. 482, 1461, 1496, 1581, 1582; 8 U.S.C. 1357; 49 U.S.C. 44909; the Enhanced Border Security and Visa Reform Act of 2002 (EBSVRA) (Pub. L. 107–173); the Trade Act of 2002 (Pub. L. 107–210); the Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA) (Pub.L. 108–458); and the Security and Accountability for Every Port Act of 2006 (SAFE Port Act) (Pub. L. 109–347).

PURPOSE(S):

PURPOSES FOR PNR IN ATS: PNR may be used,

(1). To prevent, detect, investigate, and prosecute:

a. Terrorist offenses and related crimes, including

i. Conduct that—

1. involves a violent act or an act dangerous to human life, property, or infrastructure; and

2. appears to be intended to—

a. intimidate or coerce a civilian population;

b. influence the policy of a government by intimidation or coercion; or

c. affect the conduct of a government by mass destruction, assassination, kidnapping, or hostage-taking.

ii. Activities constituting an offense within the scope of and as defined in applicable international conventions and protocols relating to terrorism;

iii. Providing or collecting funds, by any means, directly or indirectly, with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out any of the acts described in subparagraphs (i) or (ii);

iv. Attempting to commit any of the acts described in subparagraphs (i), (ii), or (iii);

v. Participating as an accomplice in the commission of any of the acts described in subparagraphs (i), (ii), or (iii);

vi. Organizing or directing others to commit any of the acts described in subparagraphs (i), (ii), or (iii);

vii. Contributing in any other way to the commission of any of the acts described in subparagraphs (i), (ii), or (iii);

viii. Threatening to commit an act described in subparagraph (i) under circumstances which indicate that the threat is credible;

b. Other crimes that are punishable by a sentence of imprisonment of three years or more and that are transnational in nature;

A crime is considered as transnational in nature in particular if:

i. It is committed in more than one country;

ii. It is committed in one country but a substantial part of its preparation, planning, direction or control takes place in another country;

iii. It is committed in one country but involves an organized criminal group that engages in criminal activities in more than one country;

iv. It is committed in one country but has substantial effects in another country; or

v. It is committed in one country and the offender is in or intends to travel to another country;

(2) on a case-by-case basis where necessary in view of a serious threat and for the protection of vital interests of any individual or if ordered by a court;

(3) to identify persons who would be subject to closer questioning or examination upon arrival to or departure from the United States or who may require further examination.

(4) for domestic law enforcement, judicial powers, or proceedings, where violations of law or indications thereof are detected in the course of the use and processing of PNR.

PURPOSES OF ATS (EXCEPT for PNR):

ATS uses all other data for purposes listed above as well as below:

(a) To perform targeting of individuals who may pose a risk to border security or public safety, may be a terrorist or suspected terrorist, or may otherwise be engaged in activity in violation of U.S. law;

(b) To perform a risk-based assessment of conveyances and cargo to focus CBP's resources for inspection and examination and enhance CBP's ability to identify potential violations of U.S. law, possible terrorist threats, and other threats to border security; and

(c) To otherwise assist in the enforcement of the laws enforced or administered by DHS, including those related to counterterrorism.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information ingested into this system from another source system is to be handled consistent with the published system of records notice for the source system and will continue to be governed by the routine uses for that source system. The routine uses below apply only to records that are maintained as official records in ATS (*i.e.,* records which are maintained in ATS that are not covered by other originating systems of record, including: PNR; Importer Security Filings; Cargo Enforcement Exams; the combination of license plate, Department of Motor Vehicle (DMV) registration data and biographical data associated with a border crossing; law enforcement and/or intelligence data, reports, and projects developed by CBP analysts that may include public source information and/or classified information; and information obtained through memoranda of understanding or other arrangements because the information is relevant to the border security mission of the Department). With respect to PNR, DHS only discloses information to those authorities who intend to use the information consistent with the purposes identified above, and have sufficient capability to protect and safeguard the information. In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice (including United States Attorney Offices) or other federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when it is necessary or relevant to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;

2. any employee of DHS in his/her official capacity;

3. any employee of DHS in his/her individual capacity where DOJ or DHS has agreed to represent the employee; or

4. the United States or any agency thereof.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made pursuant to a written Privacy Act waiver at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration or General Services Administration pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

D. To an agency or organization for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. DHS suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;

2. DHS has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, of identity theft or fraud, or of harm to the security or integrity of this system or of harm to other systems or programs (whether maintained by DHS or another agency or entity) or harm to the individuals that rely upon the compromised information; and

3. The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the

federal government when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

G. To appropriate federal, state, tribal, local, or foreign governmental agencies or multilateral governmental organizations responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where CBP believes the information would assist enforcement of applicable civil or criminal laws;

H. To federal and foreign government intelligence or counterterrorism agencies or components where DHS becomes aware of an indication of a threat or potential threat to national or international security, or to assist in anti-terrorism efforts;

I. To an organization or person in either the public or private sector, either foreign or domestic, where there is a reason to believe that the recipient is or could become the target of a particular terrorist activity or conspiracy, or where the information is relevant to the protection of life, property, or other vital interests of a person;

J. To appropriate federal, state, local, tribal, or foreign governmental agencies or multilateral governmental organizations for the purpose of protecting the vital interests of a data subject or other persons, including to assist such agencies or organizations in preventing exposure to or transmission of a communicable or quarantinable disease or to combat other significant public health threats; appropriate notice will be provided of any identified health threat or risk;

K. To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, or in response to a subpoena, or in connection with criminal law proceedings;

L. To third parties during the course of a law enforcement investigation to the extent necessary to obtain information pertinent to the investigation, provided disclosure is appropriate in the proper performance of the official duties of the officer making the disclosure;

M. To appropriate federal, state, local, tribal, or foreign governmental agencies or multilateral governmental organizations where CBP is aware of a need to utilize relevant data for purposes of testing new technology and systems designed to enhance ATS;

N. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of DHS or is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. The records are stored on magnetic disc, tape, digital media, and CD–ROM.

RETRIEVABILITY:

Records may be retrieved by any of the data elements described in ''Categories of Records,'' including by name or personal identifier from an electronic database.

SAFEGUARDS:

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable DHS automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

RETENTION AND DISPOSAL:

Official Records in this system (Passenger Name Records (PNR); Importer Security Filings (10+2 documentation); results of Cargo Enforcement Exams; the combination of license plate, Department of Motor Vehicle registration data, and biographical data associated with a border crossing; law enforcement and/or intelligence data, reports, and projects developed by CBP analysts that may include public source information and/or classified information; and information obtained through memoranda of understanding or other arrangements because the information is relevant to the border security mission of the Department will be retained and disposed of in accordance with a records schedule approved by the National Archives and Records Administration on April 12, 2008. ATS collects information directly, ingests information from various systems, and accesses other systems without ingesting the data. To the extent information is ingested from other systems, data is retained in ATS in accordance with the record retention requirements of those systems, or the retention period for ATS, whichever is shortest.

The retention period for the official records maintained in ATS will not exceed fifteen years, after which time the records will be deleted, except as noted below. The retention period for PNR will be subject to the following further access restrictions: ATS users with PNR access will have access to PNR in an active database for up to five years, during which time the PNR will be depersonalized following the first six months retention. After this initial five-year retention, the PNR data will be transferred to a dormant database for a period of up to ten years. PNR data in dormant status will be subject to additional controls including the requirement of obtaining access approval from a senior DHS official designated by the Secretary of Homeland Security. Furthermore, PNR in the dormant database may only be repersonalized in connection with a law enforcement operation and only in response to an identifiable case, threat, or risk. Such limited access and use for older PNR strikes a reasonable balance between protecting this information and allowing CBP to continue to identify potential high-risk travelers. Notwithstanding the foregoing, information maintained only in ATS that is linked to active law enforcement lookout records, CBP matches to enforcement activities, and/or investigations or cases (*i.e.,* specific and credible threats; flights, individuals, and routes of concern; or other defined sets of circumstances) will remain accessible for the life of the law enforcement matter to support that activity and other enforcement activities that may become related.

The justification for a fifteen-year retention period for the official records is based on CBP's law enforcement and security functions at the border. This retention period is based on CBP's

historical encounters with suspected terrorists and other criminals, as well as the broader expertise of the law enforcement and intelligence communities. It is well known, for example, that potential terrorists may make multiple visits to the United States in advance of performing an attack. It is over the course of time and multiple visits that a potential risk becomes clear. Travel records, including historical records, are essential in assisting CBP Officers with their risk-based assessment of travel indicators and identifying potential links between known and previously unidentified terrorist facilitators. Analyzing these records for these purposes allows CBP to continue to effectively identify suspect travel patterns and irregularities.

SYSTEM MANAGER AND ADDRESS:

Executive Director, Automation and Targeting Division, Office of Intelligence and Investigative Liaison, U.S. Customs and Border Protection, and Director, Targeting and Analysis, Systems Program Office, Office of Information and Technology, U.S. Customs and Border Protection, both of whom are located at 1300 Pennsylvania Avenue NW., Washington, DC 20229.

NOTIFICATION PROCEDURE:

The Secretary of Homeland Security has exempted this system from the notification, access, amendment, and certain accounting procedures of the Privacy Act because it is a law enforcement system. These exemptions also apply to the extent that information in this system of records is recompiled or is created from information contained in other systems of records with appropriate exemptions in place. To the extent that a record is exempted in a source system, the exemption will continue to apply. Despite the exemptions taken on this system of records, CBP and DHS are not exempting the following records from the access and amendment provisions of the Privacy Act: passenger name records (PNR) collected by CBP pursuant to its statutory authority, 49 U.S.C. 44909, as implemented by 19 CFR 122.49d; Importer Security Filing (10+2 documentation) information; and any records that were ingested by ATS where the source system of records already provides access and/or amendment under the Privacy Act. Individuals seeking notification of and access to records contained in this system of records, or seeking to contest its content, may submit a request in writing to the Headquarters or CBP FOIA Officer, whose contact information can be found at *http://www.dhs.gov/foi*a under ''contacts.'' If an individual believes more than one component maintains Privacy Act records concerning him or her the individual may submit the request to the Chief Privacy Officer, Department of Homeland Security, 245 Murray Drive SW., Building 410, STOP–0655, Washington, DC 20528.

When seeking records about yourself from this system of records or any other Departmental system of records your request must conform with the Privacy Act regulations set forth in 6 CFR Part 5. You must first verify your identity, meaning that you must provide your full name, current address and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose from the Director, Disclosure and FOIA, *http://www.dhs.gov* or 1–866–431–0486. In addition you should provide the following:

- An explanation of why you believe the Department would have information on you,
- Identify which component(s) of the Department you believe may have the information about you,
- Specify when you believe the records would have been created,
- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records, and
- If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without this bulleted information the component(s) may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above.

RECORD SOURCE CATEGORIES:

Records are ingested from other DHS and federal systems, and from foreign governments (in accordance with the terms of international agreements and arrangements), including but not limited to ACE, ACS, AES, APIS, BCI, CEAC (including Forms DS–160 and DS–260), ENFORCE, ESTA, GES, NIIS, NSEERS, SEACATS, SEVIS, TECS, TSDB–WLS, Social Security Administration's Death Master File, and WebIDENT, Additionally, PNR is obtained from travel reservation systems of commercial carriers. Information from Importer Security Filings is received from importers and ocean carriers. Records are accessed from BPETS, CCD, eGIS, NCIC, and Nlets. Also, the results of queries in the FBI's Interstate Identification Index (III), the National Insurance Crime Bureau's (NICB's) private database of stolen vehicles, and commercial data aggregators are stored in ATS. Lastly, records are also developed from analysis created by users as a result of their use of the system.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to 6 CFR Part 5, Appendix C, certain records and information in this system are exempt from 5 U.S.C. 552a(c)(3) and (4); (d)(1), (2), (3), and (4); (e)(1), (2), (3), (4)(G) through (I), (e)(5), and (8); (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Additionally, the Secretary of Homeland Security has exempted this system from the following provisions of the Privacy Act, pursuant to 5 U.S.C. 552a (k)(1) and (k)(2): 5 U.S.C. 552a(c)(3); (d)(1), (d)(2), (d)(3), and (d)(4); (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I); and (f).

Despite the exemptions taken on this system of records, CBP and DHS are not exempting the following records from the access and amendment provisions of the Privacy Act: passenger name records (PNR) collected by CBP pursuant to its statutory authority, 49 U.S.C. 44909, as implemented by 19 CFR 122.49d; Importer Security Filing (10+2 documentation) information; and any records that were ingested by ATS where the source system of records already provides access and/or amendment under the Privacy Act. A traveler may obtain access to his or her PNR, but records concerning the targeting rules, the responses to rules, case events, law enforcement and/or intelligence data, reports, and projects developed by CBP analysts that may include public source information and/or classified information, information obtained through memoranda of understanding or other arrangements because the information is relevant to the border security mission of the Department, or records exempted from access by the system from which ATS

ingested or accessed the information will not be accessible to the individual.

Mary Ellen Callahan,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2012–12396 Filed 5–21–12; 8:45 am]

BILLING CODE 9110–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2012–0456]

Merchant Marine Personnel Advisory Committee: Intercessional Meeting

AGENCY: Coast Guard, DHS.

ACTION: Notice of Federal Advisory Committee Working Group Meeting.

SUMMARY: A working group of the Merchant Marine Personnel Advisory Committee (MERPAC) will meet to discuss Task Statement 76, ''Review of Performance Measures (Assessment Criteria);'' and Task Statement 77, ''Development of Performance Measures (Assessment Criteria).'' This meeting will be open to the public.

DATES: The working group will meet from June 11th through June 15th, 2012, from 8 a.m. until 5 p.m. each day. Please note that the meeting may adjourn before June 15th if all business is finished. Written comments to be distributed to working group members and placed on MERPAC's Web site are due by June 5th, 2012.

ADDRESSES: The working group will meet at the Seafarers Harry Lundeberg School of Seamanship, 45353 Saint Georges Ave., Piney Point, MD 20674.

For information on facilities or services for individuals with disabilities or to request special assistance, contact Mr. Howard Thompson at telephone number 301–994–0010 ext. 5463 as soon as possible.

To facilitate public participation, we are inviting public comment on the issues to be considered by the working group, which are listed in the ''Agenda'' section below. Written comments must be identified by Docket No. USCG–2012–0456 and may be submitted by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments (preferred method to avoid delays in processing).
- *Fax:* 202–372–1918.
- *Mail:* Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. The telephone number is 202–366–9329.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov.* including any personal information provided. You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Docket: For access to the docket to read documents or comments related to this notice, go to *http://www.regulations.gov.*

This notice may be viewed in our online docket, USCG–2012–0456, at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Rogers Henderson, Alternate Designated Federal Officer (ADFO), telephone 202–372–1408. If you have any questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act (FACA), 5 U.S.C. App. (Pub. L. 92–463).

MERPAC is an advisory committee established under the Secretary's authority in section 871 of the Homeland Security Act of 2002, Title 6, United States Code, section 451, and chartered under the provisions of the FACA. The Committee acts solely in an advisory capacity to the Secretary of the Department of Homeland Security (DHS) through the Commandant of the Coast Guard and the Director of Commercial Regulations and Standards on matters relating to personnel in the U.S. merchant marine, including but not limited to training, qualifications, certification, documentation, and fitness standards. The Committee will advise, consult with, and make recommendations reflecting its independent judgment to the Secretary.

Agenda

June 11–15, 2012

The agenda for the June 11th–June 15th, 2012 working group meeting is as follows:

(1) Discuss, prepare, and review proposed recommendations for the full committee to consider concerning Task Statement 76, ''Review of Performance Measures (Assessment Criteria),'' and Task Statement 77, ''Development of Performance Measures (Assessment Criteria).'' Task Statements 76 and 77 can be used to assess mariner competencies listed in the International Convention on Standards of Training, Certification and Watchkeeping, 1978 as amended. The working group will specifically address performance measures (assessment criteria) for mariners seeking an endorsement as: Officer in Charge of a Navigational Watch and Master on ships of less than 500 Gross Tonnage as measured under the International Tonnage Convention (ITC) while engaged on near-coastal voyages; Able Seafarer—Deck; Chief Engineer Officer and Second Engineer Officer on ships powered by main propulsion machinery of 3,000 kW propulsion power or more; Chief Engineer Officer and Second Engineer Officer on ships powered by main propulsion machinery of between 750 kW and 3,000 kW propulsion power; Able Seafarer—Engine; Electro-Technical Officer; and Electro-Technical Rating;

(2) Public comment period (each day); and

(3) Adjournment of meeting.

Procedural: A copy of all meeting documentation is available at *http://www.fido.gov/facadatabase* or by contacting Rogers Henderson as indicated above. Once you have accessed the site's main page, click on ''Public Access;'' at the next page highlight ''2012'' then click ''Explore Data.'' At the next page, click on ''Department of Homeland Security.'' Click on the MERPAC Committee page, click on the meetings tab and then the ''View'' button for the meeting dated June 11, 2012 to access the information for this meeting. Minutes will be available 90 days after this meeting. Both minutes and documents applicable for this meeting can also be found at an alternative site using the following web address: *https://homeport.uscg.mil* and use these key strokes: Missions; Port and Waterways; Safety Advisory Committees; MERPAC; and then use the event key. A public oral comment period will be held each day during the working group meeting. Speakers are requested to limit their comments to 3 minutes. Please note that the public oral comment period may end before the prescribed ending time of the meeting. Contact Rogers Henderson as indicated above to register as a speaker.

Dated: May 15, 2012.

F.J. Sturm,

Acting Director of Commercial Regulations and Standards.

[FR Doc. 2012–12314 Filed 5–21–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2012–0020; OMB No. 1660–0009]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; The Declaration Process: Requests for Damage Assessment, Federal Disaster Assistance, Appeals, Cost Share Adjustment

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice; correction.

On May 15, 2012, the Federal Emergency Management Agency (FEMA) published a notice in the **Federal Register** at 77 FR 28615 notifying the public that it was submitting a request for review and approval of a collection of information under the emergency processing procedures in Office of Management and Budget (OMB) regulation 5 CFR 1320.13.

In that notice, FEMA stated that it was requesting that the information collection be approved by June 1, 2012. The correct date is actually June 14, 2012.

Dated: May 15, 2012.

Louis William Cortesio,

Acting Director, Records Management Division, Office of the Chief Administrative Office, Mission Support Bureau, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2012–12299 Filed 5–21–12; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5607–N–17]

Notice of Proposed Information Collection; Comment Request Housing Counseling Program

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* July 23, 2012.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, Room 9120 or the number for the Federal Information Relay Service (1–800–877–8339).

FOR FURTHER INFORMATION CONTACT: Brian Siebenlist, Deputy Director, Office of Single Family Program Support Division, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 402–5415 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Housing Counseling Program.

OMB Control Number, if applicable: 2502–0261.

Description of the need for the information and proposed use: Nonprofit Housing Counseling organizations submit information to HUD through Grants.gov when applying for grant funds to provide housing counseling assistance to eligible homebuyers to find and purchase affordable housing; Housing Counseling organizations also assist eligible homeowners to avoid foreclosures; The Housing Counseling organizations also use grant funds to assist renters to avoid evictions; help the homeless find temporary or permanent shelter; report fair housing and discrimination. HUD uses the information collected to evaluate applicants competitively and then select qualified organizations to receive funding that supplement their housing counseling program. Post-award collection, such as quarterly reports, will allow HUD to evaluate grantees' performance. This collection of information includes renewal of various HUD forms, including the HUD–9900 which is the Housing Counseling Approval Application, and form HUD–9902, Housing Counseling Agency Activity Report. Additionally, it covers the collection of client level activities, client financial leverage data, and agency profile information.

Agency form numbers, if applicable: SF–424, SF–424Supp, SF–424CB, SF–LLL, HUD–27300, HUD–2880, HUD–2990, HUD–2991, HUD–2994, HUD–96010, HUD–9902.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated total number of hours needed to prepare the information collection is 36,320; the number of respondents is 12,450 generating approximately 39,980 annual responses; the frequency of response is on occasion or quarterly; and the estimated time needed to prepare the response is approximately 49 hours.

Status of the proposed information collection: This is extension of currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: May 17, 2012.

Ronald Y. Spraker,

Acting General Deputy Assistant Secretary for Housing-Acting General Deputy Federal Housing Commissioner.

[FR Doc. 2012–12391 Filed 5–21–12; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5607–N–16]

Notice of Proposed Information Collection: Comment Request; Request for Acceptance of Changes in Approved Drawings and Specifications

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* July 23, 2012.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, Room 9120 or the number for the Federal Information Relay Service (1–800–877–8339).

FOR FURTHER INFORMATION CONTACT: Karin Hill Program Contact, Director, Office of Single Family Program Development, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708–2121 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Changes in Approved Drawings and Specifications.

OMB Control Number, if applicable: 2502–0117.

Description of the need for the information and proposed use: Builders who request changes to HUD's accepted drawings and specifications for proposed construction properties as required by homebuyers or determined by the builder use the information collection. The lender reviews the changes and amends the approved exhibits. These changes ma affect the value shown on the DUD commitment. HUD requires the builder to use form HUD -92577 to request changes for proposed substantial rehabilitation construction properties (203k program properties). HUD's collection of this information is for the purpose of ascertaining that HUD does not insure a mortgage on property that poses a risk to health or safety of the occupant.

Agency form numbers, if applicable: HUD—92577.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The number of burden hours is 3,957. The number of respondents is 7,500, the number of responses is 1, the frequency of response is on occasion, and the burden hour per response is .50.

Status of the proposed information collection: This is an extension of a currently approved collection

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: May 17, 2012.

Ronald Y. Spraker,

Acting General Deputy Assistant Secretary for Housing-Acting General Deputy Federal Housing Commissioner.

[FR Doc. 2012–12392 Filed 5–21–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5609–N–05]

Notice of Proposed Information Collection for Public Comment: Hispanic Serving Institutions Assisting Communities (HSIAC) Program

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comment Due Date:* July 23, 2012.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Madlyn Wohlman-Rodriguez, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street SW., Room 8228, Washington, DC 20410–6000.

FOR FURTHER INFORMATION CONTACT: Madlyn Wohlman-Rodriguez, 202–402–5939 (this is not a toll-free number), for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department of Housing and Urban Development will submit the proposed extension of information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. This Notice also lists the following information:

Title of Proposal: Hispanic Serving Institutions Assisting Communities Program.

OMB Control Number: 2528–0198.

Description of the Need for the Information and Proposed Use: The information is being collected to monitor performance of grantees to ensure they meet statutory and program goals and requirements.

Agency Form Numbers: SF–425, HUD–40077, and HUD–96010.

Members of the Affected Public: Nonprofit Hispanic-Serving Institutions

that meet the definition of an HSI established in Title V of the 1998 Amendments to the Higher Education Act of 1965 (Pub. L. 105–244; enacted October 7, 1998).

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: Information pursuant to grant award will be submitted once a year. The following chart details the respondent burden on an annual and semi-annual basis:

	Number of respondents	Total annual responses	Hours per response	Total hours
Semi-Annual Reports	15	2	6	180
Final Reports	15	1	8	120
Recordkeeping	15	1	*5*	*75*
Total			19	375

Status of the proposed information collection: Pending OMB approval.

Authority: Title 12, United States Code, Section 1701z.

Dated: May 16, 2012.

Raphael W. Bostic,

Assistant Secretary for Policy Development and Research.

[FR Doc. 2012–12393 Filed 5–21–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5640–N–01]

Notice of HUD–Held Multifamily and Healthcare Loan Sale (MHLS 2012–2)

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of sale of mortgage loans.

SUMMARY: This notice announces HUD's intention to sell certain unsubsidized multifamily and healthcare mortgage loans, without Federal Housing Administration (FHA) insurance, in a competitive, sealed bid sale (MHLS 2012–2). This notice also describes generally the bidding process for the sale and certain persons who are ineligible to bid.

DATES: The Bidder's Information Package (BIP) was made available to qualified bidders on May 9, 2012. There will be two offerings in this sale, held on two separate dates. Bids for the loans must be submitted on the respective bid dates, which are currently scheduled for June 6, 2012, and July 19, 2012. HUD anticipates that awards will be made on or before June 7, 2012, for the first bid date, and on or before July 20, 2012, for the second bid date. Closings are expected to take place between June 18 and June 27, 2012, for the first bid date, and between July 30 and August 6, 2012, for the second bid date.

ADDRESSES: To become a qualified bidder and receive the BIP, prospective bidders must complete, execute, and submit a Confidentiality Agreement and a Qualification Statement acceptable to HUD. Both documents will be available on the HUD Web site at *www.hud.gov/fhaloansales.* Please mail and fax executed documents to KEMA Advisors: KEMA Advisors, c/o The Debt Exchange, 133 Federal Street, 10th Floor, Boston, MA 02111, Attention: MLS 2012–2 Sale Coordinator, Fax: 1–978–967–8607.

FOR FURTHER INFORMATION CONTACT: John Lucey, Deputy Director, Asset Sales Office, Room 3136, U.S. Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410–8000; telephone 202–708–2625, extension 3927. Hearing- or speech-impaired individuals may call 202–708–4594 (TTY). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: HUD announces its intention to sell in MHLS 2012–2 certain unsubsidized mortgage loans (Mortgage Loans) secured by multifamily and healthcare properties located throughout the United States. The Mortgage Loans are comprised of non-performing mortgage loans. A final listing of the Mortgage Loans will be included in the BIP. The Mortgage Loans will be sold without FHA insurance and with servicing released. HUD will offer qualified bidders an opportunity to bid competitively on the Mortgage Loans.

The Mortgage Loans may be stratified for bidding purposes into several mortgage loan pools. Each pool may contain Mortgage Loans that generally have similar performance, property type, geographic location, lien position and other characteristics. Qualified bidders may submit bids on one or more pools of Mortgage Loans or may bid on individual loans. A mortgagor who is a qualified bidder may submit an individual bid on its own Mortgage Loan. Interested Mortgagors should review the Qualification Statement to determine whether they may also be eligible to qualify to submit bids on one or more pools of Mortgage Loans or on individual loans in MHLS 2012–2.

There will be one Mortgage Loan Pool, Pool #202, consisting of a hospital note, for which bids may only be submitted by non-profit entities, Indian tribes, and Tribal organizations.

The Bidding Process

The BIP will describe in detail the procedure for bidding in MHLS 2012–2. The BIP will also include a standardized non-negotiable loan sale agreement (Loan Sale Agreement).

As part of its bid, each bidder must submit a deposit equal to the greater of $100,000 or 10% of the bid price. In the event that the bidder's aggregate bid is less than $100,000, the minimum deposit shall be not less than fifty percent (50%) of the bidder's aggregate bid. HUD will evaluate the bids submitted and determine the successful bids in its sole and absolute discretion. If a bidder is successful, the bidder's deposit will be non-refundable and will be applied toward the purchase price. Deposits will be returned to unsuccessful bidders. Closings are scheduled to occur between June 18 and June 22, 2012, for the first bid date and between July 31 and August 6, 2012, for the second bid date.

These are the essential terms of sale. The Loan Sale Agreement, which will be included in the BIP, will contain additional terms and details. To ensure a competitive bidding process, the terms of the bidding process and the Loan Sale Agreement are not subject to negotiation.

Due Diligence Review

The BIP will describe the due diligence process for reviewing loan files in MHLS 2012–2. Qualified bidders will be able to access loan information remotely via a high-speed Internet connection. Further information on performing due diligence review of the Mortgage Loans will be provided in the BIP.

Mortgage Loan Sale Policy

HUD reserves the right to add Mortgage Loans to, or delete Mortgage Loans from, MHLS 2012–2 at any time prior to the Award Date. HUD also reserves the right to reject any and all bids, in whole or in part, without prejudice to HUD's right to include any Mortgage Loans in a later sale. Mortgage Loans will not be withdrawn after the Award Date except as is specifically provided in the Loan Sale Agreement.

This is a sale of unsubsidized mortgage loans, pursuant to Section 204(a) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act of 1997, 12 U.S.C. 1715z–11a(a).

Mortgage Loan Sale Procedure

HUD selected a competitive sale as the method to sell the Mortgage Loans. This method of sale optimizes HUD's return on the sale of these Mortgage Loans, affords the greatest opportunity for all qualified bidders to bid on the Mortgage Loans, and provides the quickest and most efficient vehicle for HUD to dispose of the Mortgage Loans.

Bidder Eligibility

In order to bid in the sale, a prospective bidder must complete, execute and submit both a Confidentiality Agreement and a Qualification Statement acceptable to HUD. The following individuals and entities are ineligible to bid on any of the Mortgage Loans included in MHLS 2012–2:

(1) Any employee of HUD, a member of such employee's household, or an entity owned or controlled by any such employee or member of such an employee's household;

(2) Any individual or entity that is debarred, suspended, or excluded from doing business with HUD pursuant to Title 24 of the Code of Federal Regulations, Part 24, and Title 2 of the Code of Federal Regulations, Part 24;

(3) Any contractor, subcontractor and/or consultant or advisor (including any agent, employee, partner, director, principal or affiliate of any of the foregoing) who performed services for, or on behalf of, HUD in connection with MHLS 2012–2;

(4) Any individual who was a principal, partner, director, agent or employee of any entity or individual described in subparagraph 3 above, at any time during which the entity or individual performed services for or on behalf of HUD in connection with MHLS 2012–2;

(5) Any individual or entity that uses the services, directly or indirectly, of any person or entity ineligible under subparagraphs 1 through 4 above to assist in preparing any of its bids on the Mortgage Loans;

(6) Any individual or entity which employs or uses the services of an employee of HUD (other than in such employee's official capacity) who is involved in MHLS 2012–2;

(7) Any affiliate, principal or employee of any person or entity that, within the two-year period prior to June 1, 2012, serviced any of the Mortgage Loans or performed other services for or on behalf of HUD;

(8) Any contractor or subcontractor to HUD that otherwise had access to information concerning the Mortgage Loans on behalf of HUD or provided services to any person or entity which, within the two-year period prior to June 1, 2012, had access to information with respect to the Mortgage Loans on behalf of HUD;

(9) Any employee, officer, director or any other person that provides or will provide services to the potential bidder with respect to such Mortgage Loans during any warranty period established for the Loan Sale, that (a) serviced any of the Mortgage Loans or performed other services for or on behalf of HUD or (b) within the two-year period prior to June 1, 2012, provided services to any person or entity which serviced, performed services or otherwise had access to information with respect to the Mortgage Loans for or on behalf of HUD;

(10) Any mortgagor or operator that failed to submit to HUD on or before May 30, 2012, audited financial statements for fiscal years 2008 through 2011 (for such time as the project has been in operation or the prospective bidder served as operator, if less than three (3) years) for a project securing a Mortgage Loan;

(11) Any individual or entity and any Related Party (as such term is defined in the Qualification Statement) of such individual or entity that is a mortgagor in any of HUD's multifamily and/or healthcare housing programs and that is in default under such mortgage loan or is in violation of any regulatory or business agreements with HUD, unless such default or violation is cured on or before May 30, 2012;

(12) Additionally, in MHLS 2012–2, only non-profit entities, Indian tribes, and Tribal organizations may qualify to bid on Pool # 202.

Prospective bidders should carefully review the Qualification Statement to determine whether they are eligible to submit bids on the Mortgage Loans in MHLS 2012–2.

Freedom of Information Act Requests

HUD reserves the right, in its sole and absolute discretion, to disclose information regarding MHLS 2012–2, including, but not limited to, the identity of any successful bidder and its bid price or bid percentage for any pool of loans or individual loan, upon the closing of the sale of all the Mortgage Loans. Even if HUD elects not to publicly disclose any information relating to MHLS 2012–2, HUD will have the right to disclose any information that HUD is obligated to disclose pursuant to the Freedom of Information Act and all regulations promulgated thereunder.

Scope of Notice

This notice applies to MHLS 2012–2 and does not establish HUD's policy for the sale of other mortgage loans.

Dated: May 16, 2012.

Carol J. Galante,

Acting Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 2012–12389 Filed 5–21–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Proposed Renewal of Information Collection: Alternatives Process in Hydropower Licensing

AGENCY: Office of the Secretary, Office of Environmental Policy and Compliance, Interior.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Environmental Policy and Compliance, Office of the Secretary, Department of the Interior announces the proposed extension of a public information collection and seeks public comments on the provisions thereof.

DATES: Consideration will be given to all comments received by July 23, 2012.

ADDRESSES: Send your written comments to Shawn Alam, Office of Environmental Policy and Compliance, U.S. Department of the Interior, 1849 C Street NW., MS 2462–MIB, Washington, DC 20240, fax 202–208–6970, or by electronic mail to *Shawn_Alam@ios.doi.gov*. Please mention that your comments concern the Alternatives Process in Hydropower Licensing, OMB Control Number 1094–0001.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information

collection request, any explanatory information and related forms, contact Shawn Alam, Office of Environmental Policy and Compliance, U.S. Department of the Interior, 1849 C Street NW., MS 2462–MIB, Washington, DC 20240, phone 202–208–5465, fax 202–208–6970, or by electronic mail to *Shawn_Alam@ios.doi.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

This notice is for renewal of information collection.

The Office of Management and Budget (OMB) regulations at 5 CFR part 1320, which implement the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.,* require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8 (d)).

On November 14, 2005, the Departments of Agriculture, the Interior, and Commerce published regulations at 7 CFR part 1, 43 CFR part 45, and 50 CFR part 221 to implement section 241 of the Energy Policy Act of 2005 (EPAct), Public Law 109–58, which the President signed into law on August 8, 2005. Section 241 of the EPAct adds a new section 33 to the Federal Power Act (FPA), 16 U.S.C. 823d, that allows the license applicant or any other party to the license proceeding to propose an alternative to a condition or prescription that one or more of the Departments develop for inclusion in a hydropower license issued by the Federal Energy Regulatory Commission (FERC) under the FPA. This provision requires that the Departments of Agriculture, the Interior, and Commerce collect the information covered by 1094–0001.

Under FPA section 33, the Secretary of the Department involved must accept the proposed alternative if the Secretary determines, based on substantial evidence provided by a party to the license proceeding or otherwise available to the Secretary, (a) that the alternative condition provides for the adequate protection and utilization of the reservation, or that the alternative prescription will be no less protective than the fishway initially proposed by the Secretary, and (b) that the alternative will either cost significantly less to implement or result in improved operation of the project works for electricity production.

In order to make this determination, the regulations require that all of the following information be collected: (1) A description of the alternative, in an equivalent level of detail to the Department's preliminary condition or prescription; (2) an explanation of how the alternative: (i) if a condition, will provide for the adequate protection and utilization of the reservation; or (ii) if a prescription, will be no less protective than the fishway prescribed by the bureau; (3) an explanation of how the alternative, as compared to the preliminary condition or prescription, will: (i) Cost significantly less to implement; or (ii) result in improved operation of the project works for electricity production; (4) an explanation of how the alternative or revised alternative will affect: (i) Energy supply, distribution, cost, and use; (ii) flood control; (iii) navigation; (iv) water supply; (v) air quality; and (vi) other aspects of environmental quality; and (5) specific citations to any scientific studies, literature, and other documented information relied on to support the proposal.

This notice of proposed renewal of an existing information collection is being published by the Office of Environmental Policy and Compliance, Department of the Interior, on behalf of all three Departments and the data provided below covers anticipated responses (alternative conditions/prescriptions and associated information) for all three Departments.

II. Data

(1) *Title:* 7 CFR Part 1; 43 CFR Part 45; 50 CFR Part 221; the Alternatives Process in Hydropower Licensing.

OMB Control Number: 1094–0001.

Current Expiration Date: September 30, 2012.

Type of Review: Information Collection Renewal.

Affected Entities: Business or for-profit entities.

Estimated annual number of respondents: 5.

Frequency of responses: Once per alternative proposed.

(2) *Annual reporting and recordkeeping burden:*

Total annual reporting per response: 500 hours.

Total number of estimated responses: 5.

Total annual reporting: 2,500 hours.

(3) *Description of the need and use of the information:* The purpose of this information collection is to provide an opportunity for license parties to propose an alternative condition or prescription to that proposed by the Federal Government for inclusion in the hydropower licensing process.

III. Request for Comments

The Departments invite comments on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agencies, including whether the information will have practical utility;

(b) The accuracy of the agencies' estimate of the burden of the collection of information and the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of information on respondents, including through the use of appropriate automated, electronic, mechanical, or other collection techniques or other forms of information technology.

''Burden'' means the total time, effort, and financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install, and use technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, and to complete and review the collection of information; and to transmit or otherwise disclose the information.

All written comments, with names and addresses, will be available for public inspection. If you wish us to withhold your personal information, you must prominently state at the beginning of your comment what personal information you want us to withhold. We will honor your request to the extent allowable by law. If you wish to view any comments received, you may do so by scheduling an appointment with the Office of Environmental Policy and Compliance by calling (202) 208–3891. A valid picture identification is required for entry into the Department of the Interior.

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.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget control number.

Dated: May 16, 2012.

Mary Josie Blanchard,

Deputy Director, Office of Environmental Policy and Compliance.

[FR Doc. 2012–12413 Filed 5–21–12; 8:45 am]

BILLING CODE 4310–79–P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Docket ID BSEE–2012–0009; OMB Control Number 1014–0005]

Information Collection Activities: Relief or Reduction in Royalty Rates; Proposed Collection; Comment Request

ACTION: 60-day Notice.

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), BSEE is inviting comments on a collection of information that we will submit to the Office of Management and Budget (OMB) for review and approval. The information collection request (ICR) concerns a renewal to the paperwork requirements in the regulations under 30 CFR 203, Relief or Reduction in Royalty Rates.

DATES: You must submit comments by July 23, 2012.

ADDRESSES: You may submit comments by either of the following methods listed below.

- Electronically: go to *http://www.regulations.gov.* In the entry titled ''Enter Keyword or ID,'' enter BSEE–2012–0009 then click search. Follow the instructions to submit public comments and view all related materials. We will post all comments.
- Email *nicole.mason@bsee.gov.* Mail or hand-carry comments to the Department of the Interior; Bureau of Safety and Environmental Enforcement; Regulations Development Branch; Attention: Nicole Mason; 381 Elden Street, HE–3313; Herndon, Virginia 20170–4817. Please reference ICR 1014–0005 in your comment and include your name and return address.

FOR FURTHER INFORMATION CONTACT: Nicole Mason, Regulations Development Branch at (703) 787–1605 to request additional information about this ICR.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR part 203, Relief or Reduction in Royalty Rates.

OMB Control Number: 1014–0005.

Abstract: The Outer Continental Shelf (OCS) Lands Act, as amended by Public Law 104–58, Deep Water Royalty Relief Act (DWRRA), gives the Secretary of the Interior (Secretary) the authority to reduce or eliminate royalty or any net profit share specified in OCS oil and gas leases to promote increased production. The DWRRA also authorized the Secretary to suspend royalties when necessary to promote development or recovery of marginal resources on producing or non-producing leases in the Gulf of Mexico (GOM) west of 87 degrees, 30 minutes West longitude.

Section 302 of the DWRRA provides that new production from a lease in existence on November 28, 1995, in a water depth of at least 200 meters, and in the GOM west of 87 degrees, 30 minutes West longitude qualifies for royalty suspension in certain situations. To grant a royalty suspension, the Secretary must determine that the new production or development would not be economic in the absence of royalty relief. The Secretary must then determine the volume of production on which no royalty would be due in order to make the new production from the lease economically viable. This determination is be done on a case-by-case basis. Production from leases in the same water depth and area issued after November 28, 2000, also can qualify for royalty suspension in addition to any that may be included in their lease terms.

In addition, the Independent Offices Appropriations Act (31 U.S.C. 9701), the Omnibus Appropriations Bill (Pub. L. 104–133, 110 Stat. 1321, April 26, 1996), and OMB Circular A–25, authorize Federal agencies to recover the full cost of services that confer special benefits. Under the Department of the Interior's (DOI) implementing policy, BSEE is required to charge fees for services that provide special benefits or privileges to an identifiable non-Federal recipient above and beyond those which accrue to the public at large.

Regulations at 30 CFR part 203 implement these statutes and policy and require respondents to pay a fee to request royalty relief. Section 30 CFR 203.3 states that, ''We will specify the necessary fees for each of the types of royalty-relief applications and possible BSEE audits in a Notice to Lessees. We will periodically update the fees to reflect changes in costs as well as provide other information necessary to administer royalty relief.''

BSEE uses the information to make decisions on the economic viability of leases requesting a suspension or elimination of royalty or net profit share. These decisions have enormous monetary impacts to both the lessee and the Federal Government. Royalty relief can lead to increased production of natural gas and oil, creating profits for lessees and royalty and tax revenues for the government that they might not otherwise receive. We could not make an informed decision without the collection of information required by 30 CFR part 203.

We will protect information from respondents considered proprietary under the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR 2) and under regulations at 30 CFR 203.63, *Does my application have to include all leases in the field,* and 30 CFR 250.197, *Data and information to be made available to the public or for limited inspection.* No items of a sensitive nature are collected. Responses are mandatory or are required to obtain or retain a benefit.

Frequency: On occasion.

Description of Respondents: Potential respondents comprise Federal oil, gas, or sulphur lessees and/or operators.

Estimated Reporting and Recordkeeping Hour Burden: The currently approved annual reporting burden for this collection is 2,635 hours. The following table details the individual components and respective hour burden estimates of this ICR. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

Citation 30 CFR 203 and related NTL(s)	Reporting or recordkeeping requirement	Hour burden
		Application fees
2(b); 3; 4; 70	These sections contain general references to submitting reports, applications, requests, copies, demonstrating qualifications, for BSEE approval burdens covered under specific requirements.	0

Citation 30 CFR 203 and related NTL(s)	Reporting or recordkeeping requirement	Hour burden Application fees
Royalty Relief for Ultra-Deep Gas Wells and Deep Gas Wells on Shallow Water Leases		
31(c)	Request a refund of or recoup royalties from qualified ultra-deep wells..	1
35(d); 44(e)	Request to extend the deadline for beginning production with required supporting documentation.	4
41(d)	Request a refund of or recoup royalties from qualified wells >200 meters but <400 meters.	1
35(a); 44(a); 47(a)	Notify BSEE of intent to begin drilling	1
35(c), (d); 44(b), (d), (e)	Notify BSEE that production has begun, request confirmation of the size of RSV, provide supporting documentation.	2
46	Provide data from well to confirm and attest well drilled was an unsuccessful certified well with supporting documentation and request supplement.	8
49(b)	Notify BSEE or decision to exercise option to replace one set of deep gas royalty suspension terms for another set of such terms. Note: BSEE SOL requires that this reg text stay for legacy purposes only. Last time any respondent could use was 2004; hence, no burden.	0
End of Life and Special Royalty Relief*		
51; 83; 84 NTL	Application—leases that generate earnings that cannot sustain continued production (end-of-life lease); required supporting documentation.	100 Application = $8,000 Audit = $12,500
52	Demonstrate ability to qualify for royalty relief or to re-qualify	1
55	Renounce relief arrangement (end-of-life) (seldom, if ever will be used; minimal burden to prepare letter).	1
80 NTL	Application—apart from formal programs for royalty relief for marginal producing lease (Special Case Relief); required supporting documentation.	250 Application = $8,000** Audit = $12,500
80 NTL	Application—apart from formal programs for royalty relief for marginal expansion project or marginal non-producing lease (Special Case Relief); required supporting documentation.	1,000 Application = $19,500** Audit = $18,750
CPA Report		
81; 83–90	Required reports; extension justification	Burden included with applications. 1 CPA report × $45,000
Deep Water Royalty Relief Act (DWRAA)		
61; 62; 64; 65; 71; 83; 85–89; NTL	Application—preview assessment (seldom if ever will be used as applicants generally opt for binding determination by BSEE instead) and required supporting documentation.	900 Application = $28,500
62; 64; 65; 71; 83; 85–89	Application—leases in designated areas of GOM deep water acquired in lease sale before 11/28/95 or after 11/28/00 and are producing (deep water expansion project); required supporting documentation.	2,000 Application = $19,500
62; 64; 65; 71; 81; 83; 85–89; NTL	Application—leases in designated areas of deep water GOM, acquired in lease sale before 11/28/95 or after 11/28/00 that have not produced (pre-act or post-2000 deep water leases); required supporting documentation.	2,000 Application = $34,000* Audit = $12,500
70; 81; 90; 91	Submit fabricator's confirmation report; extension justification	20
70; 81; 90; 92; NTL	Submit post-production development report; extension justification. # Reserve right to audit (1 audit every 6 years) after production starts to confirm cost estimates of the application.	50 Audit = $18,750
74; 75; NTL	Redetermination and required supporting documentation	500 Application = $16,000*
77	Renounce relief arrangement (deep water) (seldom, if ever will be used; minimal burden to prepare letter).	1
79(a)	Request reconsideration of BSEE field designation This was a regulatory requirement for leases issued prior to 1995.	0
79(c)	Request extension of deadline to start construction	2
83; NTL	Application—short form to add or assign pre-Act lease and required supporting documentation.	40 Application = $1,000
81(d)	Retain supporting cost records for post-production development/fabrication reports (records retained as usual/customary business practice; minimal burden to make available at BSEE request).	8

* CPA certification expense burden also imposed on applicant.
** These applications currently do not have a set fee since they are done on a case-by-case basis.
Note: Applications include numerous items such as: transmittal letters, letters of request, modifications to applications, reapplications, etc.

Estimated Reporting and Recordkeeping Non-Hour Cost Burden: There are non-hour costs associated with this information collection. The currently approved non-hour cost burden is $122,024. This estimate is based on:

(a) Applications and audit fees. The total annual estimated cost burden for these fees is $77,024 (refer to the table).

(b) The cost of report(s) prepared by independent certified public accountants. Under § 203.81, a report prepared by an independent certified public accountant must accompany the application and post-production report (expansion project, short form, and preview assessment applications are excluded). The OCS Lands Act applications will require this report only once; the DWRRA applications will require this report at two stages—with the application and post-production development report for successful applicants. We estimate approximately one report submitted at an average cost of $45,000 per report. We have not identified any other non-hour cost burdens for this collection.

Comments: Before submitting an ICR to OMB, PRA section 3506(c)(2)(A) requires each agency ''* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *''. Agencies must specifically solicit comments to: (a) Evaluate whether the collection is necessary or useful; (b) evaluate the accuracy of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of technology.

Agencies must also estimate the non-hour paperwork cost burdens to respondents or recordkeepers resulting from the collection of information. Therefore, if you have other than hour burden costs to generate, maintain, and disclose this information, you should comment and provide your total capital and startup cost components or annual operation, maintenance, and purchase of service components. For further information on this burden, refer to 5 CFR 1320.3(b)(1) and (2), or contact the Bureau representative listed previously in this notice.

We will summarize written responses to this notice and address them in our submission for OMB approval. As a result of your comments, we will make any necessary adjustments to the burden in our submission to OMB.

Public Comment Procedures: Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment–including your personal identifying information–may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Acting BSEE Information Collection Clearance Officer: Cheryl Blundon (703) 787–1607.

Dated: May 15, 2012.

Robert W. Middleton,

Acting Chief, Office of Offshore Regulatory Programs.

[FR Doc. 2012–12304 Filed 5–21–12; 8:45 am]

BILLING CODE 4310–VH–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R5–R–2012–N062; BAC–4311–K9–S3]

Montezuma National Wildlife Refuge, Cayuga, Seneca, and Wayne Counties, NY; Draft Comprehensive Conservation Plan and Environmental Assessment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a draft comprehensive conservation plan and environmental assessment (draft CCP/EA) for Montezuma National Wildlife Refuge (NWR), located in Cayuga, Seneca, and Wayne Counties, New York, for public review and comment. The draft CCP/EA describes our proposal for managing the refuge for the next 15 years. Also available for public review and comment are: (1) The draft findings of appropriateness and draft compatibility determinations for uses to be allowed upon initial completion of the plan if Service-preferred alternative B is selected, (2) the EA for the refuge's hunt program, and (3) the EA for the refuge's fire program. These are included as appendix B, appendix E, and appendix H, respectively, in the draft CCP/EA.

DATES: To ensure consideration, please send your written comments no later than June 21, 2012. We will announce upcoming public meetings in local news media, via our project mailing list, and on our regional planning Web site: *http://www.fws.gov/northeast/planning/Montezuma/ccphome.html.*

ADDRESSES: You may submit comments or requests for copies or more information by any of the following methods. You may request hard copies or a CD–ROM of the documents.

Email: northeastplanning@fws.gov. Please include ''Montezuma NWR Draft CCP'' in the subject line of the message.

Fax: Attn: Lia McLaughlin, 413–253–8468.

U.S. Mail: Lia McLaughlin, Natural Resource Planner, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, MA 01035.

In-Person Drop-off, Viewing, or Pickup: Call 315–568–5987 to make an appointment (necessary for view/pickup only) during regular business hours at 3395 Route 5/20 East, Seneca Falls, NY 13148–9778. [For more information on locations for viewing or obtaining documents, see ''Public Availability of Documents'' under **SUPPLEMENTARY INFORMATION**.]

FOR FURTHER INFORMATION CONTACT: Tom Jasikoff, Refuge Manager, 315–568–5987 (phone), or Lia McLaughlin, Planning Team Leader, 413–253–8575 (phone); *northeastplanning@fws.gov* (email).

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we continue the CCP process for Montezuma NWR. We started this process through a notice in the **Federal Register** (75 FR 25286; May 7, 2010).

Montezuma NWR was established in 1938 to provide nesting, feeding, and resting habitat for waterfowl and other migratory birds. Situated in Seneca, Wayne, and Cayuga Counties, the refuge currently encompasses 9,184 acres. Refuge habitats include emergent marshes and shallow water mudflats, open water, bottomland floodplain forest, old fields and shrublands, croplands, grassland, and successional forest. The refuge is part of the Montezuma Wetlands Complex, an area identified by the Service, the New York State Department of Environmental Conservation (NYSDEC), and other partners for its role in the conservation of migratory birds, particularly waterfowl. The refuge's public use program provides wildlife-oriented educational and recreational opportunities compatible with refuge management objectives. Public use facilities and programs include several trails, a visitor center, observation towers and platforms, fishing access sites, hunting programs, trapping program, educational programs and materials, guided tours, and other special programs.

Background

The CCP Process

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) (Refuge Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997, requires us to develop a CCP for each national wildlife refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation and photography, and environmental education and interpretation. We will review and update the CCP at least every 15 years in accordance with the Refuge Administration Act.

Public Outreach

We started pre-planning for the Montezuma NWR CCP in February 2010. In April 2010, we distributed our first newsletter and press release announcing our intent to prepare a CCP for the refuge. In May through June 2010, we had a formal public scoping period. The purpose of the public scoping period was to solicit comments from the community and other interested parties on the issues and impacts that should be evaluated in the draft CCP/EA. To help solicit public comments, we held two public meetings at the refuge during the formal public scoping period. Throughout the rest of the planning process, we have conducted additional outreach by participating in community meetings, events, and other public forums, and by requesting public input on managing the refuge and its programs. We received comments on topics such as the potential effects of climate change, improving habitat connectivity, relationship with the community and local economy, refuge facilities and staffing, and public uses of the refuge. We have considered and evaluated all of these comments, with many incorporated into the various alternatives addressed in the draft CCP/EA.

CCP Alternatives We Are Considering

During the public scoping process, we, the NYSDEC, other governmental partners, and the public raised several issues. To address these issues, we developed and evaluated three alternatives in the draft CCP/EA. Here we present a brief summary of each of the alternatives; a full description of each alternative is in the draft CCP/EA.

Alternative A (Current Management)

Alternative A (current management) satisfies the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) requirement of a ''No Action'' alternative, which we define as ''continuing current management.'' It describes our existing management priorities and activities, and serves as a baseline for comparing and contrasting alternatives B and C. It would maintain our present levels of approved refuge staffing and the biological and visitor programs now in place. We would continue to focus on managing impoundments to provide emergent marsh and open water habitats for migrating and nesting wading birds, marshbirds, waterfowl, shorebirds, and other wildlife. We would also continue to actively control invasive species, manage grassland habitats, and improve riparian and other forested habitats. We would continue to provide opportunities for all six priority public uses: hunting, fishing, wildlife observation, photography, environmental education, and interpretation.

Alternative B (Service-Preferred Alternative)

This alternative is the Service-preferred alternative. It combines the actions we believe would most effectively achieve the refuge's purposes, vision, and goals, and respond to the issues raised during the scoping period. Under alternative B, emergent marsh management would remain the focus on the refuge. We would focus efforts on improving existing emergent wetland habitat and restoring additional acres, and re-establishing wetland and riparian forests, where feasible. More upland forest would be promoted through succession or planting native species. Additionally, shrubland acreage would increase, and grassland management would focus on creating larger patches with less edge, resulting in fewer grassland acres overall. Opportunities for visitors to participate in priority public uses would increase. Added trails, viewing areas, and photography blinds would support additional opportunities for wildlife observation and photography. We would develop a formal, curriculum-based environmental education program. Environmental interpretation would be enhanced through updated interpretive displays and associated services. The refuge would be opened to new hunting opportunities, and we would provide more accessible sites. Fishing opportunities would be increased by providing additional access to canal waters for anglers.

Alternative C (Less Active Habitat Management)

Under alternative C, most emergent marsh habitat on the refuge would be allowed to convert to bottomland floodplain forest. Only the Main Pool, Tschache Pool, and visitor center wetland impoundments would be maintained. Newly acquired lands would not be converted to impoundments. Natural succession would play a larger role in shaping vegetative communities on the refuge compared to alternatives A and B. We would allow most upland early successional habitats to revert to forests. Compared to alternative A, opportunities for visitors to participate in priority public uses would increase under this alternative, but not to the extent proposed under alternative B. We would develop a few additional sites to support wildlife observation and photography. Interpretation would be somewhat increased with the expansion of the visitor contact station. Interpretive messages would be changed, reflecting the different focus of refuge management. Hunting opportunities would increase, similar to alternative B; however, waterfowl hunting would remain unchanged. Fishing opportunities would be the same as alternative B.

Public Availability of Documents

In addition to any methods in **ADDRESSES**, you can view or obtain documents at the following locations:

- *Our Web site: http://www.fws.gov/northeast/planning/Montezuma/ccphome.html.*
- *Public Library:* the Seneca Falls Library, located at 47 Cayuga Street, Seneca Falls, NY 13148, during regular library hours.

Submitting Comments/Issues for Comment

We are seeking substantive comments, particularly on the following issues:

- Issue 1—public facilities and public uses;
- Issue 2—habitat restoration efforts; and
- Issue 3—partnership opportunities.

We consider comments substantive if they:

- Question, with reasonable basis, the accuracy of the information in the document;
- Question, with reasonable basis, the adequacy of the EA;
- Present reasonable alternatives other than those presented in the EA; and/or
- Provide new or additional information relevant to the EA.

Next Steps

After this comment period ends, we will analyze the comments and address them in the form of a final CCP and finding of no significant impact.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: April 26, 2012.

Wendi Weber,

Regional Director, Northeast Region.

[FR Doc. 2012–12373 Filed 5–21–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–FHC–2012–N124: FXFR1334088TWG0W4–123–FF08EACT00]

Trinity Adaptive Management Working Group

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The Trinity Adaptive Management Working Group (TAMWG) affords stakeholders the opportunity to give policy, management, and technical input concerning Trinity River (California) restoration efforts to the Trinity Management Council (TMC). The TMC interprets and recommends policy, coordinates and reviews management actions, and provides organizational budget oversight. This notice announces a TAMWG meeting, which is open to the public.

DATES: TAMWG will meet from 9 a.m. to 5 p.m. on Monday, June 11, 2012.

ADDRESSES: The meeting will be held at Johnsons' Steak House, 160 Golf Course Road, Weaverville, CA 96093.

FOR FURTHER INFORMATION CONTACT: *Meeting Information:* Nancy J. Finley, U.S. Fish and Wildlife Service, 1655 Heindon Road, Arcata, CA 95521; telephone: (707) 822–7201. *Trinity River Restoration Program (TRRP) Information:* Robin Schrock, Executive Director, Trinity River Restoration Program, P.O. Box 1300, 1313 South Main Street, Weaverville, CA 96093; telephone: (530) 623–1800; email: *rschrock@usbr.gov.*

SUPPLEMENTARY INFORMATION: Under section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), this notice announces a meeting of the TAMWG. The meeting will include discussion of the following topics:

- Trinity River hatchery,
- Executive Director's report,
- TMC chair report,
- Update from workgroups,
- Update on the 2012 Water Year,
- Bay-Delta Conservation Plan & Delta Flow Criteria,
- BOR process for banking water.

Completion of the agenda is dependent on the amount of time each item takes. The meeting could end early if the agenda has been completed.

Dated: May 16, 2012.

Nancy Finley,

Field Supervisor, Arcata Fish and Wildlife Office, Arcata, CA.

[FR Doc. 2012–12377 Filed 5–21–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF INTERIOR

Bureau of Land Management

[LLCO956000 L14200000.BJ0000]

Notice of Filing of Plats

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plats; Colorado.

SUMMARY: The Bureau of Land Management (BLM) Colorado State Office is publishing this notice to inform the public of the filing of the land survey plats listed below.

DATES: The plats described in this notice were filed on April 13 and 18, 2012.

ADDRESSES: BLM Colorado State Office, Cadastral Survey, 2850 Youngfield Street, Lakewood, Colorado 80215–7093.

FOR FURTHER INFORMATION CONTACT: Randy Bloom, Chief Cadastral Surveyor for Colorado, (303) 239–3856.

SUPPLEMENTARY INFORMATION: The supplemental plat of Section 1, in Township 13 South, Range 92 West, Sixth Principal Meridian, Colorado, was accepted and filed on April 13, 2012.

The supplemental plat of Section 31, in Township 5 North, Range 86 West, Sixth Principal Meridian, Colorado, was accepted and filed on April 18, 2012.

The supplemental plat in Township 5 North, Range 87 West, Sixth Principal Meridian, Colorado, was accepted and filed on April 18, 2012.

Randy Bloom,

Chief Cadastral Surveyor for Colorado.

[FR Doc. 2012–12372 Filed 5–21–12; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLES956000–L19100000–BK0000–LCRMM0M04559]

Eastern States: Filing of Plat of Survey

AGENCY: Bureau of Land Management, Interior

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM–Eastern States office in Springfield, Virginia, 30 calendar days from the date of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management-Eastern States, 7450 Boston Boulevard, Springfield, Virginia 22153. Attn: Cadastral Survey. 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 survey was requested by the Bureau of Indian Affairs.

The lands surveyed are:

Fourth Principal Meridian, Wisconsin

T. 51 N., R. 3 W.

The plat of survey represents the retracement, resurvey, and monumentation of specified lot corners and rights of way intersection points in Blocks 4 and 5 of the Buffalo subdivision, lands held in trust for the Red Cliff Band of Lake Superior Chippewa in Government Lot 3, Section 31, in Township 51 North, Range 3 West, in the State of Wisconsin, and was accepted March 21, 2012.

We will place a copy of the plat we described in the open files. It will be

available to the public as a matter of information.

If BLM receives a protest against the survey, as shown on the plat, prior to the date of the official filing, we will stay the filing pending our consideration of the protest.

We will not officially file the plat until the day after we have accepted or dismissed all protests and they have become final, including decisions on appeals.

Dated: May 11, 2012.

John Sroufe,

Chief Cadastral Surveyor.

[FR Doc. 2012–12357 Filed 5–21–12; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLES003420.L14300000.EU0000; MIES–056498]

Notice of Intent To Amend the 1985 Michigan Resource Management Plan and Associated Environmental Assessment, Marquette County, MI

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, as amended, and the Federal Land Policy and Management Act (FLPMA) of 1976, as amended, the Bureau of Land Management (BLM) Northeastern States Field Office, Milwaukee, Wisconsin, intends to prepare a Resource Management Plan (RMP) amendment with an associated Environmental Assessment (EA) for the State of Michigan. With this notice, the BLM is announcing the beginning of the scoping process to solicit public comments and identify issues for the purpose of amending the RMP to identify the specific parcel of land for disposal through sale and clarify in the EA whether the parcel meets the FLPMA Section 203 sale criteria.

DATES: This notice initiates the public scoping process for the RMP amendment with associated EA. Comments on issues may be submitted in writing until June 21, 2012. The date(s) and location(s) of any scoping meetings will be announced at least 15 days in advance through local news media, newspapers and the BLM Web site at: *http://www.blm.gov/es/st/en.html.* In order to be included in the analysis, all comments must be received prior to the close of the 30-day scoping period or 30 days after the last public meeting, whichever is later. We will provide additional opportunities for public participation as appropriate.

ADDRESSES: You may submit comments on issues and planning criteria related to the 1985 Michigan RMP Amendment by any of the following methods:

- *Web site: http://on.doi.gov/ygRVPY.*
- *Email: cgrundma@blm.gov.*
- *Fax:* (414) 297–4409.
- *Mail:* BLM Northeastern States Field Office, 626 East Wisconsin Avenue, Suite 200, Milwaukee, Wisconsin 53202–4617.

Documents pertinent to this proposal may be examined at the Northeastern States Field Office, 626 East Wisconsin Avenue, Suite 200, Milwaukee, Wisconsin 53202–4617.

FOR FURTHER INFORMATION CONTACT: And/or to have your name added to our mailing list, contact Carol Grundman, Realty Specialist, telephone (414) 297–4447; address BLM Northeastern States Field Office, 626 East Wisconsin Avenue, Suite 200, Milwaukee, Wisconsin 53202–4617; email *cgrundma@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: This document provides notice that the BLM Northeastern States Field Office, Milwaukee, Wisconsin, intends to prepare an RMP amendment with an associated EA for the 1985 Michigan RMP, announces the beginning of the scoping process, and seeks public input on issues and planning criteria. The planning area is located in Marquette County, Michigan, and encompasses approximately 0.82 acres of public land. The purpose of the public scoping process is to determine relevant issues that will influence the scope of the EA, including alternatives, and guide the planning process. Preliminary issues for the plan amendment area have been identified by BLM personnel; Federal, State, and local agencies; and other stakeholders. The issues include: Impact of the proposed amendment on land use values, ownership, and potential development; impact of the proposed amendment on cultural resources, such as archeological sites and historic trails; and impact of the proposed amendment on wildlife. Preliminary planning criteria include: Section 203 of FLPMA sale criteria (43 U.S.C. 1713); and BLM policy interpreting Sections 202 and 203 of FLPMA that require areas available for disposal to be identified by parcel or legal description. You may submit comments on issues and planning criteria in writing to the BLM at any public scoping meeting, or you may submit them to the BLM using one of the methods listed in the **ADDRESSES** section above. To be most helpful, you should submit comments by the close of the 30-day scoping period or within 30 days after the last public meeting, whichever is later.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. The minutes and list of attendees for each scoping meeting will be available to the public and open for 30 days after the meeting to any participant who wishes to clarify the views he or she expressed.

The BLM will use an interdisciplinary approach to develop the plan amendment in order to consider the variety of resource issues and concerns identified. Specialists with expertise in the following disciplines will be involved in the planning process: archaeology, wildlife and fisheries, and lands and realty.

Authority: 40 CFR 1501.7 and 43 CFR 1610.2.

John G. Lyon,

State Director.

[FR Doc. 2012–12228 Filed 5–21–12; 8:45 am]

BILLING CODE 4310–GJ–P

NATIONAL INDIAN GAMING COMMISSION

Protocol for Categorical Exclusions Supplementing the Council on Environmental Quality Regulations Implementing the Procedural Provisions of the National Environmental Policy Act for Certain National Indian Gaming Commission Actions and Activities

AGENCY: The National Indian Gaming Commission.

ACTION: Notice of final action and request for comments.

SUMMARY: The National Indian Gaming Commission (NIGC or ''the Commission'') has established a protocol that provides for categorical exclusions under the National

Environmental Policy Act of 1969 (NEPA), as amended, Executive Order 11514, as amended, and Council on Environmental Quality (CEQ) regulations for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508) for certain NIGC actions.

DATES: Submit comments on or before June 30, 2012. This Protocol is immediately effective upon publication. All comments will be reviewed and considered to determine whether there is a need for potential amendment to the protocol.

ADDRESSES: John R. Hay, Senior Attorney, National Indian Gaming Commission, 1441 L Street NW., Suite 9100, Washington, DC 20005; fax at (202) 632–7066; or by electronic mail at *John_Hay@nigc.gov.*

FOR FURTHER INFORMATION CONTACT: John Hay, Senior Attorney at the National Indian Gaming Commission: 202–632–7003 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

On December 4, 2009, the Commission published a draft NEPA manual in the **Federal Register** (74 FR 63765) and requested comments by January 18, 2010. On March 4, 2010 the comment period was extended to April 15, 2010 (75 FR 3756). The purpose of the manual was to clarify policy and procedures to ensure the integration of environmental considerations into major federal actions of the NIGC that trigger NEPA review. The draft manual identified only one type of major federal action performed under the Indian Gaming Regulatory Act (IGRA) that triggered NEPA review—approving contracts for the management of Indian gaming facilities pursuant to 25 U.S.C. 2711. The draft manual sought to clarify the NEPA-related roles and responsibilities and established a framework for the preparation and consideration of appropriate NEPA documentation.

The draft manual also identified several categories of actions taken by the NIGC that are categorically excluded from further NEPA review. In identifying these categories of actions, the NIGC relied on its past experience, several environmental professionals' opinions and comparisons with other Federal agency actions that are categorically excluded. A copy of the administrative record for the list of categorical exclusions is available at *http://www.nigc.gov/Reading_Room/Environment_Public_Health_Safety/NEPA_Compliance.aspx.*

After considering the comments received, the Commission has decided to establish a protocol that provides for two of the three categories of categorical exemptions contained in the draft manual and to continue to review comments received on the remainder of the manual. Categorical exclusions are actions that do not normally require preparation of an Environmental Assessment (EA) or Environmental Impact Statement (EIS), absent extraordinary circumstances. None of the public comments on the draft manual expressed any concerns or objection to the two categories of categorical exclusions set forth below. The Commission hereby adopts the protocol set forth for determining whether a categorical exclusion applies to particular action as well as the categories of actions the Commission has determined are eligible for categorical exclusions.

Regulatory Matters

Regulatory Flexibility Act

This Protocol will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* Indian tribes are not considered to be small entities for the purposes of the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act of 1996

This Protocol is not a major rule under 5. U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This Protocol does not have an annual effect on the economy of $100 million or more. This rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, state or local government agencies or geographic regions, and does not have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act of 1995

The Commission, as an independent regulatory agency within the Department of the Interior, is exempt from compliance with the Unfunded Mandates Reform Act. 2 U.S.C. 1502(1); 2 U.S.C. 658(1).

Takings

In accordance with Executive Order 12630, the Commission has determined that this Protocol does not have significant takings implications. A takings implication assessment is not required.

Civil Justice Reform

In accordance with Executive Order 12988, the Office of General Counsel has determined that the Protocol does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Executive Order.

National Environmental Policy Act

The Council on Environmental Quality regulations do not direct agencies to prepare a NEPA analysis or document before establishing Agency procedures that supplement the CEQ regulations for implementing NEPA. Agencies are required to adopt NEPA procedures that establish specific criteria for, and identification of, three classes of actions: those that normally require preparation of an environmental impact statement; those that normally require preparation of an environmental assessment; and those that are categorically excluded from further NEPA review (40 CFR 1507.3(b)). Categorical exclusions are one part of those agency procedures, and therefore establishing categorical exclusions does not require preparation of a NEPA analysis or document. Agency NEPA procedures are procedural guidance to assist agencies in the fulfillment of agency responsibilities under NEPA, but are not the agency's final determination of what level of NEPA analysis is required for a particular proposed action. The requirements for establishing agency NEPA procedures are set forth at 40 CFR 1505.1 and 1507.3. The determination that establishing categorical exclusions does not require NEPA analysis and documentation has been upheld in *Heartwood, Inc.* v. *U.S. Forest Service,* 73 F. Supp. 2d 962, 972–73 (S.D. Ill. 1999), *aff'd,* 230 F.3d 947, 954–55 (7th Cir. 2000).

For the reasons set out in the preamble, the National Indian Gaming Commission establishes the following Protocol:

Protocol for Categorical Exclusions (CATEX) of Certain Actions

The use of a CATEX can only be applied to an action if all of the following criteria are met:

1. The responsible NIGC official must determine that the entirety of the NIGC action is encompassed by a listed CATEX.

2. The responsible NIGC official must determine that the action has not been segmented in order for the NIGC action to meet the definition of an action that can qualify for a CATEX. Segmentation occurs when an action is broken into smaller parts in an effort to avoid

properly documenting impacts associated with the complete action. Segmentation also occurs when the NIGC action is too narrowly defined and the potential impacts are minimized in order to avoid a higher level of NEPA documentation. Connected and cumulative actions must be considered (*See* 40 CFR 1508.25).

3. The responsible NIGC official must determine if the NIGC action will involve any extraordinary circumstances that would prevent the use of a categorical exclusion.

Categorical Exclusions

The NIGC, based on past experience with similar actions, has determined that the following types of actions are categorically excluded and do not require the preparation of an EA or EIS because they will not individually or cumulatively result in a significant impact on the human environment. The federal actions listed under Category 1 and 2 below, meet the criteria established in 40 CFR 1508.4.

CATEGORY 1—Administrative and Routine Office Activities:

A. Normal personnel, fiscal, and administrative activities involving personnel (recruiting, hiring, detailing, processing, paying, supervising and records keeping).

B. Preparation of administrative or personnel-related studies, reports, or investigations.

C. Routine procurement of goods and services to support operations and existing infrastructure, including routine utility services and contracts, conducted in accordance with applicable procurement regulations, executive orders, and policies (*e.g.* Executive Order 13101).

D. Normal administrative office functions (record keeping; inspecting, examining, and auditing papers, books, and records; processing correspondence; developing and approving budgets; setting fee payments; responding to request for information).

E. Routine activities and operations conducted on or in an existing structure that are within the scope and compatibility of the present functional use of the building, will not result in a substantial increase in waste discharge to the environment, will not result in substantially different waste discharges from current or previous activities, and will not result in emissions that exceed established permit limits, if any. In these cases, a Record of Environmental Consideration (REC), documentation is required.

F. NIGC training in classrooms, meeting rooms, gaming facilities, or via the Internet.

CATEGORY 2—Regulation, Monitoring and Oversight of Indian Gaming Activities:

A. Promulgation or publication of regulations, procedures, manuals, and guidance documents necessary for NICG's oversight of Indian Gaming Facilities and intra-agency operations at existing facilitates.

B. Support of compliance and enforcement functions by conducting compliance training for tribal gaming regulators and managers in classrooms, meeting rooms, gaming facilities, or via the Internet.

C. Preparing and issuing subpoenas, holding hearings, and taking depositions for informational gathering purposes, not associated with administrative enforcement actions.

Extraordinary Circumstances for Categorical Exclusions

Some types of actions that would normally be categorically excluded may not qualify for a CATEX because an extraordinary circumstance exists (*See* 40 CFR 1508.4). The responsible NIGC official must evaluate each proposed action and use best professional judgment to determine if it meets the CATEX requirements described above and does not have any extraordinary circumstances. If the proposed action has one or more of the following conditions, extraordinary circumstances exist and the action cannot be categorically excluded:

A. There is a reasonable likelihood the proposed action/project will have a significant impact on public health or safety.

B. There is a reasonable likelihood the proposed action/project would involve effects on the environment that involve risks that are highly uncertain, unique, or are scientifically controversial.

C. There is a reasonable likelihood the proposed action/project would violate one or more federal, tribal, state, or local environmental laws/regulations/orders.

D. There is a potential that the proposed action/project will have an adverse effect on a property or structure eligible for listing or listed on the National Register of Historical Places, including degradation of scientific, cultural, or historic resources protected by the National Historic Preservation Act of 1966, as amended, requiring consultation.

E. There is a potential that the proposed action/project will have a significant impact on natural, ecological, or scenic resources of federal, tribal, state and/or local significance. These resources include federal or state listed endangered, threatened, or candidate species or designated or proposed critical habitat under the Endangered Species Act (ESA); resources protected by Costal Zone Management Act (CZMA); resources protected by the Fish and Wildlife Coordination Act; prime, unique, tribal, state or locally important farmlands; and federal or state listed wild or scenic rivers, requiring consultation.

F. There is a reasonable likelihood the proposed action/project will have effects that are highly controversial on environmental grounds.

Categorical Exclusion Documentation

The purpose of categorical exclusions is to reduce paperwork and delay. The NIGC is not required to repeatedly document actions that qualify for a categorical exclusion and do not involve an extraordinary circumstance (*See* 40 CFR 1500.4(p)).

The NIGC will document its decision to treat a particular action as categorically excluded from further NEPA review, when the CATEX applied specifically requires the preparation of a REC. In those cases, a REC will include:

- A complete description of the proposed action/project.
- The CATEX relied upon, including a brief discussion of why there are no extraordinary circumstances.
- Supplemental documentation that supports the conclusions in the narrative. Examples include exhibit(s) showing boundaries of historical or archeological site(s) previously identified near the proposed project, documentation from the U.S. Fish and Wildlife Service noting that no endangered species or habitat is present near the proposed project, evidence that the proposed project site is located outside any non-attainment area(s), etc. In some cases, a ''no effect'' determination from the State Historic Preservation Office or Tribal Historic Preservation Office may be required.
- The following statement: *I certify that, to the best of my knowledge, the information provided is the best available information and is accurate.*
- A signature from an environmental professional with a signature block that includes the professional's credentials.

Dated: May 1, 2012.

Tracie Stevens,

Chairwoman.

Steffani Cochran,

Vice-Chairwoman.

Daniel Little,

Commissioner.

[FR Doc. 2012–12176 Filed 5–21–12; 8:45 am]

BILLING CODE 7565–02–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–CR–10268; 2200–3200–665]

Agency Information Collection Activities: 30-Day Notice of Intention To Request Clearance of Collection of Information; Opportunity for Public Comment

AGENCY: National Park Service, Interior.

ACTION: Notice and request for comments.

SUMMARY: We (National Park Service) will ask the Office of Management and Budget (OMB) to approve the information collection request (ICR) described below. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this ICR which is an extension of a currently approved collection of information (OMB #1024–0018). We 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.

DATES: To ensure that your comments on this ICR are considered, please submit them on or before June 21, 2012.

ADDRESSES: Please submit written comments on this information collection directly to the Office of Management and Budget (OMB) Office of Information and Regulatory Affairs, Attention: Desk Officer for the Department of the Interior via email to *OIRA_DOCKET@omb.eop.gov* or fax at 202–395–5806; and identify your submission as 1024–0018, Nomination of Properties for Listing in the National Register of Historic Places, 36 CFR 60 and 63. Please send a copy your comments to Madonna L. Baucum, Acting Information Collection Clearance Officer, National Park Service, 1849 C Street NW., Mailstop 2605 (Rm. 1242), Washington, DC 20240 (mail); or *madonna_baucum@nps.gov* (email).

FOR FURTHER INFORMATION CONTACT: Lisa Deline, NPS Historian, National Register of Historic Places, 1201 Eye St. NW., 20005. You may send an email to *Lisa_Deline@nps.gov* or contact her by telephone at (202/354–2239) or via fax at (202/371–2229).

I. Abstract

The National Register of Historic Places (National Register) is the official Federal list of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering, and culture. National Register properties have significance to the history of communities, states, or the Nation. The National Historic Preservation Act of 1966 requires the Secretary of the Interior to maintain and expand the National Register, and to establish criteria and guidelines for including properties on the National Register. National Register properties must be considered in the planning for Federal or federally assisted projects, and listing on the National Register is required for eligibility for Federal rehabilitation tax incentives.

The National Park Service administers the National Register. Nominations for listing historic properties come from State Historic Preservation Officers, from Federal Preservation Officers for properties owned or controlled by the United States Government, and from Tribal Historic Preservation Officers for properties on tribal lands. Private individuals and organizations, local governments, and American Indian tribes often initiate this process and prepare the necessary documentation. Regulations at 36 CFR parts 60 and 63 establish the criteria and guidelines for listing properties.

We use three forms for nominating properties and providing documentation for the proposed listings:

- NPS Form 10–900 (National Register of Historic Places Registration Form).
- NPS Form 10–900–a (National Register of Historic Places Continuation Sheet).
- NPS Form 10–900–b (National Register of Historic Places Multiple Property Documentation Form).

These forms and documentation go to the State Historic Preservation Office (SHPO) of the state where the property is located. The SHPO can take one of several options: reject the property, ask for more information, list the property just with the state, or send the forms to us for listing on the National Register. Once we receive the forms, we conduct a similar review process.

Listing on the National Register provides formal recognition of a property's historical, architectural, or archeological significance based on national standards used by every state. The listing places no obligations on private property owners, and there are no restrictions on the use, treatment, transfer, or disposition of private property.

II. Data

OMB Control Number: 1024–0018.

Title: Nomination of Properties for Listing in the National Register of Historic Places, 36 CFR 60 and 63.

Form(s): 10–900, 10–900–a, and 10–900–b.

Type of Request: Extension of a previously approved collection of information.

Description of Respondents: State, tribal, and local governments; and individuals.

Respondent's Obligation: Required to obtain or retain benefits.

Frequency of Collection: On occasion.

	Total annual responses	Avg. time per response (hours)	Total annual burden hours
36 CFR 60 and 63, National Register of Historic Places Registration Form; Continuation Sheet; NR Multiple Property Documentation Form			
Individuals or Households	15	250	3,750
Individual and District Nominations (Forms 10–900 and 10–900–a)			
State, Local, and Tribal Governments	417	100	41,700
Existing Multiple Property Submission (Forms 10–900 and 10–900–a)			
State, Local, and Tribal Governments	18	50	900

	Total annual responses	Avg. time per response (hours)	Total annual burden hours
Newly Proposed MPS Cover Document (Forms 10–900-b and 10–900–a)			
State, Local, and Tribal Governments	15	150	2,250
New Nominations (Forms 10–900 and 10–900–a)			
Individuals or Households	417	150	62,550
Totals:	882		111,150

III. Request for Comments

We invite comments concerning this ICR on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Please note that the comments submitted in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: May 17, 2012.

Robert M. Gordon,

Manager, Washington Administrative Program Center, National Park Service.

[FR Doc. 2012–12371 Filed 5–21–12; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–SER–FOPU–07794; 5017–7187–409]

Draft Environmental Impact Statement for General Management Plan, Fort Pulaski National Monument, GA

AGENCY: National Park Service, Interior.

ACTION: Notice of Availability of the Draft General Management Plan, Wilderness Study, and Environmental Impact Statement.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), the National Park Service (NPS) announces the availability of a Draft Environmental Impact Statement (DEIS) for the General Management Plan (GMP) and Wilderness Study for Fort Pulaski National Monument (monument).

Consistent with NPS laws, regulations, and policies and the purpose of the monument, the DEIS/GMP/Wilderness Study describes three alternatives including the NPS preferred alternative—Alternative B—to guide the management of the monument over the next 15 to 20 years. The preferred alternative incorporates various management prescriptions to ensure protection, access and enjoyment of the monument's resources.

An up-to-date GMP is needed to address how visitors access and use the monument and the facilities needed to support those uses, how resources are managed, and how the NPS manages its operations. Recent studies have enhanced the NPS's understanding of resources, resource threats, and visitor use in the monument.

DATES: The NPS will accept comments from the public on the DEIS/GMP for at least 60 days, starting from the date the Environmental Protection Agency publishes the Notice of Availability and ending 3 to 4 weeks after public meetings conclude. The date, time, and location of the public meetings will be announced through the NPS Planning, Environment, and Public Comment (PEPC) Web site: *http://parkplanning.nps.gov/FOPU* and media outlets.

ADDRESSES: Electronic copies of the draft DEIS/GMP/Wilderness Study will be available online at *http://parkplanning.nps.gov/FOPU.* To request a copy, contact Fort Pulaski National Monument, Superintendent Randy Wester, P.O. Box 30757, Highway 80 East, Savannah, GA 31410–0757. A limited number of compact disks and printed copies of the DEIS/GMP will be made available at Fort Pulaski National Monument headquarters, P.O. Box 30757, Highway 80 East, Savannah, GA 31410–0757.

Comments may be submitted by several methods. The preferred method is commenting via the Internet on the PEPC Web site, *http://parkplanning.nps.gov/FOPU.* An electronic public comment form is provided on this Web site. You may also mail comments to Superintendent, P.O. Box 30757, Highway 80 East, Savannah, GA 31410–0757. Finally, you may hand-deliver comments to the monument. Before including your address, phone number, email address, or other personal identifying information in your comment, please be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. We will always make submissions from organizations or businesses, and from individuals identifying themselves as representatives of or officials of organizations or businesses, available for public inspection in their entirety.

SUPPLEMENTARY INFORMATION: Public meetings, newsletters, and Internet updates have kept the public informed and involved throughout the planning process. The DEIS/GMP/Wilderness study provides a framework for management, use, and development of the monument for the next 15 to 20 years. It presents and analyzes three alternatives: Alternative A (no action) provides a baseline for evaluating changes and impacts of the three action alternatives. Alternative B would focus management on the April 1862 period of significance in terms of the landscape and interpretive programs. This alternative includes landscape restoration and interpretation of the construction village. Alternative B is the NPS Preferred Alternative. The concept for management under alternative C is to manage the monument with a much

broader interpretive mandate than in Alternative B to include a wider range of themes and historic periods as well as natural resource themes. The three alternatives are described in detail in chapter 2 of the draft plan. The key impacts of implementing the three alternatives are detailed in chapter 4 and summarized in chapter 2.

Authority: The authority for publishing this notice is contained in 40 CFR 1506.6.

FOR FURTHER INFORMATION CONTACT: Superintendent Randy Wester, P.O. Box 30757, Highway 80 East, Savannah, GA 31410–0757 or telephone at (912) 786–5787.

The responsible official for this Draft EIS is the Regional Director, NPS Southeast Region, 100 Alabama Street SW., 1924 Building, Atlanta, Georgia 30303.

Dated: May 16, 2012.

Gordon Wissinger,

Acting Regional Director, Southeast Region.

[FR Doc. 2012–12398 Filed 5–21–12; 8:45 am]

BILLING CODE 4310–5L–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–PWR–PWRO–0411–10062: 9082–NOCA–409]

General Management Plan/ Environmental Impact Statement, Ross Lake National Recreation Area, North Cascades National Park Service Complex, Skagit and Whatcom Counties, WA

AGENCY: National Park Service, Interior.

ACTION: Notice of approval of Record of Decision for General Management Plan.

SUMMARY: Pursuant to § 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91–190, as amended) and the regulations promulgated by the Council on Environmental Quality (40 CFR part 1505.2), the Department of the Interior, National Park Service (NPS) has prepared and approved a Record of Decision for the Final Environmental Impact Statement for the new General Management Plan (GMP) for Ross Lake National Recreation Area, part of the North Cascades National Park Service Complex (Complex). The requisite no-action ''wait period'' was initiated December 16, 2011, with the Environmental Protection Agency's **Federal Register** notification of the filing of the Final Environmental Impact Statement (Final EIS).

Decision: As soon as practical the NPS will begin to implement the stewardship strategies, park operations, and visitor service projects identified and analyzed as the Preferred Alternative (Alternative B) described in the Final EIS. The NPS will recommend legislation to change the name of this unit to North Cascades National Recreation Area (NRA). Other plan elements include: (1) Management focus on the NRA as a gateway to millions of acres of wilderness, (2) provision for continued seaplane access with noise abatement procedures, (3) limited expansion of overnight facilities and concessions, and (4) conversion of 3,559 acres of Thunder Creek Potential Wilderness Area to designated wilderness, pursuant to the Washington Park Wilderness Act of 1988. The full range of foreseeable environmental consequences from implementing the proposed actions were assessed, and appropriate mitigation measures identified. In addition, a No Action alternative and two other alternatives were identified and analyzed. Alternative B was determined to be the ''environmentally preferred'' course of action.

Copies: Interested parties desiring to review the Record of Decision may obtain a copy by contacting the Superintendent, North Cascades National Park Service Complex, 810 State Route 20, Sedro-Woolley, WA 98284; or via telephone request at (360) 854–7200.

Dated: May 4, 2012.

Patricia L. Neubacher,

Acting Regional Director, Pacific West Region.

[FR Doc. 2012–12376 Filed 5–21–12; 8:45 am]

BILLING CODE 4312–GX–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–AKR–GAAR–0512–10281; 9924–PYS]

National Park Service Alaska Region's Subsistence Resource Commission

AGENCY: National Park Service, Interior.

ACTION: Notice of open public meeting and teleconference for the National Park Service (NPS) Alaska Region's Subsistence Resource Commission (SRC) program.

SUMMARY: The Gates of the Arctic National Park SRC will meet to develop and continue work on NPS subsistence program recommendations and other related subsistence management issues. The NPS SRC program is authorized under Title VIII, Section 808 of the Alaska National Interest Lands Conservation Act, Public Law 96–487, to operate in accordance with the provisions of the Federal Advisory Committee Act. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

Public Availability of Comments: This teleconference meeting is open to the public and will have time allocated for public testimony. The public is welcome to present written or oral comments to the SRC. This meeting will be recorded and meeting minutes will be available upon request from the park superintendent for public inspection approximately six weeks after the meeting. Before including your address, telephone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Gates of the Arctic National Park SRC Meeting Date and Location: The Gates of the Arctic National Park SRC teleconference meeting will be held on Tuesday, June 19, 2012, from 1 p.m. to 4 p.m. or until business is completed at the Gates of the Arctic National Park and Preserve office, 4175 Geist Road, Fairbanks, AK 99709, telephone (907) 457–5752. Should a quorum not be available on June 19, 2012, alternate teleconference meeting dates have been scheduled for Thursday, June 21, 2012, and Tuesday, June 26, 2012, from 1 p.m. to 4 p.m. If the meeting dates and location are changed, a notice will be published in local newspapers and announced on local radio stations prior to the meeting date. SRC meeting locations and dates may need to be changed based on inclement weather or exceptional circumstances.

Teleconference Meeting Registration: Space for the teleconference meeting is limited, and you are encouraged to register early if you plan to participate via telephone. Teleconference meeting participants should contact Marcy Okada, Subsistence Manager, via email (*Marcy_Okada@nps.gov)* or by telephone at (907) 455–0639 between June 11–18, 2012, to receive a toll-free call-in telephone number and code.

FOR FURTHER INFORMATION CONTACT: Greg Dudgeon, Superintendent or Marcy Okada, Subsistence Manager at (907) 457–5752 or Clarence Summers, Subsistence Manager, NPS Alaska Regional Office, at (907) 644–3603. If you are interested in applying for Gates of the Arctic National Park SRC

membership contact the Superintendent at 4175 Geist Road, Fairbanks, AK 99709, or visit the park Web site at: *http://www.nps.gov/gaar/contacts.htm.*

Proposed SRC Meeting Agenda

The proposed meeting agenda for each meeting includes the following:

1. Call to Order—Confirm Quorum
2. Welcome and Introductions
3. Administrative Announcements
4. Old Business
   a. SRC Hunting Plan Recommendations (HP 10–01)
   b. NPS Subsistence Collections Environmental Assessment Update
5. New Business
6. Public and other Agency Comments
7. Select Time and Location for Next Meeting
8. Adjourn Meeting

Debora R. Cooper,

Associate Regional Director, Resources and Subsistence, Alaska Region.

[FR Doc. 2012–12400 Filed 5–21–12; 8:45 am]

BILLING CODE 4312–HK–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–CONC–0427–10012: 2410–OYC]

Proposed Concession Contract for Yellowstone National Park—Alternative Formula for Calculating Leasehold Surrender Interest

AGENCY: National Park Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: The National Park Service (NPS) invites public comments on a proposed alternative formula for the value of leasehold surrender interest (LSI) to be included in its proposed 20-year concession contract for Yellowstone National Park (YELL077–13). The contract will cover operation of the lodging, food and beverage, retail sales, transportation and other services at the park.

DATES: Public comments will be accepted on or before June 21, 2012.

ADDRESSES: Send comments to Ms. Jo A. Pendry, Chief, Commercial Services Program, National Park Service, 1201 Eye Street NW., 11th Floor, Washington, DC 20005 or via email at *jo_pendry@nps.gov* or via fax at 202/371–2090.

FOR FURTHER INFORMATION CONTACT: Jo A. Pendry, 202/513–7156.

SUPPLEMENTARY INFORMATION: The NPS intends to solicit proposals for the operation of the lodging, food and beverage, retail sales, transportation and other services at Yellowstone National Park in 2012. The new contract is intended to be for a term of 20 years and will include an alternative formula for calculating LSI. In this notice, we are soliciting comments on our use of this alternative formula. While we are not required by law to solicit comments on this alternative formula, we are providing an opportunity for public comment because this is only the third time that we have proposed using an alternative LSI formula.

LSI is the interest in real property improvements that a concessioner provides under an NPS concession contract. Public Law 105–391 of 1998 (the 1998 Act) established the standard LSI valuation formula. The formula is generally as follows:

- The initial construction cost of the related capital improvement;
- Adjusted by the percentage increase or decrease in the Consumer Price Index (CPI);
- Less physical depreciation of the related capital improvement.

The 1998 Act also allows alternative LSI-value formulas for contracts with an LSI value over $10 million. Because the LSI value of the new contract for Yellowstone National Park will exceed $10 million, we are proposing to use an alternative LSI formula. Under our proposed alternative formula, the LSI value of all eligible capital improvements will be depreciated annually, in equal portions, on a 40-year, straight-line basis during the contract's 20-year term.

We Have Made Two Determinations

We have determined, subject to consideration of public comments, that:

- The proposed alternative LSI formula, in comparison to the standard LSI formula, is necessary to provide a fair return to the Government and to foster competition for the new contract by providing a reasonable opportunity for profit to the new concessioner.
- The proposed alternative LSI formula is consistent with the objectives of the 1998 Act, particularly, as discussed below, with respect to the fair return it will provide to the Government and the new concessioner and the enhanced competition it will foster.

The 1998 Act does not require these determinations or this **Federal Register** notice for alternative LSI formulas (such as the one we propose) that are based on annual straight line depreciation of the initial value as provided under 1998 Federal income tax laws and regulations. However, because this is only the third time that we have proposed using an alternative LSI formula, we have made these determinations and are publishing this notice to solicit public comment.

If we adopt the alternative LSI formula, it will apply only to the new contract, YELL077–13. We have made no decision to apply the proposed LSI formula or any other LSI alternative to other future concession contracts. If we consider using an alternative LSI formula for any other contracts, we will ask for public comments if required or appropriate.

First Determination: Fair Return to the Government

We have determined, subject to consideration of public comments, that the proposed alternative LSI formula is necessary to provide a fair return to the Government, as well as helping to provide a fair return to the new concessioner.

We consider that ''fair return'' to the Government includes the requirement of the 1998 Act that we include in concession contracts a franchise fee payable to the Government that is based upon consideration of the probable value to the concessioner of the privileges granted by the contract. However, under the standard LSI formula, the amount of money that we would pay (directly or indirectly) for LSI as of the expiration of the new contract is inevitably speculative as of the time of contract solicitation, contract award, and during the contract term. This is because we and prospective concessioners must estimate in advance the future CPI rate, the amount of depreciation that will occur over the term of the contract, and the cost to cure the depreciation.

Thus, if we use the standard LSI formula to establish the required minimum franchise fee for the new contract, that fee will reflect speculative estimates of CPI and depreciation rates over the term of the contract. Likewise, when a prospective concessioner offers to meet or exceed the minimum franchise fee that we would establish under the standard LSI formula, this business decision relies on speculative estimates of future CPI and depreciation rates. A more dependable LSI value will allow us to better project the long-term cost of the concessioner's investment and to calculate a franchise fee that provides a fair return.

For these reasons, we consider it necessary to include the proposed alternative LSI formula in the new contract in order to provide a fair return to the Government.

Second Determination: Fostering Competition

Elimination of the speculative nature of LSI value by using the proposed LSI formula is also considered necessary to foster competition for the new contract by providing a reasonable opportunity for the concessioner to make a profit under the new contract. This is because prospective concessioners will know with a high degree of certainty (subject only to estimates of the value of any new capital improvements constructed or installed during the term of the contract) how much money they will be paid for initial LSI upon the expiration of the new contract. The proposed LSI formula eliminates speculation regarding CPI and depreciation required under the standard LSI formula. The resulting lower risk and greater certainty in the business opportunity provides the concessioner a reasonable opportunity for profit under the terms of the new contract. It should also encourage businesses to apply for the new contract, thereby fostering competition.

Private firms not familiar with the NPS concession program have indicated that the complexities and uncertainty of the standard LSI formula have deterred them from submitting offers for concessions. We believe that using the proposed alternative LSI formula in the new contract will foster competition by providing interested entities with a reasonable opportunity for profit that, with respect to LSI, is assured, understandable, and more comparable to practices in the private sector.

In addition, the estimated lower LSI payment under the alternative formula (as opposed to a higher estimated value provided by the standard LSI formula) allows us to charge a lower minimum franchise fee. This will ensure the concessioner greater cash flows during the term of the contract, in contrast to the standard LSI formula's higher (and uncertain) LSI payment at the expiration of the contract. Since many prospective concessioners likely will prefer the higher cash flows throughout the contract term under the proposed LSI formula, the alternative formula should foster competition for the new contract.

The proposed LSI formula also will enhance competition for the concession contract that will succeed the new contract. This is because the final value of the contract's LSI should be significantly lower than it would be under the standard LSI formula, thereby lowering the amount of LSI purchase money needed by a prospective new concessioner. This lower entry cost should encourage competitive proposals from prospective concessioners.

The proposed LSI formula should not materially affect the new concessioner's projected rate of return under the new contract. This is because, in developing the new contract's minimum franchise fee, we assessed projected revenues and expenses and used industry standards to estimate a fair return to the new concessioner. This estimate includes the cost of acquiring existing LSI.

The minimum franchise fee in the new contract, thus, reflects the financial consequences of the proposed LSI formula. This means that the estimated fair return to the new concessioner would be approximately the same whether the new contract included the standard LSI formula or the proposed LSI formula (taking into account the time value of money). The proposed LSI formula will not materially change the projected fair return to the new concessioner, but will reduce the speculative nature of LSI value under the standard formula. With respect to the rate of return, the impact of the use of the proposed LSI formula is neutral and not adverse to the requirement of fostering competition.

Elective Franchise Fee Reduction/LSI Buy Down Provision

The NPS also points out that it intends to include an elective franchise fee reduction/LSI buy down provision in the terms of the prospectus for YELL007–13. If the selected offeror elects to accept this provision, it will be included in the new contract. If elected, the provision would (i) reduce the franchise fee otherwise proposed by the successful offeror (which original proposed fee cannot be less than the minimum Franchise Fee set forth in the prospectus) by two and one-half percent (2.5%), and, (ii) apply to the ending LSI value under the terms of the contract an amount equal to the difference between the dollar amounts that would have been produced under the original offered franchise fee and the dollar amounts produced under the reduced franchise fee. For example, if the franchise fee offered by the successful offeror (if it elected this provision) is 7.5% of gross receipts, the franchise fee to be included in the new contract would be 5% of gross receipts (7.5 − 2.5 = 5). Upon the expiration (or earlier termination) of the contract, an amount equal to two and one-half percent (2.5%) of the cumulative gross receipts under the contract will be deducted from the ending LSI value of the LSI Improvements.

NPS believes that an offeror may consider that it would be in its best interest to elect to accept the elective franchise fee reduction/LSI buy down provision because of the significantly higher cash flows the provision would provide the offeror during the term of the new contract.

However, the NPS will not consider the offeror's choice as to whether or not to include this provision in the contract in evaluating its proposal.

Public Availability of Further Information

Complete details and further explanation of the proposed LSI formula will be in the proposed prospectus for the new contract that (is/will be) publically available at *http://www.nps.gov/commercial services.* We will provide notice of the availability of the prospectus in *FedBizOpp.gov.* If consideration of public comments in response to this notice causes us to alter the proposed alternative LSI formula, we will amend the prospectus accordingly (and publish a notice of such amendment in *FedBizOpp.gov*) before the deadline for submission of proposals.

We invite your comments and will consider all comments that we receive by the deadline in the **DATES** section of this notice. Before including your address, phone number, email address, or other identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Peggy O'Dell,

Deputy Director, Operations.

[FR Doc. 2012–12397 Filed 5–21–12; 8:45 am]

BILLING CODE 4312–53–P

DEPARTMENT OF JUSTICE

[OMB Number 1122–0012]

Agency Information Collection Activities; Extension of a Currently Approved Collection; Comments Requested: Semi-Annual Progress Report for Education, Training and Enhanced Services To End Violence Against and Abuse of Women With Disabilities Grant Program

ACTION: 30-Day Notice of Information Collection Under Review.

The Department of Justice, Office on Violence Against Women (OVW) will be submitting the following information collection request to the Office of Management and Budget (OMB) for

review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 77, Number 53, page 16065, on March 19, 2012, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until June 21, 2012. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Semi-Annual Progress Report for Education, Training and Enhanced Services to End Violence Against and Abuse of Women with Disabilities Grant Program (Disability Grant Program).

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: 1122–0012. U.S. Department of Justice, Office on Violence Against Women.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* The affected public includes the approximately 18 grantees of the Disability Grant Program. Grantees include states, units of local government, Indian tribal governments or tribal organizations and non-governmental private organizations. The goal of this program is to build the capacity of such jurisdictions to address such violence against individuals with disabilities through the creation of multi-disciplinary teams. Disability Grant Program recipients will provide training, consultation, and information on domestic violence, dating violence, stalking, and sexual assault against individuals with disabilities and enhance direct services to such individuals.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that it will take the approximately 18 respondents (Disability Program grantees) approximately one hour to complete a semi-annual progress report. The semi-annual progress report is divided into sections that pertain to the different types of activities in which grantees may engage. A Disability Program grantee will only be required to complete the sections of the form that pertain to its own specific activities.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden to complete the data collection forms is 36 hours, that is 18 grantees completing a form twice a year with an estimated completion time for the form being one hour.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, 145 N Street NE., Room 2E–508, Washington, DC 20530.

Jerri Murray,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. 2012–12344 Filed 5–21–12; 8:45 am]

BILLING CODE 4410–FX–P

DEPARTMENT OF JUSTICE

[OMB Number 1122–0008]

Agency Information Collection Activities; Extension of a Currently Approved Collection; Comments Requested: Semi-Annual Progress Report for Enhanced Training and Services To End Violence Against and Abuse of Women Later in Life Program

ACTION: 30-Day Notice of Information Collection Under Review.

The Department of Justice, Office on Violence Against Women (OVW) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 77, Number 77, page 16064 on March 19, 2012.

The purpose of this notice is to allow for an additional 30 days for public comment until June 21, 2012. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated,

electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Semi-Annual Progress Report for Grantees from the Enhanced Training and Services to End Violence Against and Abuse of Women Later in Life Program (Abuse in Later Life Program).

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: 1122–0008. U.S. Department of Justice, Office on Violence Against Women.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* The affected public includes the approximately 18 grantees of the Abuse in Later Life Program. Abuse in Later Life Program grants may be used for training programs to assist law enforcement officers, prosecutors, and relevant officers of Federal, State, tribal, and local courts in recognizing, addressing, investigating, and prosecuting instances of elder abuse, neglect, and exploitation and violence against individuals with disabilities, including domestic violence and sexual assault, against older or disabled individuals. Grantees fund projects that focus on providing training for criminal justice professionals to enhance their ability to address elder abuse, neglect and exploitation in their communities and enhanced services to address these crimes.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that it will take the approximately 18 respondents (Abuse in Later Life Program grantees) approximately one hour to complete a semi-annual progress report. The semi-annual progress report is divided into sections that pertain to the different types of activities in which grantees may engage. An Abuse in Later Life Program grantee will only be required to complete the sections of the form that pertain to its own specific activities.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden to complete the data collection forms is 36 hours, that is 18 grantees completing a form twice a year with an estimated completion time for the form being one hour.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, 145 N Street NE., Room 2E–508, Washington, DC 20530.

Jerri Murray,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. 2012–12343 Filed 5–21–12; 8:45 am]

BILLING CODE 4410–FX–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Two Consent Decrees

Notice is hereby given that on May 15, 2012, two proposed Consent Decrees were lodged with the United States District Court for the Central District of California. Both Consent Decrees were lodged in the case *United States et al.* v. *Seachrome Corp. et al,* Civil Action No. 2:02–cv–4565 ABC (RCx) (C.D. Cal.) (''*Seachrome*'').

In *Seachrome,* the United States of America (''United States''), on behalf of the Administrator of the United States Environmental Protection Agency (''EPA''), and the California Department of Toxic Substances Control (''Department''), filed a complaint pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), 42 U.S.C. § 9607, seeking reimbursement of response costs incurred or to be incurred for response actions taken in connection with the release or threatened release of hazardous substances at the South El Monte Operable Unit of the San Gabriel Valley Area 1 Superfund Site in South El Monte, Los Angeles County, California (the ''South El Monte O.U.'').

Under the first proposed Consent Decree, nine potentially responsible parties (''PRPs'') with respect to the South El Monte O.U. will pay a total of about $4.625 million. The nine PRPs are: Astro Seal, Inc.; EBA, Inc. d/b/a Earl Butler Associates; New Air, Inc.; Pacific Coast Drum Company; Art Weiss, Art Weiss, Inc., and Del Ray Industrial Enterprises, Inc. (''Art Weiss Defendants''); Craneveyor Corp.; M&T, LLC; Mary Brkich; and Quaker Chemical Corp., the first five of which are settling based on an amount commensurate with their limited ability to pay. In exchange for the ability to pay payments, the plaintiffs covenant not to sue the ability to pay settling defendants under Section 106 or 107 of CERCLA with respect to the South El Monte O.U. In exchange for the payments from the other four parties, the plaintiffs covenant not to sue those parties under Section 106 or 107 of CERCLA with respect to past response costs, the interim remedy for volatile organic compounds, or for perchlorate.

Under the second proposed Consent Decree, the settling party, Seachrome Corporation, will pay a total of about $960,000. The settlement amount is based on Seachrome Corporation's limited ability to pay. In exchange for the ability to pay payment, the plaintiffs covenant not to sue Seachrome Corporation under Section 106 or 107 of CERCLA with respect to the South El Monte O.U.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decrees. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either emailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to this case: *United States et al.* v. *Seachrome Corp. et al,* Civil Action No. 2:02–cv–4565 FMC (C.D. Cal.), D.J. Ref. 90–11–2–09121/5.

The proposed Consent Decrees may be examined at the Environmental Protection Agency, Office of Regional Counsel, 75 Hawthorne St., San Francisco, California 94105. During the public comment period, the Consent Decrees may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the proposed Consent Decrees may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or emailing a request to ''Consent Decree Copy'' (*EESCDCopy.ENRD@usdoj.gov*), fax no. (202) 514–0097, phone confirmation no. (202) 514–5271. In requesting a copy from the Consent Decree Library, please enclose a check payable to the ''U.S. Treasury'' or, if by email or fax, forward a check to the Consent Decree Library at the stated address, in the following amounts (25 cents per page reproduction cost): $8.75 for the first proposed Consent Decree (without attachments), which involves nine parties, or $6.75 for the second

proposed Consent Decree (without attachments), which involves one party.

Henry S. Friedman,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2012–12301 Filed 5–21–12; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0074]

Agency Information Collection Activities: Proposed Collection; Comments Requested: List of Responsible Persons

ACTION: 60-Day Notice of Information Collection Under Review.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until July 23, 2012. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Christopher Reeves, Chief, Federal Explosives Licensing Center, at *Christopher.R.Reeves@usdoj.gov* or 244 Needy Road, Martinsburg, WV 25405.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the 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.

Summary of Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* List of Responsible Persons.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: None. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. Other: Business or other-profit.

Need for Collection

All persons holding ATF explosives licenses or permits must report any change in responsible persons or employees authorized to possess explosive materials to ATF. Such report must be submitted within 30 days of the change and must include appropriate identifying information for each responsible person.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 50,000 respondents will take 1 hour to complete the report.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 100,000 annual total burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Two Constitution Square, Room 2E–508, 145 N Street NE., Washington, DC 20530.

Jerri Murray,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2012–12345 Filed 5–21–12; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0080]

Agency Information Collection Activities: Proposed Collection; Comments Requested: Notification of Change of Mailing or Premise Address

ACTION: 60-Day Notice of Information Collection Under Review.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until July 23, 2012. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Christopher Reeves, Chief, Federal Explosives Licensing Center at *Christopher.R.Reeves @usdoj.gov* or 244 Needy Road, Martinsburg, WV 25405.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the 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.

Summary of Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Notification of Change of Mailing or Premise Address.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: None. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Not-for-profit-institutions. Other: Business or other for-profit.

Need for Collection

Licensees and permittees whose mailing address will change must notify the Chief, Federal Explosives Licensing Center, at least 10 days before the change. The information is used by ATF to identify correct locations of storage of explosives licensees/permittees and location of storage of explosive materials for purposes of inspection, as well as to notify permittee/licensees of any change in regulations or laws that may affect their business activities.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 1,000 respondents will take 10 minutes to respond via letter to the Federal Explosives Licensing Center.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 170 annual total burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Two Constitution Square, Room 2E–508, 145 N Street NE., Washington, DC 20530.

Jerri Murray,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2012–12346 Filed 5–21–12; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice Of Registration; Mylan Pharmaceuticals, Inc.

By Notice dated February 23, 2012, and published in the **Federal Register** on March 1, 2012, 77 FR 12620, Mylan Pharmaceuticals, Inc., 781 Chestnut Ridge Road, Morgantown, West Virginia 26505, made application by letter to the Drug Enforcement Administration (DEA) to be registered as an importer of the following basic classes of controlled substances:

Drug	Schedule
Amphetamine (1100)	II
Methadone (9250)	II
Morphine (9300)	II

The company plans to import the listed controlled substances in finished dosage form (FDF) from foreign sources for analytical testing and clinical trials in which the foreign FDF will be compared to the company's own domestically-manufactured FDF. This analysis is required to allow the company to export domestically-manufactured FDF to foreign markets.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a), and determined that the registration of Mylan Pharmaceuticals, Inc. to import the basic classes of controlled substances is consistent with the public interest, and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. DEA has investigated Mylan Pharmaceuticals, Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history.

Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic classes of controlled substances listed.

Dated: May 15, 2012.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2012–12382 Filed 5–21–12; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application; Lin Zhi International Inc.

Pursuant to § 1301.33(a), Title 21 of the Code of Federal Regulations (CFR), this is notice that on April 19, 2012, Lin Zhi International Inc., 670 Almanor Avenue, Sunnyvale, California 94085, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
3,4–Methylenedioxymethamphetamine (7405).	I
Cocaine (9041)	II
Oxycodone (9143)	II
Hydrocodone (9193)	II
Methadone (9250)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II

The company plans to manufacture the listed controlled substances as bulk reagents for use in drug abuse testing.

Any other such applicant, and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such written comments or objections should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than July 23, 2012.

Dated: May 15, 2012.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2012–12326 Filed 5–21–12; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice Of Application; Research Triangle Institute

Pursuant to § 1301.33(a), Title 21 of the Code of Federal Regulations (CFR), this is notice that on April 12, 2012, Research Triangle Institute, Hermann Building, East Institute Drive, P.O. Box 12194, Research Triangle, North Carolina 27709, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Drug	Schedule
Marihuana (7360)	I
Cocaine (9041)	II

The Institute will manufacture marihuana, and cocaine derivatives for use by their customers in analytical kits, reagents, and reference standards as directed by the National Institute on Drug Abuse.

Any other such applicant, and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such written comments or objections should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than July 23, 2012.

Dated: May 15, 2012.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2012–12381 Filed 5–21–12; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances, Notice of Application, Alltech Associates, Inc.

Pursuant to § 1301.33(a), Title 21 of the Code of Federal Regulations (CFR), this is notice that on April 19, 2012, Alltech Associates Inc., 2051 Waukegan Road, Deerfield, Illinois 60015, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Drug	Schedule
Methcathinone (1237)	I
N-Ethylamphetamine (1475)	I
N,N-Dimethylamphetamine (1480)	I
4-Methylaminorex (cis isomer) (1590).	I
Alpha-ethyltryptamine (7249)	I
Lysergic acid diethylamide (7315)	I
2,5-Dimethoxy-4-(n)-propylthiophenethylamine (7348).	I
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
4-Bromo-2,5-dimethoxy-amphetamine (7391).	I
4-Bromo-2,5-dimethoxyphenethylamine (7392).	I
4-Methyl-2,5-dimethoxy-amphetamine (7395).	I
2,5-Dimethoxyamphetamine (7396).	I
2,5-Dimethoxy-4-ethylamphetamine (7399).	I
3,4-Methylenedioxyamphetamine (7400).	I
N-Hydroxy-3,4-methylenedioxyamphetamine (7402).	I
3,4-Methylenedioxy-N-ethylamphetamine (7404).	I
3,4-Methylenedioxymethamphetamine (7405).	I
4-Methoxyamphetamine (7411)	I
Alpha-methyltryptamine (7432)	I
Bufotenine (7433)	I
Diethyltryptamine (7434)	I
Dimethyltryptamine (7435)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
5-Methoxy-N,N-diisopropyltryptamine (7439).	I
N-Ethyl-1-phenylcyclohexylamine (7455).	I
1-(1-Phenylcyclohexyl)pyrrolidine (7458).	I
1-[1-(2-Thienyl)-cyclohexyl]piperidine (7470).	I
Dihydromorphine (9145)	I
Heroin (9200)	I
Normorphine (9313)	I
Methamphetamine (1105)	II
1-phenylcyclohexylamine (7460) II	II
Phencyclidine (7471).	
Phenylacetone (8501)	II
1-piperidinocyclohexanecarbonitrile (8603).	II
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120) VII.	
Ecgonine (9180)	II
Meperidine intermediate-B (9233)	II
Noroxymorphone (9668) VII.	

The company plans to manufacture high purity drug standards used for analytical applications only in clinical, toxicological, and forensic laboratories.

Any other such applicant, and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such written comments or objections should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than July 23, 2012.

Dated: May 15, 2012.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2012–12379 Filed 5–21–12; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Approval of Information Collection Requirements; Comment Request

AGENCY: Office of Federal Contract Compliance Programs, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA). 44 U.S.C. 3506(c)(2)(A). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Office of Federal Contract Compliance Programs is soliciting comments on its

proposal to implement standard procedures for supply and service contractors seeking approval to develop affirmative action programs based on functional or business units. A copy of this information collection request (ICR), with applicable supporting documentation; including among other things a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or by contacting the office listed below in the addresses section of this Notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before July 23, 2012.

ADDRESSES: You may submit comments, identified by Control Number 1250–XXXX, by either one of the following methods:

Electronic comments: through the Federal eRulemaking portal at *http://www.regulations.gov.* Follow the instructions for submitting comments.

Mail, Hand Delivery, Courier: Debra A. Carr, Director, Division of Policy, Planning and Program Development, Office of Federal Contract Compliance Programs, 200 Constitution Avenue NW., Room C–3325, Washington, DC 20210. Telephone: (202) 693–0103 (voice) or (202) 693–1337 (TTY).

Instructions: Please submit one copy of your comments using only one of the methods listed above. All submissions must include the name of the agency and the Control Number for this information collection, as identified above. Because we continue to experience delays in receiving mail in the Washington, DC area, commenters are strongly encouraged to transmit their comments electronically via the regulations.gov Web site or to submit them by mail early. Comments, including any personal information provided, become a matter of public record and will be posted to the regulations.gov Web site. They will also be summarized or included in the request for Office of Management and Budget approval of the information collection request.

FOR FURTHER INFORMATION CONTACT: Debra A. Carr, Director, Division of Policy, Planning and Program Development, Office of Federal Contract Compliance Programs, Room C–3325, 200 Constitution Avenue NW., Washington, DC 20210. Telephone: (202) 693–0103 (voice) or (202) 693–1337 (TTY) (these are not toll-free numbers). Copies of this notice may be obtained in alternative formats (Large Print, Braille, Audio Tape or Disc), upon request, by calling (202) 693–0103 (not a toll-free number). TTY/TDD callers may call (202) 693–1337 (not a toll-free number) to obtain information or request materials in alternative formats.

SUPPLEMENTARY INFORMATION:

I. Background

The Office of Federal Contract Compliance Programs (OFCCP) administers three nondiscrimination and equal employment opportunity laws. These authorities prohibit employment discrimination and require affirmative action to ensure that equal employment opportunities are available regardless of race, sex, color, national origin, religion, or status as a qualified individual with a disability or protected veteran by Federal contractors.

- Executive Order 11246, as amended (EO 11246);
- Section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 793; and
- The affirmative action provisions of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 4212.

For purpose of this clearance, the regulations implementing Executive Order 11246 permit Federal supply and service contractors to develop affirmative action programs (AAPs) that are based on business function or business unit rather than AAPs based on establishments.[1] Functional affirmative action programs (FAAPs) are designed to provide contractors with the option of creating AAPs that better fit their business needs. To develop and implement a FAAP, Federal contractors must receive written approval from the Director[2] of OFCCP. On March 21, 2002, OFCCP issued guidance outlining procedures for approving contractors' requests to use functional AAPs.[3] Subsequently, on June 14, 2011, OFCCP issued new guidance and established standard procedures for FAAP approvals.[4] This Information Collection Request (ICR) addresses the collection of information associated with the process for obtaining, modifying, updating, and renewing an agreement that allows contractors to develop and use functional AAPs.

A separate ICR, approved by the Office of Management and Budget (OMB) under OMB number 1250–0003, addresses developing establishment-based AAPs and scheduling compliance evaluations for supply and service contractors with establishment-based AAPs.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the compliance and enforcement 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 submissions of responses.

III. Current Actions

The Department of Labor seeks the approval of this new ICR so that it can enforce the anti-discrimination and affirmative action provisions of the legal authorities it administers.

Type of Review: Notice.

Agency: Office of Federal Contract Compliance Programs.

Title: Agreement Approval Process for Use of Functional Affirmative Action Programs.

OMB Number: 1250–XXXX.

Agency Number: None.

Affected Public: Business or other for-profit, Not-for-profit institutions.

Total Respondents: 121.

Total Annual Responses: 121.

Average Time per Response (approximation due to rounding): 20 hours.

Estimated Total Burden Hours (approximation due to rounding): 2,179.

Frequency: On occasion.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $81,816.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

[1] 41 CFR 60–2.1(d)(4)

[2] The ''Director'' was formerly known as the Deputy Assistant Secretary.

[3] OFCCP ADM Notice: Functional Affirmative Action Programs (FAAP), Transmittal Number 254.

[4] Directive 296, Functional Affirmative Action Programs, issued in June 14, 2011, rescinds Directive 254.

Dated: May 14, 2012.

Debra A. Carr,

Director, Division of Policy, Planning and Program Development, Office of Federal Contract Compliance Programs.

[FR Doc. 2012–12191 Filed 5–21–12; 8:45 am]

BILLING CODE 4510–45–P

DEPARTMENT OF LABOR

Office of the Secretary

Dominican Republic-Central America-United States Free Trade Agreement; Notice of Determination Regarding Review of Submission #2012–01

AGENCY: Bureau of International Labor Affairs, U.S. Department of Labor.

ACTION: Notice.

SUMMARY: The Office of Trade and Labor Affairs (OTLA) gives notice that on May 14, 2012, Submission #2012–01 regarding Honduras was accepted for review pursuant to Article 16.4.3 of the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA–DR).

On March 26, 2012, the AFL–CIO and 27 Honduran civil society and worker organizations provided a formal submission to OTLA alleging violations of the Labor Chapter (Chapter 16) of the CAFTA–DR stemming from the Government of Honduras' (GOH's) actions or failure to act. The submission alleges that the GOH's actions or lack thereof denied workers at factories in the apparel and auto parts manufacturing sectors, plantations in the agricultural sector, and enterprises at the Port of Cortez their rights under Honduran labor law relating to freedom of association, the right to organize, the right to bargain collectively, child labor, and acceptable conditions of work. The submitters also allege the GOH is in violation of the CAFTA–DR due to recently passed legislation which weakens workers rights and on-going deficiencies in its laws and legal system.

The objective of the review of the submission will be to gather information so that OTLA can better understand the allegations therein and publicly report on the U.S. Government's views regarding whether the GOH's actions were consistent with its obligations under the Labor Chapter of the CAFTA–DR.

DATES: *Effective Date:* May 14, 2012.

FOR FURTHER INFORMATION CONTACT: Gregory Schoepfle, Director, OTLA, U.S. Department of Labor, 200 Constitution Avenue NW., Room S–5303, Washington, DC 20210. Telephone: (202) 693–4900. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Article 16.4.3 of the Labor Chapter of the CAFTA–DR establishes that each Party's contact point shall provide for the submission, receipt, and consideration of public communications (''submissions'') on matters related to provisions of the Labor Chapter and shall review those submissions in accordance with domestic procedures. A **Federal Register** notice issued on December 21, 2006 informed the public that the OTLA had been designated as the office to serve as the contact point for implementing the CAFTA–DR's labor provisions. The same **Federal Register** notice informed the public of the Procedural Guidelines that OTLA would follow for the receipt and review of public submissions (71 FR 76691 (2006)). These Procedural Guidelines are available at *http://www.dol.gov/ilab/programs/otla/procedural guidelines.htm*. According to the definitions contained in the Procedural Guidelines (Section B) a ''submission'' is a communication from the public containing specific allegations, accompanied by relevant supporting information, that another Party has failed to meet its commitments or obligations arising under a labor chapter of a U.S. free trade agreement.

The Procedural Guidelines specify that OTLA shall consider six factors, to the extent that they are relevant, in determining whether to accept a submission for review:

1. Whether the submission raises issues relevant to any matter arising under a labor chapter;
2. Whether a review would further the objectives of a labor chapter;
3. Whether the submission clearly identifies the person filing the submission, is signed and dated, and is sufficiently specific to determine the nature of the request and permit an appropriate review;
4. Whether the statements contained in the submission, if substantiated, would constitute a failure of the other Party to comply with its obligations or commitments under a labor chapter;
5. Whether the statements contained in the submission or available information demonstrate that appropriate relief has been sought under the domestic laws of the other Party, or that the matter or a related matter is pending before an international body; and
6. Whether the submission is substantially similar to a recent submission and significant, new information has been furnished that would substantially differentiate the submission from the one previously filed.

U.S. Submission #2012–01 alleges that the GOH's actions or lack thereof denied workers their rights under the laws of Honduras, citing specific instances allegedly demonstrating: An inability or unwillingness to find and remedy labor violations, failure of labor inspectors to use all means provided for under the Labor Code to gain access to facilities for inspections or to serve notice of union establishment and protections, improper or questionable practices of Ministry of Labor and Social Security (STSS) employees in the enforcement of labor laws, failure of STSS officials to grant union recognition or verify mandated corrections of violations uncovered by an inspection in the legally established timeframe, government mediation that failed to afford workers benefits meeting the standards established in the Labor Code, and lengthy proceedings that effectively served to deny workers their labor rights.

In determining whether to accept the submission, OTLA considered the relevant factors in light of the statements in the submission and its supporting documentation. The submission clearly identifies the submitter, is signed and dated, and is sufficiently specific to determine the nature of the request and permit an appropriate review. It also raises issues relevant to the Labor Chapter of the CAFTA–DR, citing numerous problems in the apparel and auto parts manufacturing, agriculture, and port sectors that the submitters believe are in violation of Honduras' labor laws. The submission raises pertinent issues that could further the objectives of the Labor Chapter and that could, if substantiated, constitute a failure of the GOH to comply with its obligations under the Labor Chapter. The submitters provided information on several specific cases of alleged labor violations and included a list of articles of the Labor Code, the Constitution of Honduras, and ILO Conventions that they believe were violated by the allegations in the submission. The submitters provided information on efforts to seek appropriate relief for these alleged violations under domestic laws and to raise the issues with GOH officials. The submission also notes that the issues in the submission have not been remedied to date. OTLA has not received similar submissions related to Honduras. Accordingly, OTLA has accepted the submission for review.

OTLA's decision to accept the submission for review is not intended to

indicate any determination as to the validity or accuracy of the allegations contained in the submission. The objective of the review of the submission will be to gather information so that OTLA can better understand the allegations therein and publicly report on the issues raised by the submission. OTLA will complete the review and issue a public report to the Secretary of Labor within 180 days, unless circumstances, as determined by OTLA, require an extension of time, as set out in the Procedural Guidelines. The public report will include a summary of the review process, as well as any findings and recommendations.

Signed at Washington, DC, on May 14, 2012.

Carol Pier,

Acting Deputy Undersecretary for International Affairs.

[FR Doc. 2012–12406 Filed 5–21–12; 8:45 am]

BILLING CODE 4510–28–P

DEPARTMENT OF LABOR

Advisory Committee on Veterans' Employment, Training and Employer Outreach (ACVETEO): Meeting

AGENCY: Veterans' Employment and Training Service, Labor.

ACTION: Notice of open meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Advisory Committee on Veterans' Employment, Training and Employer Outreach (ACVETEO). The ACVETEO will discuss Department of Labor's Veterans' Employment and Training Services' (VETS) core programs and new initiatives regarding efforts that assist Veterans seeking employment and raise employer awareness as to the advantages of hiring Veterans. There will be an opportunity for persons or organizations to address the committee. Any individual or organization that wishes to do so should contact Mr. Gregory Green (202) 693–4734. Time constraints may limit the number of outside participants/presentations.

Individuals who will need accommodations for a disability in order to attend the meeting (i.e., interpreting services, assistive listening devices, and/or materials in alternative format) should notify the Advisory Committee no later than Monday, June 11, 2012 by contacting Mr. Gregory Green (202) 693–4734. Requests made after this date will be reviewed, but availability of the requested accommodations cannot be guaranteed. The meeting site is accessible to individuals with disabilities. This notice also describes the functions of the Advisory Committee. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public.

DATES: *Date and Time:* Monday, June 18, 2012, beginning at 9:30 a.m. and ending at approximately 4:30 p.m. (E.S.T.).

ADDRESSES: Department of Labor 200 Constitution Ave. NW., Room S4215A&B, Washington, DC 20210. ID is required to enter the building.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory Green, Special Assistant to the Designated Federal Official, Advisory Committee on Veterans' Employment, Training and Employer Outreach. (202) 693–4734.

SUPPLEMENTARY INFORMATION: ACVETEO is a Congressionally mandated Advisory Committee authorized under Title 38, U.S. Code, Section 4110 and subject to the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, as amended.

The ACVETEO is responsible for: assessing employment and training needs of Veterans; determining the extent to which the programs and activities of the U.S. Department of Labor meet these needs; assisting to conduct outreach to employers seeking to hire Veterans; making recommendations to the Secretary, through the Assistant Secretary of Labor for Veterans' Employment and Training, with respect to outreach activities and employment and training needs of Veterans; and carrying out such other activities necessary to make required reports and recommendations. The ACVETEO meets at least quarterly.

Signed in Washington, DC, this 17th day of May, 2012.

John K. Moran,

Deputy Assistant Secretary, Veterans' Employment and Training Service.

[FR Doc. 2012–12403 Filed 5–21–12; 8:45 am]

BILLING CODE 4510–79–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act; Notice of Agency Meeting

TIME AND DATE: 10:00 a.m., Thursday, May 24, 2012.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street (All visitors must use Diagonal Road Entrance), Alexandria, VA 22314–3428.

STATUS: Open.

Matters To Be Considered

1. NCUA's Rules and Regulations, Reg Flex Relief.
2. Final Interpretive Ruling and Policy Statement (IRPS)—12–1, Supervisory Review Committee.
3. NCUA's Rules and Regulations, Troubled Debt Restructuring.
4. Quarterly Insurance Fund Report.

RECESS: 11 a.m.

TIME AND DATE: 11:15 a.m., Thursday, May 24, 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 (3). Closed pursuant to exemptions (8), (9)(i)(B) and 9(ii).
2. Appeal under Section 701.14 and Part 747, Subpart J of NCUA's Rules and Regulations. Closed pursuant to Exemptions (6) and (8).

FOR FURTHER INFORMATION CONTACT: Mary Rupp, Secretary of the Board, Telephone: 703–518–6304.

Mary Rupp,

Board Secretary.

[FR Doc. 2012–12404 Filed 5–18–12; 11:15 am]

BILLING CODE 7535–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Intent To Seek Approval To Establish an Information Collection for the NSF Graduate Research Fellowship Program

AGENCY: National Science Foundation.

ACTION: Notice and Request for Comments.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request clearance of this collection. In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), we are providing opportunity for public comment on this action plan for information collection.

DATES: Written comments on this notice must be received by July 23, 2012 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

For Additional Information or Comments: Contact Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230; telephone (703) 292–7556; or send email to *splimpto@nsf.gov.* Individuals who use

a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays). You also may obtain a copy of the data collection instrument and instructions from Ms. Plimpton.

SUPPLEMENTARY INFORMATION:

Title of Collection: Grantee Reporting Requirements for the Graduate Research Fellowship Program.

OMB Number: 3145–NEW.

Expiration Date of Approval: Not applicable.

Type of Request: Intent to seek approval to establish an information collection.

Abstract

Proposed Project: The purpose of the NSF Graduate Research Fellowship Program is to help ensure the vitality and diversity of the scientific and engineering workforce in the United States. The program recognizes and supports outstanding graduate students who are pursuing research-based master's and doctoral degrees in fields within NSF's mission. The GRFP provides three years of support, to be used during a five-year fellowship period, for the graduate education of individuals who have demonstrated their potential for significant achievements in science and engineering research.

The Graduate Research Fellowship Program uses several sources of information in assessing and documenting program performance and impact. These sources include reports from program evaluation, the GRFP Committee of Visitors, and data compiled from the applications. In addition, GRFP Fellows submit annual activity reports to NSF.

The GRFP Completion report is proposed as a new component of the annual reporting submitted by each GRFP institution to NSF. The Completion Report and the existing Program Expense Report will comprise the GRFP Annual Report. GRFP institutions will certify the current status of all GRFP Fellows at the institution. The current status will be reported as either In Progress, Graduated, Transferred, or Withdrawn. For Graduate Fellows with Graduated status, the graduation date is a required reporting element. Collection of this information will allow the program to obtain information on the current status of Fellows, the number and/or percentage of Graduate Fellowship recipients who complete a science or engineering graduate degree, and an estimate of time to degree completion. The report must be certified and submitted by the institution's designated Financial Official (FO) annually.

Use of the Information: The completion report data will provide the GRFP with accurate Fellow information regarding their completion of their graduate programs. The data will be used by NSF in its assessment of the impact of its investments in the GRFP, and will inform its program management.

Estimate of Burden: Overall average time will be 15 minutes per Fellow (6886 Fellows) for a total of 1722 hours for all institutions with Fellows. An estimate for institutions with 12 or fewer Fellows will be 1 hour, institutions with 12–48 fellows will be 4 hours, and institutions over 48 Fellows will be 10 hours.

Respondents: Academic institutions with GRFP Fellows.

Estimated Number of Responses per Report: One from each of the 228 current GRFP institutions.

Comments: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance and function of the National Science Foundation, including whether the information shall be useful; (b) the accuracy of NSF's estimate of the burden of the proposed collection of information; (c) ways to enhance the utility and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; (d) ways to minimize the burden of the collection of information on those who are to respond and (e) the usefulness of the data to institutions.

Dated: May 16, 2012.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2012–12283 Filed 5–21–12; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

TIME AND DATE: 9:30 a.m., Tuesday, June 5, 2012.

PLACE: NTSB Conference Center, 429 L'Enfant Plaza East SW., Washington, DC 20594.

STATUS: The two items are open to the public.

Matters To Be Considered

8308A—Highway Accident Report: Motorcoach Run-Off-the-Road and Collision with Vertical Highway Signpost, Interstate 95 Southbound, New York City, New York, March 12, 2011.

8416—Aircraft Incident Report: Runway Overrun, American Airlines Flight 2253, Jackson Hole, Wyoming, Dec. 29, 2010.

NEWS MEDIA CONTACT: Telephone: (202) 314–6100.

The press and public may enter the NTSB Conference Center one hour prior to the meeting for set up and seating.

Individuals requesting specific accommodations should contact Rochelle Hall at (202) 314–6305 by Friday, June 1, 2012.

The public may view the meeting via a live or archived Webcast by accessing a link under ''News & Events'' on the NTSB home page at *www.ntsb.gov.*

Schedule updates including weather-related cancellations are also available at *www.ntsb.gov*.

FOR MORE INFORMATION CONTACT: Candi Bing, (202) 314–6403 or by email at *bingc@ntsb.gov*.

Dated: Friday, May 18, 2012.

Candi R. Bing,

Federal Register Liaison Officer.

[FR Doc. 2012–12521 Filed 5–18–12; 4:15 pm]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission [NRC–2012–0002].

DATE: Weeks of May 21, 28, June 4, 11, 18, 25, 2012.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of May 21, 2012

There are no meetings scheduled for the week of May 21, 2012.

Week of May 28, 2012—Tentative

Friday, June 1, 2012

8:30 a.m. Briefing on Results of the Agency Action Review Meeting (AARM) (Public Meeting) (Contact: Rani Franovich, 301–415–1868).

This meeting will be webcast live at the Web address—*www.nrc.gov.*

Week of June 4, 2012—Tentative

Thursday, June 7, 2012

9:30 a.m. Meeting with the Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting) (Contact: Tanny Santos, 301–415–7270).

This meeting will be webcast live at the Web address—*www.nrc.gov*.

Week of June 11, 2012—Tentative

Friday, June 15, 2012

9:30 a.m. Joint Meeting of the Federal Energy Regulatory Commission (FERC) and the Nuclear Regulatory Commission (NRC) on Grid Reliability (Public Meeting) To be held at FERC Headquarters, 888 First Street NE, Washington, DC. (Contact: Jim Andersen, 301–415–3565).

This meeting will be webcast live at the Web address—*www.ferc.gov*.

Week of June 18, 2012—Tentative

There are no meetings scheduled for the week of June 18, 2012.

Week of June 25, 2012—Tentative

There are no meetings scheduled for the week of June 25, 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: May 17, 2012.

Rochelle C. Bavol,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2012–12470 Filed 5–18–12; 11:15 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2012–0114; IA–12–009]

Mr. James Chaisson; Order Prohibiting Involvement in NRC–Licensed Activities

I

Mr. James Chaisson was employed from April 10, 2009, through April 30, 2010, as an area supervisor and lead radiographer for the Wyoming operations of Texas Gamma Ray, LLC (TGR or Licensee), whose corporate offices are located in Pasadena, Texas. TGR is the former holder of License No. 42–29303–01 issued on January 6, 2009, by the U.S. Nuclear Regulatory Commission (NRC or the Commission), pursuant to Title 10 of the Code of Federal Regulations (10 CFR) part 34. The license authorized industrial radiographic operations in accordance with conditions specified therein. The license was terminated at the licensee's request on July 25, 2011.

II

From June 4, 2009, through November 30, 2010, the NRC conducted a safety and security inspection of the use of byproduct material for industrial radiographic operations conducted under TGR's former NRC license. As a result of this inspection, the NRC's Office of Investigations (OI), Region IV, initiated two investigations (OI Report Nos. 04–2009–066 and 04–2011–034) to determine, in part, whether Mr. Chaisson: (1) Deliberately stored radiographic exposure devices at a location he knew was not authorized by TGR's radioactive material license, and (2) deliberately failed to implement NRC security requirements for the use, storage, and protection of licensed material for radiographic operations.

By letter dated February 23, 2012 (ML12055A162), the NRC informed Mr. Chaisson that the NRC was considering escalated enforcement action for an apparent violation of the NRC's deliberate misconduct rule, 10 CFR 30.10. The NRC offered Mr. Chaisson the opportunity to request a predecisional enforcement conference (PEC), or request alternative dispute resolution (ADR) with the NRC in an attempt to resolve issues associated with this matter. During a March 19, 2012, conference call between Mr. Chaisson and NRC staff, Mr. Chaisson indicated that he was not interested in a PEC or ADR. Mr. Chaisson stated that he would, however, submit a written response to the NRC's February 23rd letter. On March 26, 2012, Region IV received a written response from Mr. Chaisson postmarked March 23, 2012 (ML12095A366).

Based on a review of the information in Mr. Chaisson's March 2012, letter, and the results of the inspection and OI investigations, the NRC has concluded that Mr. Chaisson twice engaged in deliberate misconduct in violation of 10 CFR 30.10(a)(1). First, Mr. Chaisson engaged in deliberate misconduct that caused Texas Gamma Ray, LLC (TGR), at the time an NRC licensee, to be in violation of License Condition 19 of its NRC Radioactive Material License, which required TGR to comply with NRC security requirements. Mr. Chaisson chose to store a radiographic exposure device at a leased facility on Elk Street in Rock Springs, Wyoming, even though he knew the facility did not comply with applicable NRC security requirements pertaining to the use, storage, and protection of licensed material. He periodically stored the radiographic exposure device at this location from December 2009 through April 30, 2010.

Second, by storing the radiographic exposure device at the Elk Street location, Mr. Chaisson engaged in deliberate misconduct that caused TGR, at the time an NRC licensee, to be in violation of License Condition 11 of its NRC Radioactive Material License, which required TGR to limit the storage of radioactive material approved on the license to temporary job sites in NRC jurisdiction. Specifically, Mr. Chaisson chose to store a radiographic exposure device at the leased facility on Elk Street in Rock Springs, Wyoming, even though he knew the facility was not an authorized storage location listed on the license.

Mr. Chaisson is a radiographer with 27 years experience, 8 of those years as a radiation safety officer (RSO). TGR assigned him as the area supervisor and lead radiographer for Wyoming operations and as such, he was responsible for TGR's radiographic operations in Wyoming. He was listed as the person to contact in case of an emergency in Wyoming. Mr. Chaisson was in possession of a copy of TGR's NRC license and was knowledgeable of the restrictions and security requirements associated with the use and storage of radioactive material. Mr. Chaisson admitted that he stored the radiographic exposure device at the Elk

Street location from December 2009 through April 30, 2010. However, Mr. Chaisson asserted that he had only done as TGR managers instructed him when he stored the radiographic exposure device at the Elk Street location. The NRC has concluded that this statement lacks credibility. Mr. Chaisson's statements varied each time OI interviewed him, and again in his March 2012, letter to the NRC, as to which manager provided him with the instruction to store licensed material at the Elk Street location. At first he claimed the corporate RSO gave him the permission, but later when he found out that the corporate RSO had been out of the country, and not reachable by phone, he stated it was the Operations Manager who gave him the permission. As a trained RSO, Mr. Chaisson is fully knowledgeable of the requirements for storage of radiographic exposure devices and knew that the devices should not be stored at a location not authorized by the license. Also, he had previously met the security requirements for storing the radiographic exposure devices inside his company truck at his former residence. Yet, he claimed that he was not responsible for meeting the security requirements at the leased facility; a claim disputed by multiple TGR officials who pointed out he was responsible for Wyoming operations, including meeting NRC license requirements (as he had done at his residence).

In addition, Mr. Chaisson arranged to have another NRC licensee lease the Elk Street facility just prior to the expiration of TGR's lease of the same facility. Mr. Chaisson then went to work for the other NRC licensee and instructed TGR to remove their radiographic exposure devices, which TGR did. Mr. Chaisson then ensured all the security requirements were met at the same facility for his new employer.

The NRC concluded that Mr. Chaisson's claims were not credible; that Mr. Chaisson understood the terms of TGR's license and NRC security requirements; that he knew at the time that the Elk Street facility was not an authorized storage location; and that security requirements had not been met at that location.

III

Based on the above, the NRC has concluded that Mr. James Chaisson, a former area site supervisor and lead radiographer employed by Texas Gamma Ray, LLC, violated 10 CFR 30.10(a)(1) by engaging in deliberate misconduct that caused Texas Gamma Ray, LLC, to be in violation of License Conditions 11 and 19 of NRC license 42–29303–01.

The NRC must be able to rely on licensees and their employees to comply with the NRC requirements, including the requirement that specific licensees comply with their license conditions. Mr. Chaisson's actions caused the licensee to violate their license conditions and have raised serious doubt as to whether he can be relied upon to comply with the NRC requirements and to provide complete and accurate information to the NRC.

Consequently, I lack the requisite reasonable assurance that licensed activities can be conducted in compliance with the Commission's requirements and that health and safety of the public will be protected if Mr. Chaisson were permitted at this time to be involved in NRC-licensed activities. Therefore, the public health and safety and interest require that Mr. Chaisson be prohibited from any involvement in NRC-licensed activities for a period of 3 years from the effective date of this Order, as defined in Section V. Additionally, Mr. Chaisson is required to notify the NRC of his first employment in NRC-licensed activities for a period of 1 year following the prohibition period.

IV

Accordingly, pursuant to Sections 81, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended and the Commission's regulations in 10 CFR 2.202, 10 CFR 30.10 and 10 CFR parts 20 and 34, *it is hereby ordered that:*

1. Mr. James Chaisson is prohibited for 3 years from the effective date of this Order, as defined in Section V, from engaging in NRC-licensed activities. NRC-licensed activities are those activities that are conducted pursuant to a specific or general license issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted pursuant to the authority granted by 10 CFR 150.20. Specifically, Mr. Chaisson is prohibited from performing, supervising, assisting or otherwise engaging in (1) industrial radiographic operations for an Agreement State licensee that are conducted in non-Agreement States, in areas of exclusive Federal jurisdiction within Agreement States, or in offshore waters under an NRC general license granted pursuant to 10 CFR 150.20; (2) industrial radiographic operations for an NRC licensee, including, but not limited to, radiography conducted under the authority of a license issued pursuant to 10 CFR part 34; and (3) any other licensed activity under NRC jurisdiction.

2. As of the effective date of this Order, if Mr. Chaisson is currently involved in NRC-licensed activity, he must immediately cease those activities, and inform the NRC of the name, address, and telephone number of the employer, and provide a copy of this Order to the employer.

3. For a period of 1 year after the 3-year period of prohibition has expired, Mr. Chassion shall, within 20 days of acceptance of his first employment offer involving NRC-licensed activities or his becoming involved in NRC-licensed activities, as defined in paragraph IV.1 above, provide notice to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, of the name, address, and telephone number of the employer or entity where he is, or will be, involved in the NRC-licensed activities. In the notification, Mr. Chaisson shall include a statement of his commitment to compliance with NRC regulatory requirements and the basis for why the Commission should have confidence that he will now comply with applicable NRC requirements.

The Director, Office of Enforcement, may, in writing, relax or rescind any of the above conditions upon demonstration by Mr. Chaisson of good cause.

V

In accordance with 10 CFR 2.202, Mr. James Chaisson must, and any other person adversely affected by this Order may, submit an answer to this Order within 30 days of its issuance date. In addition, Mr. Chaisson and any other person adversely affected by this Order may request a hearing on this Order within 30 days of its issuance date. Where good cause is shown, consideration will be given to extending the time to answer or request a hearing. A request for extension of time must be directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, and include a statement of good cause of the extension.

All documents filed in the NRC adjudicatory proceedings, including a request for a 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 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 certificate). Based on 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 a 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 document 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 contracting the NRC Meta System Help Desk thorough 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 extension 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, MD 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 using 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 submissions.

If a person other than Mr. James Chaisson requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d).

If a hearing is requested by Mr. Chaisson or any other person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such a hearing shall be whether this Order should be sustained. In the absence of any request for hearing or ADR, or written approval of an extension of time in which to request a hearing, the effective date of this Order (the date that the provisions specified in Section IV above become final and effective) shall be 30 days from the issuance date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the effective date of this Order shall be when the extension expires if a hearing request has not been received. If a hearing or ADR is requested, the effective date of this Order shall be determined in accordance with the hearing or ADR process.

A request for hearing shall not stay the immediate effectiveness of this order.

For the Nuclear Regulatory Commission.

Dated at Rockville, MD, this 15th day of May 2012.

Roy P. Zimmerman,

Director, Office of Enforcement.

[FR Doc. 2012–12358 Filed 5–21–12; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2012–0113]

Proposed Revision 3 to Standard Review Plan, Section 19.1 on Determining the Technical Adequacy of Probabilistic Risk Assessment for Risk-Informed License Amendment Requests After Initial Fuel Load

AGENCY: Nuclear Regulatory Commission.

ACTION: Solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is soliciting public comment on NUREG–0800, ''Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants: LWR Edition,'' on a proposed Revision 3 to Standard Review Plan (SRP), Section 19.1, ''Determining the Technical Adequacy of Probabilistic Risk Assessment for Risk-Informed License Amendment Requests After Initial Fuel Load'' (Agencywide Documents Access and Management System (ADAMS) Accession No. ML112990771). The Office of New Reactors and Office of Nuclear Reactor Regulation are revising SRP Section 19.1, which updates Revision 2 (ADAMS Accession No. ML071700657) dated June 2007, to reflect the changes as listed in the description of changes. These changes include (1) the regulatory requirements in Title 10 of the Code of Federal Regulations (10 CFR), 50.71(h)(1), (h)(2), and (h)(3) for new reactors, (2) applicability of the National Fire Protection Association 805 transition, and (3) latest information on probabilistic risk assessment technical adequacy for risk-informed license amendment requests after initial fuel load. A redline document comparing Revision 2 and the current proposed Revision 3 can be found under ADAMS Accession No. ML112990870.

The NRC staff issues **Federal Register** notices to facilitate timely implementation of the current staff guidance and to facilitate activities associated with the review of amendment applications

DATES: Comments must be filed no later than 30 days from the date of publication of this notice in the **Federal Register**. 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–2012–0113. You may submit comments by the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0113. 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: Ms. Amy E. Cubbage, Chief, Policy Branch, Division of Advanced Reactors and Rulemaking, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2875 or email at: *amy.cubbage@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2012–0113 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 any of the following methods:

- *Federal Rulemaking Web Site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0113.
- *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 ADAMS accession number for each document referenced in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced.
- *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–2012–0113 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 enters the comment submissions into ADAMS. The NRC does not routinely 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 does not routinely 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 this SRP section 19.1, Revision 3. After the NRC staff considers public comments, it will make a determination regarding issuance of the final guidance.

Dated at Rockville, Maryland, this 14th day of May 2012.

For the Nuclear Regulatory Commission.

Amy E. Cubbage,

Chief, Policy Branch, Division of Advanced Reactors and Rulemaking, Office of New Reactors.

[FR Doc. 2012–12359 Filed 5–21–12; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2012–22 and CP2012–28; Order No. 1345]

Product List Changes

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request to add First-Class Package Service Contract 6 to the competitive product list. This notice addresses procedural steps associated with this filing.

DATES: *Comments are due:* May 22, 2012.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Commenters who cannot submit their views electronically should contact the person identified in **FOR FURTHER INFORMATION CONTACT** by telephone for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Notice of Filings
III. Ordering Paragraphs

I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.,* the Postal Service filed a formal request and associated supporting information to add First-Class Package Service Contract 6 to the competitive product list.[1] The Postal Service asserts that First-Class Package Service Contract 6 is ''a competitive product not of general applicability within the meaning of 39 U.S.C. 3632(b)(3).'' *Id.* at 1. The Request has been assigned Docket No. MC2012–22.

The Postal Service contemporaneously filed a redacted contract related to the proposed new product. *Id.,* Attachment B. The instant contract has been assigned Docket No. CP2012–28.

Request. To support its Request, the Postal Service filed the following six attachments:

- Attachment A—a redacted version of the Governors' Decision and accompanying analysis. An explanation and justification is provided in the Governors' Decision and analysis filed in the unredacted version under seal;
- Attachment B—a redacted version of the instant contract;
- Attachment C—the proposed changes in the Mail Classification Schedule with the addition underlined;
- Attachment D—a Statement of Supporting Justification as required by 39 CFR 3020.32;
- Attachment E—a certification of compliance with 39 U.S.C. 3633(a)(1), (2), and (3); and
- Attachment F—an application for non-public treatment of the materials filed under seal. The materials filed under seal are the unredacted version of the instant contract and the required cost and revenue data.

In the Statement of Supporting Justification, Dennis R. Nicoski, Manager, Field Sales Strategy and Contracts, asserts that the instant contract will cover its attributable costs, make a positive contribution to cover institutional costs, and increase contribution toward the requisite 5.5 percent of the Postal Service's institutional costs. *Id.,* Attachment D at 1. Mr. Nicoski contends that there will be no issue of subsidization of market dominant products by competitive products as a result of the instant contract. *Id.*

Instant contract. The Postal Service included a redacted version of the instant contract with the Request. *Id.,* Attachment B. It is scheduled to become effective on the day the Commission issues all necessary regulatory approvals (Effective Date). *Id.* at 2. It will expire 3 years from the Effective Date unless, among other things, either party terminates the agreement with 30 days written notice to the other party. *Id.* The Postal Service represents that the related contract is consistent with 39 U.S.C. 3633. *Id.,* Attachment D.

The Postal Service filed much of the supporting materials, including the unredacted version of the instant contract, under seal. *Id.,* Attachment F. It maintains that the unredacted Governors' Decision, the unredacted version of the instant contract, and supporting documents establishing compliance with 39 U.S.C. 3633 and 39 CFR 3015.5 should remain confidential. *Id.* at 1. The Postal Service asks the Commission to protect customer-identifying information from public disclosure indefinitely. *Id.*

Supplemental information. The Commission notes that the Postal Service contemporaneously filed five other First-Class Package Service contracts in separate dockets. The financial workpapers that support each contract use the same volume distribution percentages. Please provide the basis for the volume distribution for each contract. Please file this information by May 18, 2012.

II. Notice of Filings

The Commission establishes Docket Nos. MC2012–22 and CP2012–28 to consider the Request and the instant contract, respectively.

Interested persons may submit comments on whether the Postal Service's filings in these dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR 3015.5, and 39 CFR part 3020, subpart B. Comments are due no later than May 22, 2012. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Katalin K. Clendenin to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2012–22 and CP2012–28 to consider the matters raised in each docket.
2. Pursuant to 39 U.S.C. 505, Katalin K. Clendenin is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.
3. Comments by interested persons in these proceedings are due no later than May 22, 2012.
4. The supplemental information discussed in the body of this order is due no later than May 18, 2012.
5. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2012–12235 Filed 5–21–12; 8:45 am]

BILLING CODE 7710–FW–P

[1] Request of the United States Postal Service to Add First-Class Package Service Contract 6 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, May 9, 2012 (Request).

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2012–23 and CP2012–29; Order No. 1346]

Product List Changes

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request to add First-Class Package Service Contract 7 the competitive product list. This notice addresses procedural steps associated with this filing.

DATES: *Comments are due:* May 22, 2012.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://*

www.prc.gov. Commenters who cannot submit their views electronically should contact the person identified in **FOR FURTHER INFORMATION CONTACT** by telephone for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Notice of Filings
III. Ordering Paragraphs

I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.,* the Postal Service filed a formal request and associated supporting information to add First-Class Package Service Contract 7 to the competitive product list.[1] The Postal Service asserts that First-Class Package Service Contract 7 is ''a competitive product not of general applicability within the meaning of 39 U.S.C. 3632(b)(3).'' *Id.* at 1. The Request has been assigned Docket No. MC2012–23.

The Postal Service contemporaneously filed a redacted contract related to the proposed new product. *Id.,* Attachment B. The instant contract has been assigned Docket No. CP2012–29.

Request. To support its Request, the Postal Service filed the following six attachments:

- Attachment A—a redacted version of the Governors' Decision and accompanying analysis. An explanation and justification is provided in the Governors' Decision and analysis filed in the unredacted version under seal;
- Attachment B—a redacted version of the instant contract;
- Attachment C—the proposed changes in the Mail Classification Schedule with the addition underlined;
- Attachment D—a Statement of Supporting Justification as required by 39 CFR 3020.32;
- Attachment E—a certification of compliance with 39 U.S.C. 3633(a)(1), (2), and (3); and
- Attachment F—an application for non-public treatment of the materials filed under seal. The materials filed under seal are the unredacted version of the instant contract and the required cost and revenue data.

In the Statement of Supporting Justification, Dennis R. Nicoski, Manager, Field Sales Strategy and Contracts, asserts that the instant contract will cover its attributable costs, make a positive contribution to cover institutional costs, and increase contribution toward the requisite 5.5 percent of the Postal Service's institutional costs. *Id.,* Attachment D at 1. Mr. Nicoski contends that there will be no issue of subsidization of market dominant products by competitive products as a result of the instant contract. *Id.*

Instant contract. The Postal Service included a redacted version of the instant contract with the Request. *Id.,* Attachment B. It is scheduled to become effective on the day the Commission issues all necessary regulatory approvals (Effective Date). *Id.* at 2. It will expire 3 years from the Effective Date unless, among other things, either party terminates the agreement with 30 days written notice to the other party. *Id.* The Postal Service represents that the related contract is consistent with 39 U.S.C. 3633. *Id.,* Attachment D.

The Postal Service filed much of the supporting materials, including the unredacted version of the instant contract, under seal. *Id.,* Attachment F. It maintains that the unredacted Governors' Decision, the unredacted version of the instant contract, and supporting documents establishing compliance with 39 U.S.C. 3633 and 39 CFR 3015.5 should remain confidential. *Id.* at 1. The Postal Service asks the Commission to protect customer-identifying information from public disclosure indefinitely. *Id.*

Supplemental information. The Commission notes that the Postal Service contemporaneously filed five other First-Class Package Service contracts in separate dockets. The financial workpapers that support each contract use the same volume distribution percentages. Please provide the basis for the volume distribution for each contract. Please file this information by May 18, 2012.

II. Notice of Filings

The Commission establishes Docket Nos. MC2012–23 and CP2012–29 to consider the Request and the instant contract, respectively.

Interested persons may submit comments on whether the Postal Service's filings in these dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR 3015.5, and 39 CFR part 3020, subpart B. Comments are due no later than May 22, 2012. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Katalin K. Clendenin to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2012–23 and CP2012–29 to consider the matters raised in each docket.
2. Pursuant to 39 U.S.C. 505, Katalin K. Clendenin is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.
3. Comments by interested persons in these proceedings are due no later than May 22, 2012.
4. The supplemental information discussed in the body of this order is due no later than May 18, 2012.
5. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2012–12236 Filed 5–21–12; 8:45 am]

BILLING CODE 7710–FW–P

[1] Request of the United States Postal Service to Add First-Class Package Service Contract 7 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, May 9, 2012 (Request).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [to be published].

STATUS: Closed Meeting.

PLACE: 100 F Street NE., Washington, DC.

DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING: Friday, May 18, 2012 at 11:00 a.m.

CHANGE IN THE MEETING: Time Change.

The Closed Meeting scheduled for Friday, May 18, 2012 at 11:00 a.m. has been changed to Friday, May 18, 2012 at 3:00 p.m.

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: May 18, 2012.

Elizabeth M. Murphy,

Secretary

[FR Doc. 2012–12528 Filed 5–18–12; 4:15 pm]

BILLING CODE 8011–01–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, May 24, 2012 at 2:00 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 Gallagher, 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, May 24, 2012 will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Consideration of amicus participation; 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: May 17, 2012.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2012–12437 Filed 5–18–12; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67000; File No. SR–CBOE–2012–039]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 3.6A—Qualification and Registration of Trading Permit Holders and Associated Persons

May 16, 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 May 3, 2012, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by CBOE. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon receipt of this filing by the Commission. 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

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[5] the Chicago Board Options Exchange, Incorporated (''CBOE'' or the ''Exchange'') proposes to (i) remove the language in Interpretation and Policy .05 relating to acceptable substitute qualification examinations; (ii) codify into the Exchange's rules required registration categories for Trading Permit Holders and TPH organizations that conduct proprietary trading, market-making and/or that effect transactions on behalf of broker dealers; (iii) specify the acceptable qualification requirements for Trading Permit Holders and TPH organizations that conduct proprietary trading, market-making and/or that effect transactions on behalf of broker dealers; (iv) add an interpretation to state explicitly in the rule that individual Trading Permit Holders and individual associated persons must satisfy all registration and qualification requirements prior to acting in such registered capacity on behalf of a Trading Permit Holder or TPH organization; and (v) clarify the requirements applicable to Proprietary Trader Principals (TP) associated with a Trading Permit Holder or TPH organization. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.org/legal*), at the Exchange's Office of the Secretary and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE 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. CBOE 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, Proposed Rule Change

1. Purpose

CBOE proposes to amend Rule 3.6A to (i) remove the language in Interpretation and Policy .05 relating to acceptable substitute qualification examinations; (ii) codify into the Exchange's rules required registration categories for Trading Permit Holders and TPH organizations that conduct proprietary trading, market-making and/or that effect transactions on behalf of broker dealers; (iii) specify the acceptable qualification examinations (and related registration categories) for Trading Permit Holders and TPH organizations that conduct proprietary trading, market-making and/or that effect transactions on behalf of broker dealers; (iv) add an interpretation to state explicitly in the rule that individual Trading Permit Holders and individual associated persons must satisfy all registration and qualification requirements prior to engaging in the securities business of a Trading Permit Holder or TPH organization (or prior to acting in a new capacity on behalf of a Trading Permit Holder or TPH organization where such capacity has additional registration/qualification requirements); and (v) clarify the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] 15 U.S.C. 78s(b)(1).

requirements applicable to Proprietary Trader Principals (TP) associated with a Trading Permit Holder or TPH organization.

CBOE is proposing to identify the registration categories and qualification requirements for Trading Permit Holders and TPH organizations in the proposed Interpretation and Policy .08 to Rule 3.6A. CBOE Rule 3.6A(a) provides that individual Trading Permit Holders and individual associated persons engaged or to be engaged in the securities business of a Trading Permit Holder or TPH organization shall be registered with the Exchange in the category of registration appropriate to the function to be performed as prescribed by the Exchange.[6] On June 28, 2011, the Exchange issued a Regulatory Circular prescribing the registration and qualification requirements (including prerequisite examinations) for Trading Permit Holders and TPH organizations conducting proprietary trading, market-making and/or effecting transactions on behalf of other broker dealers.[7] These requirements included registration by individual Trading Permit Holders and individual associated persons under three new categories of registration, as applicable. An individual Trading Permit Holder and/or individual associated person who is engaged in the securities business of a Trading Permit Holder (as described in Interpretation and Policy .06 to Rule 3.6A) is required to register as a Proprietary Trader (PT) in WebCRD and pass the related qualification examination, the Series 56. An individual Trading Permit Holder or individual associated person is required to register as a Proprietary Trader Principal (TP) in WebCRD and pass the related qualification examination, the Series 24 (and the prerequisite examination, the Series 56) if such individual acts in any of the following capacities on behalf of a Trading Permit Holder: (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. Lastly, the Chief Compliance Officer (or individual performing similar functions) for a Trading Permit Holder or TPH organization that engages in proprietary trading, market-making or effecting transactions on behalf of a broker-dealer is required to register as a Proprietary Trader Compliance Officer (CT) in WebCRD and pass the related qualification examination, the Series 14 (and the prerequisite examination, the Series 56). This proposal does not add any new requirements but codifies the requirements previously prescribed by the Exchange in Regulatory Circular RG11–077.

CBOE is proposing to remove the language from Interpretation and Policy .05 to Rule 3.6A relating to acceptable substitute qualification requirements and instead incorporate those requirements into Interpretation and Policy .08(b). CBOE is proposing to include a chart in Interpretation and Policy .08(b) to Rule 3.6A to identify the required registration categories, the applicable qualification examinations as set forth above and the alternative acceptable qualifications for each of the three registration categories referenced above. The language proposing the alternative acceptable qualifications is substantially similar to the language CBOE is proposing to delete from Interpretation and Policy .05.[8]

Specifically, CBOE is proposing to permit the General Securities Representative (GS) registration (Series 7) to serve as an acceptable alternative qualification to obtain the Proprietary Trader (PT) registration.[9] Similarly, CBOE is proposing to permit the General Securities Sales Supervisor (SU) registration (Series 9/10) and the General Securities Principal—Sales Supervisor Module registration (Series 23) to collectively serve as an alternative acceptable qualification to obtain the Proprietary Trader Principal (TP) registration. In addition, CBOE is proposing to permit the General Securities Principal (GP) registration (Series 24) or the Proprietary Trader Principal (TP) registration to serve as an alternative acceptable qualification to obtain the Proprietary Trader Compliance Officer (CT) registration. As noted above, the alternative qualifications for the Proprietary Trader Principal (TP) and Proprietary Trader Compliance Officer (CT) are currently acceptable under Interpretation and Policy .05 to Rule 3.6A. CBOE is proposing to incorporate this language into Interpretation and Policy .08 and remove it from Interpretation and Policy .05, as an individual maintaining these qualifications is not required to request a waiver from the Exchange, and Interpretation and Policy .05 relates to waiver requests.

Rule 3.6A(e) provides that ''any person whose registration has been revoked by the Exchange as a disciplinary sanction or whose most recent registration has been terminated for two or more years immediately preceding the date of receipt by the Exchange of a new application shall be required to pass a qualification examination appropriate to the category of registration * * *'' It should be noted that an individual Trading Permit Holder or individual associated person who has been registered in a category of registration that is considered an alternative acceptable qualification within the previous two years (and whose registration has not been revoked as a disciplinary sanction) shall meet the alternative acceptable qualification requirements for purposes of registering as a Proprietary Trader (PT), Proprietary Trader Principal (TP) or a Proprietary Trader Compliance Officer (CT). For example, an individual whose previous registration as a General Securities Representative (GS) terminated on December 31, 2011 may rely on that registration as an alternative acceptable qualification to obtain the Proprietary Trader (PT) registration upon employment as a proprietary trader of a Trading Permit Holder at any time within the two year period ending December 31, 2013.

CBOE is also proposing to adopt Interpretation and Policy .09 to Rule 3.6A to state explicitly that any individual qualifying for a registration category pursuant to Rule 3.6A must satisfy all registration and qualification requirements prior to becoming engaged in the securities business of a Trading Permit Holder or, as applicable, prior to acting in a capacity on behalf of a Trading Permit Holder or TPH organization requiring such registration.

[6] *See* Securities Exchange Act Release No. 63314 (November 12, 2010), 75 FR 70957 (November 19, 2010) (SR–CBOE–2010–084).

[7] *See* CBOE Regulatory Circular RG11–077 (issued June 28, 2011).

[8] *See* Securities Exchange Act Release No. 65147 (August 17, 2011), 76 FR 52722 (August 23, 2011) (SR–CBOE–2011–075). *See also* Footnote 5.

[9] The current Interpretation and Policy .05 provides that the Series 7 would be permitted as an acceptable substitute qualification examination for the Proprietary Trader (PT) registration category through December 31, 2011. CBOE is proposing to delete the reference to the December 31, 2011 deadline as part of the proposed deletions to Interpretation and Policy .05 to Rule 3.6A. As noted above, CBOE is proposing to codify that the General Securities Representative (GS) registration (Series 7) will be permitted as an acceptable alternative qualification to obtain the Proprietary Trader (PT) registration category. While CBOE believes the Series 56 is a more applicable exam for those individuals engaged in proprietary trading, market-making and/or effecting transactions for broker-dealers, CBOE proposes to accept the General Securities Representative (GS) registration (Series 7) as an acceptable alternative qualification because the other applicable self-regulatory organizations permit individuals who maintain that registration to qualify for a Proprietary Trader (PT) registration and/or require the General Securities Representative (GS) registration (Series 7) to serve as the appropriate category of registration for proprietary traders. *See,* for example, NASD Rule 1032 [sic] and NASDAQ OMX PHLX Rule 604.

While the requirement exists today, CBOE is proposing to add this language to ensure that Trading Permit Holders and applicable associated persons are reminded of their obligation to register and qualify all applicable associated persons prior to engaging in the securities business of the Trading Permit Holder or, as applicable, prior to acting in a capacity on behalf of a Trading Permit Holder or TPH organization requiring such registration. For example, if an existing employee who currently conducts a public customer business on behalf of the Trading Permit Holder (and thus, maintains the General Securities Representative (GS) registration) wishes to engage in proprietary trading, that individual must be approved in WebCRD in the Proprietary Trader (PT) registration category prior to acting in the capacity of a proprietary trader on behalf of the Trading Permit Holder or TPH organization.

Lastly, CBOE is proposing to clarify Interpretation and Policy .07 to Rule 3.6A to (i) state explicitly that individuals who fall into one of the categories referenced in Interpretation and Policy .07 to Rule 3.6A are subject to heightened qualification requirements [10] and (ii) clarify that a Trading Permit Holder that conducts only proprietary trading and has 25 or fewer registered persons shall be required to have a *minimum* of one officer or partner who is registered in this capacity. Exchange staff has received multiple questions regarding whether a Trading Permit Holder that conducts proprietary trading only and that has 25 or fewer registered persons is required only to have one officer or partner who is registered as a Proprietary Trader Principal (PT). This is not a proper interpretation of the requirement. The approval order for SR–CBOE–2010–084 provides, in relevant part, ''all individuals who engage in supervisory functions at the TPH organization's securities business, or who oversee associated persons of TPHs, must register and pass the relevant principal examination.'' [11] The Exchange is not proposing to impose any additional obligations on Trading Permit Holders or TPH organizations but rather is clarifying this language in response to questions received relating to this provision.

2. Statutory Basis

The proposed rule change is consistent with Section 6(c) of the Act,[12] in general, and furthers the objectives of Section 6(c)(3) [13] of the Act, which authorizes CBOE to prescribe standards of training, experience and competence for persons associated with CBOE and CBSX Trading Permit Holders, in that the proposed rule codifies the existing registration and qualification requirements (including alternative acceptable qualifications) for CBOE and CBSX Trading Permit Holders and TPH organizations. In addition, the proposed rule change is consistent with Section 6(c)(3) of the Act [14] in that CBOE is proposing to permit the General Securities Representative (GS) registration (Series 7) to serve as an alternative acceptable qualification to register as a Proprietary Trader (PT). The additional changes to the rule text are clarifying changes and do not impose any additional obligations on Trading Permit Holders or their associated persons. CBOE believes the proposed changes are reasonable and set forth the appropriate qualifications for an individual Trading Permit Holder and individual associated person who is required to register under Exchange Rule 3.6A, including, but not limited to, Market-Makers, proprietary traders and individuals effecting transactions on behalf of other broker-dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [15] and Rule 19b–4(f)(6) thereunder.[16]

The Commission believes it is consistent with the public interest to waive the 30-day operative delay. Waiver of the operative delay will allow associated persons of CBOE firms who have passed examinations deemed acceptable by the Commission to register in the appropriate category and operate on CBOE without undue delay. Furthermore, it will provide additional clarity to CBOE's rules that a Trading Permit Holder that conducts only proprietary trading and has 25 or fewer registered persons is required to have a minimum of one officer or partner who is registered as a Proprietary Trader Principal (PT) but *shall* register *all* persons with certain functions as PTs.

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.

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–CBOE–2012–039 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

[10] Proposed Interpretation and Policy .08 to Rule 3.6A provides that individuals who fall into the categories set forth in Interpretation and Policy .07 to Rule 3.6A are required to register and qualify as a Proprietary Trader Principal (TP).

[11] *See* Securities Exchange Act Release No. 63314 (November 12, 2010), 75 FR 70957 (November 19, 2010) (SR–CBOE–2010–084).

[12] 15 U.S.C. 78f(c).

[13] 15 U.S.C. 78f(c)(3).

[14] 15 U.S.C. 78f(c)(3).

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 C.F.R. [sic] 240.19b–4(f)(6).

All submissions should refer to File Number SR–CBOE–2012–039. 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 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2012–039 and should be submitted on or before June 12, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–12305 Filed 5–21–12; 8:45 am]

BILLING CODE 8011–01–P

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67001; File No. SR–NYSEArca–2012–21]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Relating to the Listing and Trading of the First Trust North American Infrastructure Fund Under NYSE Arca Equities Rule 8.600

May 16, 2012.

I. Introduction

On March 13, 2012, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares (''Shares'') of the First Trust North American Infrastructure Fund (''Fund'') under NYSE Arca Equities Rule 8.600. The proposed rule change was published for comment in the **Federal Register** on April 3, 2012.[3] The Commission received no comments on the proposed rule change. On May 16, 2012, the Exchange submitted Amendment No. 1 to the proposed rule change.[4] This order grants approval of the proposed rule change, as modified by Amendment No. 1 thereto.

II. Description of the Proposed Rule Change

The Exchange proposes to list and trade Shares of the Fund pursuant to NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares on the Exchange. The Shares will be offered by First Trust Exchange-Traded Fund IV (''Trust''),[5] which is organized as a Massachusetts business trust and is registered with the Commission as an open-end management investment company. The investment adviser to the Fund will be First Trust Advisors L.P. (''Adviser'' or ''First Trust''). Energy Income Partners LLC will serve as investment sub-adviser to the Fund (''Sub-Adviser'') and provide day-to-day portfolio management of the Fund. First Trust Portfolios L.P. will be the principal underwriter and distributor of the Fund's Shares. Bank of New York Mellon will serve as administrator, custodian, and transfer agent for the Fund. The Exchange states that the Adviser and Sub-Adviser are each affiliated with a broker-dealer and, as such, represents that each of the Adviser and Sub-Adviser has implemented a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the Fund's portfolio.[6]

First Trust North American Infrastructure Fund

The Fund's investment objective is to seek total return with an emphasis on current distributions and dividends paid to shareholders. Under normal market conditions,[7] the Fund will invest at least 80% of its net assets (plus the amount of any borrowings for investment purposes) in exchange-traded equity securities of companies domiciled in the United States or Canada and deemed to be engaged in the energy infrastructure segment of the energy and utilities sectors. Equity securities include common stocks; preferred securities; warrants to purchase common stocks or preferred securities; securities convertible into common stocks or preferred securities; and other securities with equity characteristics. Such securities may include depositary receipts, master limited partnerships (''MLPs''), MLP I-shares (''I-Shares'') (as described below), MLP subordinated units (as described below), securities of pipeline and power utility companies, and securities of Canadian energy infrastructure companies and Canadian Energy Infrastructure Trusts[8] (''CEITs''). The

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 66669 (March 28, 2012), 77 FR 20079 (''Notice'').

[4] In Amendment No. 1, the Exchange proposes to remove references to the Exemptive Order (as defined herein) to clarify that the percentage limitations with respect to the Fund's investments in certain derivative instruments are to be imposed by the Fund, and are not specifically imposed under the Exemptive Order. This technical amendment does not require notice and comment as it did not materially affect the substance of the proposed rule change or raise any unique or novel regulatory issues.

[5] The Trust is registered under the Investment Company Act of 1940 (''1940 Act''). On July 19, 2011, the Trust filed with the Commission a registration statement on Form N–1A under the Securities Act of 1933 (15 U.S.C. 77a) (''Securities Act'') and under the 1940 Act relating to the Fund (File Nos. 333–174332 and 811–22559) (''Registration Statement''). In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No. 28468 (October 27, 2008) (File No. 812–13477) (''Exemptive Order'').

[6] *See* NYSE Arca Equities Rule 8.600, Commentary .06. In the event (a) the Adviser or the Sub-Adviser becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser becomes affiliated with a broker-dealer, it will implement a fire wall with respect to such broker-dealer regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

[7] The term ''under normal market conditions'' includes, but is not limited to, the absence of extreme volatility or trading halts in the equity markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption, or any similar intervening circumstance.

[8] CEITs are Canadian trusts that own or invest in companies engaged in activities in the energy infrastructure sector, including the exploration, mining, production, processing, transportation and storage of energy-related resources. An investment in units of CEITs involves risks which differ from an investment in common stock of a corporation. CEITs generally pass revenue on to unit holders rather than reinvesting in the business, which may lead to the sacrifice of potential growth. CEITs

Continued

Sub-Adviser's priority will be to focus on steady fee-for-service income and will limit the cyclical energy exposure of the portfolio in order to reduce the volatility of returns.

The Fund may invest in U.S. dollar-denominated, exchange-listed depositary receipts and U.S. dollar-denominated foreign (primarily Canadian) equity securities.[9] The Fund's investments may include American Depositary Receipts (''ADRs''), Global Depositary Receipts (''GDRs''), European Depositary Receipts (''EDRs'') or other depositary receipts (collectively ''Depositary Receipts''), or New York Shares or Global shares.[10]

The Fund may invest in MLPs, which are limited partnerships whose shares (or common units) are listed and traded on a U.S. securities exchange. To qualify to be treated as a partnership for federal income tax purposes, such an MLP must receive at least 90% of its income from qualifying sources such as natural resource activities. Natural resource activities include the exploration, development, mining, production, processing, refining, transportation, storage, and marketing of mineral or natural resources.[11]

The Fund may invest in Energy MLPs, which can generally be classified as Midstream MLPs, Propane MLPs, and Coal MLPs.

Midstream MLP natural gas services include the treating, gathering, compression, processing, transmission, and storage of natural gas and the transportation, fractionation, and storage of natural gas liquids (primarily propane, ethane, butane, and natural gasoline). Midstream MLP crude oil services include the gathering, transportation, storage, and terminaling of crude oil. Midstream MLP refined petroleum product services include the transportation (usually via pipelines, barges, rail cars, and trucks), storage, and terminaling of refined petroleum products (primarily gasoline, diesel fuel, and jet fuel) and other hydrocarbon by-products. Midstream MLPs may also operate ancillary businesses, including the marketing of the products and logistical services.

Propane MLP services include the distribution of propane to homeowners for space and water heating and to commercial, industrial, and agricultural customers. Propane serves approximately 3% of the household energy needs in the United States, largely for homes beyond the geographic reach of natural gas distribution pipelines. Volumes are weather dependent, and a majority of annual cash flow is earned during the winter heating season (October through March).

Coal MLP services include the owning, leasing, managing, production, and sale of coal and coal reserves. Electricity generation is the primary use of coal in the United States. Demand for electricity and supply of alternative fuels to generators are the primary drivers of coal demand.

The Fund may invest in MLP subordinated units, which are typically issued by MLPs to their original sponsors, such as their founders, corporate general partners of MLPs, entities that sell assets to the MLP, and institutional investors.

The Fund may invest in I-Shares, which represent an ownership interest issued by an affiliated party of an MLP. The MLP affiliate uses the proceeds from the sale of I-Shares to purchase limited partnership interests in the MLP in the form of i-units. I-units have similar features as MLP common units in terms of voting rights, liquidation preference, and distributions. However, rather than receiving cash, the MLP affiliate receives additional i-units in an amount equal to the cash distributions received by MLP common units. Similarly, holders of I-Shares will receive additional I-Shares, in the same proportion as the MLP affiliates' receipt of i-units, rather than cash distributions. I-Shares themselves have limited voting rights, which are similar to those applicable to MLP common units. I-Shares are listed and traded on the New York Stock Exchange LLC (''NYSE'') and NYSE Amex LLC.

The Fund may invest in securities of other U.S. and Canadian-listed and traded open-end or closed-end investment companies, including exchange-traded funds that are registered under the 1940 Act (''ETFs''), such as ETFs listed on the Exchange under NYSE Arca Equities Rules 5.2(j)(3) and 8.600, that invest primarily in securities of the types in which the Fund may invest directly. The Fund also may invest in other types of U.S. exchange-traded products, such as exchange traded notes (''ETNs'') and exchange-traded pooled investment vehicles (collectively, with ETNs, ''Underlying ETPs'').[12]

The Fund may invest in the securities of ETFs in excess of the limits imposed under the 1940 Act pursuant to exemptive orders obtained by such ETFs and their sponsors from the Commission. Securities of other investment companies may be leveraged; such investments will not be used to enhance leverage and will be consistent with the Fund's investment objective.

Under normal market conditions, the Fund will invest substantially all of its assets to meet its investment objective. The Fund may invest the remainder of its assets in securities with maturities of less than one year or cash equivalents, or it may hold cash, as described below. The percentage of the Fund invested in such holdings will vary and depend on

generally do not guarantee minimum distributions or return of capital. If the assets underlying a CEIT do not perform as expected, the CEIT may reduce or eliminate distributions. The declaration of such distributions generally depends upon various factors, including the operating performance and financial condition of the CEITs and general economic conditions.

[9] The foreign equity securities in which the Fund may invest, including any Depositary Receipts (as defined herein) and/or New York Shares and Global shares, as described herein, will be limited to securities that trade in markets that are members of the Intermarket Surveillance Group (''ISG''), which includes all U.S. national securities exchanges and certain foreign exchanges, or are parties to a comprehensive surveillance sharing agreement with the Exchange.

[10] ADRs are receipts typically issued by an American bank or trust company that evidence ownership of underlying securities issued by a foreign corporation. EDRs are receipts issued by a European bank or trust company evidencing ownership of securities issued by a foreign corporation. New York Shares are typically issued by a company incorporated in the Netherlands and represent a direct interest in the company. GDRs are receipts issued throughout the world that evidence a similar arrangement. ADRs, EDRs, and GDRs may trade in foreign currencies that differ from the currency the underlying security for each ADR, EDR, or GDR principally trades in. Generally, ADRs and New York Shares, in registered form, are designed for use in the U.S. securities markets. EDRs, in registered form, are used to access European markets. GDRs, in registered form, are traded both in the United States and in Europe and are designed for use throughout the world. Global shares are the actual (ordinary) shares of a non-U.S. company which trade both in the home market and the United States. Global shares are represented by the same share certificate in the United States and the home market. Separate registrars in the United States and the home country are maintained. In most cases, purchases occurring on a U.S. exchange would be reflected on the U.S. registrar. Global shares may also be eligible to list on exchanges in addition to the United States and the home country.

[11] MLPs generally have two classes of owners, the general partner and limited partners. The general partner, which is generally a major energy company, investment fund, or the management of the MLP, typically controls the MLP through a 2% general partner equity interest in the MLP plus common units and subordinated units. Limited partners own the remainder of the partnership, through ownership of common units, and have a limited role in the partnership's operations and management.

[12] Underlying ETPs, which will be listed on a national securities exchange, include the following: Index-Linked Securities (as described in NYSE Arca Equities Rule 5.2(j)(6)); Trust Issued Receipts (as described in NYSE Arca Equities Rule 8.200); Commodity-Based Trust Shares (as described in NYSE Arca Equities Rule 8.201); Currency Trust Shares (as described in NYSE Arca Equities Rule 8.202); Commodity Index Trust Shares (as described in NYSE Arca Equities Rule 8.203); Trust Units (as described in NYSE Arca Equities Rule 8.500); and closed-end funds.

several factors, including market conditions.

Other Investments

Cash Equivalents and Short-Term Investments. For temporary defensive purposes and during periods of high cash inflows or outflows, the Fund may depart from its principal investment strategies and invest part or all of its assets in securities with maturities of less than one year or cash or cash equivalents. The Fund may adopt a defensive strategy when the portfolio managers believe securities in which the Fund normally invests have elevated risks due to political or economic factors and in other extraordinary circumstances. The Fund may, without limit as to percentage of assets, purchase U.S. Government securities or short-term debt securities [13] to keep cash on hand fully invested or for temporary defensive purposes. The use of temporary investments will not be a part of a principal investment strategy of the Fund. The Fund may invest in shares of money market funds to the extent permitted by the 1940 Act.

Investments in Derivatives. The Fund may invest up to 35% of its net assets in futures (''Futures'' or ''Futures Contracts''), interest rate swaps, total return swaps, non-U.S. currency swaps, credit default swaps, options, and other derivative instruments to seek to enhance return, to hedge some of the risks of their investments in securities, as a substitute for a position in the underlying asset, to reduce transaction costs, to maintain full market exposure (which means to adjust the characteristics of their investments to more closely approximate those of the markets in which they invest), to manage cash flows, to limit exposure to losses due to changes to non-U.S. currency exchange rates, or to preserve capital. The Fund, under normal market conditions, will not invest more than 20% of its net assets in such instruments. In connection with hedging activities in which the Fund may engage, First Trust may cause the Fund to utilize a variety of financial instruments, including options, forward contracts, Futures Contracts, and options on Futures Contracts to attempt to hedge the Fund's holdings.[14] The use of Futures is not a part of a principal investment strategy of the Fund.[15]

The Fund may use derivative investments to hedge against interest rate and market risks. The Fund may engage in various interest rate and currency hedging transactions, including buying or selling options or entering into other transactions including forward contracts, swaps, and other derivatives transactions. The Fund may also engage in certain transactions intended to hedge its exposure to currency risks due to foreign currency denominated investments. The Fund may sell covered calls on equity positions in the portfolio in order to enhance its income.

The Fund may purchase stock index options, sell stock index options in order to close out existing positions, and/or write covered options on stock indices for hedging purposes. Stock index options are put options and call options on various stock indices. The Fund may enter into Futures Contracts, including index Futures as a hedge against movements in the equity markets, in order to hedge against changes on securities held or intended to be acquired by the Fund or for other purposes permissible under the Commodity Exchange Act (''CEA''). The Fund's hedging may include sales of Futures as an offset against the effect of expected declines in stock prices and purchases of Futures as an offset against the effect of expected increases in stock prices. The Fund will not enter into Futures Contracts which are prohibited under the CEA and will, to the extent required by regulatory authorities, enter only into Futures Contracts that are traded on national Futures exchanges and are standardized as to maturity date and underlying financial instrument. The principal interest rate Futures exchanges in the United States are the Chicago Board of Trade and the Chicago Mercantile Exchange.

The Fund may also purchase or write put and call options on Futures Contracts and enter into closing transactions with respect to such options to terminate an existing position.

The Fund may use options on Futures Contracts in connection with hedging strategies. Generally, these strategies would be applied under the same market and market sector conditions in which the Fund uses put and call options on securities or indices.

The Fund may invest in companies that are considered to be ''passive foreign investment companies'' (''PFICs''), which are generally certain non-U.S. corporations that receive at least 75% of their annual gross income from passive sources (such as interest, dividends, certain rents and royalties or capital gains) or that hold at least 50% of their assets in investments producing such passive income.[16]

The Fund may not invest 25% or more of the value of its total assets in securities of issuers in any one industry or group of industries. This restriction does not apply to securities issued by energy infrastructure companies or obligations issued or guaranteed by the

[13] Short-term debt securities are securities from issuers having a long-term debt rating of at least A by Standard & Poor's Ratings Group, Moody's Investors Service, Inc., or Fitch, Inc. and having a maturity of one year or less, and are defined to include, without limitation, the following:

1. U.S. Government securities, including bills, notes, and bonds differing as to maturity and rates of interest, which are either issued or guaranteed by the U.S. Treasury or by U.S. Government agencies or instrumentalities.

2. Certificates of deposit issued against funds deposited in a bank or savings and loan association.

3. Bankers' acceptances, which are short-term credit instruments used to finance commercial transactions.

4. Repurchase agreements, which involve purchases of debt securities. In such an action, at the time the Fund purchases the security, it will simultaneously agree to resell and redeliver the security to the seller, who also simultaneously will agree to buy back the security at a fixed price and time. The Fund may enter into repurchase agreements only with respect to obligations of the U.S. Government, its agencies, or instrumentalities; certificates of deposit; or bankers' acceptances in which the Fund may invest. In addition, the Fund may only enter into repurchase agreements where the market value of the purchased securities/collateral equals at least 100% of principal including accrued interest and is marked-to-market daily. The Fund intends to enter into repurchase agreements only with financial institutions and dealers believed by First Trust to present minimal credit risks in accordance with criteria established by the Trust's Board of Trustees. First Trust will review and monitor the creditworthiness of such institutions. First Trust will monitor the value of the collateral at the time the action is entered into and at all times during the term of the repurchase agreement. First Trust will do so in an effort to determine that the value of the collateral always equals or exceeds the agreed-upon repurchase price to be paid to the Fund.

5. Bank time deposits, which are monies kept on deposit with banks or savings and loan associations for a stated period of time at a fixed rate of interest. There may be penalties for the early withdrawal of such time deposits, in which case the yields of these investments will be reduced.

6. Commercial paper, which are short-term unsecured promissory notes. The Fund will not invest in any master demand notes.

[14] The Trust has filed a notice of eligibility for exclusion from the definition of the term ''commodity pool operator'' with the National Futures Association. The Fund will not enter into Futures and options transactions if the sum of the initial margin deposits and premiums paid for unexpired options exceeds 5% of the Fund's total assets.

[15] Hedging or derivative instruments on securities generally will be used to hedge against price movements in one or more particular securities positions that the Fund owns or intends to acquire. Such instruments may also be used to ''lock-in'' realized but unrecognized gains in the value of portfolio securities. Hedging instruments on stock indices, in contrast, generally are used to hedge against price movements in broad equity market sectors in which the Fund has invested or expects to invest. The use of hedging instruments is subject to applicable regulations of the Commission, the several options and Futures exchanges upon which they are traded, the Commodity Futures Trading Commission (''CFTC'') and various state regulatory authorities.

[16] *See supra* note 9.

U.S. Government, its agencies, or instrumentalities. Accordingly, the Fund will concentrate its investments in energy infrastructure companies.

The Fund may hold illiquid securities (*i.e.,* securities that are not readily marketable). For purposes of this restriction, illiquid securities include, but are not limited to, restricted securities (securities the disposition of which is restricted under the federal securities laws), securities that may only be resold pursuant to Rule 144A under the Securities Act, and repurchase agreements with maturities in excess of seven days. However, the Fund will not hold illiquid securities if, as a result, such securities would comprise more than 15% of the value of the Fund's net assets.

The Fund intends to qualify annually and to elect to be treated as a regulated investment company under the Internal Revenue Code of 1986, as amended.

The Shares will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.600. The Exchange represents that, for initial and/or continued listing, the Fund will be in compliance with Rule 10A–3 under the Exchange Act,[17] as provided by NYSE Arca Equities Rule 5.3. A minimum of 100,000 Shares for the Fund will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the net asset value (''NAV'') per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.

Additional information regarding the Trust, Fund, Shares, Fund's investment strategies, risks, creation and redemption procedures, fees, portfolio holdings and disclosure policies, distributions and taxes, availability of information, trading rules and halts, and surveillance procedures, among other things, can be found in the Notice and/or the Registration Statement, as applicable.[18]

III. Discussion and Commission's Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 1 thereto, is consistent with the requirements of Section 6 of the Act [19] and the rules and regulations thereunder applicable to a national securities exchange.[20] In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 1 thereto, is consistent with the requirements of Section 6(b)(5) of the Act,[21] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission notes that the Fund and the Shares must comply with the requirements of NYSE Arca Equities Rule 8.600 to be listed and traded on the Exchange.

The Commission finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Act,[22] which sets forth Congress's finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for, and transactions in, securities. Quotation and last-sale information for the Shares will be available via the Consolidated Tape Association (''CTA'') high-speed line. In addition, the Portfolio Indicative Value, as defined in NYSE Arca Equities Rule 8.600(c)(3), will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session.[23] On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Fund will disclose on its Web site the Disclosed Portfolio, as defined in NYSE Arca Equities Rule 8.600(c)(2), that will form the basis for the Fund's calculation of NAV at the end of the business day.[24] The NAV of the Fund will be determined as of the close of trading (normally 4:00 p.m., Eastern Time) on each day the NYSE is open for business. Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. In addition, price information for the portfolio securities held by the Fund will be readily available from the securities exchanges trading such securities, automated quotation systems, published or other public sources, or online information services such as Bloomberg or Reuters. The Fund's Web site will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information.

The Commission further believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. The Commission notes that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.[25] In addition, trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted. The Exchange may halt trading in the Shares if trading is not occurring in the securities and/or the financial instruments comprising the Disclosed Portfolio of the Fund, or if other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.[26] Further, the

[17] 17 CFR 240.10A–3.

[18] *See* Notice and Registration Statement, *supra* notes 3 and 5, respectively.

[19] 15 U.S.C. 78f.

[20] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[21] 15 U.S.C. 78f(b)(5).

[22] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[23] According to the Exchange, several major market data vendors display and/or make widely available Portfolio Indicative Values published on CTA or other data feeds. The price of a non-U.S. security that is primarily traded on a non-U.S. exchange will be updated, using the last sale price, every 15 seconds throughout the trading day, provided that, upon the closing of such non-U.S. exchange, the closing price of the security, after being converted to U.S. dollars, will be used. Furthermore, in calculating the Portfolio Indicative Value of the Fund's Shares, exchange rates may be used throughout the day (9:00 a.m. to 4:15 p.m., Eastern Time) that may differ from those used to calculate the NAV per Share of the Fund and, consequently, may result in differences between the NAV and the Portfolio Indicative Value.

[24] On a daily basis, the Adviser will disclose for each portfolio security or other financial instrument of the Fund the following information on the Fund's Web site: Ticker symbol (if applicable), name of security or financial instrument, number of shares or dollar value of securities and financial instruments held in the portfolio, and percentage weighting of the security or financial instrument in the portfolio. The Web site information will be publicly available at no charge.

[25] *See* NYSE Arca Equities Rule 8.600(d)(1)(B).

[26] *See* NYSE Arca Equities Rule 8.600(d)(2)(C) (providing additional considerations for the suspension of trading in or removal from listing of Managed Fund Shares on the Exchange). With respect to trading halts, the Exchange may consider other relevant factors in exercising its discretion to

Commission notes that the Reporting Authority that provides the Disclosed Portfolio must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the actual components of the portfolio.[27] The Exchange states that it has a general policy prohibiting the distribution of material, non-public information by its employees. The Exchange also states that the Adviser and Sub-Adviser are each affiliated with a broker-dealer, and the Adviser and Sub-Adviser have each implemented a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio.[28]

The Exchange represents that the Shares are deemed to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. In support of this proposal, the Exchange has made representations, including:

(1) The Shares will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.600.

(2) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

(3) The Exchange's surveillance procedures applicable to derivative products, which include Managed Fund Shares, are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

(4) Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders (''ETP Holders'') in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (a) The procedures for purchases and redemptions of Shares in Creation Unit aggregations (and that Shares are not individually redeemable); (b) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (c) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated Portfolio Indicative Value will not be calculated or publicly disseminated; (d) how information regarding the Portfolio Indicative Value is disseminated; (e) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (f) trading information.

(5) For initial and/or continued listing, the Fund will be in compliance with Rule 10A–3 under the Exchange Act,[29] as provided by NYSE Arca Equities Rule 5.3.

(6) The foreign equity securities in which the Fund may invest, including any Depositary Receipts, New York Shares, and Global shares, will be limited to securities that trade in markets that are members of the Intermarket Surveillance Group, which includes all U.S. national securities exchanges and certain foreign exchanges, or are parties to a comprehensive surveillance sharing agreement with the Exchange.

(7) While the Fund may invest in securities of other investment companies that are leveraged, such investments will not be used to enhance leverage and will be consistent with the Fund's investment objective.

(8) The Fund may invest up to 35% of its net assets in Futures Contracts, interest rate swaps, total return swaps, non-U.S. currency swaps, credit default swaps, options, and other derivative instruments to seek to enhance return, to hedge some of the risks of their investments in securities, as a substitute for a position in the underlying asset, to reduce transaction costs, to maintain full market exposure, to manage cash flows, to limit exposure to losses due to changes to non-U.S. currency exchange rates, or to preserve capital. The Fund, under normal market conditions, will not invest more than 20% of its net assets in such instruments.

(9) The Fund will not hold illiquid securities, which include restricted securities, Rule 144A securities, and repurchase agreements with maturities in excess of seven days, if, as a result, such securities would comprise more than 15% of the value of the Fund's net assets.

(10) A minimum of 100,000 Shares of the Fund will be outstanding at the commencement of trading on the Exchange.

This approval order is based on all of the Exchange's representations.

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment No. 1 thereto, is consistent with Section 6(b)(5) of the Act[30] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[31] that the proposed rule change (SR–NYSEArca–2012–21), as modified by Amendment No. 1 thereto, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[32]

Kevin M. O'Neill,

Deputy Secretary.

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halt or suspend trading in the Shares of the Fund. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable.

[27] *See* NYSE Arca Equities Rule 8.600(d)(2)(B)(ii).

[28] *See supra* note 6. The Commission notes that an investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (''Advisers Act''). As a result, the Adviser and Sub-Adviser and their related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[29] 17 CFR 240.10A–3.

[30] 15 U.S.C. 78f(b)(5).

[31] 15 U.S.C. 78s(b)(2).

[32] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67003; File No. SR–NYSEArca–2012–24]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of Proposed Rule Change Relating to Listing and Trading of AdvisorShares Global Echo ETF Under NYSE Arca Equities Rule 8.600

May 16, 2012.

I. Introduction

On March 16, 2012, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities

Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares (''Shares'') of the AdvisorShares Global Echo ETF (''Fund'') under NYSE Arca Equities Rule 8.600. The proposed rule change was published for comment in the **Federal Register** on April 5, 2012.[3] The Commission received no comments on the proposal. This order grants approval of the proposed rule change.

II. Description of the Proposed Rule Change

The Exchange proposes to list and trade the Shares of the Fund pursuant to NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares on the Exchange. The Shares will be offered by AdvisorShares Trust (''Trust''), a statutory trust organized under the laws of the State of Delaware and registered with the Commission as an open-end management investment company.[4] The investment adviser to the Fund is AdvisorShares Investments, LLC (''Adviser''). The Fund's sub-advisers (''Sub-Advisers'' and each a ''Sub-Adviser''), which provide day-to-day portfolio management of the Fund, are First Affirmative Financial Network LLC; Reynders, McVeigh Capital Management, LLC; Baldwin Brothers Inc.; and Community Capital Management Inc.

Foreside Fund Services, LLC is the principal underwriter and distributor of the Fund's Shares. The Bank of New York Mellon Corporation serves as the administrator (''Administrator''), custodian, transfer agent, and fund accounting agent for the Fund.

The Exchange represents that neither the Adviser nor the Sub-Advisers are affiliated with a broker-dealer.[5]

Description of the Fund

The Fund will seek to achieve long-term capital appreciation with an emphasis on absolute (positive) returns and low sensitivity to traditional financial market indices, such as the S&P 500 Index, over a full market cycle. The Fund will seek to achieve its investment objective by investing under normal market circumstances [6] at least 80% of its total assets in the following securities: U.S. exchange-listed equity securities; [7] American Depository Receipts (''ADRs''); [8] fixed income securities (including municipal bonds); and exchange-traded products (''Underlying ETPs'') [9] that provide diversified exposure to various asset classes and market segments.

The Fund will be a multi-manager, multi-strategy, broadly diversified, actively managed exchange-traded fund with a focus on ''Sustainable Investing.'' Sustainable Investing generally refers to an investment methodology that takes into consideration economic, environmental, technology, and a variety of social factors when making investment decisions. Accordingly, the Fund is designed as a core allocation that proactively seeks Sustainable Investment-themed investment opportunities that may socially and environmentally benefit the earth, with a focus on water, clean energy, community development, innovation, and other sustainable themes across asset classes. Sustainable Investment themes that the Fund may pursue include, but are not limited to, the following: economic themes (corporate governance, risk and crisis management, community investment, energy efficiency, food, green building); environmental themes (air, water, earth); technology themes (mobility, renewable energy, technology, and access); and social themes (human health, such as occupational health and safety).

The Fund will seek to achieve its investment objective by allocating a portion of the Fund's assets to each of the Fund's Sub-Advisers who will employ their respective investment strategies to generate absolute returns over a full market cycle. Generally, a full market cycle consists of a bull market followed by a bear market and a return to a bull market, or vice versa. Initially, an equal proportion of the Fund's assets will be allocated to each Sub-Adviser to obtain the desired exposure to the strategies described below. The allocation among Sub-Advisers will vary over time in response to a variety of factors including prevailing market conditions. The Adviser has designated First Affirmative Financial Network, LLC to allocate and monitor the allocation of the Fund's assets to each Sub-Adviser to ensure that the Fund's portfolio maintains the proper investment exposure to seek to achieve its investment objective. Each Sub-Adviser will seek to identify and invest either directly or indirectly through other Underlying ETPs in securities of companies that are making a positive impact in the world and reflect Sustainable Investment themes, including corporate sustainability. The Fund's investments in companies that practice corporate sustainability will provide an additional layer of diversification because such investments are designed to increase long-term shareholder value. Companies focused on corporate sustainability also can provide more attractive risk return profiles for investors, and can leverage various other Sustainable Investment themes.

The Fund may take both long and short positions in any of these investments. The Fund may invest up to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 66696 (March 30, 2012), 77 FR 20660 (''Notice'').

[4] The Trust is registered under the Investment Company Act of 1940 (''1940 Act''). On July 15, 2011, the Trust filed with the Commission Post-Effective Amendment No. 32 to Form N–1A under the Securities Act of 1933 and under the 1940 Act relating to the Fund (File Nos. 333–157876 and 811–22110) (''Registration Statement''). In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No. 29291 (May 28, 2010) (File No. 812–13677) (''Exemptive Order'').

[5] *See* Commentary .06 to NYSE Arca Equities Rule 8.600. The Exchange represents that, in the event (a) the Adviser or the Sub-Advisers become newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser becomes affiliated with a broker-dealer, it will implement a fire wall with respect to such broker-dealer regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

[6] The term ''under normal market circumstances'' includes, but is not limited to, the absence of extreme volatility or trading halts in the equities or fixed income markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

[7] The Fund may invest in equity securities of domestic and foreign companies, including common stocks, preferred stocks, warrants to acquire common stock, securities convertible into common stock, and investments in master limited partnerships.

[8] The Fund generally will invest in sponsored ADRs, but it may invest up to 10% of total assets in unsponsored ADRs.

[9] Underlying ETPs include Investment Company Units (as described in NYSE Arca Equities Rule 5.2(j)(3)); Index-Linked Securities (as described in NYSE Arca Equities Rule 5.2(j)(6)); Portfolio Depositary Receipts (as described in NYSE Arca Equities Rule 8.100); Trust Issued Receipts (as described in NYSE Arca Equities Rule 8.200); Commodity-Based Trust Shares (as described in NYSE Arca Equities Rule 8.201); Currency Trust Shares (as described in NYSE Arca Equities Rule 8.202); Commodity Index Trust Shares (as described in NYSE Arca Equities Rule 8.203); Trust Units (as described in NYSE Arca Equities Rule 8.500); Managed Fund Shares (as described in NYSE Arca Equities Rule 8.600); and closed-end funds. The Underlying ETPs all will be listed and traded in the U.S. on registered exchanges. The Fund may invest in the securities of Underlying ETPs registered under the 1940 Act consistent with the requirements of Section 12(d)(1) of the 1940 Act, or any rule, regulation, or order of the Commission or interpretation thereof. The Fund will only make such investments in conformity with the requirements of Section 817 of the Internal Revenue Code of 1986. The Underlying ETPs in which the Fund may invest will primarily be index-based exchange-traded funds that hold substantially all of their assets in securities representing a specific index.

65% (and intends to always invest at least 15%) of its net assets in domestic and foreign fixed income securities. The Fund may invest in securities of any capitalization range and may employ one or more investment styles (from growth to value) at any time as necessary to seek to achieve the Fund's investment objective.

Each Sub-Adviser will determine whether to buy or sell an investment for the Fund's portfolio by applying one or more of the following strategies:

Core Strategies

Fixed Income Strategies. Fixed income strategies consist of investment strategies that invest primarily in debt securities of domestic and foreign governments, agencies, instrumentalities, municipalities and companies of all maturities and qualities (including ''junk bonds'' and up to 15% of total assets in defaulted debt securities), TIPS (Treasury Inflation Protected Securities), and Underlying ETPs that provide exposure to fixed income securities or strategies. 85% or more of the Fund's investments in fixed income strategies will be in investment grade debt securities. Debt securities of foreign governments are sometimes referred to as sovereign debt obligations and may be issued or guaranteed by foreign governments or their agencies. The Fund may invest up to 10% of total assets in mortgage-backed securities or other asset-backed securities.[10] Fixed income strategies also may involve hedging through the use of investments in other Underlying ETPs to enhance risk-adjusted return.

Equity Strategies. Equity strategies will consist of both domestic and international/emerging markets strategies. The domestic equity strategies will seek to invest in securities of companies that the Sub-Advisers believe will outperform other equity securities over the long term. The international/emerging markets equity strategies will seek to invest in securities of undervalued international companies through ADRs that provide the Fund with exposure to businesses outside of the U.S. and that are attractively priced relative to their economic fundamentals. Both U.S. and international investments will be selected using fundamental analysis of factors such as earnings, cash flows, and valuations based upon them, and will be diversified among the economic and industry sectors in the S&P 500® Index, the Morgan Stanley Capital International (''MSCI'') All Country World Index, MSCI Europe, Australasia and Far East Index, and MSCI Emerging Markets Index.

Alternative Strategies

Long/Short and Hedging Strategies. Alternative strategies will consist of strategies that combine short sales of equities (including shares of Underlying ETPs) or purchase of shares of inverse Underlying ETPs. As such, long/short strategies may utilize securities that seek to track indexes on markets, sectors, strategies, and/or industries to hedge against potential adverse movements in security prices. The Fund may implement multiple variations of long/short and hedging strategies. The basic long/short equity strategies generally will seek to increase net long exposure in a bull market and decrease net long exposure, by holding high concentrations in cash or investing 100% short in a bear market.

Other Investments

The Fund may enter into repurchase agreements with financial institutions, which may be deemed to be loans. The Fund will follow certain procedures designed to minimize the risks inherent in such agreements. These procedures will include effecting repurchase transactions only with large, well-capitalized, and well-established financial institutions whose condition will be continually monitored by the Sub-Advisers. In addition, the value of the collateral underlying the repurchase agreement will always be at least equal to the repurchase price, including any accrued interest earned on the repurchase agreement. The Fund may enter into reverse repurchase agreements without limit as part of the Fund's investment strategy. Reverse repurchase agreements involve sales by the Fund of portfolio assets concurrently with an agreement by the Fund to repurchase the same assets at a later date at a fixed price.

The Fund, or Underlying ETPs in which it invests, may invest in U.S. government securities and U.S. Treasury zero-coupon bonds. The Fund, or Underlying ETPs in which it invests, may invest in shares of real estate investment trusts (''REITs'').

Diversification. The Fund may not (i) with respect to 75% of its total assets, purchase securities of any issuer (except securities issued or guaranteed by the U.S. Government, its agencies or instrumentalities or shares of investment companies) if, as a result, more than 5% of its total assets would be invested in the securities of such issuer; or (ii) acquire more than 10% of the outstanding voting securities of any one issuer.

Concentration. The Fund may not invest 25% or more of its total assets in the securities of one or more issuers conducting their principal business activities in the same industry or group of industries. This limitation does not apply to investments in securities issued or guaranteed by the U.S. Government, its agencies or instrumentalities, or shares of investment companies. The Fund will not invest 25% or more of its total assets in any investment company that so concentrates.

The Fund's investments will be consistent with the Fund's investment objective and will not be used to enhance leverage. The Fund will not purchase illiquid securities, and except for Underlying ETPs that may hold non-U.S. issues, the Fund will not otherwise invest in non-U.S. issues. Further, in accordance with the Exemptive Order, the Fund will not invest in options, futures, or swaps.

To respond to adverse market, economic, political, or other conditions, the Fund may invest 100% of its total assets, without limitation, in high-quality debt securities and money market instruments either directly or through Underlying ETPs. The Fund may be invested in these instruments for extended periods, depending on the Sub-Advisers' assessment of market conditions. These debt securities and money market instruments include shares of other mutual funds, commercial paper, certificates of deposit, bankers' acceptances, U.S. Government securities, repurchase agreements, and bonds that are BBB or higher. While the Fund is in a defensive position, the opportunity to achieve its investment objective will be limited.

Additional information regarding the Trust, Fund, and the Shares, including but not limited to investment strategies, risks, creation and redemption procedures, fees, portfolio holdings disclosure policies, distributions, taxes, Net Asset Value (''NAV''), and availability of information can be found in the Registration Statement and Notice, as applicable.[11]

III. Discussion and Commission's Findings

The Commission has carefully reviewed the proposed rule change and finds that it is consistent with the

[10] This limitation does not apply to securities issued or guaranteed by federal agencies and/or U.S. government sponsored instrumentalities, such as the Government National Mortgage Administration (''GNMA''), the Federal Housing Administration (''FHA''), the Federal National Mortgage Association (''FNMA''), and the Federal Home Loan Mortgage Corporation (''FHLMC'').

[11] *See supra* notes 4 and 3, respectively.

requirements of Section 6 of the Act[12] and the rules and regulations thereunder applicable to a national securities exchange.[13] In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[14] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission notes that the Fund and the Shares must comply with the requirements of NYSE Arca Equities Rule 8.600 to be listed and traded on the Exchange.

The Commission finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Act,[15] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for, and transactions in, securities. Quotation and last-sale information for the Shares will be available via the Consolidated Tape Association (''CTA'') high-speed line. In addition, the Portfolio Indicative Value (''PIV''), as defined in NYSE Arca Equities Rule 8.600(c)(3), will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Core Trading Session.[16] On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Fund will disclose on its Web site the Disclosed Portfolio, as defined in NYSE Arca Equities Rule 8.600(c)(2), that will form the basis for the Fund's calculation of the NAV at the end of the business day.[17] The NAV per Share for the Fund will be calculated by the Administrator and determined as of the close of the regular trading session on the New York Stock Exchange (''NYSE'') (ordinarily 4:00 p.m., E.T.) on each day that the NYSE is open. In addition, information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. The Web site for the Fund will include a form of the prospectus for the Fund that may be downloaded, additional data relating to NAV, and other applicable quantitative information, updated on a daily basis. Moreover, a basket composition file, which includes the security names and share quantities required to be delivered in exchange for the Shares, together with estimates and actual cash components, will be publicly disseminated daily prior to the opening of the NYSE via the National Securities Clearing Corporation. Price information for the ADRs, debt and equity securities held by the Fund, including foreign equity securities, and Underlying ETPs will be available through major market data vendors or securities exchanges listing and trading such securities.

The Commission further believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. The Commission notes that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.[18] In addition, the Exchange will halt trading in the Shares under the specific circumstances set forth in NYSE Arca Equities Rule 8.600(d)(2)(D), and may halt trading in the Shares if trading is not occurring in the securities and/or the financial instruments comprising the Disclosed Portfolio of the Fund, or if other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.[19] The Exchange will consider the suspension of trading in or removal from listing of the Shares if the PIV is no longer calculated or available or the Disclosed Portfolio is not made available to all market participants at the same time.[20] Neither the Adviser nor the Sub-Advisers are affiliated with a broker-dealer.[21] Further, the Commission notes that the Reporting Authority that provides the Disclosed Portfolio must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the actual components of the portfolio.[22] The Exchange states that it has a general policy prohibiting the distribution of material, non-public information by its employees. The Commission also notes that the Exchange may obtain information via the Intermarket Surveillance Group (''ISG'') from other exchanges that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. All of the equity securities, Underlying ETPs, and sponsored ADRs held by the Fund will be listed on securities exchanges, all of which are members of ISG.

The Exchange further represents that the Shares are deemed to be equity securities, thus rendering trading in the

[12] 15 U.S.C. 78f.

[13] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[16] According to the Exchange, several major market data vendors display and/or make widely available PIVs published on the CTA or other data feeds.

[17] On a daily basis, the Adviser will disclose for each portfolio security or other financial instrument of the Fund the following information: ticker symbol (if applicable), name of security or financial instrument, number of shares or dollar value of financial instruments held in the portfolio, and percentage weighting of the security or financial instrument in the portfolio. The Web site information will be publicly available at no charge.

[18] *See* NYSE Arca Equities Rule 8.600(d)(1)(B).

[19] With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable.

[20] *See* NYSE Arca Equities Rule 8.600(d)(2)(C)(ii).

[21] *See supra* note 5 and accompanying text. The Commission notes that an investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (''Advisers Act''). As a result, the Adviser and Sub-Advisers and their related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)-7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[22] *See* NYSE Arca Equities Rule 8.600(d)(2)(B)(ii).

Shares subject to the Exchange's existing rules governing the trading of equity securities. In support of this proposal, the Exchange has made representations, including:

(1) The Shares will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.600.

(2) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

(3) The Exchange's surveillance procedures applicable to derivative products, which include Managed Fund Shares, are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

(4) Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (a) The procedures for purchases and redemptions of Shares in Creation Unit aggregations (and that Shares are not individually redeemable); (b) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its Equity Trading Permit Holders to learn the essential facts relating to every customer prior to trading the Shares; (c) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated PIV will not be calculated or publicly disseminated; (d) how information regarding the PIV is disseminated; (e) the requirement that Equity Trading Permit Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (f) trading information.

(5) For initial and/or continued listing, the Fund will be in compliance with Rule 10A–3 under the Act,[23] as provided by NYSE Arca Equities Rule 5.3.

(6) The Fund will not: (a) Purchase illiquid securities; (b) in accordance with the Exemptive Order, invest in options, futures, or swaps; or (c) except for Underlying ETPs that may hold non-U.S. issues, otherwise invest in non-U.S. issues.

(7) The Fund's investments will be consistent with the Fund's investment objective and will not be used to enhance leverage.

(8) A minimum of 100,000 Shares of the Fund will be outstanding at the commencement of trading on the Exchange.

[23] *See* 17 CFR 240.10A–3.

This approval order is based on all of the Exchange's representations.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act[24] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[25] that the proposed rule change (SR–NYSEArca–2012–24) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–12355 Filed 5–21–12; 8:45 am]

BILLING CODE 8011–01–P

[24] 15 U.S.C. 78f(b)(5).

[25] 15 U.S.C. 78s(b)(2).

[26] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Alderox, Inc., Applied Solar, Inc., Artes Medical, Inc., AskMeNow, Inc., Blink Logic Inc., and Convergence Ethanol, Inc.; Order of Suspension of Trading

May 18, 2012.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Alderox, Inc. because it has not filed any periodic reports since the period ended March 31, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Applied Solar, Inc. because it has not filed any periodic reports since the period ended February 28, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Artes Medical, Inc. because it has not filed any periodic reports since the period ended September 30, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of AskMeNow, Inc. because it has not filed any periodic reports since the period ended March 31, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Blink Logic Inc. because it has not filed any periodic reports since the period ended June 30, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Convergence Ethanol, Inc. because it has not filed any periodic reports since the period ended June 30, 2007.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on May 18, 2012, through 11:59 p.m. EDT on June 1, 2012.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2012–12482 Filed 5–18–12; 4:15 pm]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13074 and #13075]

Louisiana Disaster #LA–00044

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Louisiana dated 05/15/2012.

Incident: Severe Storms and Flooding.

Incident Period: 03/11/2012 through 03/12/2012.

Effective Date: 05/15/2012.

Physical Loan Application Deadline Date: 07/16/2012.

Economic Injury (EIDL) Loan Application Deadline Date: 02/15/2013.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Parish

Lafayette.

Contiguous Parishes

Louisiana

Acadia, Iberia, Saint Landry, Saint Martin, Vermilion.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	3.750
Homeowners Without Credit Available Elsewhere	1.875
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	3.125
Non-Profit Organizations Without Credit Available Elsewhere	3.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 13074B and for economic injury is 130750.

The State which received an EIDL Declaration # is Louisiana.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: May 15, 2012.

Karen G. Mills,

Administrator

[FR Doc. 2012–12327 Filed 5–21–12; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13076 and #13077]

Louisiana Disaster #LA–00045

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Louisiana dated 05/15/2012.

Incident: Severe storms, tornadoes and flooding.

Incident Period: 03/20/2012 through 03/22/2012.

Effective Date: 05/15/2012.

Physical Loan Application Deadline Date: 07/16/2012.

Economic Injury (EIDL) Loan Application Deadline Date: 02/15/2013.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Parish

Beauregard.

Contiguous Parishes/Counties

Louisiana

Allen, Calcasieu, Jefferson Davis, Vernon.

Texas

Newton.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	3.750
Homeowners without Credit Available Elsewhere	1.875
Businesses with Credit Available Elsewhere	6.000
Businesses without Credit Available Elsewhere	4.000
Non-Profit Organizations with Credit Available Elsewhere	3.125
Non-Profit Organizations without Credit Available Elsewhere	3.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Non-Profit Organizations without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 13076B and for economic injury is 130770.

The States which received an EIDL Declaration # are Louisiana and Texas.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: May 15, 2012.

Karen G. Mills,

Administrator.

[FR Doc. 2012–12330 Filed 5–21–12; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2012–0547]

Airport Improvement Program (AIP) Use of Mineral Revenue at Certain Airports

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of guidance; opportunity to comment.

SUMMARY: On February 14, 2012, the FAA Modernization and Reform Act of 2012 (FMRA) was signed into law (Pub. L. 112–95). Section 813 permits the Administrator of the Federal Aviation Administration (FAA) to declare certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport to be revenue greater than the amount needed to carry out the five-year projected maintenance needs of the airport in order to comply with the applicable design and safety standards of the Administration. Although the FMRA directed the FAA to promulgate regulations to carry out Section 813 not later than 90 days after the date of enactment, the authorizing committees agreed to support the FAA's request to issue guidance in lieu of a formal rulemaking due to the time limits imposed by the statute. This notice contains the FAA's proposed guidance developed to carry out Section 813 and offers the public an opportunity to comment.

DATES: The effective date of this guidance is May 22, 2012. The FAA will consider comments on this guidance. If necessary, any appropriate revisions resulting from the comments received will be adopted as of the date of a subsequent publication in the **Federal Register**. Comments must be submitted on or before June 21, 2012.

ADDRESSES: You may send comments [identified by Docket Number FAA–2012–0547] using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Operations, U.S. Department of Transportation, West Building, Ground Floor, Room W12–140, Routing Symbol M–30, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Fax:* 1–202–493–2251.
- *Hand Delivery:* To Docket Operations, Room W12–140 on the ground floor of the West Building, 1200

New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Randall S. Fiertz, Director, Office of Airport Compliance and Management Analysis, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267–3085; facsimile: (202) 493–1416.

SUPPLEMENTARY INFORMATION: A sponsor (applicant) seeking financial assistance for airport planning, airport development, noise compatibility planning or noise mitigation under 49 U.S.C., as amended must agree to comply with certain assurances. These assurances include certain prohibitions on the use of airport revenue. On April 13, 2012, the FAA published modifications to this assurance at 77 FR 22376. Specifically, paragraph (a)(3) of Sponsor Assurance 25 permits the FAA to exempt certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport (as defined at Section 47102 of title 49 United States Code), if the FAA determines the airport sponsor meets the requirements set forth in Section 813 of Public Law 112–95.

A complete list of the current grant assurances can be viewed at: *http://www.faa.gov/airports/aip/grant_assurances/*.

Guidance Developed To Carry Out Section 813 of Public Law 112–95

Airport Sponsor Actions: Airport sponsors seeking to exempt mineral revenue under Section 813 of Public Law 112–95 must submit a sponsor application. The application must include:

- A statutorily mandated five year capital improvement program, as set forth in FAA's Compliance Guidance Letter 2012–01 and Appendix B–1;
- An executed agreement including clauses pertaining to the sponsor's liability, funding waiver, revenue use, and airport use, as set forth in FAA's Compliance Guidance Letter 2012–01 and Appendix C–1;
- A statement with details identifying eligible projects and providing the necessary documentation to meet the thresholds set by statute for the use of the exempted revenue, as set forth in FAA's Compliance Guidance Letter 2012–01 and Appendix D–1 and Table D;

FAA's Compliance Guidance Letter 2012–01 and applicable appendices may be found at: *http://www.faa.gov/airports/airport_compliance/mineral_revenue*.

FAA Actions: FAA and, where applicable, block grant state personnel will begin working with airport sponsors interested in and eligible for the exemption prescribed under Section 813 of Public Law 112–95 to develop a proposed five-year capital improvement program inclusive of the items identified in the sponsor submission application, as set forth in FAA's Compliance Guidance Letter 2012–01 and Appendix B–1. At such time when the airport sponsor submits its application, the local FAA office will ensure the proposed five-year capital improvement program meets the statutorily mandated requirements. The local FAA office also will ensure the airport sponsor's application includes the required agreements and conditions. The local FAA office will forward the sponsor's application to the appropriate regional FAA office. The regional FAA office will notify the airport sponsor if the ''application and requisite supporting documentation'' meet the statutory requirements. This notice commences FAA's 90-day clock to provide a determination on revenue exemption under this provision.

For more details regarding FAA's internal procedures, see FAA's Compliance Guidance Letter 2012–01 and appendices, which may be found at: *http://www.faa.gov/airports/airport_compliance/mineral_revenue*.

Issued in Washington, DC, on May 16, 2012.

Randall S. Fiertz,

Director, Office of Airport Compliance and Management Analysis.

[FR Doc. 2012–12375 Filed 5–21–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Sec. 221 Public Private Partnerships Public Meeting

AGENCY: Federal Aviation Administration, Department of Transportation.

ACTION: Notice of meeting.

SUMMARY: The FAA is conducting a public meeting on May 30 to seek initial input from interested stakeholders about program design and implementation of an equipage incentives program for commercial aircraft and general aviation to equip their aircraft with Next Generation Air Transportation (NextGen) capabilities, pursuant to the FAA's authority in the FAA Modernization and Reform Act of 2012 (sec. 221). The statute requires that such a program be based on public-private partnership (PPP) principles and maximize the use of private sector capital. The purpose of this meeting is to serve as an information sharing session. The FAA is interested in engaging stakeholders and potential public-private partners in the process of developing an effective public-private partnership equipage incentive program.

This notice is for the initial meeting. A subsequent meeting will be planned within 90 days of the May 30 meeting after FAA has assessed stakeholder comments and feedback and further solidified its policy on how to implement a PPP equipage incentives program.

FOR FURTHER INFORMATION CONTACT: Ann Tedford, Office of Finance and Management: Telephone (202) 267–8930: Email: *9-AWA-APO-NextGenIncentives@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA Modernization and Reform Act of 2012 granted authority for the Secretary of Transportation to establish an equipage incentive program to equip US registered aircraft operating in the National Airspace System (NAS) in the interest of achieving NextGen capabilities. The authority states a loan guarantee program could be established either using appropriated funds or by fees and premiums. The FAA is working to understand what options exist for establishing the most effective program possible even if it receives no additional appropriations to fund the incentive. In addition, the FAA must have the authority to enter into a loan guarantee program recognized in an appropriations Act in accordance with the Federal Credit Reform Act of 1990.

The goal for an equipage program would be to encourage deployment of NextGen capable aircraft in the NAS sooner than would have occurred otherwise. Specifically, FAA would aim to increase the speed of adoption of base levels of NextGen equipage (equipage bundles), which will accelerate delivery of NextGen benefits by reducing the time of mixed equipage operations. The FAA is examining various methods of reducing the Government's risk and determining the extent of industry interest in the program, but we need more information for our analysis. The May 30 meeting is therefore intended to share FAA's preliminary thinking and seek industry feedback about what factors are beneficial to the various stakeholders, if such a program were to be created.

Meeting Information

Public meeting at FAA Headquarters (800 Independence Avenue SW., Washington, DC 20591) on May 30, 2012, from 9:00 am to 12:30 pm. The meeting will also be available to view live on-line. RSVPs will be required for meeting attendance as well as Web cast viewing. RSVP by May 25 to: *9-AWA-APO-NextGenIncentives@faa.gov.* Background material, meeting agenda, and details of participation webcast for the May 30 meeting can be obtained at: *http://www.faa.gov/about/initiatives/equipage_incentives/.*

As the financial authority granted to FAA in Section 221 of the FAA Modernization and Reform Act is new, the agency believes that stakeholder input is necessary in order to optimize the design of an effective equipage incentives plan. Input from interested stakeholders will help inform the direction the FAA should take and raise issues that the agency might not have considered internally. A list of questions FAA seeks comment on is on display at: *http://www.faa.gov/about/initiatives/equipage_incentives/.*

Comments specifically addressing these questions will be accepted through June 20 and should be submitted to: *9-AWA-APO-NextGenIncentives@faa.gov.*

The FAA will also provide the opportunity for private meetings and written responses. We recognize that some of the information we are seeking might be considered proprietary or commercially sensitive. We will take all steps needed to protect any information provided that is marked proprietary or commercially sensitive.

Issued in Washington, DC, on May 14, 2012.

Julie Oettinger,

Assistant Administrator for Policy, International Affairs and Environment.

[FR Doc. 2012–12378 Filed 5–21–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket Number NHTSA–2012–0064]

Reports, Forms, and Record Keeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for public comment on proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections.

This document describes one collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before July 23, 2012.

ADDRESSES: Comments must refer to the docket notice numbers cited at the beginning of this notice and be submitted to Docket Management, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. Please identify the proposed collection of information for which a comment is provided, by referencing its OMB clearance number. It is requested, but not required, that 2 copies of the comment be provided. The Docket Section is open on weekdays from 10 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: Gary R. Toth, Office of Data Acquisitions (NVS–410), Room W53–303, 1200 New Jersey Avenue SE., Washington, DC 20590. Mr. Toth's telephone number is (202) 366–5378. Please identify the relevant collection of information by referring to its OMB Control Number.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) How to enhance the quality, utility, and clarity of the information to be collected;

(iv) How to minimize the burden of the collection of information on those who are to respond including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks for public comments on the following proposed collections of information:

Title: National Automotive Sampling System (NASS).

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2127–0021.

Affected Public: Passenger Motor Vehicle Operators.

Abstract: The collection of crash data that support the establishment and enforcement of motor vehicle regulations that reduce the severity of injury and property damage caused by motor vehicle crashes is authorized under the National Traffic and Motor Vehicle Safety Act of 1966 (Pub. L. 89–563, Title 1, Sec. 106, 108, and 112). The National Automotive Sampling System (NASS) Crashworthiness Data System (CDS) of the National Highway Traffic Safety Administration investigates high severity crashes. Once a crash has been selected for investigation, researchers locate, visit, measure, and photograph the crash scene; locate, inspect, and photograph vehicles; conduct a telephone or personal interview with the involved individuals or surrogate; and obtain and record injury information received from various medical data sources. NASS CDS data are used to describe and analyze circumstances, mechanisms, and consequences of high severity motor vehicle crashes in the United States. The collection of interview data aids in this effort.

Estimated Annual Burden: 5,605 hours.

Number of Respondents: 9,450.

Issued on: May 14, 2012.

Terry T. Shelton,

Associate Administrator, National Center for Statistics and Analysis.

[FR Doc. 2012–12351 Filed 5–21–12; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2011–0040; Notice 2]

Forest River, Inc., Denial of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of petition denial.

SUMMARY: Forest River, Inc. (Forest River), has determined that approximately 2,741 model year 2009–2011 R–Pod travel trailers that it manufactured from October 27, 2008 through November 30, 2010, fail to meet the requirements of paragraph S5.1.1 of Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, Reflective Devices, and Associated Equipment.* Forest River has filed an appropriate report, dated December 14, 2010 pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.*

Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), Forest River has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of Forest River's petition was published, with a 30-day public comment period, on August 29, 2011, in the **Federal Register** (76 FR 53715). Thirty-four [1] comments were received. To view the petition, comments, and all supporting documents log onto the Federal Docket Management System Web site at: *http://www.regulations.gov/.* Then follow the online search instructions to locate docket number ''NHTSA–2011–0040.''

FOR FURTHER INFORMATION CONTACT: For further information on this decision, contact Mr. Michael Cole, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–2334, facsimile (202) 366–7002.

Relevant Requirements of FMVSS No. 108

Among other things, FMVSS No. 108 requires trailers that are 80 or more inches in overall width to be equipped with three red rear identification lamps, two red rear clearance lamps, and two amber front clearance lamps.

Summary of Forest Rivers's Petition

Vehicles involved: Forest River estimates that a total of approximately 2,741 model year 2009–2011 R–Pod model travel trailers were not manufactured with rear red identification lamps, rear red clearance lamps, and front amber clearance lamps. Of these, 2,697 were manufactured in Forest River's Surveyor Division plant in Goshen, Indiana and 44 were manufactured in its Surveyor Division plant in Dallas, Oregon.

Noncompliance: Forest River described the noncompliance as the absence of the clearance lamps and marker lamps required by paragraph S5.1.1 of FMVSS No. 108.

Forest River stated that its original interpretation of the requirements of FMVSS No. 108 caused it to believe that because the bodies of the subject trailers, not including the fenders, are less than 80 inches in width, clearance lamps and marker lamps were not required.

Forest River further explained that based on a consumer complaint NHTSA's Office of Vehicle Safety Compliance (OVSC) inspected a number of the subject trailers and found that, based on the width of the trailers, including the fenders, that clearance lamps and marker lamps were required on the trailers due to the requirements of paragraph S5.1.1, Table 1 of FMVSS No. 108.

In its petition Forest River argues that the noncompliance is inconsequential to motor vehicle safety for the following reasons:

(1) The cost of correcting the noncompliance is substantial.

(2) Installation of clearance lamps and marker lamps on a fully assembled trailer has the potential of causing deterioration of the trailer if the remedy is not completed correctly.

(3) ''The box of the unit [subject trailer] is under the 80 inch width and is properly marked according to Table IV of [49 CFR] 571.108. The fenders are low on each side of the unit.''

Forest River additionally states that it has corrected the noncompliance so that future production of its R–Pod travel trailer will conform to all applicable requirements of FMVSS No. 108.

Forest River believes that the noncompliance is inconsequential to motor vehicle safety, and that its petition, to exempt it from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120, should be granted.

Comments

The agency received 34 comments from, primarily, owners of Forest River trailers. 33 of those commenters supported denial of this petition, (one commenter did not offer an opinion) and 29 commenters indicated their belief that this was a safety issue (the remaining commenters did not offer an opinion).

Regarding the vehicle width, Rosemary Dingus commented that the fenders extend ''about a foot from the sides of the trailer,'' and Jeffrey Stephens commented that the overall width of his trailer is 97 inches, fender to fender.

NHTSA's Consideration of Forest River's Inconsequentiality Petition

General Principles

Federal motor vehicle safety standards are adopted only after the agency has determined, following notice and comment, that the performance requirements are objective and practicable and ''meet the need for motor vehicle safety.'' See 49 U.S.C. 30111(a). Thus, there is a general presumption that the failure of a motor vehicle or item of motor vehicle equipment to comply with a FMVSS increases the risk to motor vehicle safety beyond the level deemed appropriate by NHTSA through the rulemaking process. To protect the public from such risks, manufacturers whose products fail to comply with a FMVSS are normally required to conduct a safety recall under which they must notify owners, purchasers, and dealers of the noncompliance and provide a remedy without charge. 49 U.S.C. 30118–30120.

However, Congress has recognized that, under some limited circumstances, a noncompliance could be ''inconsequential'' to motor vehicle safety. ''Inconsequential'' is not defined either in the statute or in NHTSA's regulations. Rather, the agency determines whether a particular noncompliance is inconsequential to motor vehicle safety based on the specific facts before it. The key issue in determining inconsequentiality is whether the noncompliance in question is likely to increase the safety risk to individuals of accidents or to individual occupants who experience the type of injurious event against which the standard was designed to protect. *See General Motors Corp.; Ruling on Petition for Determination of Inconsequential Noncompliance,* 69 FR 19897 (Apr. 14, 2004).

There have been instances in the past in which NHTSA has determined that a manufacturer has met its burden of demonstrating that a noncompliance is inconsequential to safety. For example, there have been instances where NHTSA granted inconsequentiality petitions regarding noncompliance with labeling requirements. *See, e.g., General Motors Corp., Grant of Application for Decision of Inconsequential Noncompliance,* 61 FR 60746 (Nov. 29, 1996) (noncompliance with FMVSS No. 115). More rarely, NHTSA has granted inconsequentiality petitions in cases of

[1] A 35th comment was received but appeared to be a duplicate entry.

noncompliance with performance requirements where the noncompliance was determined to be so minor as to be inconsequential—for example, where the noncompliance is expected to be imperceptible, or nearly so, to vehicle occupants or approaching drivers. *See, e.g., General Motors Corp., Grant of Application for Decision of Inconsequential Noncompliance,* 63 FR 70179 (Dec. 18, 1998) (noncompliance with FMVSS No. 108); Subaru of America, Inc., *Grant of Application for Decision of Inconsequential Noncompliance,* 66 FR 18354 (Apr. 6, 2001) (noncompliance with FMVSS No. 108).

On the other hand, NHTSA has denied petitions for inconsequential noncompliance where required equipment is completely missing from the vehicle. For example, NHTSA denied a petition for travel trailers not equipped with rear identification lamps. *Weekend Warrior Trailers, Inc., Denial of Petition for Decision of Inconsequential Noncompliance,* 71 FR 5409 (Feb. 1, 2006). In addition, NHTSA has denied inconsequentiality petitions for trailers that were equipped with clearance and identification lamps that did not meet the minimum photometry requirements. *Utilimaster Corporation; Denial of Application for Decision of Inconsequential Noncompliance,* 66 FR 33603 (June 22, 2001).

NHTSA's Analysis of Forest River's Arguments in Support of Its Petition

NHTSA has reviewed the petition and has determined that the noncompliance is not inconsequential to motor vehicle safety.

First, Forest River asserts that the box of the subject vehicles is under the 80 inch width and is properly marked according to Table IV of 49 CFR 571.108, and that the fenders are low on each side of the unit. The agency finds this assertion unavailing. Forest River did not equip the subject trailers with identification or clearance lamps, all of which have been required on wide trailers since January 1, 1969. The ability of motorists to distinguish wide trailers from passenger vehicles is an essential component of crash avoidance because of size, maneuvering, and speed differences between the two types of vehicles. High mounted identification lamps uniquely identify wide trailers and do so with the longest possible sight preview of the lamps. Clearance lamps show the overall width of the vehicle. Therefore, the absence of identification and clearance lamps on the subject trailers increases the risk of a crash involving these trailers.

In order to discern the requirements with which it must comply, a manufacturer must first determine the overall width of its vehicle. The term ''overall width'' of a vehicle was first published in the **Federal Register** on March 1, 1967, (see 32 FR 3390) and is described in Note 1 of Tables I and II as ''the nominal design dimension of the widest part of the vehicle, exclusive of * * * flexible fender extensions * * *.'' Thus, an overall width determination does not have to include flexible fender extensions. Forest River claims that ''the body'' of the subject trailers, exclusive of fender extensions, is less than 80 inches in overall width. However, contrary to Forest River's view, the steel panels that cover the wheel/tire assemblies of the subject trailers are clearly the fender itself, and not a flexible extension of a fender. Further, the wheel/tire assemblies themselves are located entirely outside the ''the body'' of the trailer.

Second, Forest River argues that the cost of correcting the noncompliance is substantial. The statute does not include cost as a factor in determining whether a noncompliance is inconsequential. With respect to at least some noncompliances, such as for example those involving a seat belt or air bag that was missing or did not work, cost would not be a factor. Moreover, the manufacturer of the noncomplying vehicle that is missing a required item of equipment, such as the lamps here, has saved money by not including the item on the vehicles as manufactured and sold. In any event, Forest River has not demonstrated that the costs should justify an exemption. Forest River hypothesizes that the costs could be slightly over a million dollars by multiplying the number of trailers by a unit cost for each of the recalled trailers. In its calculation, Forest River estimates the labor cost at $100/hour. However, according to the U.S. Department of Labor, automotive mechanics earn, on average, only $17.21 per hour.[2] In addition, the million dollar figure represents an upper bound that assumes that all trailers will be remedied. The completion rate for recent noncompliance recalls of recreational trailers has been approximately 50 percent. Therefore, the cost to Forest River of correcting the noncompliant trailers will likely be substantially less than the million-dollar cost Forest River estimates based on the remedy being performed on all 2,741 subject trailers.

Third, Forest River argues that remedying the subject trailers has the potential of causing deterioration of the vehicles if the remedy is not completed correctly. Unfortunately, it is not uncommon for manufacturers to present ways that a recall could be implemented improperly in order to avoid implementing recalls. However, problems with developing or implementing a remedy are not grounds for granting an inconsequentiality petition. *See Blue Bird Body Company; Denial of Application for Decision of Inconsequential Noncompliance,* 65 FR 48822 at 48823 (Aug. 9, 2000)).

Decision

In consideration of the foregoing, NHTSA has decided that the petitioner has not met its burden of persuasion that the noncompliance described is inconsequential to motor vehicle safety. Accordingly, Forest River's petition is hereby denied, and the petitioner must notify owners, purchasers and dealers pursuant to 49 U.S.C. 30118 and provide a remedy in accordance with 49 U.S.C. 30120.

Authority: 49 U.S.C. 30118, 30120: Delegations of authority at CFR 1.50 and 501.8.

Issued on: May 16, 2012.

Nancy Lummen Lewis,

Associate Administrator for Enforcement.

[FR Doc. 2012–12374 Filed 5–21–12; 8:45 am]

BILLING CODE 4910–59–P

[2] Bureau of Labor Statistics, *Occupational Outlook Handbook,* 2012–13 Edition, available at *http://www.bls.gov/ooh/Installation-Maintenance-and-Repair/Automotive-service-technicians-and-mechanics.htm (last visited April 25, 2012).*

FEDERAL REGISTER

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Part II

Department of Defense

Defense Acquisition Regulations System

48 CFR Parts 204, 212, 225, *et al.*

Defense Federal Acquisition Regulation Supplements; Final Rules

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 225 and 252

RIN 0750–AH69

Defense Federal Acquisition Regulation Supplement: United States-Korea Free Trade Agreement (DFARS Case 2012–D025)

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

ACTION: Interim rule.

SUMMARY: DoD is issuing an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement the United States-Korea Free Trade Agreement. The Republic of Korea is already party to the World Trade Organization Government Procurement Agreement.

DATES: *Effective date:* May 22, 2012.

Comment Date: Comments on the interim rule should be submitted in writing to the address shown below on or before July 23, 2012, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2012–D025, using any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by entering ''DFARS Case 2012–D025'' under the heading ''Enter keyword or ID'' and selecting ''Search.'' Select the link ''Submit a Comment'' that corresponds with ''DFARS Case 2012–D025.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''DFARS Case 2012–D025'' on your attached document.
- *Email: dfars@osd.mil.* Include DFARS Case 2012–D025 in the subject line of the message.
- *Fax:* 571–372–6094.
- *Mail:* Defense Acquisition Regulations System, Attn: (Ms. Amy Williams), OUSD (AT&L) DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060.

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

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, Defense Acquisition Regulations System, OUSD (AT&L) DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060. Telephone: 571–372–6106.

SUPPLEMENTARY INFORMATION:

I. Background

This interim rule amends DFARS part 225 and the corresponding provisions and clauses in DFARS part 252 to implement the United States-Korea Free Trade Agreement (see the United States-Korea Free Trade Agreement Implementation Act (Pub. L. 112–41) (19 U.S.C. 3805 note)).

The Republic of Korea is already party to the World Trade Organization Government Procurement Agreement (WTO GPA). This Free Trade Agreement (FTA) now covers acquisition of supplies and services between $100,000 and the current WTO GPA threshold of $202,000, lowering the threshold for—

- Waiver of the applicability of the Buy American statute (41 U.S.C. chapter 83) for some foreign supplies and construction materials from the Republic of Korea; and
- Applicability of specified procurement procedures designed to ensure fairness in the acquisition of supplies and services (see FAR 25.408). These obligations include, among others, that an agency shall not impose the condition that, in order for an offeror to be allowed to submit an offer or be awarded a contract, the offeror has been previously awarded one or more contracts by an agency of the United States Government or that the offeror has prior work experience in the United States (see FAR 15.305(a)(2)(iv)).

II. Discussion and Analysis

This interim rule adds the Republic of Korea to the definition of ''Free Trade Agreement country'' in multiple locations in the DFARS. The Republic of Korea was already listed as a designated country because it is party to the WTO GPA. The excluded services for Korea FTA are the same as for the WTO GPA. By implementation of this Korea FTA, eligible goods and services from Korea are now covered when valued at or above $100,000, rather than at or above the WTO GPA threshold of $202,000. The threshold for the Korea FTA for construction is the same as the threshold for the WTO GPA for construction.

The Korea FTA $100,000 threshold for supplies and services is higher than the threshold for supplies and services for most of the FTAs ($77,494), but not as high as the Bahrain, Morocco, and Peru FTA threshold for supplies and services ($202,000). Therefore, new alternates are required for the provision and clause for acquisition of photovoltaic devices (DFARS 252.225–7017 and 252.225–7018) and the Buy American Act—Free Trade Agreements—Balance of Payments Program provision and clause (DFARS 252.225–7035 and 252.225–7036) to cover acquisitions that are valued at $77,494 or more but less than $100,000. In that dollar range, all FTAs are applicable, except for the Bahrain, Korea, Morocco, and Peru FTAs.

Because the Korea FTA construction threshold of $7,777,000 is the same as the WTO GPA threshold, no new clause alternates are required for the Balance of Payments Program—Construction Material under Trade Agreements clause (DFARS 252.225–7045).

There are also conforming changes to the clause prescriptions at DFARS 225.1101, Alternate A, Annual Representations and Certifications, and DFARS 252.212–7001, Contract Terms and Conditions required to Implement Statutes or Executive Orders Applicable to Defense Acquisitions of Commercial Items.

A minor correction was made to paragraph (c) of DFARS 252.225–7036, Buy American Act—Free Trade Agreements—Balance of Payments Program to add Peruvian end products to the list of end products not covered by the clause. The definition of ''Peruvian end products'' had been added to paragraph (a), but was not then added in paragraph (c). This makes paragraph (c) consistent with the trade agreement thresholds specified in FAR 25.402(b), as already implemented in paragraph (c) of Alternate II to DFARS 252.225–7036, as well as in the basic provision at DFARS 252.225–7035 and its Alternate II.

III. Executive Orders 12866 and 13563

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

IV. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* Korea is already a designated country under the WTO GPA. Although the rule now opens up Government procurement to the goods and services of Korea at or above the threshold of $100,000, DoD does not anticipate any significant economic impact on U.S. small businesses. The Department of Defense only applies the trade agreements to the non-defense items listed at DFARS 225.401–70, and acquisitions that are set aside or provide other forms of preference for small businesses are exempt. FAR 19.502–2 states that acquisitions that do not exceed $150,000 (except as described in paragraph (1) of the definition of ''simplified acquisition threshold'' at FAR 2.101) are automatically reserved exclusively for small business concerns, unless the contracting officer determines that there is not a reasonable expectation of obtaining offers from two or more responsible small business concerns.

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

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by the rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2012–D025), in correspondence.

V. Paperwork Reduction Act

This rule affects the certification and information collection requirements in the provisions at DFARS 252.225–7020 and 252.225–7035, currently approved under OMB Control Number 0704–0229, titled Defense Federal Acquisition Regulation Supplement part 225, Foreign Acquisition, and related clauses, in accordance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The impact, however, is negligible, because it is just a question of under which category offered goods from the Republic of Korea would be listed. The rule also affects DFARS 252.225–7018, which is a variant of the Buy American-trade agreements certifications already approved, which was issued as an interim rule under DFARS Case 2011–D046 (76 FR 78858, December 20, 2011).

VI. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary because the FTA with the Republic of Korea, for which the President signed the implementing legislation into law on October 21, 2011 (Pub. L. 112–041), entered into force on March 15, 2012. This is a reciprocal agreement, approved by Congress and the President of the United States. It is important for the United States Government to honor its new trade obligations to the Republic of Korea, as the Republic of Korea in turn honors its new trade obligations to the United States. However, pursuant to 41 U.S.C. 1707 and FAR 1.501–3(b), DoD will consider public comments received in response to this interim rule in the formation of the final rule.

List of Subjects in 48 CFR Parts 225 and 252

Government procurement.

Ynette R. Shelkin,

Editor, Defense Acquisition Regulations System.

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

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

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

PART 225—FOREIGN ACQUISITION

225.1101 [Amended]

■ 2. Section 225.1101 is amended by:

■ a. Adding paragraphs (10)(v) and (vi);

■ b. In paragraph (11)(i)(A), removing ''$77,494'' and adding ''$100,000'' in its place; and

■ c. Adding paragraph 11(i)(C).

The additions read as follows:

225.1101 Acquisition of supplies.

* * * * *

(10) * * *

(v) Use the provision with its Alternate IV when the clause at 252.225–7036 is used with its Alternate IV.

(vi) Use the provision with its Alternate V when the clause at 252.225–7036 is used with its Alternate V.

(11)(i) * * *

(C) Use the clause with its Alternate IV when the estimated value equals or exceeds $77,494 but is less than $100,000, except if the acquisition is of end products in support of operations in Afghanistan, use with its Alternate V.

* * * * *

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. Section 252.204–7007 is amended by removing the clause date ''(MAR 2012)'' and adding ''(MAY 2012)'' in its place and revising paragraph (d)(2)(vi) to read as follows:

252.204–7007 Alternate A, Annual Representations and Certifications.

* * * * *

(d) * * *

(2) * * *

___ (vi) 252.225–7035, Buy American Act—Free Trade Agreements—Balance of Payments Program Certificate.

___ Use with Alternate I.

___ Use with Alternate II.

___ Use with Alternate III.

___ Use with Alternate IV.

___ Use with Alternate V.

* * * * *

■ 4. Section 252.212–7001 is amended by removing the clause date ''(APR 2012)'' and adding ''(MAY 2012)'' in its place, revising paragraphs (b)(12) and (b)(13)(i), and revising paragraph (b)(16) to read as follows:

252.212–7001 Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to Defense Acquisitions of Commercial Items.

* * * * *

(b) * * *

(12) ___ 252.225–7017, Photovoltaic Devices (MAY 2012) (Section 846 of Pub. L. 111–383).

(13)(i) ___ 252.225–7021, Trade Agreements (MAY 2012) (19 U.S.C. 2501–2518 and 19 U.S.C. 3301 note).

* * * * *

(16)(i) ___ 252.225–7036, Buy American Act—Free Trade Agreements—Balance of Payments Program (MAY 2012) (41 U.S.C. chapter 83 and 19 U.S.C. 3301 note).

(ii) ___ Alternate I (OCT 2011) of 252.225–7036.

(iii) ___ Alternate II (OCT 2011) of 252.225–7036.

(iv) ___ Alternate III (OCT 2011) of 252.225–7036.

(v) ___ Alternate IV (MAY 2012) of 252.225–7036.

(vi) ___ Alternate V (MAY 2012) of 252.225–7036.

* * * * *

■ 5. Section 252.225–7017 is amended by—

■ a. Removing the clause date ''(MAR 2012)'' and adding ''(MAY 2012)'' in its place;

■ b. In paragraph (a), in the definition of ''Designated country'', revising paragraph (ii);
■ c. In paragraph (a), revising the definition of ''Free Trade Agreement country'' and adding, in alphabetical order, the definition of ''Korean photovoltaic device'';
■ d. Redesignating paragraphs (c)(3) and (c)(4) as paragraphs (c)(4) and (c)(5), and adding newly designated paragraph (c)(3); and
■ e. In newly designated paragraph (c)(4), removing ''$77,494'' and adding ''$100,000'' in its place.

The additions and revisions read as follows:

252.225–7017 Photovoltaic Devices.

* * * * *

(a) * * *

(ii) A Free Trade Agreement country (Australia, Bahrain, Canada, Chile, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Korea (Republic of), Mexico, Morocco, Nicaragua, Peru, or Singapore);

* * * * *

Free Trade Agreement country means Australia, Bahrain, Canada, Chile, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Korea (Republic of), Mexico, Morocco, Nicaragua, Peru, or Singapore.

* * * * *

Korean photovoltaic device means an article that—

(i) Is wholly manufactured in Korea; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Korea (Republic of) into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.

* * * * *

(c) * * *

(3) $77,494 or more but less than $100,000, then the Contractor shall utilize under this contract only domestic photovoltaic devices, qualifying country photovoltaic devices, or Free Trade Agreement country photovoltaic devices (other than Bahrainian, Korean, Moroccan, or Peruvian photovoltaic devices), unless, in its offer, it specified utilization of other foreign photovoltaic devices in paragraph (c)(4)(ii) of the Photovoltaic Devices—Certificate provision of the solicitation. If the Contractor certified in its offer that it will utilize a qualifying country photovoltaic device or a Free Trade Agreement country photovoltaic device (other than a Bahrainian, Korean, Moroccan, or Peruvian photovoltaic device), the Contractor shall utilize a qualifying country photovoltaic device; a Free Trade Agreement country photovoltaic device (other than a Bahrainian, Korean, Moroccan, or Peruvian photovoltaic device), or, at the Contractor's option, a domestic photovoltaic device;

* * * * *

■ 6. Section 252.225–7018 is amended by—
■ a. Removing the clause date ''(MAR 2012)'' and adding ''(MAY 2012)'' in its place;
■ b. In paragraph (a), removing ''*Free Trade Agreement photovoltaic device, least developed country photovoltaic device,''* and adding ''*Free Trade Agreement photovoltaic device, Korean photovoltaic device, least developed country photovoltaic device''* in its place;
■ c. Redesignating paragraphs (c)(4) and (c)(5) as paragraphs (c)(5) and (c)(6), and adding newly designated paragraph (c)(4); and
■ d. In newly designated paragraph (c)(5), removing ''$77,494'' and adding ''$100,000'' in its place.

The additions and revisions read as follows:

252.225–7018 Photovoltaic Devices—Certificate.

* * * * *

(c) * * *

(4) If $77,494 or more but less than $100,000—

__ (i) The offeror certifies that each photovoltaic device to be utilized in performance of the contract is a domestic photovoltaic device; a qualifying country (except Australian or Canadian) photovoltaic device; a Free Trade Agreement country photovoltaic device (other than a Bahrainian, Korean, Moroccan, or Peruvian photovoltaic device) [*Offeror to specify country of origin* _____]; or

__ (ii) The offered foreign photovoltaic devices (other than those from countries listed in paragraph (c)(4)(i) of this provision) are the product of _____. [*Offeror to specify country of origin, if known, and provide documentation that the cost of a domestic photovoltaic device. would be unreasonable in comparison to the cost of the proposed foreign photovoltaic device.*]

* * * * *

252.225–7021 [Amended]

■ 7. Section 252.225–7021 is amended by—
■ a. Removing the clause date ''(JAN 2012)'' and adding ''(MAY 2012)'' in its place; and
■ b. In paragraph (a), in the definition of ''Designated country'', paragraph (ii), removing ''Guatemala, Honduras, Mexico'' and adding ''Guatemala, Honduras, Korea (Republic of), Mexico'' in its place.

■ 8. Section 252.225–7035 is amended by adding Alternates IV and V to read as follows:

252.225–7035 Buy American Act—Free Trade Agreements—Balance of Payments Program Certificate.

* * * * *

ALTERNATE IV (MAY 2012) As prescribed in 225.1101(10)(v), add a definition of ''Korean end product'' in paragraph (a) of the basic provision; substitute the phrase ''Free Trade Agreement country end products other than Bahrainian end products, Korean end products, Moroccan end products, or Peruvian end products'' for the phrase ''Free Trade Agreement country end products other than Bahrainian end products, Moroccan end products, or Peruvian end products'' in paragraphs (b)(2) and (c)(2)(ii) of the basic provision.

ALTERNATE V (MAY 2012) As prescribed in 225.1101(10)(vi), substitute the following paragraphs (a), (b)(2), (c)(2)(i), and (c)(2)(ii) for paragraphs (a), (b)(2), (c)(2)(i), and (c)(2)(ii) of the basic clause:

(a) *Definitions. Bahrainian end product, commercially available off-the-shelf (COTS) item, component, domestic end product, Free Trade Agreement country, Free Trade Agreement country end product, foreign end product, Korean end product, Moroccan end product, Peruvian end product, qualifying country end product, South Caucasus/Central and South Asian (SC/CASA) state end product,* and *United States,* as used in this provision, have the meanings given in the Buy American Act—Free Trade Agreements—Balance of Payments Program clause of this solicitation.

(b)(2) For line items subject to Free Trade Agreements, will evaluate offers of qualifying country end products, SC/CASA state end products, or Free Trade Agreement end products other than Bahrainian end products, Korean end products, Moroccan end products, or Peruvian end products without regard to the restrictions of the Buy American Act or the Balance of Payments Program.

(c)(2)(i) The offeror certifies that the following supplies are qualifying country (except Australian or Canadian) or SC/CASA state end products:

(*Line Item Number*)

(*Country of Origin*)

(ii) The offeror certifies that the following supplies are Free Trade Agreement country end products other than Bahrainian end products, Korean end products, Moroccan end products, or Peruvian end products:

(*Line Item Number*)

(*Country of Origin*)

■ 9. Section 252.225–7036 is amended by—

■ a. Removing the clause date ''(OCT 2011)'' and adding ''(MAY 2012)'' in its place;

■ b. In paragraph (a) in the definition of ''Free Trade Agreement country'', removing ''Guatemala, Honduras, Mexico,'' and adding ''Guatemala, Honduras, Korea (Republic of), Mexico'' in its place;

■ c. Revising paragraph (c); and

■ d. Adding Alternates IV and V.

The additions and revisions read as follows:

252.225–7036 Buy American Act—Free Trade Agreements—Balance of Payments Program.

* * * * *

(c) The Contractor shall deliver under this contract only domestic end products unless, in its offer, it specified delivery of qualifying country end products, Free Trade Agreement country end products other than Bahrainian end products, Moroccan end products, or Peruvian end products, or other foreign end products in the Buy American Act—Free Trade Agreements—Balance of Payments Program Certificate provision of the solicitation. If the Contractor certified in its offer that it will deliver a qualifying country end product or a Free Trade Agreement country end product other than a Bahrainian end product, a Moroccan end product, or a Peruvian end product, the Contractor shall deliver a qualifying country end product, a Free Trade Agreement country end product other than a Bahrainian end product, a Moroccan end product, or a Peruvian end product, or, at the Contractor's option, a domestic end product.

* * * * *

ALTERNATE IV (MAY 2012)

As prescribed in 225.1101(11)(i)(C), add the following definition to paragraph (a) and substitute the following paragraph (c) for paragraph (c) of the basic clause:

(a) *Korean end product* means an article that—

(i) Is wholly the growth, product, or manufacture of Korea; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Korea (Republic of) into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product, includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

(c) The Contractor shall deliver under this contract only domestic end products unless, in its offer, it specified delivery of qualifying country end products, Free Trade Agreement country end products other than Bahrainian end products, Korean end products, Moroccan end products, or Peruvian end products, or other foreign end products in the Buy American Act—Free Trade Agreements—Balance of Payments Program Certificate provision of the solicitation. If the Contractor certified in its offer that it will deliver a qualifying country end product or a Free Trade Agreement country end product other than a Bahrainian end product, a Korean end product, a Moroccan end product, or a Peruvian end product, the Contractor shall deliver a qualifying country end product, a Free Trade Agreement country end product other than a Bahrainian end product, a Korean end product, a Moroccan end product, or a Peruvian end product, or, at the Contractor's option, a domestic end product.

ALTERNATE V (MAY 2012)

As prescribed in 225.1101(11)(i)(C), add the following new definitions to paragraph (a) and substitute the following paragraph (c) for paragraph (c) of the basic clause:

(a) *Korean end product* means an article that—

(i) Is wholly the growth, product, or manufacture of Korea; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Korea (Republic of) into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product, includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

South Caucasus/Central and South Asian (SC/CASA) state means Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Pakistan, Tajikistan, Turkmenistan, or Uzbekistan.

South Caucasus/Central and South Asian (SC/CASA) state end product means an article that—

(i) Is wholly the growth, product, or manufacture of an SC/CASA state; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in an SC/CASA state into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product, includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

(c) The Contractor shall deliver under this contract only domestic end products unless, in its offer, it specified delivery of qualifying country end products, SC/CASA state end products, Free Trade Agreement country end products other than Bahrainian end products, Korean end products, Moroccan end products, or Peruvian end products, or other foreign end products in the Buy American Act—Free Trade Agreements—Balance of Payments Program Certificate provision of the solicitation. If the Contractor certified in its offer that it will deliver a qualifying country end product, SC/CASA state end products, or a Free Trade Agreement country end product other than a Bahrainian end product, a Korean end product, a Moroccan end product, or a Peruvian end product, the Contractor shall deliver a qualifying country end product, an SC/CASA state end product, a Free Trade Agreement country end product other than a Bahrainian end product, a Korean end product, a Moroccan end product, or a Peruvian end product or, at the Contractor's option, a domestic end product.

252.225–7045 [Amended]

■ 10. Section 252.225–7045 is amended by—

■ a. Removing the clause date ''(JAN 2012)'' and adding ''(MAY 2012)'' in its place; and

■ b. In paragraph (a) in the definition of ''Designated country'', amending paragraph (2) by removing ''Guatemala, Honduras, Mexico'' and adding ''Guatemala, Honduras, Korea (Republic of), Mexico'' in its place.

[FR Doc. 2012–11558 Filed 5–21–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 252

RIN 0750–AH72

Defense Federal Acquisition Regulation Supplement: New Free Trade Agreement With Colombia (DFARS Case 2012–D032)

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

ACTION: Interim rule.

SUMMARY: DoD is issuing an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement the United States—Colombia Trade Promotion

Agreement. This Trade Promotion Agreement is a free trade agreement that provides for mutually non-discriminatory treatment of eligible products and services from Columbia.

DATES: *Effective date:* May 22, 2012.

Comment Date: Comments on the interim rule should be submitted in writing to the address shown below on or before July 23, 2012, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2012–D032, using any of the following methods:

○ *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by entering ''DFARS Case 2012–D032'' under the heading ''Enter keyword or ID'' and selecting ''Search.'' Select the link ''Submit a Comment'' that corresponds with ''DFARS Case 2012–D032.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''DFARS Case 2012–D032'' on your attached document.

○ *Email: dfars@osd.mil.* Include DFARS Case 2012–D032 in the subject line of the message.

○ *Fax:* 571–372–6094.

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

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

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, Defense Acquisition Regulations System, OUSD(AT&L)DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060. Telephone 571–372–6106.

SUPPLEMENTARY INFORMATION:

I. Background

This interim rule amends DFARS part 252 to implement the United States—Colombia Trade Promotion Agreement Implementation Act (Pub. L. 112–42) (19 U.S.C. 3805 note).

This Trade Promotion Agreement is designated in the Federal Acquisition Regulation (FAR) as the Colombia Free Trade Agreement (FTA). The FTA provides for—

- Waiver of the applicability of the Buy American statute (41 U.S.C. chapter 83) for some foreign supplies and construction materials from Colombia; and
- Applicability of specified procurement procedures designed to ensure fairness in the acquisition of supplies and services (see FAR 25.408).

II. Discussion and Analysis

This interim rule adds Colombia to the definition of ''Free Trade Agreement country'' in multiple locations in the DFARS. The Colombia FTA covers acquisition of supplies and services equal to or exceeding $77,494. The threshold for the Columbia FTA is $7,777,000 for construction.

Because the Colombia FTA construction threshold of $7,777,000 is the same as the World Trade Organization Government Procurement Agreement threshold, no new clause alternates are required for the Balance of Payments Program—Construction Material under the Trade Agreements clause (DFARS 252.225–7045).

There are also conforming changes to the clause at DFARS 252.212–7001, Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to Defense Acquisitions of Commercial Items.

III. Executive Orders 12866 and 13563

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

IV. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* Although the rule now opens up Government procurement to the goods and services of Colombia at or above the threshold of $77,494, DoD does not anticipate any significant economic impact on U.S. small businesses. The Department of Defense only applies the trade agreements to the non-defense items listed at DFARS 225.401–70, and acquisitions that are set aside or provide other forms of preference for small businesses are exempt. FAR 19.502–2 states that acquisitions that do not exceed $150,000 (with some exceptions) are automatically reserved exclusively for small business concerns. Therefore, DoD has not performed an Initial Regulatory Flexibility Analysis. DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by the rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2012–D032), in correspondence.

V. Paperwork Reduction Act

This rule affects the certification and information collection requirements in the provisions at DFARS 252.225–7020 and 252.225–7035, currently approved under OMB Control Number 0704–0229, titled Defense Federal Acquisition Regulation Supplement part 225, Foreign Acquisition, and related clauses, in accordance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The impact, however, is negligible, because it is just a question of under which category offered goods from Colombia would be listed.

VI. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary because the Free Trade Agreement with Colombia entered into force on May 15, 2012. This Trade Promotion Agreement is a reciprocal agreement approved by Congress and the President of the United States. It is important for the United States Government to honor its new trade obligations to Colombia, as Colombia in turn honors its new trade obligations to the United States. However, pursuant to 41 U.S.C. 1707 and FAR 1.501–3(b), DoD will consider public comments received in response to this interim rule in the formation of the final rule.

List of Subjects in 48 CFR Part 252

Government procurement.

Ynette R. Shelkin,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR part 252 is amended as follows:

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

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

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

252.225–7017 [Amended]

■ 2. Section 252.225–7017 is amended by—

■ a. In paragraph (a), in the definition of ''Designated country,'' paragraph (ii), by removing ''Australia, Bahrain, Canada, Chile, Costa Rica'' and adding ''Australia, Bahrain, Canada, Chile, Columbia, Costa Rica'' in its place; and

■ b. In paragraph (a) in the definition of ''Free Trade Agreement country'' removing ''Australia, Bahrain, Canada, Chile, Costa Rica'' and adding ''Australia, Bahrain, Canada, Chile, Columbia, Costa Rica'' in its place.

252.225–7021 [Amended]

■ 3. Section 252.225–7021 is amended in paragraph (a), in the definition of ''Designated country,'' paragraph (ii), by removing ''Australia, Bahrain, Canada, Chile, Costa Rica'' and adding ''Australia, Bahrain, Canada, Chile, Columbia, Costa Rica'' in its place.

252.225–7045 [Amended]

■ 4. Section 252.225–7045 is amended in paragraph (a), in the definition of ''Designated country,'' paragraph (2), by removing ''Australia, Bahrain, Canada, Chile, Costa Rica'' and adding ''Australia, Bahrain, Canada, Chile, Columbia, Costa Rica'' in its place.

[FR Doc. 2012–11559 Filed 5–21–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisitions Regulations System

48 CFR Parts 225 and 252

RIN 0750–AH70

Defense Federal Acquisition Regulation Supplement; Defense Trade Cooperation Treaty With the United Kingdom (DFARS 2012–D034)

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

ACTION: Interim rule.

SUMMARY: DoD is issuing an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement requirements of the Treaty Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland Concerning Defense Trade Cooperation (the Treaty) and the Security Cooperation Act of 2010 regarding export control regulations between the United States and the United Kingdom. The Treaty and statute establish an Approved Community that includes members of the U.S. Government and the government of the United Kingdom.

DATES: *Effective Date:* May 22, 2012.

Comment date: Comments on the interim rule should be submitted in writing to the address shown below on or before July 23, 2012, to be considered in the formation of the final rule.

ADDRESSES: Submit comments identified by DFARS Case 2012–D034, using any of the following methods:

• *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by entering ''DFARS Case 2012–D034'' under the heading ''Enter keyword or ID'' and selecting ''Search.'' Select the link ''Submit a Comment'' that corresponds with ''DFARS Case 2012–D034.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''DFARS Case 2012–D034'' on your attached document.

• *Email: dfars@osd.mil.* Include DFARS Case 2012–D034 in the subject line of the message.

• *Fax:* 571–372–6094.

• *Mail:* Defense Acquisition Regulations System, Attn: (Insert case manager's name), OUSD (AT&L) DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060.

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

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, Defense Acquisition Regulations System, OUSD (AT&L) DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060. Telephone 571–372–6106; facsimile 571–372–6101.

SUPPLEMENTARY INFORMATION:

I. Background

This rule streamlines the export control regulations between the United States and the United Kingdom under specified circumstances.

The U.S. Government controls exports of defense articles, technical data, and defense services. The governing law is the Arms Export Control Act (AECA) (22 U.S.C. 2778 *et seq.*) and implementing regulations in the International Traffic in Arms Regulations (ITAR) (22 CFR 120–130).

Under the ITAR, the Department of State manages an export licensing system in which numerous government approvals are often necessary for companies to hold discussions about potential projects, pursue joint activities, ship hardware, or transfer know-how to one another, and even sometimes to transfer engineers and other company employees from one country to another. This process can be challenging and time consuming for U.S. exporters and for foreign firms in their supply chains.

The U.S. concluded the Treaty with the United Kingdom to enable their militaries, security authorities, and their approved industries to exchange defense articles, technical information, and defense services more freely. The Treaty establishes exemptions for certain exports and transfers that meet the Treaty requirements. Other exports and transfers remain governed by AECA and the ITAR.

The Treaty and implementing arrangements with the United Kingdom may be accessed at *http://www.state.gov/t/pm/rls/othr/misc/92770.htm.*

The implementing legislation is in Title I of Pub. L. 111–266, the Security Cooperation Act of 2010.

The Senate conditions upon ratification are at *http://www.govtrack.us/congress/billtext.xpd?bill=s111-3847.*

The U.S. Department of State regulations implementing the Treaty with the United Kingdom are at 22 CFR part 120.

The Treaty establishes an Approved Community that includes members of the U.S. Government and the government of the United Kingdom, including various Ministries, Departments, and Agencies, as well as selected defense and security companies and facilities. Exports of most U.S. defense articles, including technical data and defense services, are generally permitted to enter and to move freely within this community, without the need for government approvals and licenses—provided that all persons comply with all other statutory and regulatory requirements concerning the import of defense articles and defense services or the possession or transfer of defense articles,—when in support of—

- Combined U.S.-U.K. military or counterterrorism operations;
- U.S.-U.K. cooperative security and defense research, development, production, and support programs;
- Mutually agreed to security and defense projects that are for U.K. Government use only; and
- U.S. Government end use.

Under the Treaty, instead of a U.S. exporter preparing and requesting U.S. Department of State approval of an export license or Technical Assistance Agreement for a project, which would normally take around 45–60 days, the exporter will verify information on the U.S. Department of State Web site that—

- The U.K. industry member is a member of the Approved Community;
- The project is on the list of approved projects and items are for U.S. Government end use; and
- The defense article is not on the Exempted Technology List.

If the members of the United States Community and United Kingdom Community, the project, and the technology are verified, then the U.S. exporter and the U.K. member may proceed without export licenses.

In addition to checking the above three lists, an exporter using the Treaty also must comply with any applicable related ITAR requirements and 22 CFR 126.17(g) and other applicable U.S. laws and regulations. These requirements include marking and recordkeeping to ensure that export-controlled items are recognized as such and handled accordingly. Similarly, DFARS 225.7902 implements requirements that relate to exports that, for example, a prospective contractor may make under a DoD solicitation or that a contractor may make in performance of a DoD contract.

II. Executive Orders 12866 and 13563

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

III. Regulatory Flexibility Act

DoD does not expect this interim rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because the rule does not impose burdens on small businesses. Small businesses that are exporters will benefit from being able to use the streamlined treaty process to make exports that are associated with responding to DoD solicitations and performance of DoD contracts. However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

The objective of the rule is to streamline the export control regulations between the United States and the United Kingdom under specified circumstances. The legal basis for the rule is the Security Cooperation Act of 2010 (Pub. L. 111–266), enacted October 8, 2010.

Although this rule adds a representation that requires the approval of the Office of Management and Budget under 44 U.S.C. chapter 35, the net effect will be to significantly streamline and reduce paperwork requirements between the United States and the United Kingdom under the process set forth in the Treaty as implemented by the ITAR by no longer requiring individual export control licenses in certain circumstances within the Approved Community. In short, one representation per offeror will streamline the current process.

The great majority of industry members that comprise the Approved Community are not small businesses due to the specialized knowledge of export control regulations and the cost involved in compliance. Therefore, the cost is anticipated to be less than five million dollars, but will accrue a net cost savings by streamlining the requirements of industry compared to the present export control licensing procedures.

The rule does not duplicate, overlap, or conflict with any other Federal rules.

This rule implements the Treaty and statute and DoD is not aware of any alternative methods of achieving the objectives of the rule. Furthermore, the net impact of the rule is expected to be beneficial to small businesses.

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

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2012–D034), in correspondence.

IV. Paperwork Reduction Act

The rule contains information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35). OMB has cleared this information collection requirement under OMB Control Number 0704–0488, titled: Defense Trade Cooperation Treaty with the United Kingdom (DFARS 252.225).

The annual reporting burden is estimated as follows:

Respondents: 110.
Responses per respondent: 1.
Total annual responses: 110.
Preparation hours per response: 0.1.
Total response burden hours: 11.

This rule will result in a significantly streamlined process and reduced paperwork requirements overall between the United States and the United Kingdom under the process set forth in the Treaty as implemented by the ITAR by no longer requiring individual export licenses within the Approved Community. In short, one representation per offeror will streamline the current process.

B. Request for Comments Regarding Paperwork Burden

Written comments and recommendations on the information collection, including suggestions for reducing this burden, should be sent not later than July 23, 2012 to Ms. Jasmeet Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503, or email *Jasmeet_K._Seehra@omb.eop.gov,* with a

copy to the Defense Acquisition Regulations System, Attn: (Ms. Amy Williams), OUSD(AT&L)DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060. Comments can be received from 30 to 60 days after the date of this notice, but comments to OMB will be most useful if received by OMB within 30 days after the date of this notice.

Public comments are particularly invited on: whether this collection of information is necessary for the proper performance of functions of the DFARS, and will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

To request more information on this information collection or to obtain a copy of the information collection and associated collection instruments, please write to the Defense Acquisition Regulations System, Attn: (Ms. Amy Williams), OUSD(AT&L)DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060, or email *dfars@osd.mil.* Include DFARS Case 2012–D034 in the subject line of the message. Requesters may obtain a copy of the supporting statement from the point of contact specified herein. Please cite OMB Control Number 0704–0488, Defense Trade Cooperation Treaty with the United Kingdom (DFARS 252.225), in all correspondence.

VI. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary because the Department of State final rule implementing the Treaty between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland Concerning Defense Trade Cooperation (Treaty Doc. 110–7) and making other updates to the ITAR became effective on April 13, 2012 (77 FR 23538 dated April 19, 2012). Expedited implementation of an interim DFARS rule is based upon the DFARS' integral ties with the ITAR and the National Industrial Security Program Operating Manual (NISPOM). The NISPOM and DFARS regulations operationalize the ITAR guidance for members of the United States Community and United Kingdom Community in the Approved Community responsible for most of the operational functions.

However, pursuant to 41 U.S.C. 1707 and FAR 1.501–3(b), DoD will consider public comments received in response to this interim rule in the formation of the final rule.

List of Subjects in 48 CFR Parts 225 and 252

Government procurement.

Ynette R. Shelkin,

Editor, Defense Acquisition Regulations System.

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

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

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

PART 225—FOREIGN ACQUISITION

■ 2. Add subpart 225.79 to read as follows:

Subpart 225.79—EXPORT CONTROL

Sec.

225.7900 Scope of subpart.
225.7901 [Reserved]
225.7902 Defense Trade Cooperation Treaty with the United Kingdom.
225.7902–1 Definitions.
225.7902–2 Purpose.
225.7902–3 Policy.
225.7902–4 Procedures.
225.7902–5 Solicitation provision and contract clause.

Subpart 225.79—EXPORT CONTROL

225.7900 Scope of subpart.

This subpart implements the requirements of the Security Cooperation Act of 2010 (Pub. L. 111–266) and the Treaty Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland Concerning Defense Trade Cooperation (the Treaty) regarding export control. See PGI 225.7902 for additional information.

225.7901 [Reserved]

225.7902 Defense Trade Cooperation Treaty with the United Kingdom.

This section implements the Treaty and the Implementing Arrangement for DoD solicitations and contracts that authorize prospective contractors and contractors to use the Treaty to respond to DoD solicitations and in the performance of DoD contracts.

225.7902–1 Definitions.

Approved Community, defense articles, export, Implementing Arrangement, qualifying defense articles, transfer, Treaty, and *U.S. DoD Treaty-eligible requirements* are defined in DFARS clause 252.225–7047, Exports by Approved Community Members in Performance of the Contract.

225.7902–2 Purpose.

The Treaty permits the export of certain U.S. defense articles, technical data, and defense services, without U.S. export licenses or other written authorization under the International Traffic in Arms Regulations (ITAR) into and within the Approved Community, as long as the exports are in support of purposes specified in the Treaty. All persons must continue to comply with statutory and regulatory requirements outside of DFARS and ITAR concerning the import of defense articles and defense services or the possession or transfer of defense articles, including, but not limited to, regulations issued by the Bureau of Alcohol, Tobacco, Firearms and Explosives found at 27 CFR Parts 447, 478, and 479, which are unaffected by the Defense Trade Cooperation Treaty between the United States and the United Kingdom. The Approved Community consists of U.S. entities that are registered with the Department of State and are eligible exporters, the U.S. Government, and certain governmental and commercial facilities in the United Kingdom that are approved and listed by the U.S. Government. See PGI 225.7902–2 for additional information.

225.7902–3 Policy.

DoD will facilitate maximum use of the Treaty by prospective contractors responding to DoD solicitations and by contractors eligible to export qualifying defense articles under DoD contracts in accordance with 22 CFR 126.17(g).

225.7902–4 Procedures.

(a) For all solicitations and contracts eligible for Treaty coverage (see PGI 225.7902–4(1)), the program manager shall identify in writing and submit to the contracting officer prior to issuance of a solicitation and prior to award of a contract—

(1) The qualifying Treaty Scope paragraph (Article 3(1)(a), 3(1)(b), or 3(1)(d)); and

(2) The qualifying defense article(s) using the categories described in 22 CFR 126.17(g).

(b) If applicable, the program manager shall also identify in writing and submit to the contracting officer any specific Part C, Treaty-exempted technology list

items, terms, and conditions for applicable contract line item numbers (See PGI 225.7902–4(2)).

225.7902–5 Solicitation provision and contract clause.

(a) Use the provision at 252.225–7046, Exports by Approved Community Members in Response to the Solicitation, in solicitations containing the clause at 252.225–7047.

(b)(1) Use the clause at 252.225–7047, Exports by Approved Community Members in Performance of the Contract, in solicitations and contracts when—

(i) Export-controlled items are expected to be involved in the performance of the contract and the clause at 252.204–7008 is used; and

(ii) At least one contract line item is intended to satisfy a U.S. DoD Treaty-eligible requirement.

(2) The contracting officer shall complete paragraph (b) of the clause using information the program manager provided as required by 225.7902–4(a).

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. Add section 252.225–7046 to read as follows:

252.225–7046 Exports by Approved Community Members in Response to the Solicitation.

As prescribed in 225.7902–5(a), use the following provision:

EXPORTS BY APPROVED COMMUNITY MEMBERS IN RESPONSE TO THE SOLICITATION (MAY 2012)

(a) *Definitions.* The definitions of *Approved Community, defense articles, export, Implementing Arrangement, qualifying defense articles, transfer, Treaty,* and *U.S. DoD Treaty-eligible requirements* in DFARS clause 252.225–7047 apply to this provision.

(b) All contract line items in the contemplated contract, except any identified in this paragraph, are intended to satisfy U.S. DoD Treaty-eligible requirements. Specific defense articles exempt from Treaty eligibility will be identified in those contract line items that are otherwise Treaty-eligible.

CONTRACT LINE ITEMS NOT INTENDED TO SATISFY U.S. DoD TREATY-ELIGIBLE REQUIREMENTS:

_____

[*Enter Contract Line Item Number(s) or enter ''None''*]

(c) Approved Community members responding to the solicitation may only export or transfer defense articles that specifically respond to the stated requirements of the solicitation.

(d) Subject to the other terms and conditions of the solicitation and the contemplated contract that affect the acceptability of foreign sources or foreign end products, components, parts, or materials, Approved Community members are permitted, but not required, to use the Treaty for exports or transfers of qualifying defense articles in preparing a response to this solicitation.

(e) Any conduct by an offeror responding to this solicitation that falls outside the scope of the Treaty, the Implementing Arrangement, and the implementing regulations of the Department of State in 22 CFR 126.17 (United Kingdom), and 22 CFR 126 Supplement No. 1 (exempted technologies list) is subject to all applicable International Traffic in Arms Regulations (ITAR) requirements, including any criminal, civil, and administrative penalties or sanctions, as well as all other United States statutory and regulatory requirements outside of ITAR.

(f) If the offeror uses the procedures established pursuant to the Treaty, the offeror agrees that, with regard to the export or transfer of a qualifying defense article associated with responding to the solicitation, the offeror shall—

(1) Comply with the requirements and provisions of the Treaty, the Implementing Arrangement, and corresponding regulations (including the ITAR) of the U.S. Government and the government of the United Kingdom;

(2) Prior to the export or transfer of a qualifying defense article—

(i) Mark, identify, transmit, store, and handle any defense articles provided for the purpose of responding to such solicitations, as well as any defense articles provided with or developed pursuant to their responses to such solicitations, in accordance with the Treaty, the Implementing Arrangement, and corresponding United States Government and the government of the United Kingdom regulations including, but not limited to, the marking and classification requirements described in the applicable regulations;

(ii) Comply with the re-transfer or re-export provisions of the Treaty, the Implementing Arrangement, and corresponding United States Government and the government of the United Kingdom regulations, including, but not limited to, the re-transfer and re-export requirements described in the applicable regulations; and

(iii) Acknowledge that any conduct that falls outside or in violation of the Treaty, Implementing Arrangement, and implementing regulations of the applicable government including, but not limited to, unauthorized re-transfer or re-export in violation of the procedures established in the applicable Implementing Arrangement and implementing regulations, remains subject to applicable licensing requirements of the government of the United Kingdom and the United States Government, including any criminal, civil, and administrative penalties or sanctions contained therein; and

(3) Flow down the substance of this provision, including this paragraph (f)(3), to any subcontractor at any tier intending to use the Treaty in responding to this solicitation.

(g) *Representation.* The offeror shall check one of the following boxes and sign the representation:

☐ The offeror represents that export(s) or transfer(s) of qualifying defense articles were made in preparing its response to this solicitation and that such export(s) or transfer(s) complied with the requirements of this provision.

_____

Name/Title of Duly Authorized Representative

_____

Date

☐ The offeror represents that no export(s) or transfer(s) of qualifying defense articles were made in preparing its response to this solicitation.

_____

Name/Title of Duly Authorized Representative

_____

Date

(End of provision)

■ 4. Add section 252.225–7047 to read as follows:

252.225–7047 Exports by Approved Community Members in Performance of the Contract.

As prescribed in 225.7902–5(b), use the following clause:

EXPORTS BY APPROVED COMMUNITY MEMBERS IN PERFORMANCE OF THE CONTRACT (MAY 2012)

(a) *Definitions.* As used in this clause—

Approved Community means the U.S. Government, U.S. entities that are registered and eligible exporters, and certain government and industry facilities in the United Kingdom that are approved and listed by the U.S. Government.

Defense articles means articles, services, and related technical data, including software, in tangible or intangible form, listed on the United States Munitions List of the International Traffic in Arms Regulations (ITAR), as modified or amended.

Export means the initial movement of defense articles from the United States Community to the United Kingdom Community.

Implementing Arrangement means the Implementing Arrangement Pursuant to the Treaty between the Government of the United States of America and the government of the United Kingdom of Great Britain and Northern Ireland Concerning Defense Trade Cooperation signed on February 14, 2008.

Qualifying defense articles means defense articles that are not exempt from the scope of the Treaty as defined in 22 CFR 126.17(g).

Transfer means the movement of previously exported defense articles within the Approved Community.

Treaty means the Treaty between the Government of the United States of America and the government of the United Kingdom of Great Britain and Northern Ireland Concerning Defense Trade Cooperation signed at Washington and London on June 21 and 26, 2007.

United Kingdom Community member means a United Kingdom government authority or nongovernmental entity or facility on the United Kingdom Community list accessible at *http://pmddtc.state.gov.*

United States Community means—

(1) Departments and agencies of the U.S. Government, including their personnel, with,

as appropriate, security accreditation and a need-to-know; and

(2) Nongovernmental U.S. entities registered with the Department of State and eligible to export defense articles under U.S. law and regulation, including their employees, with, as appropriate, security accreditation and a need-to-know.

U.S. DoD Treaty-eligible requirements means any defense article acquired by DoD for use in a combined military or counterterrorism operation, cooperative research, development, production, or support program, or DoD end use, as described in Article 3 of the Treaty and Sections 2 and 3 of the Implementing Arrangement.

(b) All contract line items in this contract, except any identified in this paragraph, are intended to satisfy U.S. DoD Treaty-eligible requirements. Specific defense articles exempt from Treaty eligibility will be identified in those contract line items that are otherwise Treaty-eligible.

CONTRACT LINE ITEMS NOT INTENDED TO SATISFY U.S. DoD TREATY-ELIGIBLE REQUIREMENTS:

[*Enter Contract Line Item Number(s) or enter "None"*]

(c) Subject to the other terms and conditions of this contract that affect the acceptability of foreign sources or foreign end products, components, parts, or materials, Approved Community members are permitted, but not required, to use the Treaty for exports or transfers of qualifying defense articles in performance of the contract.

(d) Any conduct by the Contractor that falls outside the scope of the Treaty, the Implementing Arrangement, and 22 CFR 126.17(g) is subject to all applicable ITAR requirements, including any criminal, civil, and administrative penalties or sanctions, as well as all other United States statutory and regulatory requirements outside of ITAR, including, but not limited to, regulations issued by the Bureau of Alcohol, Tobacco, Firearms and Explosives found at 27 CFR Parts 447, 478, and 479, which are unaffected by the Treaty.

(e) If the Contractor is an Approved Community member, the Contractor agrees that—

(1) The Contractor shall comply with the requirements of the Treaty, the Implementing Arrangement, the ITAR, and corresponding regulations of the U.S. Government and the government of the United Kingdom; and

(2) Prior to the export or transfer of a qualifying defense article, the Contractor—

(i) Shall mark, identify, transmit, store, and handle any defense articles provided for the purpose of responding to such solicitations, as well as any defense articles provided with or developed pursuant to their responses to such solicitations, in accordance with the Treaty, the Implementing Arrangement, and corresponding United States Government and the government of the United Kingdom regulations including, but not limited to, the marking and classification requirements described in the applicable regulations;

(ii) Shall comply with the re-transfer or re-export provisions of the Treaty, this Implementing Arrangement, and corresponding United States Government and the government of the United Kingdom regulations, including, but not limited to, the re-transfer and re-export requirements described in the applicable regulations; and

(iii) Shall acknowledge that any conduct that falls outside or in violation of the Treaty, Implementing Arrangement, and implementing regulations of the applicable government including, but not limited to, unauthorized re-transfer or re-export in violation of the procedures established in the applicable Implementing Arrangement and implementing regulations, remains subject to applicable licensing requirements of the government of the United Kingdom and the United States Government, including any criminal, civil, and administrative penalties or sanctions contained therein.

(f) The contractor shall include the substance of this clause, including this paragraph (f), in all subcontracts that may require exports or transfers of qualifying defense articles in connection with deliveries under the contract.

(End of clause)

[FR Doc. 2012–11560 Filed 5–21–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 225

RIN 0750–AH68

Defense Federal Acquisition Regulation Supplement: Report on Waiver of Prohibition on Acquisition From Communist Chinese Military Companies (DFARS Case 2012–D023)

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

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement the requirement in the National Defense Authorization Act for Fiscal Year 2012 to report to the congressional defense committees before issuing a waiver of the prohibition on acquisition of United States Munitions List items from Communist Chinese military companies.

DATES: *Effective Date:* May 22, 2012.

FOR FURTHER INFORMATION CONTACT: Ms. Amy G. Williams, Defense Acquisition Regulations System, OUSD (AT&L) DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060. Telephone 571–372–6106; facsimile 571–372–6094.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1243 of the National Defense Authorization Act for Fiscal Year 2012 (Pub. L. 112–81) requires a report to the congressional defense committees not less than 15 days before issuing a waiver to the requirements of section 1211 of the National Defense Authorization Act for Fiscal Year 2006 (Pub. L. 109–163), implemented at DFARS 225.770, Prohibition on acquisition of United States Munitions List items from Communist Chinese military companies. The prior requirement was for a report within 30 days after the date of the waiver. The final rule also adds the requirement to send a copy of the report to Defense Procurement and Acquisition Policy.

II. Publication of This Final Rule for Public Comment Is Not Required by Statute

''Publication of proposed regulations,'' 41 U.S.C. 1707, is the statute which applies to the publication of the Federal Acquisition Regulation. Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure, or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure, or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment because the rule merely alters the timing of the report to the congressional defense committees when issuing a waiver of the prohibition on acquisition of United States Munitions List items from Communist Chinese military companies, adds the requirement to send a copy of the report to Defense Procurement and Acquisition Policy, and further specifies the required contents of the report. These requirements affect only the internal operating procedures of the Government.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the

importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant DFARS revision within the meaning of FAR 1.501–1 and 41 U.S.C. 1707 does not require publication for public comment.

V. Paperwork Reduction Act

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

List of Subjects in 48 CFR Part 225

Government procurement.

Ynette R. Shelkin,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR part 225 is amended as follows:

PART 225—FOREIGN ACQUISITION

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

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

225.770 [Amended]

■ 2. Section 225.770 is amended in the first sentence to remove ''Section 1211'' and add ''section 1211'' in its place and add ''and section 1243 of the National Defense Authorization Act for Fiscal Year 2012 (Pub. L. 112–81)'' at the end of the sentence.

■ 3. Section 225.770–5 is amended by revising paragraph (c) to read as follows:

225.770–5 Waiver of prohibition.

* * * * *

(c)(1) The official granting a waiver shall submit a report to the congressional defense committees, with a copy to the Director of Defense Procurement and Acquisition Policy (see PGI 225.770–5), not less than 15 days before issuing the waiver.

(2) In the report, the official shall—

(i) Identify the specific reasons for the waiver; and

(ii) Include recommendations as to what actions may be taken to develop alternative sourcing capabilities in the future.

[FR Doc. 2012–11561 Filed 5–21–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 204

RIN 0750–AH71

Defense Federal Acquisition Regulation Supplement: Contingency Contract Closeout (DFARS Case 2012–D014)

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

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to require additional planning, monitoring, and executing activities for contract closeouts when the contracts are awarded for performance in contingency areas.

DATES: *Effective Date:* May 22, 2012.

FOR FURTHER INFORMATION CONTACT: Meredith Murphy, telephone 571–372–6098.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a recommendation made by the Government Accountability Office (GAO)report 11–891, ''CONTINGENCY CONTRACTING: Improved Planning and Management Oversight Needed to Address Challenges with Closing Contracts,'' dated August 23, 2011. The GAO recommended that DoD improve contract closeouts when the contracts are awarded for performance in contingency areas. The GAO recommended revising contract guidance to enhance advance planning for contingency contract closeouts. Additionally, the GAO advocated including a requirement that senior contracting officials monitor and assess the progress of contract closeout activities throughout the contingency operation.

The DFARS is amended at 204.804 to implement key elements proposed by the GAO. The head of the contracting activity is required to assign the highest priority to contracts performed in a contingency area in order to reduce potential backlogs. Heads of contracting activities are responsible for supervising the progress of contingency contract closeout activities and taking appropriate steps if a backlog occurs.

II. Publication of This Final Rule for Public Comment Is Not Required by Statute

''Publication of proposed regulations,'' 41 U.S.C. 1707, is the statute which applies to the publication of the Federal Acquisition Regulation. Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure, or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure, or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment because this amendment does not relate to the expenditure of appropriated funds, and has neither a significant effect beyond the internal operating procedures of DoD, or a significant cost or administrative impact on contractors or offerors. These requirements affect only the internal operating procedures of the Government.

III. Executive Orders 12866 and 13563

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

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant DFARS revision within the meaning of FAR 1.501–1 and 41 U.S.C. 1707 does not require publication for public comment.

V. Paperwork Reduction Act

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

List of Subjects in 48 CFR Part 204

Government procurement.

Ynette R. Shelkin,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR part 204 is amended to read as follows:

PART 204—ADMINISTRATIVE MATTERS

■ 1. The authority citation for 48 CFR part 204 continues to read as follows:

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

■ 2. Section 204.804 is revised to read as follows:

204.804 Closeout of contract files.

(1) Contracting officers shall close out contracts in accordance with the procedures at PGI 204.804. The closeout date for file purposes shall be determined and documented by the procuring contracting officer.

(2) The head of the contracting activity shall assign the highest priority to closeout of contracts awarded for performance in a contingency area. Heads of contracting activities must monitor and assess on a regular basis the progress of contingency contract closeout activities and take appropriate steps if a backlog occurs. For guidance on the planning and execution of closing out such contracts, see PGI 207.105(b)(20)(C)(*8*) and PGI 225.7404(e).

[FR Doc. 2012–11562 Filed 5–21–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 204 and 243

RIN 0750–AH56

Defense Federal Acquisition Regulation Supplement: Order of Application for Modifications (DFARS Case 2012–D002)

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

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to establish an order for application of contract modifications to resolve any potential conflicts that may arise from multiple modifications with the same effective date.

DATES: *Effective Date:* May 22, 2012.

FOR FURTHER INFORMATION CONTACT: Dr. Laura Welsh, telephone 571–372–6091.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published a proposed rule in the **Federal Register** at 77 FR 2679 on January 19, 2012, to establish an order for application of contract modifications. DFARS subpart 204.70, Uniform Procurement Instrument Identification Numbers, prescribes numbering procedures for contract modifications and the Federal Acquisition Regulation (FAR) part 43.1, General, prescribes rules for determining the effective date of contract modifications. There are no rules to describe in what order to apply modifications to determine the actual content of a resulting modified contract. In order to determine the sequence of modifications to a contract or order, a method for determining the order of application for modifications is needed to resolve any conflict arising from multiple modifications with the same effective date. Therefore, this final rule adds DFARS text at 204.7007, Order of Application for Modifications, to resolve any potential conflict in these circumstances. One respondent submitted a public comment in response to the proposed rule.

II. Discussion and Analysis of the Public Comment

DoD considered the public comment in the development of the final rule, which is discussed as follows.

Comment: A respondent suggested that a cross-reference to the proposed DFARS 204.7007 language be placed within DFARS part 243, Contract Modifications, as the rule addresses contract modifications.

Response: In response to the respondent's comment, a cross-reference to DFARS 204.7007 is added at DFARS 243.172. No other changes were made to the proposed rule.

III. Executive Orders 12866 and 13563

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

IV. Regulatory Flexibility Act

DoD has prepared a final regulatory flexibility analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq*. The FRFA is summarized as follows:

This rule finalizes a proposed amendment to the Defense Federal Acquisition Regulation Supplement (DFARS) which was published on January 19, 2012. DFARS subpart 204.70, Uniform Procurement Instrument Identification Numbers, prescribes numbering procedures for contract modifications, and Federal Acquisition Regulation (FAR) subpart 43.1, General, prescribes guidelines for determining the effective date. There are no rules to describe in what order to apply modifications to determine the actual content of a resulting modified contract.

The objective of the rule is to provide a set of rules to the contracting officer to resolve any potential conflicts from multiple modifications with the same effective date.

There were no public comments in response to the initial regulatory flexibility analysis.

DoD received no comments by the Chief Counsel for Advocacy of the Small Business Administration in response to the proposed rule.

The changes required to the DFARS by this case only affect the internal operating processes of DoD by establishing an order of application for contract modifications. These changes are not expected to have an economic impact on contractors.

This rule does not impose any new reporting or recordkeeping requirements.

The alternative to this rule is to continue relying on DFARS subpart 204.70, which prescribes numbering procedures for contract modifications, and FAR subpart 43.1, which provides guidelines for determining the effective date. However, the cited text does not provide a clear structured path to ensure no ambiguity arises when determining in what order to apply modifications.

There is no significant economic impact on small entities.

V. Paperwork Reduction Act

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

List of Subjects in 48 CFR Parts 204 and 243

Government procurement.

Mary Overstreet,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 204 and 243 are amended as follows:

PART 204—ADMINISTRATIVE MATTERS

■ 1. The authority citation for 48 CFR part 204 continues to read as follows:

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

■ 2. Section 204.7007 is added to read as follows:

204.7007 Order of application for modifications.

(a) Circumstances may exist in which the numeric order of the modifications to a contract is not the order in which the changes to the contract actually take effect.

(b) In order to determine the sequence of modifications to a contract or order, the modifications will be applied in the following order:

(1) Modifications will be applied in order of the effective date on the modification;

(2) In the event of two or more modifications with the same effective date, modifications will be applied in signature date order;

(3) In the event of two or more modifications with the same effective date and the same signature date, procuring contracting office modifications will be applied in numeric order, followed by contract administration office modifications in numeric order.

PART 243—CONTRACT MODIFICATIONS

■ 3. The authority citation for 48 CFR part 243 is revised to read as follows:

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

■ 4. Section 243.172 is added to read as follows:

243.172 Application of modifications.

Follow the procedures in 204.7007 for determining the sequence for application of modifications to a contract or order.

[FR Doc. 2012–11563 Filed 5–21–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 212, 225, and 252

RIN 0750–AH43

Defense Federal Acquisition Regulation Supplement; Utilization of Domestic Photovoltaic Devices (DFARS Case 2011–D046)

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

ACTION: Final rule.

SUMMARY: DoD is adopting as final, with change, an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a section of the National Defense Authorization Act for Fiscal Year 2011. The section provides that photovoltaic devices to be utilized in performance of any covered contract shall comply with the Buy American statute, subject to the exceptions provided in the Trade Agreements Act of 1979 or otherwise provided by law.

DATES: *Effective date:* May 22, 2012.

FOR FURTHER INFORMATION CONTACT: Amy G. Williams, telephone 571–372–6106.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published an interim rule in the **Federal Register** at 76 FR 78858 on December 20, 2011 and also issued technical amendments to the interim rule in the **Federal Register** at 77 FR 13013 on March 5, 2012. One respondent submitted a comment in response to the interim rule.

II. Discussion and analysis

Only one response was received. The respondent provided an editorial comment which has been incorporated in the final rule (see DFARS 225.7017–3(c)(1)).

There have also been some baseline changes since the publication of the interim rule.

III. Executive Orders 12866 and 13563

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

IV. Regulatory Flexibility Act

DoD expects that this interim rule may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act 5 U.S.C. 601, *et seq.* Therefore, a final regulatory flexibility analysis has been prepared and is summarized as follows:

This final rule implements section 846 of the National Defense Authorization Act for Fiscal Year 2011 (Pub. L. 111–383) by providing regulatory coverage on utilization of domestic photovoltaic devices under certain covered contracts.

The objective of the rule is to promote utilization of domestic photovoltaic devices under energy savings contracts, utility service contracts, or private housing contracts awarded by DoD, if such contract does not include DoD purchase of photovoltaic devices as end products, but will nevertheless result in ownership of photovoltaic devices by DoD. According to the statute, DoD is deemed to own a photovoltaic device if the device is—

(1) Installed on DoD property or in a facility owned by DoD; and

(2) Reserved for the exclusive use of DoD for the full economic life of the device.

The legal basis for the rule is section 846 of the National Defense Authorization Act for Fiscal Year 2011.

No significant issues were raised by the public comments.

No comments were filed by the Chief Counsel for Advocacy of the Small Business Administration.

This rule generally applies to other than small entities. When purchasing renewable power generated via on-site photovoltaic devices, DoD can either purchase the photovoltaic devices and thereby own, operate, and maintain the devices for their full economic life (already covered in DFARS part 225) or can do variations of the following:

a. Enter into an energy savings performance contract, which is a contracting method in which the contractor provides capital to facilitate energy savings projects and maintains them in exchange for a portion of the energy savings generated. Under this arrangement, the Government would take title to the devices during contract performance or at the conclusion of the contract.

DLA Energy uses the master Department of Energy IDIQ contract and awards task orders off those contracts. Of the 16 contractors, all are large businesses. There are subcontracting goals that each contractor has to meet, but the ultimate task order award is made to a large business.

b. Enter into a power purchase agreement, also referred to as a utility service contract, for the purchase of the power output of photovoltaic devices that are installed on DoD land or buildings, but owned, operated, and maintained by the contractor. At the conclusion of the contract, DoD would either require the contractor to dismantle and remove the photovoltaic equipment, abandon the equipment in place, or would recompete the requirement and if the incumbent contractor is the successful offeror, the follow-on contract would allow for continued power purchase from the existing devices. If the incumbent contractor is not the successful offeror, the contractor would be required to dismantle and remove the devices. While DLA has issued and received offers, none have been awarded, due to lack of economical feasibility. All offers received have been from large businesses, based on the capital costs involved in these projects. However, they tend to subcontract out the majority of work to smaller companies.

We do not currently have data available on whether any of the manufacturers of photovoltaic devices are small entities. This rule will promote utilization of domestic photovoltaic devices, even when the Government does not take title to the devices.

The requirements of the rule will not apply below the simplified acquisition threshold.

Since the prime contractors subject to this rule are large businesses, the reporting requirements will not impact small entities. Since the photovoltaic devices are commercially available off-the-shelf items, there will be no requirement to track to the origin of the components, but just to inform the prime contractor of the place of manufacture.

DoD did not identify any significant alternatives that would accomplish the objectives of the statute. There is no anticipated significant impact on small entities.

V. Paperwork Reduction Act

The rule imposes an information collection requirement that requires the approval of the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. chapter 35, *et seq.* However, the new DFARS provision at 252.225–7018, Photovoltaic Devices—Certificate, does not impose additional information collection requirements to the paperwork burden previously approved under OMB Control Number 0704–0229, entitled ''Defense Federal Acquisition Regulation Supplement part 225, Foreign Acquisition, and related clauses,'' currently approved through November 30, 2013, in the amount of 147,944 hours. The proposed provision is a variant of the Buy American-trade agreements provisions that are already cleared.

List of Subjects in 48 CFR Parts 212, 225, and 252

Government procurement.

Ynette R. Shelkin,

Editor, Defense Acquisition Regulations System.

Accordingly, the interim rule amending 48 CFR parts 212, 225, and 252, which was published at 76 FR 78858 on December 20, 2011, and amended by technical amendment published in the **Federal Register** at 77 FR 13013 on March 5, 2012, is adopted as a final rule with the following change:

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

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

PART 225—FOREIGN ACQUISITION

225.7017–3 [Amended]

■ 2. Section 225.7017–3 is amended in paragraph (c)(1) by removing ''see FAR 25.4'' and adding ''see FAR subpart 25.4'' in its place.

[FR Doc. 2012–11564 Filed 5–21–12; 8:45 am]

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H.R. 298/P.L. 112–107

To designate the facility of the United States Postal Service located at 500 East Whitestone Boulevard in Cedar Park, Texas, as the "Army Specialist Matthew Troy Morris Post Office Building". (May 15, 2012; 126 Stat. 328)

H.R. 1423/P.L. 112–108

To designate the facility of the United States Postal Service located at 115 4th Avenue Southwest in Ardmore, Oklahoma, as the "Specialist Michael E. Phillips Post Office". (May 15, 2012; 126 Stat. 329)

H.R. 2079/P.L. 112–109

To designate the facility of the United States Postal Service located at 10 Main Street in East Rockaway, New York, as the "John J. Cook Post Office". (May 15, 2012; 126 Stat. 330)

H.R. 2213/P.L. 112–110

To designate the facility of the United States Postal Service located at 801 West Eastport Street in Iuka, Mississippi, as the "Sergeant Jason W. Vaughn Post Office". (May 15, 2012; 126 Stat. 331)

H.R. 2244/P.L. 112–111

To designate the facility of the United States Postal Service located at 67 Castle Street in Geneva, New York, as the "Corporal Steven Blaine Riccione Post Office". (May 15, 2012; 126 Stat. 332)

H.R. 2660/P.L. 112–112

To designate the facility of the United States Postal Service located at 122 North Holderrieth Boulevard in Tomball, Texas, as the "Tomball Veterans Post Office". (May 15, 2012; 126 Stat. 333)

H.R. 2668/P.L. 112–113

Brian A. Terry Memorial Act (May 15, 2012; 126 Stat. 334)

H.R. 2767/P.L. 112–114

To designate the facility of the United States Postal Service located at 8 West Silver Street in Westfield, Massachusetts, as the "William T. Trant Post Office Building". (May 15, 2012; 126 Stat. 336)

H.R. 3004/P.L. 112–115

To designate the facility of the United States Postal Service located at 260 California Drive in Yountville, California, as the "Private First Class Alejandro R. Ruiz Post Office Building". (May 15, 2012; 126 Stat. 337)

H.R. 3246/P.L. 112–116

To designate the facility of the United States Postal Service located at 15455 Manchester Road in Ballwin, Missouri, as the "Specialist Peter J. Navarro Post Office Building". (May 15, 2012; 126 Stat. 338)

H.R. 3247/P.L. 112–117

To designate the facility of the United States Postal Service located at 1100 Town and Country Commons in Chesterfield, Missouri, as the "Lance Corporal Matthew P. Pathenos Post Office Building". (May 15, 2012; 126 Stat. 339)

H.R. 3248/P.L. 112–118

To designate the facility of the United States Postal Service located at 112 South 5th Street in Saint Charles, Missouri, as the "Lance Corporal Drew W. Weaver Post Office Building". (May 15, 2012; 126 Stat. 340)

S. 1302/P.L. 112–119

To authorize the Administrator of General Services to convey a parcel of real property in Tracy, California, to the City of Tracy. (May 15, 2012; 126 Stat. 341)

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