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Rules and Regulations

Federal Register

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

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 AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS–2011–0073]

RIN 0579–AD54

Importation of Dracaena Plants From Costa Rica

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the plants for planting regulations to provide conditions for the importation into the continental United States of *Dracaena* spp. plants from Costa Rica. These conditions will apply to plants less than 460 mm in length, which are currently allowed to be imported, and will also allow for the importation of plants over 460 mm and up to 1,371.6 mm in length, which are currently prohibited. As a condition of entry, *Dracaena* spp. plants from Costa Rica will have to be produced in accordance with integrated pest risk management measures that will include requirements for registration of place of production and packinghouses, a pest management plan, inspection for quarantine pests, sanitation, and traceability from place of production through the packing and export facility and to the port of entry into the United States. All *Dracaena* spp. plants from Costa Rica will also be required to be accompanied by a phytosanitary certificate with an additional declaration stating that all conditions for the importation of the plants have been met and that the consignment of plants has been inspected and found free of quarantine pests. This action will allow for the importation of oversized *Dracaena* spp. plants from Costa Rica into the United States while continuing to provide protection against the introduction of quarantine pests.

DATES: *Effective Date:* July 26, 2012.

FOR FURTHER INFORMATION CONTACT: Mr. William D. Aley, Senior Import Specialist, Plants for Planting Policy, PPQ, APHIS, 4700 River Road, Unit 136, Riverdale, MD 20737–1231; (301) 851–2130.

SUPPLEMENTARY INFORMATION:

Background

The regulations in ''Subpart—Plants for Planting'' (7 CFR 319.37 through 319.37–14, referred to below as the regulations) restrict, among other things, the importation of living plants, plant parts, seeds, and plant cuttings for planting to prevent the introduction and dissemination of plant pests that are new to or not widely distributed within the United States.

Dracaena is a genus of about 40 species of tree- and shrub-like plants. Several species are grown as houseplants for their decorative strap-like foliage, low maintenance requirements, and tolerance of a wide range of growing conditions. Popular *Dracaena* spp. houseplants include *Dracaena fragrans,* commonly known as the corn plant, and *Dracaena sanderiana,* commonly known as lucky bamboo.

Currently, whole and intact *Dracaena* spp. plants (including roots, stems, and leaves) may be imported into the United States only if they meet the size requirements in § 319.37–2(b)(6)(i) and other general requirements in the regulations. The regulations currently allow only *Dracaena* spp. plants less than 460 mm (approximately 18 inches) in length. The size requirement was established because plants of that size are easily inspected and, if necessary, treated for pests; the size and density of growth of larger plants makes them more difficult to inspect and treat.

On November 1, 2011, we published in the **Federal Register** (76 FR 67379–67384, Docket No. APHIS–2011–0073) a proposal [1] to amend the plants for planting regulations to provide conditions for the importation into the continental United States of *Dracaena* spp. plants from Costa Rica.

We solicited comments concerning our proposal for 60 days ending January 3. 2012. We received six comments by that date. They were from foreign and domestic industry associations, an importer, a State agriculture department, and a private citizen. The comments were generally supportive but raised two questions concerning the proposed rule.

One commenter asked if the Animal and Plant Health Inspection Service (APHIS) would be supplying copies of the bilateral workplan to domestic stakeholders for review.

Bilateral workplans are agreements between APHIS and the national plant protection organization (NPPO) of a foreign Government and are not typically circulated for stakeholder review. However, they are public documents and interested stakeholders may obtain copies of the workplan by calling or writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Two commenters stated that site visits should be conducted to ensure that the requirements of the bilateral workplan are met. One of these commenters expressed an interest in participating in site visits.

As we explained in the proposed rule, APHIS may conduct site visits to inspect and monitor the pest management program. In the past, representatives of U.S. domestic industries have accompanied APHIS personnel on site visits at the invitation of the host NPPO, so it is a possibility that domestic stakeholders could accompany an APHIS representative traveling to Costa Rica. We do expect, however, that the routine site visits will most often be carried out by APHIS field personnel in Costa Rica as part of their routine duties rather than by U.S.-based personnel who would have to travel to Costa Rica to visit production and packing sites.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, without change.

Executive Order 12866 and Regulatory Flexibility Act

This final rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore,

[1] To view the proposed rule, supporting documents, and the comments we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS–2011–0073.*

has not been reviewed by the Office of Management and Budget.

In accordance with 5 U.S.C. 604, we have prepared a final regulatory flexibility analysis, which is summarized below, regarding the economic effects of this rule on small entities. Copies of the full analysis are available on the Regulations.gov Web site (see footnote 1 in this document for a link to Regulations.gov) or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

The United States imports approximately 25 million *Dracaena* spp. plants from Costa Rica annually. On average, APHIS intercepts pests in, and applies treatments to, over 8 percent of the *Dracaena* consignments and destroys less than 1 percent. Production, packing, storing and exportation of *Dracaena* spp. plants in accordance with the integrated pest risk management measures set forth in the rule will reduce pest infestations, subsequent pest interceptions, and the need to fumigate or destroy infested consignments at ports of entry.

The oversized *Dracaena* spp. plants will be of greater value than the smaller plants currently allowed entry, and we expect U.S. nurseries will adjust to new marketing opportunities afforded by the larger plants. Most U.S. nurseries and other entities that may be affected by this rule are small.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this final rule. The environmental assessment provides a basis for the conclusion that the importation of *Dracaena* spp. plants from Costa Rica under the conditions specified in this rule will not have a significant impact on the quality of the human environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

The environmental assessment and finding of no significant impact may be viewed on the Regulations.gov Web site.[2] Copies of the environmental assessment and finding of no significant impact are also available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we amend 7 CFR part 319 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

■ 1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 450, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

■ 2. Section 319.37–2 is amended as follows:

■ a. In the table in paragraph (a), by adding a new entry for ''*Dracaena* spp. plants not meeting the conditions for import in § 319.37–5 (y)'', in alphabetical order, to read as set forth below.

■ b. In paragraph (b)(6)(i), by adding the words ''*Dracaena* spp. plants from Costa Rica meeting the conditions of § 319.37–5(y),'' after the citation ''§ 319.37–5(q),''.

§ 319.37–2 Prohibited articles.

(a) * * *

Prohibited article (includes seeds only if specifically mentioned)	Foreign places from which prohibited	Quarantine pests existing in the places named and capable of being transported with the prohibited article
*	*	* * * * *
Dracaena spp. plants not meeting the conditions for import in § 319.37–5(y).	Costa Rica	*Ancistrocercus circumdatus; Caldwelliola reservata; Chaetanaphothrips signipennis* (banana rust thrips); *Coccus viridis* (green scale); *Diplosolenodes occidentalis* (spotted leatherleaf slug); *Erioloides consobrinus; Neoconocephalus affinis* (rattler conehead katydid); *Oncometopia clarior* (blue sharpshooter); *Ovachlamys fulgens; Palliferra costaricensis* (Costa Rica mantle slug); *Planococcus minor* (passionvine mealybug); *Pseudococcus landoi* (lando mealybug); *Sarasinula plebeia* (Caribbean leatherleaf slug); *Succinea costaricana; Xylosandrus morigerus* (brown coffee twig beetle).
*	*	* * * * *

* * * * *

■ 3. In § 319.37–5, a new paragraph (y) is added to read as follows:

§ 319.37–5 Special foreign inspection and certification requirements.

* * * * *

(y) *Special foreign inspection and certification requirements for Dracaena spp. plants from Costa Rica. Dracaena* spp. plants from Costa Rica may only be

[2] Go to *http://www.regulations.gov/#!docketDetail;D=APHIS–2011–0073*. The environmental assessment and finding of no significant impact will appear in the resulting list of documents.

imported into the continental United States in accordance with the requirements of this paragraph (y), to prevent the plant pests *Ancistrocercus circumdatus, Caldwelliola reservata, Chaetanaphothrips signipennis, Coccus viridis, Diplosolenodes occidentalis, Erioloides consobrinus, Neoconocephalus affinis, Oncometopia clarior, Ovachlamys fulgens, Palliferra costaricensis, Planococcus minor, Pseudococcus landoi, Sarasinula plebeia, Succinea costaricana,* and *Xylosandrus morigerus* from entering the United States.

(1) *Size requirements. Dracaena* spp. plants from Costa Rica imported into the continental United States may not exceed 1,371.6 mm (approximately 54 inches) in length from the soil line (or top of the rooting zone for plants produced by air layering) to the farthest terminal growing point.

(2) *Bilateral workplan.* The national plant protection organization (NPPO) of Costa Rica must provide a bilateral workplan to APHIS that details the activities that the NPPO of Costa Rica will, subject to APHIS' approval of the workplan, carry out to meet the requirements of this paragraph (y).

(3) *Phytosanitary certificate.* The phytosanitary certificate of inspection required by § 319.37–4 that accompanies each consignment of *Dracaena* spp. plants from Costa Rica must contain additional declarations that the plants in the consignment have been produced, packed, stored, and exported in accordance with the requirements of this paragraph (y) and the bilateral workplan, and that the consignment has been inspected and found free of quarantine pests.

(4) *Participant registration and agreement.* Persons in Costa Rica who produce, pack, or ship *Dracaena* spp. plants for export to the United States must:

(i) Be registered and approved by the NPPO of Costa Rica; and

(ii) Enter into an agreement with the NPPO of Costa Rica whereby the persons agree to participate in and follow the export program for *Dracaena* spp. plants established by the NPPO of Costa Rica.

(5) *Facility registration and agreement.* Production, packing, and export facilities must be approved and registered by the NPPO of Costa Rica. Registered packing and export facilities may only accept plants from registered production facilities where plants are grown in compliance with the requirements of this paragraph (y) and the bilateral workplan. The NPPO of Costa Rica will provide APHIS with access to the list of registered facilities at least annually and when changes occur.

(6) *Training.* Participants and personnel at approved production, packing, and export facilities must be trained in the requirements of this paragraph (y) and the bilateral workplan and in recognizing the quarantine listed in this paragraph (y). Training records must be maintained and made available to the NPPO of Costa Rica and APHIS on request.

(7) *Pest management program.* Participants must establish a pest management program for all approved production, packing, and export facilities. Pest management programs must include field or facility scouting, monitoring, and control of target pests, and must be monitored and approved by the NPPO of Costa Rica. APHIS may visit sites to inspect and monitor the pest management program. Each approved facility must have a trained, dedicated person to supervise the pest management program. Records of pest management activities must be maintained and made available to the NPPO of Costa Rica and APHIS upon request.

(8) *Sanitation.* Sanitation measures must be maintained at approved production, packing, and export facilities. Fallen or discarded plant material and debris, or plants with pests, must be removed and must not be included in field containers brought from production to packing facilities for export. Packing facilities must be free of sand, soil, earth, and plant pests, and phytosanitary practices adequate to exclude pests must be employed. Equipment, materials, and tools must be sanitized to avoid spreading pests or to prevent recontamination.

(9) *Inspections.* Inspections undertaken in the export program for *Dracaena* spp. plants established by the NPPO of Costa Rica will include, but may not be limited to, the following:

(i) Approved production, packing, and export facilities must be inspected by dedicated trained personnel at the approved facilities at least once weekly, and by the NPPO of Costa Rica at least once monthly.

(ii) Packing materials and shipping containers for the plants must be approved by APHIS and inspected by the NPPO of Costa Rica to ensure that they do not introduce pests of concern to the plants.

(iii) Inspection dates and results must be recorded and made available to APHIS upon request.

(10) *Traceability.* Participants must establish a traceability system approved and audited by the NPPO of Costa Rica and APHIS. The identity and origin of the *Dracaena* spp. plants must be maintained from the production unit through the packing and export facilities and to the port of entry in the United States.

(11) *Recordkeeping.* Participants must maintain records of program activities, including corrective measures, for a minimum of 3 years. Records must be made available to the NPPO of Costa Rica and APHIS on request.

(12) *Ineligibility for participation.* (i) Persons who produce, pack, or ship *Dracaena* spp. plants will be ineligible for participation in the export program for *Dracaena* spp. plants and their production sites or packing or export facilities will lose approved status if:

(A) Live pests are found in a production site;

(B) Live pests are found in a shipment of plants; or

(C) Persons who produce, pack, or ship *Dracaena* spp. plants violate the requirements set out in this section or required under the export program established by the NPPO of Costa Rica.

(ii) A person who produces, packs, or ships *Dracaena* spp. plants may be reinstated, and that person's production sites or packing or export facilities may regain approved status, by requesting reapproval and submitting a detailed report describing the corrective actions taken by the person. Reapproval will only be granted upon concurrence from the NPPO of Costa Rica and APHIS.

(13) *Trust fund.* The Government of Costa Rica must enter into a trust fund agreement with APHIS before each growing season. The Government of Costa Rica or its designated representative is required to pay in advance all estimated costs that APHIS expects to incur through its involvement in overseeing the execution of paragraph (y) of this section. These costs will include administrative expenses incurred in conducting the services enumerated in paragraph (y) of this section and all salaries (including overtime and the Federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by the inspectors in performing these services. The Government of Costa Rica or its designated representative is required to deposit a certified or cashier's check with APHIS for the amount of the costs estimated by APHIS. If the deposit is not sufficient to meet all costs incurred by APHIS, the agreement further requires the Government of Costa Rica or its designated representative to deposit with APHIS a certified or cashier's check for the amount of the remaining costs, as determined by APHIS, before

the services will be completed. After a final audit at the conclusion of each shipping season, any overpayment of funds would be returned to the Government of Costa Rica or its designated representative or held on account until needed.

Done in Washington, DC, this June 20, 2012.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2012–15542 Filed 6–25–12; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0102; Directorate Identifier 2012–NM–004–AD; Amendment 39–17072; AD 2012–11–09]

RIN 2120–AA64

Airworthiness Directives; Various Transport Category Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding an existing airworthiness directive (AD) for certain transport category airplanes. That AD currently requires either activating all chemical oxygen generators in the lavatories until the generator oxygen supply is expended, or removing the oxygen generator(s); and, for each chemical oxygen generator, after the generator is expended (or removed), removing or restowing the oxygen masks and closing the mask dispenser door. This new AD requires installing a supplemental oxygen system in affected lavatories, which terminates the requirements of the existing AD. This AD was prompted by reports that the current design of the oxygen generators presents a hazard that could jeopardize flight safety. We are issuing this AD to eliminate a hazard that could jeopardize flight safety, and to ensure that all lavatories have a supplemental oxygen supply.

DATES: This AD is effective August 10, 2012.

ADDRESSES:

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Jeff Gardlin, Aerospace Engineer, Airframe and Cabin Safety Branch, ANM–115, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–227–2136; fax: 425–227–1149; email: *jeff.gardlin@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2011–04–09, Amendment 39–16630 (76 FR 12556, March 8, 2011). That AD applies to the specified products. The NPRM published in the **Federal Register** on February 27, 2012 (77 FR 11418). That NPRM proposed to continue to require either activating all chemical oxygen generators in the lavatories until the generator oxygen supply is expended, or removing the oxygen generator(s); and, for each chemical oxygen generator, after the generator is expended (or removed), removing or restowing the oxygen masks and closing the mask dispenser door. That NPRM also proposed to require installing a supplemental oxygen system in affected lavatories, which would terminate the requirements of the existing AD.

Change to NPRM (77 FR 11418, February 27, 2012)

We have redesignated Note 1 of the NPRM (77 FR 11418, February 27, 2012) as new paragraph (h) of this AD, reidentified Note 2 as Note 1, and reidentified subsequent paragraphs accordingly.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal (77 FR 11418, February 27, 2012) and the FAA's response to each comment.

Request To Extend Compliance Time

Airbus, Boeing, Bombardier, Embraer, American Airlines (AA), Delta Air Lines, Southwest Airlines (SWA), United Airlines (UA), and All Nippon Airways (ANA) requested that we revise the NPRM (77 FR 11418, February 27, 2012) to extend the 24-month compliance time. Airbus, Embraer, Air Line Pilots Association (ALPA) International, AA, and Boeing noted that the Lavatory Oxygen Aviation Rulemaking Committee (ARC) chartered on this subject established some notional life-cycle times from the initiation of a design through a fleet retrofit. The requested compliance time ranged from 36 to 60 months. The ARC considered even a 4-year compliance time aggressive. Commenters also noted that there are no actual designs at present; any schedule is at risk until the design is proven and validated.

We partially agree with the request. Because of the lack of a retrofit design and the magnitude of the retrofit, and new configuration(s), on such a large number of affected airplanes, we agree that the proposed compliance time of 24 months is insufficient. We also agree that the ARC's detailed assessment would not have supported a 24-month compliance time. We disagree, however, to extend the compliance time to 48 months, or longer. Some of the commenters' concerns, as identified by the ARC, have been alleviated in the AD (for example, streamlining the compliance process), and it is clear there are workable design approaches that can be implemented without taking airplanes out of service. Nonetheless, since no actual designs are yet approved, the retrofit process cannot begin until a design is approved. We have extended the compliance time in paragraph (l) of this final rule to 37 months after the effective date of the AD.

Request To Retain Proposed Compliance Times

The Association of Flight Attendants (AFA) and ALPA encouraged the issuance of the final rule with the compliance times as proposed. AFA requested that we also incorporate interim measures. The commenters noted that the total time that lavatories will have been without oxygen would be about 3.5 years, even with a 24-month compliance time. AFA pointed out that the FAA's assessment of the safety risk was based on a finite time, and that we originally estimated a two- to four-year period to restore oxygen. Thus, retaining the proposed 24-month compliance time is appropriate.

With respect to the compliance time, we disagree with the request. Based on the number of affected airplanes and the lack of a design solution yet approved for any of them, a 24-month compliance time is not feasible. On the other hand, we acknowledge that compliance will be due later than the original estimate

of a maximum of 4 years. But the adjusted compliance time is still within the confidence level of the risk assessment—which was conservative—conducted in support of AD 2011–04–09, Amendment 39–16630 (76 FR 12556, March 8, 2011). As explained previously, we have extended the compliance time to 37 months. With respect to interim measures, we understand the rationale for the request, and operators may, in fact, elect to employ some interim measures. However, any interim measures that would be required would take resources away from implementing the terminating action, and we believe available resources should be directed at restoring oxygen to the lavatories. We have therefore determined that interim measures should not be mandated, and that a 37-month compliance time will provide an adequate level of safety.

Request To Delay AD Issuance Pending Service Information Issuance

ANA and AA requested that we delay issuing the AD until service information is available. ANA stated that, considering lead time for parts and preparation for the modification, the compliance time should be determined after the service information is released. ANA suggested it would need at least 36 months for appropriate maintenance planning after the service information is released.

We disagree with the request. Although there are no specific designs available for the affected airplanes, there are system types in service that will satisfy the requirements of the AD. Airframe manufacturers and aftermarket modifiers are working on acceptable designs, and we expect that there will be more than one solution available. The FAA's goal is to retrofit supplemental oxygen systems as quickly as practical. Waiting for service information would unnecessarily delay that retrofit. We therefore find it necessary to proceed with issuing this final rule.

Request To Mandate Development of Service Information and Parts

Delta Air Lines requested that we require design approval holders to develop and make available the necessary modification instructions and hardware. Delta noted that other large-scale retrofit projects have been complicated by a lack of readily available modification hardware and service instructions.

We disagree with the request. At this point, the FAA is confident that there will be several modification options available to operators. All affected airframe manufacturers, as well as oxygen system suppliers and airplane modifiers, have discussed their intended approaches with the FAA and appear to have viable solutions. In addition, Section 21.99 of the Federal Aviation Regulations (14 CFR 21.99) already requires design approval holders to make design information available to correct an unsafe condition. Thus, the additional regulatory burden of tracking and enforcing a design approval holder requirement is not justified in this case. But if this situation changes, we may consider additional rulemaking to extend the time to comply with the requirements of the AD. We have not changed the final rule regarding this issue.

Request To Revise Applicability

Boeing requested that we revise the applicability of the NPRM (77 FR 11418, February 27, 2012). Specifically, Boeing requested removing airplanes that have systems without chemical oxygen generators (COGs) installed in the lavatory, and by limiting the applicability to airplanes modified in accordance with AD 2011–04–09, Amendment 39–16630 (76 FR 12556, March 8, 2011), those with COGs not installed per Special Federal Aviation Regulation (SFAR) 111, Amendment Nos. 21–94, 25–133, 121–354, and 129–50 (76 FR 12550, March 8, 2011), and those with COGs installed in the lavatory. Since AD 2011–04–09 already proposed to permit installation of non-COG systems using normally available approval means, Boeing considered the continued tracking of AD compliance for that type of system unwarranted. Further, Boeing stated there might be confusion as to whether AD 2011–04–09 would apply to any airplane with such a system installed.

We partially agree with the request. We agree that continued tracking of the non-COG installation as an AD-related action is overly burdensome. Such systems were not the subject of AD 2011–04–09, Amendment 39–16630 (76 FR 12556, March 8, 2011) (which required removal of the supplemental oxygen). We disagree, however, to change the applicability of this AD, because the AD already captures the intent of the request in terms of identifying affected airplanes based on whether they are in compliance with AD 2011–04–09 or have a chemical oxygen generator installed in any lavatory. An operator wishing to install a COG system at a later date will need to use the alternative method of compliance (AMOC) process. But we agree that, with appropriate limitations, subsequent modifications to a non-COG system can be handled under part 43 of the Federal Aviation Regulations (14 CFR part 43). We have added a provision in paragraph (l)(2) in this final rule that permits alterations and repairs to an approved non-COG system in accordance with 14 CFR part 43, provided the operator's maintenance program contains an airworthiness limitation that prohibits the installation of COGs in lavatories.

Request To Utilize Alternative Oxygen Dosage Measurement

AVOX Systems (AVOX) requested that we build in a streamlined process for oxygen systems using the blood oxygen saturation level (SaO_2) as the means of determining adequate oxygen dosage. This method will likely result in somewhat smaller oxygen supplies, which will in turn allow the systems to more easily fit into the existing spaces, with little or no modification.

The regulations characterize oxygen dosage in terms of tracheal partial pressure, an indirect method of determining adequate oxygen supply. We infer that AVOX requested this because the FAA has approved SaO_2 via equivalent level of safety findings in accordance with Section 21.21(b)(1) of the Federal Aviation Regulations (14 CFR 21.21(b)(1)), but this has required extensive testing on the part of the applicants to show that the approach meets the intent of the requirements. It appears that AVOX would like the FAA to use the knowledge gained from those actions to allow approval of future projects in an expedited manner, without the same level of testing. We agree that, in this case, use of the SaO_2 method can be useful; this method is specifically discussed in FAA Policy Statement PS ANM–25–04—which was mentioned in the NPRM (77 FR 11418, February 27, 2012) as a possible method of compliance with the requirements of this AD. FAA Policy Statement PS–ANM–25–04, issued December 21, 2011 (*http://rgl.faa.gov/Regulatoryand GuidanceLibrary/rgPolicy.nsf/0/06EE1CEFE9804A2F8625796E005C017F?OpenDocument&Highlight=ps-anm-25-04*), is based on the recommendations of an Aviation Rulemaking Committee (ARC) and provides guidance to applicants that want to begin restoring oxygen to lavatories in advance of rulemaking. This policy will be used in making approvals of COG installations that will be used to comply with this AD. The FAA may also propose new airworthiness standards for the safe installations of COGs using the ARC recommendations. It is not necessary to change the AD because the information that we can provide is already available

in the policy statement. We have not changed the final rule regarding this issue.

Request To Clarify Certain References

Boeing noted that not all regulations affecting a supplemental oxygen system are identified in paragraph (k) of the NPRM (77 FR 11418, February 27, 2012), and could lead operators to conclude that only the identified paragraphs need to be complied with. Boeing requested that we revise paragraph (k)(2) of the NPRM to refer to all of part 25 and part 121 (14 CFR part 25 and 14 CFR part 121), rather than specific sections.

We partially agree with the request. We agree that the current listing of rules could be misinterpreted, because there is already regulatory relief provided, and the listing is not complete. The listing matches the regulations for which relief was granted, both in AD 2011–04–09, Amendment 39–16630 (76 FR 12556, March 8, 2011), and Special Federal Aviation Regulation No. 111, Amendment Nos. 21–94, 25–133, 121–354, and 129–50 (76 FR 12550, March 8, 2011), and so in that sense this list is consistent. But to avoid any confusion, we have revised paragraph (l) in this final rule (which was paragraph (k) in the NPRM (77 FR 11418, February 27, 2012)) to refer to ''all applicable'' regulations. In actual practice, this will not change the compliance requirements, so there is no additional burden on any operator to comply with the requirements of this AD.

Request To Include Training Requirements

AFA requested that we revise the NPRM (77 FR 11418, February 27, 2012) to include additional requirements that mandate communication and training for crewmembers on the proper procedures to follow in the event of a rapid decompression before the AD-mandated actions have been accomplished on the airplane. AFA also recommended that crew members be notified of the progress of operators toward showing compliance; many operators have already done something similar, but a number have not.

We disagree with the request. As previously determined, the risks are very low for the time periods involved. The resources needed to implement AFA's recommended interim steps could be better used in rapidly incorporating a final design solution. We have not changed the final rule regarding this issue.

Request To Revise Cost Estimate

Delta Air Lines requested that we revise the cost analysis to be more specific to different airplane types and system options, and to characterize the costs per lavatory. The current cost estimate is an average over the entire fleet, and so by definition is not accurate for each affected airplane.

We disagree with the request. The variation in cost per airplane over the fleet is typical of any cost assessment. While the costs could be presented on a per-lavatory basis, this would also be an average, and not necessarily correct for any given lavatory. In addition, the cost estimates are based on the forecasted most cost-effective approach. An operator can use a more expensive approach, but the cost estimate would not account for that increased cost. We have not changed the final rule regarding this issue.

Request To Clarify Configuration

ANA noted that paragraph (k) of the NPRM (77 FR 11418, February 27, 2012) would allow operators to choose between two methods of compliance: with or without chemical oxygen generators. ANA requested that we clarify what configuration will be selected on production airplanes.

We disagree with the request. The decision on which configuration to use is up to the operators and their suppliers. The FAA has criteria for either approach, and either is acceptable. We have not changed the final rule regarding this issue.

Request To Clarify Certain AMOC Provisions

AA requested that paragraph (k)(2)(i) of the NPRM (77 FR 11418, February 27, 2012) be revised to include a provision relieving the need for AMOC approval for non-COG installations. AA interprets the existing provisions as meaning that an AMOC is not required and wants this stated explicitly.

We disagree with the request. Information regarding AMOCs related to non-COG installations was provided in paragraph (k)(2)(ii) of the NPRM (77 FR 11418, February 27, 2012) and is retained in this final rule (in redesignated paragraph (l)(2)(ii)). There is therefore no need to change the final rule regarding this issue.

Request To Standardize Application of Certain Provision

AA supports the provision specified in paragraph (k)(2)(ii) of the NPRM (77 FR 11418, February 27, 2012) (redesignated as paragraph (l)(2)(ii) in this final rule), but is concerned that, because the provision is unusual, it may not be uniformly applied in the field.

We agree that this is an unusual provision. To that end, we have prepared an Information for Operators (InFO) bulletin 12LAV to help explain this provision, as well as other outreach measures to help ensure standardization. We find it is not necessary to change the final rule to provide further explanation.

Approval Process for Compliance With AD, Using Chemical Oxygen Generators

Because of the issues addressed by AD 2011–04–09, Amendment 39–16630 (76 FR 12556, March 8, 2011), COG installations will require new considerations in order to be found acceptable as methods of compliance with this AD. The approval for COG installations will therefore be in a manner approved by the FAA as discussed below.

Approval Process for Compliance With AD, Using Other Systems

Chemical oxygen generators are one type of system used to provide supplemental oxygen. While the majority of transport category airplanes use this system in lavatories, there are other systems as well. If another system type is used to meet this AD, the original unsafe condition is not a concern. In that case, the means of compliance is straightforward, and we have determined that the approval method could be more flexible than is usually the case for an AD. For example, delegated organizations cannot normally make compliance findings for ADs; service information associated with ADs must be adhered to exactly, or else an AMOC must be approved. For this AD, if the type of system is other than a COG, then we have determined that these restrictions could be relaxed. Therefore, paragraph (l)(2) of this AD contains provisions to permit existing approval processes to be used, as long as the means of compliance is other than a COG. This provision takes precedence over current limitations in operators' authority to use their organizational delegations when showing compliance with an AD. In addition, if an operator uses service information that is approved for such installations, deviations from the service information can be addressed using the operator's normal procedures without requiring an AMOC.

Oversight Office

Paragraph (l) of this AD refers to the FAA oversight office responsible for approval of modifications used to show compliance. This will typically be the

aircraft certification office having geographic oversight of the applicant. In the case of service instructions from design approval holders of other countries, this would be the Transport Standards Staff. We anticipate that modifications to meet this AD will require either supplemental type certificate or amended type certificate approval.

Minimum Equipment List (MEL)

Although there were no comments on this issue, the FAA has identified a potential conflict with the minimum equipment list provisions of Sections 121.628 and 129.14 of the Federal Aviation Regulations (14 CFR 121.628 and 14 CFR 129.14). Since any equipment mandated to be operative by airworthiness directive is excluded from the MEL unless the airworthiness directive specifically provides such allowance, we have revised this final rule to add a new paragraph (m) to allow the use of the MEL, as applicable. We have re-identified subsequent paragraphs accordingly.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (77 FR 11418, February 27, 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 11418, February 27, 2012).

Costs of Compliance

We estimate that this AD affects 5,500 airplanes of U.S. registry. We estimate the following costs to comply with the actions specified in this AD.

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Activate COG/expend oxygen supply [actions retained from AD 2011-04-09, Amendment 39-16630 (76 FR 12556, March 8, 2011)].	Up to 2 work-hours × $85 per hour = up to $170.	$0	Up to $170	Up to $935,000.
Oxygen system installation (new action)	24 work-hours × $85 per hour = $2,040	6,000	$8,040	$44,220,000.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2011–04–09, Amendment 39–16630 (76 FR 12556, March 8, 2011, and adding the following new AD:

2012–11–09 Transport category airplanes: Amendment 39–17072; Docket No. FAA–2012–0102; Directorate Identifier 2012–NM–004–AD.

(a) Effective Date

This airworthiness directive (AD) is effective August 10, 2012.

(b) Affected ADs

This AD supersedes AD 2011–04–09, Amendment 39–16630 (76 FR 12556, March 8, 2011).

(c) Applicability

This AD applies to transport category airplanes, in passenger-carrying operations, as specified in paragraph (c)(1) or (c)(2) of this AD.

(1) Airplanes that are in compliance with the requirements of AD 2011–04–09, Amendment 39–16630 (76 FR 12556, March 8, 2011).

(2) Airplanes equipped with any chemical oxygen generator installed in any lavatory and are:

(i) Operating under 14 CFR part 121; or

(ii) U.S.-registered and operating under 14 CFR part 129, with a maximum passenger capacity of 20 or greater.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 35, Oxygen.

(e) Unsafe Condition

This AD was prompted by the determination that the current design of chemical oxygen generators presents a hazard that could jeopardize flight safety. We are issuing this AD to eliminate this hazard and ensure that all lavatories have a supplemental oxygen supply.

(f) Compliance

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

(g) Retained Oxygen Generator

This paragraph restates the requirements of paragraph (g) of AD 2011–04–09, Amendment 39–16630 (76 FR 12556, March 8, 2011). Within 21 days after March 14, 2011 (the effective date of AD 2011–04–09, Amendment 39–16630 (76 FR 12556, March 8, 2011)), do the actions specified in paragraphs (g)(1) and (g)(2) of this AD.

(1) Activate all chemical oxygen generators in the lavatories until the generator oxygen supply is expended. An operator may also remove the oxygen generator(s), in accordance with existing maintenance practice, in lieu of activating it.

(2) For each chemical oxygen generator, after the generator is expended (or removed), remove or re-stow the oxygen masks and close the mask dispenser door.

Note 1 to paragraph (g) of this AD: Design approval holders are not expected to release service instructions for the action specified in paragraph (g) of this AD.

(h) Retained Information About Hazardous Material

This paragraph restates the information in Note 1 of AD 2011–04–09, Amendment 39–16630 (76 FR 12556, March 8, 2011). Chemical oxygen generators are considered a hazardous material and subject to specific requirements under Title 49 CFR for shipping. Oxygen generators must be expended prior to disposal but are considered a hazardous waste; therefore, disposal must be in accordance with all Federal, State, and local regulations. Expended oxygen generators are forbidden in air transportation as cargo. For more information, contact 1–800–HMR–4922.

(i) Retained Compliance With Federal Aviation Regulations of AD 2011–04–09, Amendment 39–16630 (76 FR 12556, March 8, 2011)

This paragraph restates the requirements of paragraph (h) of AD 2011–04–09, Amendment 39–16630 (76 FR 12556, March 8, 2011). Notwithstanding the requirements of Sections 25.1447, 121.329, 121.333, and 129.13 of the Federal Aviation Regulations (14 CFR 25.1447, 121.329, 121.333, and 129.13), operators complying with this AD are authorized to operate affected airplanes until accomplishment of the actions specified in paragraph (l) of this AD.

(j) Retained Parts Installation of AD 2011–04–09, Amendment 39–16630 (76 FR 12556, March 8, 2011)

This paragraph restates the requirements of paragraph (i) of AD 2011–04–09, Amendment 39–16630 (76 FR 12556, March 8, 2011). After March 14, 2011 (the effective date of AD 2011–04–09), and until accomplishment of the actions specified in paragraph (l) of this AD, no person may install a chemical oxygen generator in any lavatory on any affected airplane.

(k) Retained Special Flight Permit of AD 2011–04–09, Amendment 39–16630 (76 FR 12556, March 8, 2011)

This paragraph restates the requirements of paragraph (j) of AD 2011–04–09, Amendment 39–16630 (76 FR 12556, March 8, 2011). 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 for the accomplishment of the actions specified in paragraph (g) of this AD.

(l) New Requirements of This AD: Oxygen System Restoration

Within 37 months after the effective date of this AD, install a supplemental oxygen system that meets all applicable sections of parts 25 and 121 of the Federal Aviation Regulations (14 CFR part 25 and 14 CFR part 121) in each lavatory, as specified in paragraph (l)(1) or (l)(2) of this AD, as applicable.

(1) If compliance with paragraph (l) of this AD is achieved using a chemical oxygen generator, the actions specified in paragraph (l) of this AD must be done in accordance with a method approved by the Manager of the responsible FAA oversight office having responsibility over the modification. For a method to be approved, it must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(2) If compliance with paragraph (l) of this AD is achieved without a chemical oxygen generator, the specifications of paragraphs (l)(2)(i) and (l)(2)(ii) of this AD apply. Any repairs or alterations to a system installed and approved in accordance with this paragraph may be accomplished in accordance with 14 CFR part 43, provided the operator's maintenance program contains an airworthiness limitation that prohibits the installation of chemical oxygen generators in lavatories.

(i) The modification must receive FAA approval in accordance with 14 CFR part 21 as a major design change. Notwithstanding operations specification restrictions to the contrary, organizational approval holders may exercise their full authority in approving installations that meet the installation requirements of this AD.

(ii) Deviation from approved service instructions and subsequent modifications may be handled by normal operator procedures without requiring approval of an alternative method of compliance.

(m) Minimum Equipment List (MEL)

Notwithstanding the requirements of 14 CFR 121.628(b)(2) and 14 CFR 129.14, the equipment required by paragraph (l) of this AD may be included in the Minimum Equipment List, as applicable.

(n) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Transport Standards Staff, ANM–110, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the Transport Standards Staff, send it to the attention of the person identified in the Related Information section of this AD.

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

(o) Related Information

For more information about this AD, contact Jeff Gardlin, Aerospace Engineer, Airframe and Cabin Safety Branch, ANM–115, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–227–2136; fax: 425–227–1149; email: *jeff.gardlin@faa.gov.*

(p) Material Incorporated by Reference

None.

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

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–15683 Filed 6–25–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2012–0581]

Drawbridge Operation Regulation; Columbia River, Vancouver, WA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Interstate 5 (I–5) Bridges across the Columbia River, mile 106.5, between Portland, Oregon and Vancouver, Washington. This deviation is necessary to facilitate the movement of heavier than normal roadway traffic associated with the Independence Day fireworks show near the I–5 Bridges. This deviation allows the bridges to remain in the closed position during the event.

DATES: This deviation is effective from 9 p.m. on July 4, 2012 through 11:59 p.m., July 4, 2012.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2012–0581 and are available online by going to *http://www.regulations.gov,* inserting USCG–2012–0581 in the ''Keyword'' box and then clicking ''Search''. They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email the Bridge Administrator, Coast Guard Thirteenth District; telephone 206–220–7282 email *randall.d.overton@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Oregon Department of Transportation has requested that the Interstate 5 Bridges across the Columbia River remain closed to vessel traffic to facilitate heavier than normal roadway traffic volume associated with a fireworks show on July 4, 2012 near the bridges. The I–5 Bridges cross the Columbia River at mile 106.5 and provide three designated navigation channels with vertical clearances ranging from 39 to 72 feet above Columbia River Datum 0.0 while the lift spans are in the closed position. Vessels which do not require a bridge opening may continue to transit beneath the bridges during this closure period. Under normal operation the bridges operate in accordance with 33 CFR 117.869, which states that the draws shall open on signal except that the draws need not open 6:30 a.m. to 9 a.m. and from 2:30 p.m. to 6 p.m., Monday through Friday excluding federal holidays. This deviation period is from 9 p.m. on July 4, 2012 through 11:59 p.m., July 4, 2012. The deviation allows the lift spans of the I–5 Bridges across the Columbia River, mile 106.5, to remain in the closed position and need not open for maritime traffic from 9 p.m. through 11:59 p.m. on July 4, 2012. The lift spans will be required to open, if needed, for vessels engaged in emergency response operations during this closure period. The bridge shall operate in accordance with 33 CFR 117.869 at all other times. Waterway usage on this stretch of the Columbia River includes vessels ranging from commercial tug and tow vessels to recreational pleasure craft. Mariners will be notified and kept informed of the bridge's operational status via the Coast Guard Notice to Mariners publication.

In accordance with 33 CFR 117.35(e), the drawbridges must return to their regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: June 13, 2012.

Randall D. Overton,

Bridge Administrator.

[FR Doc. 2012–15543 Filed 6–25–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG 2012–0417]

Safety Zone; Independence Day Fireworks, Kings Beach, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone for the Kings Beach Independence Day Fireworks display from 7 a.m. until 10 p.m. on July 3, 2012. This action is necessary to protect life and property of the maritime public from the hazards associated with the fireworks display. During the enforcement period, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone, unless authorized by the Patrol Commander (PATCOM).

DATES: The regulations in 33 CFR 165.1191, Table 1, number 20, will be enforced from 7 a.m. through 10 p.m. on July 3, 2012.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email Ensign William Hawn, Sector San Francisco Waterways Safety Division, U.S. Coast Guard; telephone 415–399–7442, email *D11-PF-MarineEvents@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce a safety zone in navigable waters around and under the fireworks barge within a radius of 100 feet during the loading, transit, and arrival of the fireworks barge to the display location and until the start of the fireworks display. From 7 a.m. until 9 a.m. on July 3, 2012, the fireworks barge will be loaded off of Tahoe Keys Marina in South Lake Tahoe, CA at position 38°56′05″ N, 120°00′09″ W (NAD 83). From 9 a.m. to 11 a.m. on July 3, 2012, the loaded barge will transit from Tahoe Keys Marina to the launch site off of Kings Beach, CA at position 39°13′55″ N, 120°01′42″ W (NAD 83) where it will remain until the commencement of the fireworks display. Upon the commencement of the 20 minute fireworks display, scheduled to take place from 9:30 p.m. to 9:50 p.m. on July 3, 2012, the safety zone will increase in size to encompass the navigable waters around and under the fireworks barge within a radius 1,000 feet at position 39°13′55″ N, 120°01′42″ W (NAD 83) for the Kings Beach Independence Day Fireworks display in 33 CFR 165.1191. This safety zone will be in effect from 7 a.m. until 10 p.m. on July 3, 2012.

Under the provisions of 33 CFR 165.1191, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone during all applicable effective dates and times, unless authorized to do so by the PATCOM. Additionally, each person who receives notice of a lawful order or direction issued by an official patrol vessel shall obey the order or direction. The PATCOM is empowered to forbid entry into and control the regulated area. The PATCOM shall be designated by the Commander, Coast Guard Sector San Francisco. The PATCOM may, upon request, allow the transit of commercial vessels through regulated areas when it is safe to do so.

This notice is issued under authority of 33 CFR 165.1191 and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with extensive advance notification of the safety zone and its enforcement period via the Local Notice to Mariners.

If the Captain of the Port determines that the regulated area need not be enforced for the full duration stated in this notice, a Broadcast Notice to Mariners may be used to grant general permission to enter the regulated area.

Dated: June 6, 2012.

Cynthia L. Stowe,

Captain, U.S. Coast Guard, Captain of the Port San Francisco.

[FR Doc. 2012–15545 Filed 6–25–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2012–0428]

Eighth Coast Guard District Annual Safety Zones; Biloxi Bay Fireworks; Biloxi Bay; Biloxi, MS

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a Safety Zone for the Biloxi Bay Fireworks event in Biloxi Bay, Biloxi, MS from 8:30 p.m. until 10 p.m. on July 4, 2012. This action is necessary to safeguard participants and spectators, including all crews, vessels, and persons on navigable waters during the Biloxi Bay Fireworks. During the enforcement period, entry into, transiting or anchoring in the Safety Zone is prohibited to all vessels not registered with the sponsor as participants or official patrol vessels, unless specifically authorized by the Captain of the Port (COTP) Mobile or a designated representative.

DATES: The regulations in 33 CFR 165.801, Table 1, Table No. 148 will be enforced from 8:30 p.m. until 10 p.m. on July 4, 2012.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice of enforcement, call or email LT Lenell J. Carson, Coast Guard Sector Mobile, Waterways Division; telephone 251–441–5940 or email *Lenell.J.Carson@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the Safety Zone for the annual Biloxi Bay Fireworks event listed in 33 CFR 165.801 Table 1, Table No. 148; Sector Mobile No. 7, on July 4, 2012, from 8:30 p.m. until 10 p.m.

Under the provisions of 33 CFR 165.801, entry into the safety zone listed in Table 1, Table No. 148, is prohibited unless authorized by the Captain of the Port or a designated representative. Persons or vessels desiring to enter into or passage through the Safety Zone must request permission from the Captain of the Port or a designated representative. If permission is granted, all persons and vessels shall comply with the instructions of the Captain of the Port or designated representative.

This notice is issued under authority of 5 U.S.C. 552(a); 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1. In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via Local Notice to Mariners and Marine Information Broadcasts.

If the Captain of the Port Mobile or Patrol Commander determines that the Safety Zone need not be enforced for the full duration stated in this notice of enforcement, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area.

Dated: May 31, 2012.

D.J. Rose,

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

[FR Doc. 2012–15550 Filed 6–25–12; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2012–0150; FRL–9687–9]

Approval and Promulgation of Implementation Plans; State of Iowa: Regional Haze

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing a limited approval of a revision to the State Implementation Plan (SIP) for Iowa, submitted by the Iowa Department of Natural Resources on March 25, 2008, that addresses Regional Haze for the first implementation period. Specifically, these revisions address the requirements of the Clean Air Act (CAA or Act) and EPA's rules that required States to prevent any future and remedy any existing anthropogenic impairment of visibility in Class I areas (national parks and wilderness areas) caused by emissions of air pollutants located over a wide geographic area (also known as the ''regional haze'' program). EPA proposed to approve these revisions on February 28, 2012. In a separate rulemaking action, EPA finalized the limited disapproval of Iowa's regional haze SIP and imposed a Federal Implementation Plan (FIP) for Iowa which was signed on May 30, 2012, and published in the **Federal Register** on June 7, 2012.

DATES: This rule will become effective July 26, 2012, except that the amendment to § 52.842 is effective August 6, 2012.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R07–OAR–2012–0150. 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., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Planning and Development Branch, Air and Waste Management Division, U.S. Environmental Protection Agency, Region 7, 901 North 5th Street, Kansas City, Kansas, 66101. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section for further information. The regional office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chrissy Wolfersberger, Air Planning and Development Branch, U.S. Environmental Protection Agency, Region 7, 901 North 5th Street, Kansas City, Kansas 66101; by telephone at (913) 551–7864; or by email at *wolfersberger.chris@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, the terms ''we,'' ''us,'' and ''our'' refer to EPA.

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I. Background
II. Public Comments and EPA Responses
III. Technical Corrections
IV. Final Action
V. Statutory and Executive Order Reviews

I. Background

On February 28, 2012 (77 FR 11974), EPA published a notice of proposed rulemaking (NPR) for the State of Iowa, proposing limited approval of Iowa's regional haze plan for the first implementation period (through 2018). A detailed explanation of the CAA's visibility requirements and the regional haze rule as it applies to Iowa was provided in the NPR and will not be restated here. EPA's rationale for proposing limited approval of the Iowa SIP was also described in detail in the proposal.

II. Public Comments and EPA Responses

The publication of EPA's proposed rule on February 28, 2012, initiated a 30 day public comment period that ended on March 29, 2012. During the public comment period we received no written comments.

III. Technical Corrections

Table 2, ''Iowa's Absolute Contribution to Visibility Impairment, Northern Midwest Class I Areas'' contained one numerical error. Iowa's 2002 contribution to Voyagers should read 2.16 rather than 2.60.

In Table 7, ''2002 Iowa Emissions Summary,'' the NH_3 area source inventory should read 6,560 rather than 6.560.

IV. Final Action

EPA is finalizing its limited approval of the State of Iowa's Regional Haze SIP, submitted on March 25, 2008, as meeting some of the applicable regional haze requirements set forth in section 169A and 169B of the CAA and in the Federal regulations codified at 40 CFR 51.308, and the requirements of 40 CFR part 51, subpart F and appendix V. In a separate rulemaking action, EPA finalized the limited disapproval of Iowa's Regional Haze SIP and imposed a FIP for Iowa. 77 FR 33642.

V. Statutory and Executive Order Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this 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 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).

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This rule does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments. Thus, Executive Order 13175 does not apply to this rule.

List of Subjects in 40 CFR Part 52

Air pollution control, Environmental protection, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

Dated: June 7, 2012.

Karl Brooks,

Regional Administrator, Region 7.

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 Q—Iowa

■ 2. In § 52.820 the table in paragraph (e) is amended by adding a new entry (39) in numerical order to read as follows:

§ 52.820 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED IOWA NONREGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
*	*	*	*	*
(39) Regional Haze plan for the first implementation period.	Statewide	3/25/08	6/26/12, [Insert **Federal Register** citation].	§ 52.842(a); Limited Approval.

■ 3. Section 52.842 is amended by revising paragraph (a) to read as follows:

§ 52.842 Visibility protection.

(a) *Regional Haze.* The requirements of section 169A of the Clean Air Act are not met because the regional haze plan submitted by Iowa on March 25, 2008, does not include fully approvable measures for meeting the requirements of 40 CFR 51.308(d)(3) and 51.308(e) with respect to emissions of NO_X and SO_2 from electric generating units. EPA has given limited approval and limited disapproval to the plan provisions addressing these requirements.

* * * * *

[FR Doc. 2012–15020 Filed 6–25–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2012–0153; FRL–9688–1]

Approval and Promulgation of Implementation Plans; State of Missouri: Regional Haze

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing a limited approval of a revision to the State

Implementation Plan (SIP) for Missouri, submitted by the Missouri Department of Natural Resources on August 5, 2009, and supplemented on January 30, 2012, that addresses Regional Haze for the first implementation period. Specifically, these revisions address the requirements of the Clean Air Act (CAA or Act) and EPA's rules that required States to prevent any future and remedy any existing anthropogenic impairment of visibility in Class I Areas (national parks and wilderness areas) caused by emissions of air pollutants located over a wide geographic area (also known as the ''regional haze'' program). States are required to assure reasonable progress toward the national goal of achieving natural visibility conditions in Class I areas. EPA proposed to approve these revisions on February 28, 2012 (77 FR 11958). In a separate rulemaking action, EPA finalized the limited disapproval of Missouri's regional haze SIP and imposed a Federal Implementation Plan (FIP) for Missouri on June 7, 2012. 77 FR 33642.

DATES: This rule will become effective July 26, 2012, except that the amendment to § 52.1339 is effective August 6, 2012.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R07–OAR–2012–0153. 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., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Planning and Development Branch, Air and Waste Management Division, U.S. Environmental Protection Agency, Region 7, 901 North 5th Street, Kansas City, Kansas, 66101. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section for further information. The regional office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chrissy Wolfersberger, Air Planning and Development Branch, U.S. Environmental Protection Agency, Region 7, 901 North 5th Street, Kansas City, Kansas 66101; by telephone at (913) 551–7864; or by email at *wolfersberger.chris@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, the terms ''we,'' ''us,'' and ''our'' refer to EPA.

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I. Background
II. Public Comments and EPA Responses
III. Final Action
IV. Statutory and Executive Order Reviews

I. Background

On February 28, 2012 (77 FR 11958), EPA published a notice of proposed rulemaking (NPR) for the State of Missouri, proposing limited approval of Missouri's regional haze plan for the first implementation period (through 2018). A detailed explanation of the CAA's visibility requirements and the regional haze rule as it applies to Missouri was provided in the NPR and will not be restated here. EPA's rationale for proposing limited approval of the Missouri SIP was described in detail in the proposal, and is further described in this final rulemaking.

II. Public Comments and EPA Responses

The publication of EPA's proposed rule on February 28, 2012, initiated a 30 day public comment period that ended on March 29, 2012. During the public comment period we received one set of written comments from Earthjustice on behalf of the Natural Resources Defense Council and Sierra Club (collectively, the ''Commenter'').[1] We have summarized the comments and provided our responses below. A full copy of the comment letter is available in the docket for this rulemaking.

Comment 1: The Commenter asserts that EPA does not have the authority under the CAA to issue a limited approval and concurrent limited disapproval of Missouri's regional haze SIP. The Commenter contends that section 110(k) of the Act only allows EPA to fully approve, partially approve, and partially disapprove, conditionally approve, or fully disapprove a SIP. The Commenter contends that regional haze SIPs are not like other SIP submissions and must be ''submitted as a whole'' and therefore, EPA cannot grant limited approval to a state SIP while proposing to issue a partial FIP. The Commenter also contends that EPA is required to determine whether the submittal ''meets all applicable requirements'' of section 110 (k) and does not allow EPA to approve the submittal on the grounds that it strengthens the Missouri SIP. The Commenter cites to several Federal appellate court decisions to support its contention that 110(k) of the Act limits EPA to ''a conditional approval, a partial approval and disapproval, or a full approval.''

Response 1: The cases cited by the Commenter in support of its contentions did not involve challenges to a limited approval approach and therefore are not applicable here. As discussed in the September 7, 1992, EPA memorandum cited in the notice of proposed rulemaking,[2] although section 110(k) of the CAA may not expressly provide authority for limited approvals, the plain language of section 301(a) does provide ''gap-filling'' authority authorizing the Agency to ''prescribe such regulations as are necessary to carry out'' EPA's CAA functions. EPA may rely on section 301(a) in conjunction with the Agency's SIP approval authority in section 110(k)(3) to issue limited approvals where it has determined that a submittal strengthens a given state SIP and that the provisions meeting the applicable requirements of the Act are not separable from the provisions that do not meet the Act's requirements. EPA has adopted the limited approval approach numerous times in SIP actions across the nation over the last twenty years. Limited approval and limited disapproval actions are appropriate here because EPA has determined that Missouri's SIP revisions addressing regional haze, as a whole, strengthen the State's SIP and because the provisions in the SIP revisions are not separable.

Moreover, adopting the Commenter's position would ignore section 301 and violate the ''fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme, * * *. A court must therefore interpret the statute 'as a symmetrical and coherent regulatory scheme,' * * * and 'fit, if possible, all parts into an harmonious whole.' '' *FDA* v. *Brown & Williamson Tobacco Corp.,* 529 U.S. 120, 133 (2000) (quoting *Davis* v. *Michigan Dept. of Treasury,* 489 U.S. 803, 809 (1989), *Gustafson* v. *Alloyd Co.,* 513 U.S. 561, 569 (1995), and *FTC* v. *Mandel Brothers, Inc.,* 359 U.S. 385, 389 (1959).

The Commenter's claim that regional haze SIPs are somehow different from other SIPs is unfounded and not

[1] After the close of the public comment period, EPA received comments in support of the proposed rule from the U.S. Forest Service. A copy of the comment letter is available in the docket for this rulemaking.

[2] *Processing of State Implementation Plan (SIP) Revisions,* EPA Memorandum from John Calcagni, Director, Air Quality Management Division, OAQPS, to Air Division Directors, EPA Regional Offices I–X, September 7, 1992, (''1992 Calcagni Memorandum'') located at *http://www.epa.gov/ttn/caaa/t1/memoranda/siproc.pdf.*

supported by the case law cited or the CAA. Notably, the Commenter cites no authority for its contention that regional haze SIPs must be ''submitted as whole.'' In any event, today's action combined with the ''Transport Rule Better than BART'' FIP 77 FR 33642 address all applicable requirements for Missouri with respect to the regional haze requirements of the Act.

Comment 2: The Commenter states that EPA must partially disapprove Missouri's regional haze SIP submittal because it relied on the Clean Air Interstate Rule (CAIR). The Commenter cites to the proposed Kentucky SIP to show that Missouri's long-term strategy, reasonable progress goals (RPGs) and decision to exempt electric generating units (EGUs) from Best Available Retrofit Technology (BART) should be disapproved due to the deficiencies identified in CAIR by the court and the impact of the Transport Rule on CAIR.

Response 2: This comment is based on the incorrect premise that through this rulemaking EPA is exempting Missouri sources from BART requirements. In 2008, the DC Circuit remanded CAIR back to the Agency because the court believed that CAIR was inconsistent with the requirements of the CAA. Although CAIR may not remain in effect indefinitely, it is currently in force, and the State's reliance on CAIR was fully consistent with EPA's regulations at the time that Missouri developed its regional haze SIP. As explained in the February 28, 2011, rulemaking (77 FR 11958), EPA is taking a limited approval action because the revisions as a whole strengthen the SIP and because the action is consistent with the court's intention to keep CAIR temporarily in place. The limited approval results in an approval of the entire regional haze submission and all of its elements, preserving the visibility benefits offered by the SIP until CAIR is replaced by the Transport Rule. EPA recently demonstrated that the Transport Rule is better than BART. 77 FR 33642. EPA took a limited disapproval action because the Agency cannot fully approve regional haze SIP revisions that rely on CAIR for emissions reductions measures for the reasons discussed in Section III of the February 28, 2011, proposed rulemaking. 77 FR 11958. See also 77 FR 33642. EPA's response to Comment 1, above, explains the Agency's authority to take limited approval and limited disapproval actions under the CAA.

EPA disagrees with the Commenter's request for a partial disapproval of the SIP. Because the SIP provisions relying on CAIR, including the long term strategy (LTS) do not meet the applicable regional haze requirements and are not separable from the provisions that meet the applicable requirements of the Act, a partial disapproval would prevent any of the SIP's air quality benefits from being realized until EPA promulgated a FIP or approved a revised SIP to addresses the deficiencies. Furthermore, the two-year clock to promulgate a FIP to remedy the deficiencies is triggered by the limited disapproval just as it would be triggered by a partial disapproval. On December 30, 2011, EPA proposed to find that the trading programs in the Transport Rule would achieve greater reasonable progress towards the national goal than would BART in the states in which the Transport Rule applies. See 76 FR 82219. Based on this proposed finding, EPA also proposed a FIP for Missouri in that action that would substitute participation in the trading programs under the Transport Rule for participation in CAIR for the purposes of satisfying regional haze requirements and would remedy the CAIR-related deficiencies discussed above. EPA finalized this action on June 7, 2012. 77 FR 33642. See also EPA's response to comments on the Transport Better than BART rulemaking. 77 FR 33642.

Comment 3: The Commenter identifies its opposition to EPA's December 30, 2011, proposed rulemaking to find that the Transport Rule is better than BART and to ''use the Transport Rule as an alternative to BART'' for Missouri and other states subject to the Transport Rule. The Commenter incorporates by reference its comments on that December 30, 2011, proposed rulemaking ''by reference'' and outlines several of those comments, including its arguments that the Transport Rule is not ''better than BART'' and that EPA cannot rely on the Transport Rule as an ''alternative program to BART.''

Response 3: In today's rule, EPA is taking final action on the limited approval of Missouri's regional haze SIP. The Commenter correctly recognizes that EPA did not propose to find that participation in the Transport Rule is an alternative to BART in this rulemaking. As noted above, EPA made this proposed finding in a separate action on December 30, 2011, and the Commenter is merely reiterating and incorporating its comments on that separate action. These comments are therefore not relevant to this rulemaking but have been addressed, as appropriate, by EPA in its final action on the December 30, 2011, proposed rule. 77 FR 33642.

Comment 4: The Commenter states that EPA should disapprove Missouri's long-term strategy because Missouri's SIP is insufficient to address Missouri's visibility impact on Class I areas in other states, particularly the Wichita Mountains Class I area in Oklahoma (WIMO) and the Boundary Waters Class I area in Minnesota (BOWA). The Commenter states that Missouri's reliance on on-the-books requirements for EGUs, mobile sources, area sources, other point sources, and CAIR without requiring additional emissions reductions at various facilities is not sufficient to meet the requirements of the regional haze rule. The Commenter states that Missouri's analysis of impact of its sources on out-state Class I areas is not supported by modeling. Further, the Commenter states that Missouri's reliance on cost as the basis for not requiring controls is incorrect and Missouri should focus on whether it has done its share to reduce visibility impact in those Class I areas.

Response 4: EPA disagrees with the Commenter that Missouri's long-term strategy does not adequately address visibility impacts on Class I areas in other states, such as in WIMO in Oklahoma, and BOWA in Minnesota. Further, the Commenter provides no evidence that Missouri has not addressed its fair share of emission reductions.

As described in the proposal, Missouri properly entered into the consultation process with both Oklahoma and Minnesota and provided sufficient evidence to demonstrate its long-term strategy includes all measures necessary to obtain its share of emission reductions as required by the regional haze rule.

Missouri appropriately concluded additional controls on Missouri's sources are not reasonable due to the limited visibility improvement at WIMO. In a September 17, 2007, letter from Missouri to Oklahoma, Missouri responded to Oklahoma's conclusion that Missouri is reasonably anticipated to contribute to visibility impairment at WIMO. Missouri noted that, based on the PSAT analysis presented by Oklahoma, over half the elevated point-source impacts to WIMO are from sources in Oklahoma, Texas, and Louisiana, and most of the area source impacts are from Oklahoma and Texas sources. Missouri's analysis shows that its sources only account for about 2.5 percent and 2.75 percent visibility impairment at WIMO in 2002 and 2018, respectively based on the PSAT modeling. Additionally, Missouri questioned Oklahoma's use of one inverse megameter to determine the

contribution threshold. Missouri found that this low threshold, combined with Oklahoma's reliance upon a one metric test using Particulate Matter Source Apportionment Technology (PSAT), as opposed to multiple tests utilized for the Central Class I Areas for determining contribution, resulted in an analysis that was too narrow. As a result of this narrow analysis, Missouri was found to be contributing to WIMO while many other states were left out with no strong rationale in Oklahoma's analysis as to why these states were treated differently. Missouri also questioned how Oklahoma's analysis could conclude that Missouri sources were contributing to WIMO, which is located 200 to 250 miles from Missouri's western border, but Missouri's analysis showed that the emission reductions obtained by Missouri would address reasonable progress goals in nearby Central Class I areas in Missouri and Arkansas. Missouri's analysis and conclusions regarding Missouri source contributions to WIMO were reasonable.

Further, EPA disagrees with the Commenter's assertion that Missouri inappropriately relied upon costs to rule out additional emission controls at Missouri sources. Missouri did not solely rely on estimation of costs, but instead considered the limited potential visibility improvements of additional controls based on the modeling in addition to consideration of cost. EPA also notes that Oklahoma did not respond to Missouri's September 17, 2007 letter with any additional analysis.

Missouri also entered into a consultation process with Minnesota. Minnesota identified Missouri as a contributing state to the BOWA based on a Lake Michigan Air Directors Consortium (LADCO) trajectory analysis. Missouri relied upon PSAT modeling analysis to estimate the potential visibility benefit at BOWA if Missouri were to require additional emissions reductions from Missouri sources. Missouri relied upon the PSAT modeling analysis to demonstrate that the overwhelming majority of emissions impacts on BOWA are from Minnesota and neighboring states, with Missouri contributing less than 3 percent in 2002 and 2018. Based on this modeling analysis, EPA believes Missouri appropriately concluded additional emission reductions from Missouri sources were not reasonable due to the likely limited visibility improvement at BOWA.

We also used Missouri's reasonable further progress (RFP) analysis to provide further support to our determination of the adequacy of Missouri's long-term strategy. Missouri's four-factor analysis examined the effectiveness of additional emissions reductions from Missouri sources on visibility improvement in Missouri Class I areas and examined all anthropogenic source categories, including point, area, on-road and off-road mobile, with a focus on large point sources. Missouri's four-factor analysis supports EPA's conclusion that Missouri appropriately determined that the amount of visibility improvement from additional controls on point sources would not have a significant impact on Missouri Class I areas. EPA believes the same determination could be made regarding Missouri's impact on more distant Class I areas in other states. It is reasonable to conclude from Missouri's modeling and four-factor analysis that the increased distance from Missouri sources to the Oklahoma and Minnesota Class I areas would only decrease the previously demonstrated limited effectiveness of additional emission reductions from Missouri sources.

Comment 5: The Commenter states that Missouri's proposed BART limits for the Holcim-Clarksville facility fail to satisfy the requirements of BART. The Commenter states that the sulfur dioxide (SO_2) control option selected as BART for the facility is flawed and not approvable as BART for two reasons. First, the Commenter argues that the cost of the wet scrubber was inaccurately inflated. Second, the Commenter states that Missouri Department of Natural Resources (MDNR) assumed an incorrect removal efficiency for a dry scrubber. The Commenter also states that the nitrogen oxides (NO_X) control option selected as BART for the Holcim-Clarksville facility is flawed because EPA has ''concluded that BART is a combination of selective non-catalytic reduction (SNCR) and Low-NO_X burner'' for a Holcim facility located in Montana.

Response 5: In a letter dated November 20, 2010, Holcim requested that the State terminate the operating permit for the emission units at the source that are subject to BART because it curtailed operations at Holcim-Clarksville so that the facility will no longer manufacture Portland cement or burn hazardous fuel. The curtailment of operations conforms to the State Consent Agreement (Appendix S), which EPA is approving into the SIP in today's action. In its June 23, 2011, response to Holcim's request, MDNR revised Holcim's Title V permit to be a Basic State Operating permit; removed the BART-eligible emission units from the permit, which thereby prohibits Holcim from operating those units; and limited emissions of any visibility impairing pollutant to less than 100 tons per year. A copy of MDNR's letter is in the docket for this rulemaking.

Moreover, MDNR has stated in its letter, and EPA agrees, that Holcim must continue to meet all applicable federal and state regulations and if conditions change, new standards are promulgated, or if Holcim intends to add or re-start any equipment, a new operating and/or construction permit may be necessary. By choosing to shutdown in accordance with the Consent Agreement, Holcim will not operate the BART-eligible units at the Clarksville facility, therefore, EPA does not need to address the Commenter's issues regarding the BART limits for the facility.

III. Final Action

EPA is finalizing a limited approval of the State of Missouri's Regional Haze SIP, submitted on August 5, 2009, with supplemental information provided on January 30, 2012, as meeting some of the applicable regional haze requirements set forth in section 169A and 169B of the Act and in the Federal regulations codified at 40 CFR 51.300–308, and the requirements of 40 CFR part 51, subpart F and appendix V.

IV. Statutory and Executive Order Requirements

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 CAA. 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 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).

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This rule does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments. Thus, Executive Order 13175 does not apply to this rule.

List of Subjects in 40 CFR Part 52

Air pollution control, Environmental protection, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

Dated: June 7, 2012.

Karl Brooks,

Regional Administrator, Region 7.

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 AA—Missouri

■ 2. In § 52.1320:

■ a. The table in paragraph (d) is amended by adding a new entry (26) in numerical order; and

■ b. The table in paragraph (e) is amended by adding a new entry (57) in numerical order.

The additions read as follows:

§ 52.1320 Identification of plan.

* * * * *

(d) *EPA-approved State source-specific permits and orders.*

EPA-APPROVED MISSOURI SOURCE-SPECIFIC PERMITS AND ORDERS

Name of source	Order/permit No.	State effective date	EPA approval date	Explanation
*	*	*	*	*
(26) Holcim		April 19, 2009	June 26, 2012, [Insert **Federal Register** citation].	§ 52.1339(c); Limited Approval.

(e) *EPA approved nonregulatory provisions and quasi-regulatory measures.*

EPA-APPROVED MISSOURI NONREGULATORY SIP PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
*	*	*	*	*
(57) Regional Haze Plan for the first implementation period.	Statewide	8/5/09, supplemented 1/30/12.	6/26/12, [Insert **Federal Register** citation].	§ 52.1339(c); Limited Approval.

■ 3. Section 52.1339 is amended by revising paragraph (c) to read as follows:

§ 52.1339 Visibility protection.

* * * * *

(c) *Regional Haze.* The requirements of section 169A of the Clean Air Act are not met because the regional haze plan submitted by Missouri on August 5, 2009, and supplemented on January 30, 2012, does not include fully approvable measures for meeting the requirements of 40 CFR 51.308(d)(3) and 51.308(e) with respect to emissions of NO_X and SO_2 from electric generating units. EPA has given limited approval and limited disapproval to the plan provisions addressing these requirements.

[FR Doc. 2012–15021 Filed 6–25–12; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 110210132–1275–02]

RIN 0648–XC055

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS closes the incidental Longline category northern area fishery for large medium and giant Atlantic bluefin tuna (BFT) for the remainder of 2012. Fishing for, retaining, possessing, or landing BFT in the Longline category northern area is prohibited for the remainder of 2012. The Longline fishery in the Northeast Distant gear restricted area (NED) remains open at this time. This action is being taken to prevent overharvest of the Longline category northern area BFT subquota.

DATES: Effective 11:30 p.m., local time, June 30, 2012, through December 31, 2012.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin or Brad McHale, 978–281–9260.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27(a) subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) among the various domestic fishing categories, consistent with the allocations established in the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan (Consolidated HMS FMP) (71 FR 58058, October 2, 2006) and subsequent rulemaking.

Under § 635.27(a)(3), the total amount of large medium and giant BFT (measuring 73 inches (185 cm) curved fork length (CFL) or greater) that may be caught incidentally and retained, possessed, or landed by vessels that possess Longline category Atlantic Tunas permits is 8.1 percent of the baseline annual U.S. BFT quota. NMFS may allocate no more than 60 percent of the Longline category incidental BFT quota may be allocated for landing in the area south of 31°00′ N. lat. (i.e., the ''southern area''), with the remainder allocated for landing in the area north of 31°00′ N. lat. (i.e., the ''northern area''). The current Longline category baseline BFT quota is 74.8 mt, with 29.9 mt allocated to the northern area.

In addition to the Longline category quota of 74.8 mt, 25 mt are allocated, consistent with ICCAT Recommendation 10–03 (Supplemental Recommendation by ICCAT concerning the Western BFT Rebuilding Program), for incidental catch of BFT by pelagic longline vessels fishing in the NED, an area far offshore the northeastern United States. The NED is the Atlantic Ocean area bounded by straight lines connecting the following coordinates in the order stated: 35°00′ N. lat., 60°00′ W. long.; 55°00′ N. lat., 60°00′ W. long.; 55°00′ N. lat., 20°00′ W. long.; 35°00′ N. lat., 20°00′ W. long.; 35°00′ N. lat., 60°00′ W. long. This action is taken consistent with the regulations at §§ 635.27(a)(3) and 635.28(a)(1). NMFS accounts for landings under the 25-mt NED allocation separately from other Longline category landings.

NMFS is required, under § 635.28(a)(1), to file a closure notice with the Office of the Federal Register for publication when a BFT quota is reached or is projected to be reached. On and after the effective date and time of such notification, for the remainder of the fishing year, or for a specified period as indicated in the notification, fishing for, retaining, possessing, or landing BFT under that quota category is prohibited until the opening of the subsequent quota period or until such date as specified in the notice. Earlier this year, NMFS announced a closure of the Longline category southern area BFT fishery, effective May 29, 2012 (77 FR 31546, May 29, 2012).

Based on the best available landings information for the incidental Longline category northern area BFT fishery (i.e., 23.7 mt of the available 29.9 mt landed as of June 14, 2012), NMFS projects that the Longline category northern area BFT subquota will be reached by the end of June 2012. Given the extended duration of longline fishing trips in the northern area, NMFS has determined that a closure of the Longline category northern area bluefin tuna fishery is warranted at this time. Therefore, through December 31, 2012, fishing for, retaining, possessing, or landing large medium or giant BFT north of 31°00′ N. lat., other than BFT caught inside the NED, by vessels permitted in the Atlantic tunas Longline category must cease at 11:30 p.m. local time on June 30, 2012. The Longline fishery in the NED remains open at this time. The intent of this closure is to prevent overharvest of the Longline category northern area BFT subquota.

NMFS will continue to monitor incidental Longline category BFT landings from the NED against the 25 mt allocated for that area and may take further action, if necessary. Any subsequent adjustments to the Longline category fishery for 2012 would be published in the **Federal Register**. In addition, fishermen may call (978) 281–9260, or access *www.hmspermits.gov,* for fishery updates.

Classification

The Assistant Administrator for NMFS (AA) finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons:

The closure of the Longline category northern area BFT fishery, i.e., prohibiting further BFT landings against the Longline category northern area subquota is necessary to prevent overharvest of the Longline northern area BFT subquota. NMFS provides notification of closures by publishing the notice in the **Federal Register**, emailing individuals who have subscribed to the Atlantic HMS News electronic newsletter, and updating the information posted on the Atlantic Tunas Information Line and on *www.hmspermits.gov.*

These fisheries are currently underway, and delaying this action would be contrary to the public interest as it could result in excessive BFT landings, which could have adverse effects on the stock and/or may result in future potential quota reductions for the Longline category. NMFS must close the Longline category northern area fishery to landings before large medium and giant BFT exceed the available subquota for that area. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. For all of the above reasons, there is good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

This action is being taken under §§ 635.27(a)(3) and 635.28(a)(1), and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: June 20, 2012.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2012–15575 Filed 6–21–12; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 120613165–2167–01]

RIN 0648–BC23

Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish of the Gulf of Alaska; Amendment 88; Correction

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

ACTION: Final rule; correcting amendment.

SUMMARY: This action corrects the final rule published on December 27, 2011, that implemented Amendment 88 to the Fishery Management Plan for Groundfish of the Gulf of Alaska. This correction clarifies that participants in the entry level trawl fishery may qualify for quota share (QS) under the Central Gulf of Alaska (GOA) Rockfish Program only in proportion to the number of years that a person made rockfish legal landings to an entry level processor in 2007, 2008, or 2009. This clarification is administrative in nature and does not change the distribution of rockfish QS to entry level trawl participants.

DATES: Effective June 26, 2012.

FOR FURTHER INFORMATION CONTACT: Gwen Herrewig, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

The rockfish fisheries are conducted in Federal waters near Kodiak, AK, by trawl and longline vessels. NMFS published the Central GOA Rockfish Program (Rockfish Program) final rule in the **Federal Register** on December 27, 2011 (76 FR 81248). The Rockfish Program allocates harvest privileges to holders of License Limitation Program (LLP) groundfish licenses with a history of Central GOA rockfish legal landings either in 2000 through 2006, or in the entry level trawl fishery in 2007, 2008, or 2009. The Rockfish Program assigns QS to LLP licenses for rockfish primary and secondary species based on legal landings associated with a specific LLP license. Rockfish primary species are northern rockfish, Pacific ocean perch, and pelagic shelf rockfish. Rockfish secondary species are Pacific cod, rougheye rockfish, shortraker rockfish, sablefish, and thornyhead rockfish.

The entry level trawl fishery that occurred under the Central GOA Rockfish Pilot Program in 2007, 2008, and 2009 was limited to (1) those vessels that did not make landings in the Central GOA rockfish fishery from 1996 through 2002, and (2) those processors that did not meet a minimum amount of annual primary rockfish processing in the Central GOA rockfish fishery from 1996 through 2000. Additional detail on the entry level trawl fishery can be found in the preamble to the final rule that implemented the entry level trawl fishery and is not repeated here (71 FR 67210; November 20, 2006).

Need for Correction

This action addresses potential confusion created by an inconsistency in the preamble to the Rockfish Program final rule. NMFS made contradictory statements in the preamble in response to public comment 14, in which the commenter asserted that the proposed regulations did not follow the North Pacific Fishery Management Council's (Council's) intent that a participant in the entry level trawl fishery may qualify for QS under the Rockfish Program only in proportion to the number of years that person made a delivery to an entry level processor in 2007, 2008, or 2009. The commenter asked NMFS to add the language ''to an entry level processor'' to the regulations.

In response to the comment, NMFS stated it would not make a regulatory change, but then used an example that included that change. Specifically, NMFS stated that current regulations implemented by the Rockfish Program final rule captured Council intent by stating that qualification for QS is based on rockfish legal landings generated by an entry level trawl participant. NMFS determined that adding the phrase ''to an entry level processor'' would be redundant because the definition of ''rockfish legal landings'' already encompassed deliveries made to an entry level processor. This is because entry level trawl participants were required to deliver all harvested fish in the entry level fishery to an entry level processor in order to generate rockfish legal landings. However, later in the preamble to the proposed rule, in a section describing the proposed regulatory text at § 679.80(e)(3)(i), NMFS included the phrase ''to an entry level processor'' as requested by the commenter, even though NMFS previously stated that phrase was unnecessary.

After additional review, NMFS agrees with the commenter that the regulations would be clearer if they included the phrase ''to an entry level processor,'' which clarify the requirement that qualification for QS is based on rockfish legal landings made to an entry level processor in 2007, 2008, or 2009.

Therefore, NMFS clarifies regulations for the Rockfish Program in text at § 679.80(e)(1)(ii) describing the distribution of rockfish QS to entry level trawl applicants, and in the calculation procedure at § 679.80(e)(3)(i) that assigns one Rockfish Landing Unit to an LLP license for each year a rockfish legal landing of any rockfish primary species was made during the season dates for the entry level trawl fishery in 2007, 2008, or 2009. This correction clarifies that qualification for QS in the entry level trawl fishery is based on rockfish legal landings made to an entry level processor.

This clarification is administrative in nature and does not change the distribution of QS under the Rockfish Program. NMFS issued Rockfish Program QS in February 2012 consistent with current regulations and these corrections.

Classification

The Acting Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is unnecessary. This action makes no substantive changes to the rule, nor does it modify any rights or responsibilities of the regulated community. This action clarifies that qualification for QS in the entry level trawl fishery is based on rockfish legal landings made to an entry level processor, but does not change the distribution of QS under the Rockfish Program or change operating practices in the fisheries. The corrections described in this rule are being implemented to avoid confusion for participants in the fisheries.

For the reasons set forth above, the AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). The corrections described in this rule are being made effective upon publication to address the inconsistency in the final rule preamble for the public.

It has been determined that this rule is not significant for purposes of Executive Order 12866.

NMFS is correcting this error and is not making substantive changes to the document in rule FR Docket No. 110314196–1725–02 published on December 27, 2011.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: June 21, 2012.

Paul N. Doremus,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

For reasons explained in the preamble, 50 CFR part 679 is corrected by making the following correcting amendments:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.;* 1801 *et seq.;* 3631 *et seq.;* Pub. L. 108–447.

■ 2. Section 679.80 is corrected by revising paragraphs (e)(1)(ii) and (e)(3)(i) to read as follows:

§ 679.80 Allocation and transfer of rockfish QS.

* * * * *

(e) * * *

(1) * * *

(ii) The number of years during which a person made a rockfish legal landing to an entry level processor under the authority of an LLP license in the entry level trawl fishery during 2007, 2008, or 2009 as established in paragraph (e)(3) of this section.

* * * * *

(3) * * *

(i) Assign one Rockfish Landing Unit to an LLP license for each year a rockfish legal landing of any rockfish primary species was made to an entry level processor under the authority of an LLP license during the season dates for the entry level trawl fishery in 2007, 2008, or 2009 as established in Table 28b to this part. This yields the Rockfish Landing Units.ı For purposes of this calculation, the Regional Administrator will not assign any Rockfish Landing Units to an LLP license that is assigned rockfish QS under the provisions in paragraph (e)(2) of this section.

* * * * *

[FR Doc. 2012–15584 Filed 6–25–12; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 77, No. 123
Tuesday, June 26, 2012

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

DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Part 3575

RIN 0575–AC92

Community Programs Guaranteed Loans

AGENCY: Rural Housing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Housing Service (RHS) proposes to amend the regulations utilized to service the Community Facilities Guaranteed Loan Program by amending the regulation in two separate sections, in order to clarify the types of projects that are eligible for a Community Facilities Guaranteed Loan. The intended effect of this action is to strengthen the Community Facilities Guaranteed Loan Program by limiting the risk to the guaranteed loan portfolio. RHS is seeking to prohibit the financing of facilities in which the operation of such facilities have not been supported by the community and have resulted in significant default and loan losses to the agency.

DATES: Written or email comments must be received on or before August 27, 2012.

ADDRESSES: You may submit comments to this rule by any of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Submit written comments via the U.S. Postal Service to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, STOP 0742, 1400 Independence Avenue SW., Washington, DC 20250–0742.
- *Hand Delivery/Courier:* Submit written comments via Federal Express Mail or another courier service requiring a street address to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, 300 7th Street SW., 7th Floor, Washington, DC 20024.

All written comments will be available for public inspection during regular work hours at the 300 7th Street SW., 7th Floor, address listed above.

FOR FURTHER INFORMATION CONTACT: Kendra Doedderlein, Community Programs Senior Loan Specialist, Rural Housing Service, U.S. Department of Agriculture, STOP 0787, 1400 Independence Ave. SW., Washington, DC 20250–0787, Telephone: (202) 720–1503.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

The proposed rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Programs Affected

The Catalog of Federal Domestic Assistance Program impacted by this action is 10.766, Community Facilities Loans and Grants.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

Executive Order 13175 imposes requirements on Rural Development in the development of regulatory policies that have tribal implications or preempt tribal laws. Rural Development has determined that the proposed rule does not have a substantial direct effect on one or more Indian tribe(s) or on either the relationship or the distribution of powers and responsibilities between the Federal Government and Indian tribes. Thus, this rule is not subject to the requirements of Executive Order 13175. If a tribe determines that this rule has implications of which Rural Development is not aware and would like to engage in consultation with Rural Development on this rule, please contact Rural Development's Native American Coordinator at (720) 544–2911 or *AIAN@wdc.usda.gov.*

Executive Order 12372, Intergovernmental Review

This program is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. RHS conducts intergovernmental consultations for each loan in the manner delineated in 7 CFR part 3015, subpart V.

Executive Order 12988, Civil Justice Reform

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. In accordance with this rule: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings of the National Appeals Division (7 CFR part 11) must be exhausted, before bringing suit in court challenging action taken under this rule.

Environmental Impact Statement

The action has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' The Agency has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.,* an Environmental Impact Statement is not required.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. chapters 17A and 25, established requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, RHS generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. When such a statement is needed for a rule, section 205 of the UMRA generally requires RHS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Regulatory Flexibility Act

The rules have been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). Under Section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Agency has determined and certified by signature of this document that the rule will not have a significant economic impact on a substantial number of small entities since this rulemaking action does not involve a new or expanded program. Furthermore, the program does not treat entities differently based solely on their size.

Executive Order 13132, Federalism

The policies contained in the rule does not have any substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Nor do the rules impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Implementation

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall comply with 5 U.S.C. 553, notwithstanding the exemption of that section with respect to such rules.

Paperwork Reduction Act

The revisions in this rulemaking for part 3575 are subject to the burden package assigned OMB control number 0575–0137. No paperwork changes are being proposed.

Executive Order 12372, Intergovernmental Review of Federal Programs

This proposed rule is not subject to the provisions of EO 12372, which require intergovernmental consultation with State and local officials, because this rule provides general guidance on something. Applications for Agency programs will be reviewed individually under EO 12372 as required by program procedures.

E-Government Act Compliance

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

Discussion

The Community Facilities Guaranteed Loan Program bolsters the credit available from private lending institutions through the guarantee of loans for essential community facilities in rural areas. This program has been in existence since 1992, and as it evolves, the need to define and revise terms is required.

Section 3575.24(a)(1)(x) currently identifies recreational facilities as eligible types of facilities for financing under this program; however, Agency experience shows that the current language is too brief and subject to different interpretation by prospective applicants and other program users. Therefore, the Agency proposes to revise the paragraph to more clearly convey to the public the Agency's policy with respect to the financing of essential community facilities that provide recreational services as part of addressing overall community development needs.

Section 3575.25 prohibits the financing with guaranteed loan funds on specific types of projects. The Agency proposes to add a paragraph (j) ''Golf courses'' to this section. This is based upon the Agency's experience to date in financing this type of project and the failure rate the Agency has experienced on golf course projects. Also, the lack of support demonstrated by the community indicates that a golf course is not essential to a rural community and is typically viewed as a commercial undertaking.

List of Subjects in 7 CFR 3575

Community facilities, Guaranteed loans, Loan programs.

For the reasons set forth in the preamble, XXXV of Subtitle B, title 7, Code of Federal Regulations is proposed to be amended as follows:

PART 3575—GENERAL

1. The authority citation for part 3575 continues to read as follows:

Authority: 5 U.S.C. 301, 7 U.S.C. 1989.

Subpart A—Community Programs Guaranteed Loans

2. Amend § 3575.24 to revise paragraph (a)(1)(x) to read as follows:

§ 3575.24 Eligible loan purposes.

(a) * * *

(1) * * *

(x) Community parks, community activity centers, and similar types of facilities that are an integral part of the orderly development of a community. Recreational components, such as, but not limited to, playground equipment of an otherwise non-recreational eligible community facility such as childcare, educational, or health care facilities are also eligible.

* * * * *

3. Amend § 3575.25 to add paragraph (j) to read as follows:

§ 3575.25 Ineligible loan purposes.

* * * * *

(j) Golf courses, water parks, race tracks or other recreational type facilities inherently commercial in nature.

* * * * *

Dated: May 18, 2012.

Tammye Treviño,

Administrator, Rural Housing Service.

[FR Doc. 2012–15579 Filed 6–25–12; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Chapter I

[Docket No. FAA–2012–0658]

Proposed Policy Clarification for the Registration of Aircraft to U.S. Citizen Trustees in Situations Involving Non-U.S. Citizen Trustors and Beneficiaries

AGENCY: Federal Aviation Administration, DOT.

ACTION: Proposed Policy; Availability of Documents for Inspection and Extension of Time in which to Submit Written Comments.

SUMMARY: The FAA is extending the comment period on its proposed policy regarding the registration of aircraft to U.S. Citizen Trustees in situations involving Non-U.S. citizen trustors and beneficiaries.

DATES: The FAA is extending the comment period to August 17, 2012.

FOR FURTHER INFORMATION CONTACT: LaDeana Peden at 405–954–3296, Office of Aeronautical Center Counsel, Federal Aviation Administration.

SUPPLEMENTARY INFORMATION: Incident to a public meeting held by the Federal Aviation Administration (FAA) on Wednesday, June 6, 2012, in Oklahoma City, Oklahoma, concerning aircraft registration by owner trustees for non-U.S. citizen beneficiaries, interested parties have submitted written comments to FAA. Those comments, as well as the Notice of Public Meeting and FAA slide presentation may be viewed at the Office of Chief Counsel's FAA Web site located at *http://www.faa.gov/*

about/office_org/headquarters_offices/agc/. The comment period is hereby extended through Friday, August 17, 2012, and may be submitted via email to *ladeana.peden@faa.gov.*

As part of its review of non-citizen trusts, the FAA published a notice of its proposed policy clarification on February 9, 2012 (77 FR 6694) on use of non-citizen trusts to register aircraft in the United States. After the FAA discusses the legal issues, the FAA will suggest which provisions in trust agreements may need to be changed and it will suggest language that would enable the FAA to facilitate the registration of aircraft in the future that are owned in trust. The suggested language and the reasons for the suggested language, if adopted as the FAA's final policy on this matter, will guide the FAA in the future in determining eligibility for registering non-U.S. citizen trusts.

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

Issued in Oklahoma City, Oklahoma, on June 13, 2012.

Joseph R. Standell,

Aeronautical Center Counsel.

[FR Doc. 2012–15339 Filed 6–25–12; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 351

[Docket No. 120613168–2168–01]

RIN 0625–AA92

Regulation Strengthening Accountability of Attorneys and Non-Attorney Representatives Appearing Before the Department

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The Department of Commerce (the Department) proposes to amend its regulations to add a subsection that strengthens the accountability of attorneys and non-attorney representatives who appear in proceedings before the Import Administration (IA). If this proposed rule is implemented, the Department will continue its long-standing practice of permitting attorneys and non-attorney representatives to appear before IA. The proposed rule provides that both attorneys and non-attorney representatives will be subject to disciplinary action for misconduct based upon good cause. The proposed rule will assist the Department in maintaining the integrity of its proceedings by deterring misconduct by those who appear before it in antidumping duty (AD) and countervailing duty (CVD) proceedings. The Department is requesting comments on the proposed rule as discussed in more detail below.

DATES: The Department is requesting public comment on this proposed rule. To be assured consideration, all comments must be received no later than August 10, 2012. All comments should refer to RIN 0625–AA92.

ADDRESSES: To ensure the timely receipt and consideration of comments, the Department requires all comments to be submitted on-line through the Federal eRulemaking portal at *www.regulations.gov,* unless they do not have access to the Internet. Comments to this notice should be submitted under docket number ITA–2012–0003. To find this docket, enter the docket number in the ''Enter Keyword or ID'' window at the *www.regulations.gov* home page and click ''Search.'' The site will provide a search-results page listing all documents associated with that docket number. Find a reference to the proposed rule notice by selecting ''Rule'' under ''Document Type'' on the search-results page, and click on the link entitled ''Submit a Comment.'' The *www.regulations.gov* Web site provides the option of making submissions by filling in a comments field, or by attaching a document. The International Trade Administration (ITA) prefers submissions to be provided in an attached document. (For further information on using the *www.regulations.gov* Web site, please consult the resources provided on the Web site by clicking on the ''Help'' tab.)

Commenters who do not have access to the Internet may submit the original and two copies of each set of comments by mail or hand delivery/courier. All comments should be addressed to Paul Piquado, Assistant Secretary for Import Administration, Room 1870, Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.

The Department will consider all relevant comments regarding the proposed rule that are received before the close of the comment period. The Department will not accept comments accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. All comments responding to this notice will be a matter of public record and will be available for inspection at IA's Central Records Unit (Room 7046 of the Herbert C. Hoover Building) or on the Federal eRulemaking Portal at *www.regulations.gov.*

Any questions concerning file formatting, document conversion, access to the Internet, or other electronic filing issues should be addressed to Andrew Lee Beller, Import Administration Webmaster, at (202) 482–0866, email address: *webmaster-support@ita.doc.gov.*

FOR FURTHER INFORMATION CONTACT: Michele Lynch, Senior Counsel, Office of the General Counsel, Office of Chief Counsel for Import Administration, or Eric Greynolds, International Trade Program Manager, Office 3, Import Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230, 202–482–2879 or 202–482–6071, respectively.

SUPPLEMENTARY INFORMATION: In August 2010, in support of the National Export Initiative (NEI), the Department announced a number of proposals to strengthen the administration of the U.S. AD and CVD laws. One proposal addressed strengthening the accountability of attorneys and non-attorneys who practice before the Department. This proposal advances the purpose of the NEI by continuing rigorous enforcement of U.S. trade laws.

For decades, consistent with IA's regulations, attorneys and non-attorney representatives have practiced before IA without completing an application or obtaining a license from the Department. The proposed rule continues this long-standing practice and expressly identifies persons who may appear before the agency, including both attorneys and non-attorney representatives, and provides that such practitioners may be required to demonstrate to the agency their acceptability to act as practitioners. The proposed rule also (i) Establishes a good cause standard for the application of sanctions for misconduct, (ii) identifies possible sanctions for misconduct including suspension and barring one from practice before the agency or a lesser sanction (that may be public or private) at the Secretary's discretion, and (iii) permits attorneys and representatives to have an opportunity to present their views on the matter to the Department. If attorneys or representatives are suspended or barred from practice before the Department, the proposed rule provides that their names will appear on a public register of suspended or barred attorneys and representatives.

The proposed rule is modeled after the U.S. International Trade Commission's rule, 19 CFR 201.15, with some modifications. Certain of the modifications are necessary to ensure that the proposed rule uses the same terms already used by IA in its regulations or that two terms have the same intended meaning. Another modification provides that the Department will maintain a public registry of persons who are suspended or barred from practice. The public nature of the registry will assist the Department in its objective, *i.e.,* maintaining the integrity of its proceedings by deterring misconduct by attorneys and non-attorney representatives who appear before it.

Related Rulemaking

In 2004, the Department published a notice of inquiry seeking public comment about IA's certification requirements. *See Certification and Submission of False Statements to Import Administration During Antidumping and Countervailing Duty Proceedings—Notice of Inquiry,* 69 FR 3562 (January 26, 2004) (*2004 Notice of Inquiry*) and *Certification and Submission of False Statements to Import Administration During Antidumping and Countervailing Duty Proceedings—Notice of Proposed Rulemaking and Request for Comments,* 69 FR 56738 (September 22, 2004). In response, IA received public comment on whether it should strengthen its certification process or promulgate regulations concerning those who provide false statements or engage in fraudulent activity before the Department. The certification process is currently the subject of a separate rulemaking. *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Interim Final Rule,* 76 FR 7491 (February 10, 2011) (*2011 Interim Final Rule*) and *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Supplemental Interim Final Rule,* 76 FR 54697 (September 2, 2011). However, one of the questions asked by the Department in 2004 was whether attorneys and other professionals appearing before the Department should be subject to regulation for misconduct before the Department. The Department received comments in 2004 both supporting and opposing such regulation. Those comments are not part of this proposed rulemaking and will not be considered. As set forth above, the Department seeks public comment on this 2012 proposed rule.

In promulgating the *2011 Interim Final Rule,* the Department included in the proposed revision to the certification regulation a reference to 18 U.S.C. 1001, reminding individuals conducting business with the Department and their representatives that U.S. law imposes criminal sanctions upon parties who knowingly and willfully make material false statements to the U.S. Government. In its response to public comments, the Department stated that it intended to continue to refer certification violations to offices better equipped to handle such matters, such as the Department's Office of the Inspector General (OIG). *See 2011 Interim Final Rule,* 76 FR at 2493–94. The promulgation of this proposed rule strengthening the accountability of attorney and non-attorney representatives is consistent with the *2011 Interim Final Rule.* The Department will refer instances of alleged certification violations to the OIG. However, not every case of misconduct constitutes a certification violation. Under this proposed rule, when the Department either receives allegations that an attorney or non-attorney representative appearing before it has engaged in misconduct or inappropriate behavior, or is otherwise aware of such misconduct or behavior, for good cause and to protect the integrity of its proceedings, it will take disciplinary action against the offending attorney or non-attorney representative. Attorneys and non-attorney representatives who are found, after referral to the appropriate office, to have engaged in a certification violation when appearing before the Department will also be subject to disciplinary action under this proposed rule. In all cases, disciplinary action may involve reprimand (public or private), suspension or disbarment from appearing before the Department.

Classification

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* the Chief Counsel for Regulation at the Department of Commerce certified to the Chief Counsel for Advocacy, Small Business Administration, that the proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. A description of the action, why it is being considered, and the legal basis for this action are contained in the preamble to this proposed rule. The factual basis for this certification is as follows.

The purpose of this rule is to strengthen the accountability of attorneys and non-attorney representatives who appear before the Department. The objective of the amendment is to implement measures which continue to permit attorneys and non-attorneys to represent persons appearing in proceedings before the Department while at the same time providing that all such persons are subject to public disciplinary action for misconduct before the Department.

The entities who would be impacted by this rule are attorneys and non-attorney representatives who appear in proceedings before the Import Administration. The Department cannot elaborate on how many of the regulated entities would be considered small under the Small Business Administration's size standards because it does not collect such data. Although the Department does not collect data on attorneys or non-attorney representatives appearing before it, historically, firms have included major law firms in business in Washington, DC, New York, and Chicago. We do not anticipate that a substantial number of small entities would be impacted by this rule.

This proposed rule is expected to have very small economic impacts to the regulated entities as it is procedural in nature. The rule establishes a ''good cause'' standard to be applied to discipline attorneys and non-attorney representatives appearing before the Department, yet it does not alter the Department's long-standing practice of allowing such representation. There is no application fee to appear before the Department. There also are no monetary penalties assessed if the Department determines that good cause exists for sanctioning an attorney or non-attorney representative. The proposed rule could be beneficial to small entities impacted by this rule because it continues to allow parties to use non-attorney representatives in Department proceedings, rather than requiring them to retain an attorney, which might result in financial savings to the small entities. However, if the Department suspends or disbars an attorney or non-attorney representative as a result of this rule, it may result in some economic impact, unquantifiable at this time, as that person would not be able to practice before the Department. But, the Department does not anticipate that a substantial number of small entities would be impacted because it anticipates that attorneys and non-attorney representatives appearing before it will conduct themselves professionally and, historically, many of

the attorneys and non-attorney representatives who appear before the Department are from larger firms. For these reasons, the Chief Counsel for Regulation certified this rule would not result in a significant economic impact to a substantial number of small entities.

Paperwork Reduction Act

It has been determined that this rulemaking does not contain an information collection subject to the Paperwork Reduction Act.

Executive Order 12866

It has been determined that the proposed rulemaking is not significant for purposes of Executive Order 12866.

Executive Order 13132

It has been determined that the proposed rulemaking does not contain federalism implications warranting the preparation of a federalism assessment.

List of Subjects in 19 CFR Part 351

Administrative practice and procedure, Antidumping duties, Countervailing duties.

Dated: June 15, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

For the reasons stated above, the Department proposes to amend 19 CFR part 351 as follows:

PART 351—ANTIDUMPING AND COUNTERVAILING DUTIES

1. The authority citation for 19 CFR part 351 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 1202 note; 19 U.S.C. 1303 note; 19 U.S.C. 1671 *et seq.;* and 19 U.S.C. 3538.

2. Add § 351.313 to subpart C to read as follows:

§ 351.313 Attorneys or representatives.

No register of attorneys or representatives who may practice before the Department is maintained. No application for admission to practice is required. Any person desiring to appear as attorney or representative before the Department may be required to show to the satisfaction of the Secretary his acceptability in that capacity. Any attorney or representative practicing before the Department, or desiring so to practice, may for good cause shown be suspended or barred from practicing before the Department, or have imposed on him such lesser sanctions (e.g., public or private reprimand) as the Secretary deems appropriate, but only after he has been accorded an opportunity to present his views in the matter. The Department will maintain a public register of attorneys and representatives suspended or barred from practice. ''Attorney'' pursuant to this subpart and ''legal counsel'' in § 351.303(g) have the same meaning. ''Representative'' pursuant to this subpart and in § 351.303(g) has the same meaning.

[FR Doc. 2012–15381 Filed 6–25–12; 8:45 am]

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[Docket ID: DOD–2012–HA–0049]

RIN 0720–AB57

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)/ TRICARE: TRICARE Retail Pharmacy Program

AGENCY: Office of the Secretary, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: This proposed rule would make several administrative changes to the TRICARE Pharmacy Benefits Program regulations in order to conform them more closely to the statute and to clarify some procedures regarding the operation of the uniform formulary. Specifically, the proposed rule would: conform the regulation to the statute regarding point-of-service availability of non-formulary drugs; clarify the process for formulary placement of newly approved drugs; streamline the process for updating copayment requirements; specify the method for applying the statutory formula for maximum non-formulary drug copayments; and clarify several other uniform formulary practices. This rule is separate from, but not inconsistent with, the legislative proposal made by the Department to implement portions of the President's Budget for Fiscal Year 2013 relating to the TRICARE Pharmacy Benefits Program.

DATES: Written comments received at the address indicated below by August 27, 2012 will be considered and addressed in the final rule.

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

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Federal Docket Management System Office, 4800 Mark Center Drive, 2nd floor, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

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

FOR FURTHER INFORMATION CONTACT: Rear Admiral Thomas McGinnis, Chief, Pharmacy Operations Directorate, TRICARE Management Activity, telephone 703–681–2890.

SUPPLEMENTARY INFORMATION:

A. Executive Summary

1. Purpose of the Proposed Rule

The purpose of this proposed rule is to make several administrative changes to the TRICARE Pharmacy Benefits Program regulation to conform more closely to the statute (10 U.S.C. 1074g) and to clarify some procedures regarding the uniform formulary.

The legal authority for this proposed rule is 10 U.S.C. 1074g.

2. Summary of the Major Provisions of the Proposed Rule

a. It would conform the regulation to the statute regarding the number of points of service where non-formulary drugs are required to be available. They would be generally required only in the mail order program.

b. It would clarify the process for formulary placement of newly approved drugs by the Food and Drug Administration (FDA), giving the Pharmacy and Therapeutics Committee up to 120 days to recommend tier placement on the uniform formulary.

c. It would streamline the process for updating cost sharing requirements by eliminating the process step of a recommendation from the P&T Committee.

d. It would state there is no regulatory requirement, just as there is no statutory requirement, that copayment amounts are the same for active duty dependents as they are for retired members and their dependents.

e. It would specify the method for applying the current statutory formula for maximum non-formulary drug copayments, stating that they would be calculated based on the average government cost of all prescriptions, other than generic drug prescriptions, in

four groups based on beneficiary category and point of service.

3. *Costs and Benefits.* This proposed rule is limited to administrative changes. It does not itself affect costs. The benefits of the proposed rule are that it will more closely conform the regulation to the statute and facilitate more effective administration of the TRICARE Pharmacy Benefits Program.

B. Background

In 1999, Congress enacted 10 U.S.C. 1074g to, among other things, establish a uniform formulary program to incentivize the use of more cost-effective pharmaceutical agents and points of service. There are four points of service under the Pharmacy Benefits Program—military facility pharmacies, retail network pharmacies, retail non-network pharmacies, and the TRICARE mail order pharmacy program (TMOP)—and three uniform formulary tiers—First Tier for generic drugs, Second Tier for preferred brand name drugs (also referred to as ''formulary drugs''), and Third Tier for non-preferred brand name drugs (also referred to as ''non-formulary drugs''). In addition to establishing procedures for assigning drugs to one of the three tiers, the statute includes several other specifications, such as: That formulary drugs are generally available in all three points of service; that non-formulary drugs are available in at least one point of service; that TRICARE may establish copayment requirements for all formulary tiers and all points of service, but the maximum copayment may not exceed for non-formulary drugs amounts generally equal to 20% for active duty family members and 25% for retirees and their family members; and that when clinically necessary, non-formulary drugs are provided at the copayment level of formulary drugs.

TRICARE's regulations implementing this statute, issued in 2004, established or continued prior rules for, among other things: assigning drugs to a formulary tier based on cost-effectiveness; point of service availability for the respective tiers; copayment requirements that are lower for more cost-effective drugs and points of service; and updates over time of the copayment amounts. Although the statute required Third Tier drugs to be available in only one point of service, the regulations made them available in two. And while the statute allows copayments for prescriptions in all points of service and formulary tiers, the regulations exempted military facility pharmacies.

TRICARE's administration of the Pharmacy Benefits Program has achieved some improvements in cost-effectiveness. However, overall costs of the TRICARE Pharmacy Benefits Program have continued to increase substantially, from approximately $2 billion in fiscal year 2001, to approximately $8 billion projected for fiscal year 2012. For fiscal year 2012, the program updated for the first time since 2001 copayment amounts, increasing retail network pharmacy copayments from $3/$9/$22 to $5/$12/$25 for the respective tiers, and changing mail order program copayments from $3/$9/$22 to $0/$9/$25. Co-payments for retail prescriptions are for up to a 30 day supply; mail order prescriptions for up to a 90 day supply. This difference is part of the incentive for beneficiaries to use the more cost-effective mail order program, as is the recent elimination of copayments for mail order program generic drugs. Encouraging increased use of DoD's more cost-effective points of service (i.e., the highly convenient mail order pharmacy or a military treatment facility pharmacy) and more cost-effective pharmaceutical products (i.e., those on First Tier and Second Tier) continues to be a TRICARE program objective.

C. Provisions of the Proposed Rule

The purpose of this proposed rule is to make several administrative changes to the TRICARE Pharmacy Benefits Program regulation to conform more closely to the statute (10 U.S.C. 1074g) and to clarify some procedures regarding the uniform formulary. One change is to conform the regulation to the statute regarding the number of points of service where non-formulary drugs are required to be available. The statute requires availability in one of the three primary points of service (military facility, retail network, and mail order program); the current regulation specifies that non-formulary drugs are generally unavailable in military facilities and generally available in the retail network and mail order. This change would provide that non-formulary drugs are available only in TMOP, unless medical necessity is established for dispensing in one of the other venues. This change would reinforce DoD policy encouraging use of more cost-effective drugs and points of service, without adverse effect on beneficiaries. A beneficiary always has the option of asking the health care provider to change the prescription to a comparable formulary drug, or, in cases of medical necessity, obtaining approval for dispensing the non-formulary drug at the formulary copayment amount. Another option for most prescriptions when the beneficiary prefers a non-formulary drug is to have the prescription transferred to TMOP.

Another administrative change would clarify the process for formulary placement of newly approved drugs by the Food and Drug Administration (FDA). Current practice for brand name drugs is that they are placed in the Second Tier the day FDA approves the drug. This practice has not lead to the most cost-effective placement of these newly approved drugs. DoD proposes that at the next quarterly meeting of the Pharmacy and Therapeutics (P&T) Committee following FDA approval, the drug will be evaluated for its relative clinical benefit and relative cost in comparison to other drugs in the drug class and a recommendation will be made to the Director of the TRICARE Management Activity for Tier placement of the drug. The current regulation does not specifically address the status of the drug from the date of date of FDA approval to the date the P&T Committee's recommendation is eventually implemented. The proposed rule would address this by providing a period of up to 120 days for the P&T Committee to act. This will normally be the next quarterly meeting, but in cases when the FDA approval happens too close to a scheduled meeting for the necessary research to be done, it would be the following meeting. The 120 day time period accommodates this. During the period prior to a decision on Tier placement, the newly approved drug will be covered by TRICARE under terms comparable to those applicable to Third Tier drugs.

Several additional administrative changes in this proposed rule relate to the process for updating copayment amounts. First, as a ''housekeeping'' matter, the proposed rule would update the regulation to incorporate the copayment adjustments that were implemented for fiscal year 2012, as noted above. Second, it would streamline the process for updating cost sharing requirements by eliminating the process step of a recommendation from the P&T Committee. Factors pertinent to updating copayment amounts relate mostly to government-wide, industry-wide, or program-wide developments, rather than specific drug-by-drug clinical and cost considerations, which is the P&T Committee's primary mission. The decision maker for copayment updates would continue to be the Assistant Secretary of Defense for Health Affairs. Third, the proposed rule would state there is no regulatory requirement, just as there is no statutory requirement, that copayment amounts are the same for active duty dependents

as they are for retired members and their dependents. Fourth, it would specify the method for applying the statutory formula for maximum non-formulary drug copayments. The statute provides that the maximum copayment may not exceed for non-formulary drugs amounts generally equal to 20% for active duty family members and 25% for retirees and their family members, but the current regulations do not indicate how this maximum amount will be calculated. The proposed rule would specify that it will be calculated based on the average government cost of all prescriptions, other than generic drug prescriptions, in four groups: retail prescriptions for active duty dependents; retail prescriptions for retirees and their dependents; mail order prescriptions for active duty dependents; and mail order prescriptions for retirees and their dependents. This part of the proposed rule should not be interpreted as suggesting that TRICARE intends to establish different copayments for active duty dependents from copayments for retirees and their dependents or to increase copayments to the maximum level allowed. This part of the rule is simply to clarify the applicable requirements and how the maximum copayment frame of reference will be calculated.

The proposed rule would continue the current regulatory policy of exempting from copayments prescriptions filled in military facility pharmacies. This is allowed by the statute and arguably spreading copayment requirements across all points of service could reduce the potential need for higher copayments in any one point of service; but the current regulation and this proposed rule specify no copayment for all such prescriptions. Although no change is proposed, DoD invites comments on this provision.

Finally, the proposed rule would incorporate into the regulation several details of current practice. While the current regulation provides that a uniform formulary drug that is not a generic drug may be grouped for copayment purposes with generic drugs if it is judged to be as cost effective as generic drugs in the same drug class, the proposed rule would add that a generic drug may be classified as non-formulary if it is less cost effective than non-generic formulary drugs in the same drug class. Further, in the case of generic drugs, the beneficiary copayment amount for any prescription may not exceed the total charge for that prescription. Also, the rule would state that active duty members are not authorized to use retail non-network pharmacies.

D. Regulatory Procedures

Executive Order 12866, ''Regulatory Planning and Review'' and Executive Order 13563, ''Improving Regulation and Regulatory Review''

Executive Orders (EOs) 12866 and 13563 require that a comprehensive regulatory impact analysis be performed on any economically significant regulatory action, defined primarily as one that would result in an effect of $100 million or more in any one year. The DoD has examined the economic, legal, and policy implications of this proposed rule and has concluded that it is not an economically significant regulatory action under Section 3(f)(1) of the EO. But it is a significant regulatory action and it has been reviewed by the Office of Management and Budget.

Congressional Review Act, 5 U.S.C. 801, et seq.

Under the Congressional Review Act, a major rule may not take effect until at least 60 days after submission to Congress of a report regarding the rule. A major rule is one that would have an annual effect on the economy of $100 million or more or have certain other impacts. This proposed rule is a not a major rule under the Congressional Review Act.

Sec. 202, Public Law 104–4, ''Unfunded Mandates Reform Act''

This rule does not contain a Federal mandate that may result in the expenditure by State, local and tribunal governments, in aggregate, or by the private sector, of $100 million or more (adjusted for inflation) in any one year.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601)

The Regulatory Flexibility Act (RFA) requires that each Federal agency prepare and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities. This proposed rule does not have a significant impact on a substantial number of small entities.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

This proposed rule contains no new information collection requirements subject to the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3511).

Executive Order 13132, ''Federalism''

This proposed rule does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on the States; the relationship between the National Government and the States; or the distribution of power and responsibilities among the various levels of Government.

Public Comments Invited

This is a proposed rule. DoD invites public comments on all of its provisions.

List of Subjects in 32 CFR Part 199

Claims, Health care, Health insurance, Military personnel, Pharmacy benefits.

Accordingly, 32 CFR part 199 is proposed to be amended as follows:

PART 199—[AMENDED]

1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55.

2. Section 199.21 is amended by adding new paragraph (g)(5), by revising the heading for paragraph (h), by revising paragraphs (h)(1)(iii), (h)(3)(i) and (ii), (i)(2) introductory text, (i)(2)(i) through (v), and (i)(2)(x), and by adding new paragraphs (j)(4) and (5), to read as follows:

§ 199.21 Pharmacy Benefits Program.

* * * * *

(g) * * *

(5) *Administrative procedure for newly approved drugs.* In the case of a newly approved pharmaceutical agent, other than a generic drug, the agent will, not later than 120 days after the date of approval by the Food and Drug Administration, be added to the uniform formulary unless prior to that date the P&T Committee has recommended that the agent be listed as a non-formulary drug. If the Director, TMA subsequently approves that recommendation, the drug will be so listed. If the Director, TMA disapproves that recommendation, the drug will as soon as feasible be added to the uniform formulary. If, prior to the expiration of 120 days, the P&T Committee recommends that the agent be added to the uniform formulary, that will be done as soon as feasible. Pending action under this paragraph (5), the newly approved pharmaceutical agent will be available to beneficiaries under terms comparable to those applicable to non-formulary agents under this section.

* * * * *

(h) * * *

(1) * * *

(iii) Retail non-network pharmacies: Those are non-MTF pharmacies that are not part of the network established for TRICARE retail pharmacy services (Note: active duty members are not authorized to use retail non-network pharmacies); and

* * * * *

(3) *Availability of non-formulary pharmaceutical agents.*—(i) *General.* Non-formulary pharmaceutical agents shall be generally available under the pharmacy benefits program from retail non-network pharmacies and the TRICARE Mail Order Pharmacy (TMOP).

(ii) *Availability of non-formulary pharmaceutical agents at military treatment facilities and retail network pharmacies.* Even when particular non-formulary agents are not generally available at military treatment facilities or retail network pharmacies, they will be made available to eligible covered beneficiaries through those points of service for prescriptions approved through the non-formulary special approval process that validates the medical necessity for use of the non-formulary pharmaceutical agent. In those cases in the retail network, the non-formulary drug will be made available at the formulary copayment amount.

* * * * *

(i) * * *

(2) *Cost-sharing amounts.* Active duty members of the uniformed services do not pay cost-shares. For other categories of beneficiaries, cost-sharing amounts are as follows:

(i) For pharmaceutical agents obtained from a military treatment facility, there are no co-payments.

(ii) For pharmaceutical agents obtained from a retail network pharmacy there is a:

(A) $12.00 co-payment per prescription required for up to a 30-day supply of a formulary pharmaceutical agent.

(B) $5.00 co-payment per prescription for up to a 30-day supply of a generic pharmaceutical agent. For especially cost-effective drugs, upon the recommendation of the Pharmacy and Therapeutics Committee, prescriptions for a longer period supply, not to exceed 90 days, may be authorized for the same co-payment.

(C) $25.00 co-payment per prescription for up to a 30-day supply of a non-formulary pharmaceutical agent.

(D) $0.00 co-payment for vaccines/immunizations authorized as preventive care for eligible beneficiaries.

(iii) For formulary and generic pharmaceutical agents obtained from a retail non-network pharmacy there is a 20/25 percent or $12.00 co-payment (whichever is greater) per prescription for up to a 30-day supply of the pharmaceutical agent. The 20% amount applies to dependents of active duty members and others covered by 10 U.S.C. 1079; the 25% amount applies to retirees and others covered by 10 U.S.C. 1086.

(iv) For non-formulary pharmaceutical agents obtained at a retail non-network pharmacy there is a 20/25 percent or $25.00 co-payment (whichever is greater) per prescription for up to a 30-day supply of the pharmaceutical agent. The 20% amount applies to dependents of active duty members and others covered by 10 U.S.C. 1079; the 25% amount applies to retirees and others covered by 10 U.S.C. 1086.

(v) For pharmaceutical agents obtained under the TMOP program there is a:

(A) $9.00 co-payment per prescription for up to a 90-day supply of a formulary pharmaceutical agent.

(B) $0.00 co-payment for up to a 90-day supply of a generic pharmaceutical agent.

(C) $25.00 co-payment for up to a 90-day supply of a non-formulary pharmaceutical agent.

* * * * *

(x)(A) The per prescription copayments established in this paragraph (i)(2) of this section may be adjusted periodically based on experience with the uniform formulary, changes in economic circumstances, and other appropriate factors. Any such adjustment shall be approved by the Assistant Secretary of Defense (Health Affairs). Any such adjusted amount will maintain compliance with the requirements of 10 U.S.C. 1074g(a)(6) with respect to maximum copayment amounts for non-formulary drugs, which also apply to formulary drugs. In adjusting copayment amounts, there is no requirement that amounts be the same for dependents of active duty members (and other beneficiaries covered by 10 U.S.C. 1079) as for retirees (and other beneficiaries covered by 10 U.S.C. 1086).

(B) For purposes of paragraph (i)(2)(x)(A) of this section (the requirement that non-formulary cost sharing shall not exceed amounts generally comparable to 20 percent for active duty dependents and 25 percent for retirees and their dependents), those maximum amounts will be calculated based on the average government cost of all prescriptions, other than prescriptions for generic drugs, in the following four groups:

(*1*) Retail prescriptions for active duty dependents;

(*2*) Retail prescriptions for beneficiaries covered by 10 U.S.C. 1086;

(*3*) Mail order prescriptions for active duty dependents;

(*4*) Mail order prescriptions for beneficiaries covered by 10 U.S.C. 1086.

* * * * *

(j) * * *

(4) Upon the recommendation of the Pharmacy and Therapeutics Committee, a generic drug may be classified as non-formulary if it is less cost effective than non-generic formulary drugs in the same drug class.

(5) The beneficiary copayment amount for any generic drug prescription may not exceed the total charge for that prescription.

* * * * *

Dated: June 20, 2012.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2012–15507 Filed 6–25–12; 8:45 am]

BILLING CODE 5001–06–P

LIBRARY OF CONGRESS

Copyright Royalty Board

37 CFR Part 381

[Docket No. 2011–2 CRB NCEB II]

Determination of Reasonable Rates and Terms for Noncommercial Broadcasting

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Proposed rule.

SUMMARY: The Copyright Royalty Judges are publishing for comment proposed rates and terms for the performance of musical compositions by Public Broadcasting Service (''PBS''), National Public Radio (''NPR'') and other public broadcasting entities and for the use of published pictorial, graphic and sculptural works by public broadcasting entities pursuant to the statutory license under section 118 of the Copyright Act for the period 2013–2017.

DATES: Comments and objections, if any, are due no later than July 26, 2012.

ADDRESSES: Comments and objections may be sent electronically to *crb@loc.gov.* In the alternative, send an original, five copies and an electronic copy on a CD either by mail or by hand delivery. Please do not use multiple

means of transmission. Comments and objections may not be delivered by an overnight delivery service other than the U.S. Postal Service Express Mail. If by mail (including overnight delivery), comments and objections must be addressed to: Copyright Royalty Board, P.O. Box 70977, Washington, DC 20024–0977. If hand delivered by a private party, comments and objections must be brought to the Copyright Office, Public Information Office, Library of Congress, James Madison Memorial Building, Room LM–401, 101 Independence Avenue SE., Washington, DC 20559–6000, between 8:30 a.m. and 5 p.m. If delivered by a commercial courier, comments and objections must be delivered between 8:30 a.m. and 4 p.m. to the Congressional Courier Acceptance Site located at 2nd and D Street NE., Washington, DC, and the envelope must be addressed to: Copyright Royalty Board, Library of Congress, James Madison Memorial Building, Room LM–403, 101 Independence Avenue SE., Washington, DC 20559–6000.

FOR FURTHER INFORMATION CONTACT: LaKeshia Keys, Program Specialist, by telephone (202) 707–7658 or email at *crb@loc.gov.*

SUPPLEMENTARY INFORMATION: On April 25, 2012, the Copyright Royalty Judges published for comment in the **Federal Register** proposed rates and terms for the 2013–2017 license period for the use of certain copyrighted works in connection with noncommercial television and radio broadcasting under section 118 of the Copyright Act, title 17 of the United States Code. 77 FR 24662 (April 25, 2012). The proposed rates and terms were submitted to the Judges by certain parties who filed petitions to participate in the proceeding.[1] However, the Judges received no proposal for two sections, namely, § 381.4, which governed performance of musical compositions by PBS, NPR and other public broadcasting entities engaged in the activities of 17 U.S.C. 118(c), and § 381.8, which governed the terms and rates of royalty payments for the use of published pictorial, graphic and sculptural works in PBS-distributed programs as well as in other PBS-distributed programs. Consequently, the Judges proposed removing these sections and reserving the section numbers.

In response to the April 25 proposed rule, the Judges received from PBS and NPR a joint proposal setting forth rates and terms for § 381.4 and § 381.8.[2] Section 801(b)(7)(A) of the Copyright Act, in pertinent part, requires the Judges to publish in the **Federal Register** rates and terms negotiated by copyright owners and public broadcasting entities in order to afford those who would be bound by such rates and terms an opportunity to comment and/or object to the proposal. Today's notice fulfills this requirement.

The public may comment on and object to the proposed regulations contained in this notice. Such comments and objections must be submitted no later than July 26, 2012.

List of Subjects in 37 CFR Part 381

Copyright, Music, Radio, Television, Rates.

Proposed Regulations

For the reasons set forth in the preamble, the Copyright Royalty Judges propose to amend Part 381 to Chapter III of title 37 of the Code of Federal Regulations to read as follows:

PART 381—USE OF CERTAIN COPYRIGHTED WORKS IN CONNECTION WITH NONCOMMERCIAL EDUCATIONAL BROADCASTING

1. The authority citation for part 381 continues to read as follows:

Authority: 17 U.S.C. 118, 801(b)(1) and 803.

2. Section 381.4 is amended as follows:

a. By revising paragraphs (a)(1)–(8); and

b. In paragraph (c), by removing ''2008'' and adding ''2013'' in its place, and by removing ''2012'' and adding ''2017'' in its place.

The revisions read as follows:

§ 381.4 Performance of musical compositions by PBS, NPR and other public broadcasting entities engaged in the activities set forth in 17 U.S.C. 118(c).

* * * * *

(a) *Determination of royalty rate.*

(1) For performance of such work in a feature presentation of PBS:

2013–2017 ..... $232.18

(2) For performance of such a work as background or theme music in a PBS program:

2013–2017 ..... $58.51

(3) For performance of such a work in a feature presentation of a station of PBS:

2013–2017 ..... $19.84

(4) For performance of such a work as background or theme music in a program of a station of PBS:

2013–2017 ..... $4.18

(5) For the performance of such a work in a feature presentation of NPR:

2013–2017 ..... $23.53

(6) For the performance of such a work as background or theme music in an NPR program:

2013–2017 ..... $5.70

(7) For the performance of such a work in a feature presentation of a station of NPR:

2013–2017 ..... $1.66

(8) For the performance of such a work as background or theme music in a program of a station of NPR:

2013–2017 ..... $.59

* * * * *

3. Section 381.8 is amended as follows:

a. By revising paragraphs (b)(1)(i)–(ii); and

b. In paragraph (f), by removing ''2012'' and adding ''2017'' in its place.

The revisions read as follows:

§ 381.8 Terms and rates of royalty payments for the use of published pictorial, graphic, and sculptural works.

* * * * *

(b) *Royalty rate.* (1) The following schedule of rates shall apply to the use of works within the scope of this section:

(i) For such uses in a PBS-distributed program:

(A) For featured display of a work $70.75
(B) For background and montage display 34.50
(C) For use of a work for program identification or for thematic use 139.46
(D) For the display of an art reproduction copyrighted separately from the work of fine art from which the work was reproduced irrespective of whether the reproduced work of fine art is copyrighted so as to be subject also to payment of a display fee under the terms of the schedule 45.82

(ii) For such uses in other than PBS-distributed programs:

(A) For featured display of a work $45.82

[1] For the general background of this proceeding, including the list of parties who filed a petition to participate, see 77 FR 24663 (April 25, 2012).

[2] Comments regarding the other proposed changes were also received. Such comments will be addressed in a future publication adopting final regulations.

(B) For background and montage display 23.48

(C) For use of a work for program identification or for thematic use 93.65

(D) For the display of an art reproduction copyrighted separately from the work of fine art from which the work was reproduced irrespective of whether the reproduced work of fine art is copyrighted so as to be subject also to payment of a display fee under the terms of the schedule 23.49

* * * * *

Dated: June 20, 2012.

Suzanne M. Barnett,

Chief Copyright Royalty Judge.

[FR Doc. 2012–15538 Filed 6–25–12; 8:45 am]

BILLING CODE 1410–72–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3160

[WO–300–L13100000.FJ0000]

RIN 1004–AE26

Oil and Gas; Well Stimulation, Including Hydraulic Fracturing, on Federal and Indian Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On May 11, 2012, the Bureau of Land Management (BLM) published in the **Federal Register** a proposed rule to regulate hydraulic fracturing on public land and Indian land. The rule would require disclosure to the public of chemicals used in hydraulic fracturing on public land and Indian land, strengthen regulations related to well-bore integrity, and address issues related to flowback water. This rule is necessary to provide useful information to the public and to help ensure that hydraulic fracturing is conducted in a way that adequately protects the environment.

Due to the complexity of the rule and the issues surrounding it, the BLM is extending the comment period for 60 days beyond the end of the initial comment period. As a result of this extension, the comment period will now close on September 10, 2012.

DATES: The comment period for the proposed rule published May 11, 2012, at 77 FR 27691, is extended. Send your comments on this proposed rule to the BLM on or before September 10, 2012. The BLM need not consider, or include in the administrative record for the final rule, comments that the BLM receives after the close of the comment period or comments delivered to an address other than those listed below (see **ADDRESSES**).

ADDRESSES: *Mail:* U.S. Department of the Interior, Director (630), Bureau of Land Management, Mail Stop 2134 LM, 1849 C St. NW., Washington, DC 20240, Attention: 1004–AE26. *Personal or messenger delivery:* Bureau of Land Management, 20 M Street SE., Room 2134 LM, Attention: Regulatory Affairs, Washington, DC 20003. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions at this Web site.

FOR FURTHER INFORMATION CONTACT: Steven Wells, Division Chief, Fluid Minerals Division, 202–912–7143 for information regarding the substance of the rule or information about the BLM's Fluid Minerals Program. 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. 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:

Public Comment Procedures

If you wish to comment, you may submit your comments by any one of several methods:

Mail: You may mail comments to U.S. Department of the Interior, Director (630), Bureau of Land Management, Mail Stop 2134LM, 1849 C Street NW., Washington, DC 20240, Attention: 1004–AE26. *Personal or messenger delivery:* Bureau of Land Management, 20 M Street SE., Room 2134 LM, Attention: Regulatory Affairs, Washington, DC 20003. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions at this Web site.

Please make your comments as specific as possible by confining them to issues directly related to the content of this proposed rule, and explain the basis for your comments. The comments and recommendations that will be most useful and likely to influence agency decisions are:

1. Those supported by quantitative information or studies; and

2. Those that include citations to, and analyses of, the applicable laws and regulations.

The BLM is not obligated to consider or include in the Administrative Record for the rule comments received after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

Comments, including names and street addresses of respondents, will be available for public review at the address listed under **ADDRESSES** during regular hours (7:45 a.m. to 4:15 p.m.), Monday through Friday, except holidays.

Before including your address, telephone number, email address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

Background

The proposed rule was published on May 11, 2012 (77 FR 27691), with a 60-day comment period closing on July 10, 2012. Since publication, the BLM has received numerous requests for extension of the comment period on the proposed rule. Because of the complexity of the rule and due to the controversial nature of well stimulation procedures, the BLM is hereby extending the comment period on the rule for 60 days. The closing date of the extended comment period is September 10, 2012.

Dated: June 20, 2012.

Marcilynn A. Burke,

Acting Assistant Secretary, Land and Minerals Management.

[FR Doc. 2012–15557 Filed 6–25–12; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 541

[Docket No. NHTSA–2012–0072]

Preliminary Theft Data; Motor Vehicle Theft Prevention Standard

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Publication of preliminary theft data; request for comments.

SUMMARY: This document requests comments on data about passenger motor vehicle thefts that occurred in

calendar year (CY) 2010 including theft rates for existing passenger motor vehicle lines manufactured in model year (MY) 2010. The preliminary theft data indicate that the vehicle theft rate for CY/MY 2010 vehicles (1.17 thefts per thousand vehicles) decreased by 12.03 percent from the theft rate for CY/MY 2009 vehicles (1.33 thefts per thousand vehicles).

Publication of these data fulfills NHTSA's statutory obligation to periodically obtain accurate and timely theft data, and publish the information for review and comment.

DATES: Comments must be submitted on or before August 27, 2012.

ADDRESSES: You may submit comments [identified by Docket No. NHTSA–2012–0072] by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://DocketsInfo.dot.gov*.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or the street address listed above. Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Mazyck, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, 1200 New Jersey Avenue SE., Washington, DC 20590. Ms. Mazyck's telephone number is (202) 366–4139. Her fax number is (202) 493–2990.

SUPPLEMENTARY INFORMATION: NHTSA administers a program for reducing motor vehicle theft. The central feature of this program is the Federal Motor Vehicle Theft Prevention Standard, 49 CFR Part 541. The standard specifies performance requirements for inscribing or affixing vehicle identification numbers (VINs) onto certain major original equipment and replacement parts of high-theft lines of passenger motor vehicles.

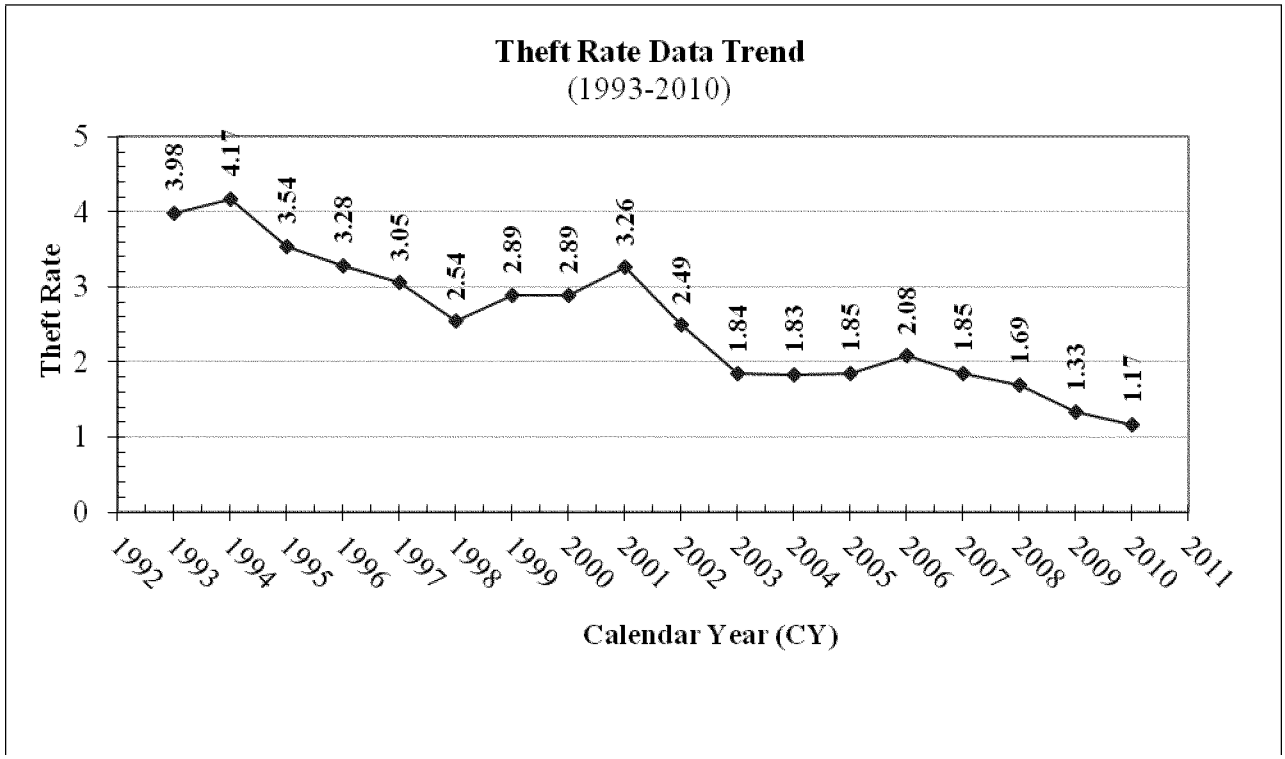
The agency is required by 49 U.S.C. 33104(b)(4) to periodically obtain, from the most reliable source, accurate and timely theft data and publish the data for review and comment. To fulfill the § 33104(b)(4) mandate, this document reports the preliminary theft data for CY 2010, the most recent calendar year for which data are available.

In calculating the 2010 theft rates, NHTSA followed the same procedures it has used since publication of the 1983/1984 theft rate data (50 FR 46669, November 12, 1985). The 2010 theft rate for each vehicle line was calculated by dividing the number of reported thefts of MY 2010 vehicles of that line stolen during calendar year 2010 by the total number of vehicles in that line manufactured for MY 2010, as reported to the Environmental Protection Agency (EPA). As in all previous reports, NHTSA's data were based on information provided to NHTSA by the National Crime Information Center (NCIC) of the Federal Bureau of Investigation. The NCIC is a government system that receives vehicle theft information from approximately 23,000 criminal justice agencies and other law enforcement authorities throughout the United States. The NCIC data also include reported thefts of self-insured and uninsured vehicles, not all of which are reported to other data sources.

The preliminary 2010 theft data show a decrease in the vehicle theft rate when compared to the theft rate experienced in CY/MY 2009 (For 2009 theft data, see 76 FR 65610, October 24, 2011). The preliminary theft rate for MY 2010 passenger vehicles stolen in calendar year 2010 decreased to 1.17 thefts per thousand vehicles produced, a decrease of 12.03 percent from the rate of 1.33 thefts per thousand vehicles experienced by MY vehicles in CY 2009. For MY 2010 vehicles, out of a total of 225 vehicle lines, three lines had a theft rate higher than 3.5826 per thousand vehicles, the established median theft rate for MYs 1990/1991 (See 59 FR 12400, March 16, 1994). Of the three vehicle lines with a theft rate higher than 3.5826, three are passenger car lines, none are multipurpose passenger vehicle lines, and none are light-duty truck lines.

The agency believes that the theft rate reduction is a result of several factors, including vehicle parts marking; the increased use of standard antitheft devices and other advances in electronic technology (i.e., immobilizers) and theft prevention methods; increased and improved prosecution efforts by law enforcement organizations; and increased public awareness which may have contributed to the overall reduction in vehicle thefts. The preliminary MY 2010 theft rate reduction is consistent with the general decreasing trend of theft rates over the past 18 years as indicated by Figure 1.

Figure 1: Theft Rate Data Trend (1993-2010)



Theft Rate per Thousand Vehicles Produced

In Table I, NHTSA has tentatively ranked each of the MY 2010 vehicle lines in descending order of theft rate. Public comment is sought on the accuracy of the data, including the data for the production volumes of individual vehicle lines.

Comments must not exceed 15 pages in length (49 CFR 553.21). Attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and two copies from which the purportedly confidential information has been deleted should be submitted to the dockets. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for this document will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments on this document will be available for inspection in the docket. NHTSA will continue to file relevant information as it becomes available for inspection in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://DocketsInfo.dot.gov.*

PRELIMINARY REPORT OF THEFT RATES FOR MODEL YEAR 2010 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 2010

	Manufacturer	Make/model (line)	Thefts 2010	Production (Mfr's) 2010	2010 Theft rate (per 1,000 vehicles produced)
1	CHRYSLER	DODGE CHARGER	532	88,032	6.0433
2	GENERAL MOTORS	PONTIAC G6	111	25,586	4.3383
3	GENERAL MOTORS	CHEVROLET IMPALA	579	150,391	3.8500
4	CHRYSLER	300	185	52,261	3.5399
5	NISSAN	INFINITI FX35	30	9,385	3.1966
6	MITSUBISHI	GALANT	38	12,053	3.1527

PRELIMINARY REPORT OF THEFT RATES FOR MODEL YEAR 2010 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 2010—Continued

	Manufacturer	Make/model (line)	Thefts 2010	Production (Mfr's) 2010	2010 Theft rate (per 1,000 vehicles produced)
7	CHRYSLER	SEBRING	130	43,022	3.0217
8	TOYOTA	LEXUS SC	1	335	2.9851
9	CHRYSLER	DODGE AVENGER	197	67,604	2.9140
10	KIA	RIO	55	18,975	2.8986
11	NISSAN	INFINITI M35/M45	12	4,287	2.7992
12	GENERAL MOTORS	CHEVROLET HHR	178	64,733	2.7498
13	FORD MOTOR CO	LINCOLN TOWN CAR	27	9,937	2.7171
14	MERCEDES-BENZ	CL-CLASS	3	1,124	2.6690
15	BMW	7	15	5,702	2.6307
16	HYUNDAI	SONATA	195	77,219	2.5253
17	HYUNDAI	ACCENT	139	55,245	2.5161
18	KIA	OPTIMA	60	25,135	2.3871
19	GENERAL MOTORS	CADILLAC DTS	36	15,744	2.2866
20	FORD MOTOR CO	MUSTANG	162	72,346	2.2392
21	GENERAL MOTORS	CHEVROLET COBALT	260	116,273	2.2361
22	VOLVO	C70	5	2,238	2.2341
23	CHRYSLER	DODGE CALIBER	103	47,199	2.1822
24	TOYOTA	CAMRY/SOLARA	691	317,754	2.1746
25	GENERAL MOTORS	CHEVROLET MALIBU	381	183,777	2.0732
26	GENERAL MOTORS	CHEVROLET AVEO	65	31,692	2.0510
27	NISSAN	VERSA	162	79,164	2.0464
28	CHRYSLER	DODGE CHALLENGER	106	51,812	2.0459
29	HONDA	PILOT	42	22,528	1.8643
30	BMW	6	5	2,808	1.7806
31	CHRYSLER	SEBRING CONVERTIBLE	16	9,219	1.7355
32	MITSUBISHI	ENDEAVOR	8	4,674	1.7116
33	VOLVO	S40	12	7,306	1.6425
34	CHRYSLER	JEEP COMPASS	30	18,549	1.6173
35	GENERAL MOTORS	CHEVROLET CAMARO	190	117,961	1.6107
36	FORD MOTOR CO	FOCUS	279	176,089	1.5844
37	AUDI	AUDI S4/S5	11	7,068	1.5563
38	NISSAN	PATHFINDER	16	10,308	1.5522
39	GENERAL MOTORS	CADILLAC CTS	61	40,045	1.5233
40	NISSAN	ALTIMA	340	224,551	1.5141
41	GENERAL MOTORS	PONTIAC VIBE	21	14,075	1.4920
42	FORD MOTOR CO	MERCURY GRAND MARQUIS	41	27,956	1.4666
43	SUZUKI	SX4	19	13,405	1.4174
44	KIA	FORTE	137	98,010	1.3978
45	FORD MOTOR CO	TAURUS	87	62,367	1.3950
46	GENERAL MOTORS	SATURN VUE	4	2,904	1.3774
47	TOYOTA	4RUNNER	18	13,345	1.3488
48	NISSAN	MAXIMA	89	66,639	1.3356
49	NISSAN	XTERRA	31	23,420	1.3237
50	MAZDA	5	26	20,150	1.2903
51	TOYOTA	COROLLA	615	478,294	1.2858
52	HYUNDAI	ELANTRA	194	151,343	1.2819
53	PORSCHE	PANAMERA	7	5,531	1.2656
54	NISSAN	SENTRA	116	92,736	1.2509
55	SUBARU	B9 TRIBECA	3	2,412	1.2438
56	FORD MOTOR CO	FUSION	341	280,461	1.2159
57	FORD MOTOR CO	MERCURY MILAN	47	38,824	1.2106
58	TOYOTA	YARIS	74	63,285	1.1693
59	MAZDA	6	53	45,410	1.1671
60	NISSAN	INFINITI G37	49	42,113	1.1635
61	TOYOTA	SCION XB	24	20,718	1.1584
62	TOYOTA	MATRIX	31	26,950	1.1503
63	VOLKSWAGEN	JETTA/GLI	142	123,543	1.1494
64	VOLKSWAGEN	CC	33	29,078	1.1349
65	MERCEDES-BENZ	S-CLASS	17	15,555	1.0929
66	MERCEDES-BENZ	GLK-CLASS	38	35,364	1.0745
67	VOLKSWAGEN	NEW BEETLE	18	16,829	1.0696
68	TOYOTA	SCION TC	21	19,786	1.0614
69	HONDA	ACURA 3.5 RL	3	2,859	1.0493
70	KIA	SPORTAGE	13	12,465	1.0429
71	GENERAL MOTORS	CHEVROLET CORVETTE	12	11,615	1.0331
72	MAZDA	3	164	158,778	1.0329
73	MERCEDES-BENZ	C-CLASS	58	56,579	1.0251
74	MASERATI	GRANTURISMO	1	989	1.0111
75	GENERAL MOTORS	CADILLAC STS	3	3,010	0.9967

PRELIMINARY REPORT OF THEFT RATES FOR MODEL YEAR 2010 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 2010—Continued

	Manufacturer	Make/model (line)	Thefts 2010	Production (Mfr's) 2010	2010 Theft rate (per 1,000 vehicles produced)
76	GENERAL MOTORS	BUICK LACROSSE/ALLURE	55	55,836	0.9850
77	FORD MOTOR CO	FLEX	22	22,451	0.9799
78	MERCEDES-BENZ	E-CLASS	61	63,473	0.9610
79	FORD MOTOR CO	LINCOLN MKS	14	14,730	0.9504
80	CHRYSLER	DODGE JOURNEY	70	74,562	0.9388
81	GENERAL MOTORS	BUICK LUCERNE	19	20,529	0.9255
82	JAGUAR LAND ROVER	XK/XKR	2	2,198	0.9099
83	CHRYSLER	JEEP LIBERTY	44	48,487	0.9075
84	KIA	SOUL	68	75,847	0.8965
85	BMW	3	42	47,715	0.8802
86	FORD MOTOR CO	EDGE	105	119,546	0.8783
87	CHRYSLER	DODGE NITRO	17	19,432	0.8748
88	AUDI	AUDI A3	4	4,587	0.8720
89	HYUNDAI	GENESIS	25	29,056	0.8604
90	BMW	Z4/M	1	1,165	0.8584
91	JAGUAR LAND ROVER	XF	7	8,206	0.8530
92	HONDA	ACCORD CROSSTOUR	29	34,114	0.8501
93	HONDA	CIVIC	217	259,907	0.8349
94	AUDI	AUDI TT	1	1,201	0.8326
95	TOYOTA	FJ CRUISER	16	19,395	0.8250
96	FORD MOTOR CO	LINCOLN MKZ	23	27,963	0.8225
97	SUBARU	IMPREZA	31	38,000	0.8158
98	TOYOTA	LEXUS LS	11	13,636	0.8067
99	BENTLEY MOTORS	CONTINENTAL	1	1,249	0.8006
100	TOYOTA	SIENNA VAN	43	54,895	0.7833
101	NISSAN	CUBE	15	19,411	0.7728
102	HONDA	ACURA ZDX	3	3,994	0.7511
103	FORD MOTOR CO	ESCAPE	146	200,970	0.7265
104	GENERAL MOTORS	GMC CANYON PICKUP	6	8,394	0.7148
105	NISSAN	GT–R	1	1,420	0.7042
106	HONDA	ACCORD	198	281,286	0.7039
107	HYUNDAI	SANTA FE	39	55,423	0.7037
108	MITSUBISHI	LANCER	21	29,952	0.7011
109	KIA	SEDONA VAN	11	15,716	0.6999
110	TOYOTA	TACOMA PICKUP	77	111,599	0.6900
111	TOYOTA	HIGHLANDER	58	84,152	0.6892
112	AUDI	AUDI A4/A5	26	38,497	0.6754
113	MERCEDES-BENZ	SLK-CLASS	1	1,505	0.6645
114	NISSAN	370Z	7	10,913	0.6414
115	GENERAL MOTORS	CADILLAC SRX	31	48,740	0.6360
116	TOYOTA	SCION XD	10	15,884	0.6296
117	CHRYSLER	JEEP PATRIOT	25	40,670	0.6147
118	HONDA	ACURA MDX	21	34,613	0.6067
119	AUDI	AUDI A6	4	6,777	0.5902
120	SUZUKI	KIZASHI	4	6,807	0.5876
121	KIA	RONDO	1	1,713	0.5838
122	NISSAN	FRONTIER PICKUP	26	44,888	0.5792
123	FORD MOTOR CO	LINCOLN MKX	12	21,164	0.5670
124	FORD MOTOR CO	CROWN VICTORIA	1	1,809	0.5528
125	TOYOTA	VENZA	27	49,445	0.5461
126	VOLKSWAGEN	TIGUAN	9	17,505	0.5141
127	BMW	1	3	5,890	0.5093
128	HONDA	INSIGHT	22	43,523	0.5055
129	TOYOTA	LEXUS IS	21	41,696	0.5036
130	NISSAN	ROGUE	44	89,165	0.4935
131	TOYOTA	RAV4	89	180,634	0.4927
132	HONDA	ELEMENT	8	16,560	0.4831
133	HONDA	ACURA TSX	23	47,770	0.4815
134	TOYOTA	AVALON	7	14,551	0.4811
135	HYUNDAI	TUCSON	11	22,950	0.4793
136	GENERAL MOTORS	CHEVROLET COLORADO PICKUP	12	25,073	0.4786
137	VOLVO	V50	1	2,148	0.4655
138	FORD MOTOR CO	MERCURY MARINER	14	30,142	0.4645
139	SUBARU	LEGACY	16	34,726	0.4607
140	CHRYSLER	JEEP WRANGLER	45	98,149	0.4585
141	BMW	MINI COOPER	18	40,706	0.4422
142	VOLKSWAGEN	GOLF/RABBIT/GTI	11	24,911	0.4416
143	TOYOTA	LEXUS GS	3	6,801	0.4411
144	CHRYSLER	PT CRUISER	5	11,358	0.4402

PRELIMINARY REPORT OF THEFT RATES FOR MODEL YEAR 2010 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 2010—Continued

	Manufacturer	Make/model (line)	Thefts 2010	Production (Mfr's) 2010	2010 Theft rate (per 1,000 vehicles produced)
145	MAZDA	MX–5 MIATA	3	7,090	0.4231
146	TOYOTA	LEXUS ES	23	54,389	0.4229
147	HONDA	ACURA 3.2 TL	15	37,466	0.4004
148	FORD MOTOR CO	RANGER PICKUP	22	58,434	0.3765
149	NISSAN	MURANO	22	58,921	0.3734
150	AUDI	AUDI Q5	7	18,853	0.3713
151	SUBARU	OUTBACK	25	71,253	0.3509
152	VOLVO	S80	3	8,805	0.3407
153	BMW	5	12	35,988	0.3334
154	SUBARU	FORESTER	37	111,861	0.3308
155	TOYOTA	LEXUS RX	49	152,431	0.3215
156	HONDA	CR–V	64	200,327	0.3195
157	TOYOTA	PRIUS	78	250,553	0.3113
158	VOLVO	XC90	3	9,846	0.3047
159	VOLKSWAGEN	PASSAT	4	13,204	0.3029
160	GENERAL MOTORS	GMC TERRAIN	13	48,605	0.2675
161	SUZUKI	VITARA/GRAND VITARA	2	7,498	0.2667
162	HONDA	ODYSSEY VAN	30	113,418	0.2645
163	MITSUBISHI	OUTLANDER	4	15,936	0.2510
164	PORSCHE	911	1	4,030	0.2481
165	TOYOTA	LEXUS HS	4	18,091	0.2211
166	FORD MOTOR CO	TRANSIT CONNECT VAN	8	36,886	0.2169
167	HONDA	ACURA RDX	3	14,117	0.2125
168	NISSAN	INFINITI EX35	2	9,536	0.2097
169	GENERAL MOTORS	CHEVROLET EQUINOX	29	139,654	0.2077
170	SAAB	9–3	1	5,090	0.1965
171	VOLVO	XC60	3	17,202	0.1744
172	VOLKSWAGEN	EOS	1	5,762	0.1736
173	MAZDA	CX–7	7	40,443	0.1731
174	HONDA	FIT	12	69,465	0.1727
175	BMW	X3	1	6,566	0.1523
176	MAZDA	CX–9	1	15,464	0.0647
177	ASTON MARTIN	DB9	0	68	0.0000
178	ASTON MARTIN	DBS	0	169	0.0000
179	ASTON MARTIN	RAPIDE	0	135	0.0000
180	ASTON MARTIN	VANTAGE	0	229	0.0000
181	AUDI	AUDI A8	0	649	0.0000
182	AUDI	AUDI R8	0	546	0.0000
183	AUDI	AUDI S6	0	140	0.0000
184	BENTLEY MOTORS	AZURE	0	38	0.0000
185	BENTLEY MOTORS	BROOKLANDS	0	2	0.0000
186	BMW	M3	0	1,869	0.0000
187	BMW	M5	0	386	0.0000
188	BMW	M6	0	523	0.0000
189	BUGATTI	VEYRON	0	8	0.0000
190	CHRYSLER	DODGE VIPER	0	384	0.0000
191	FERRARI	458	0	474	0.0000
192	FERRARI	599	0	153	0.0000
193	FERRARI	612 SCAGLIETTI	0	26	0.0000
194	FERRARI	CALIFORNIA	0	1,127	0.0000
195	GENERAL MOTORS	CADILLAC FUNERAL COACH/HEARSE	0	529	0.0000
196	GENERAL MOTORS	CADILLAC LIMOUSINE	0	272	0.0000
197	GENERAL MOTORS	PONTIAC G5	0	3	0.0000
198	GENERAL MOTORS	SATURN AURA	0	20	0.0000
199	HYUNDAI	AZERA	0	1,121	0.0000
200	HYUNDAI	VERACRUZ	0	8,344	0.0000
201	JAGUAR LAND ROVER	LAND ROVER LR2	0	4,430	0.0000
202	JAGUAR LAND ROVER	XJ	0	68	0.0000
203	LAMBORGHINI	GALLARDO	0	190	0.0000
204	LAMBORGHINI	MURCIELAGO	0	59	0.0000
205	LOTUS	ELISE	0	354	0.0000
206	MASERATI	QUATTROPORTE	0	394	0.0000
207	MAZDA	RX–8	0	1,217	0.0000
208	MAZDA	TRIBUTE	0	4,180	0.0000
209	MERCEDES-BENZ	CLS–CLASS	0	1,352	0.0000
210	MERCEDES-BENZ	MAYBACH 57	0	1	0.0000
211	MERCEDES-BENZ	SMART FORTWO	0	3,255	0.0000
212	MITSUBISHI	ECLIPSE	0	793	0.0000
213	NISSAN	INFINITI FX50	0	460	0.0000

PRELIMINARY REPORT OF THEFT RATES FOR MODEL YEAR 2010 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 2010—Continued

	Manufacturer	Make/model (line)	Thefts 2010	Production (Mfr's) 2010	2010 Theft rate (per 1,000 vehicles produced)
214	PORSCHE	BOXSTER	0	1,421	0.0000
215	PORSCHE	CAYMAN	0	955	0.0000
216	ROLLS ROYCE	GHOST	0	604	0.0000
217	ROLLS ROYCE	PHANTOM	0	281	0.0000
218	ROUSH PERFORMANCE	RPP MUSTANG	0	766	0.0000
219	SAAB	9–5	0	644	0.0000
220	SPYKER	C8	0	5	0.0000
221	SUZUKI	EQUATOR PICKUP	0	1,230	0.0000
222	TESLA	ROADSTER	0	278	0.0000
223	VOLVO	C30	0	1,536	0.0000
224	VOLVO	V70	0	1,496	0.0000
225	VOLVO	XC70	0	6,379	0.0000

Authority: 49 U.S.C. 33101, 33102 and 33104; delegation of authority at 49 CFR 1.50.

Issued on: June 7, 2012.

Christopher J. Bonanti,

Associate Administrator for Rulemaking.

[FR Doc. 2012–15597 Filed 6–25–12; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 300 and 635

[Docket No. 120510051–2156–01]

RIN 0648–BC16

Atlantic Highly Migratory Species; Lifting Trade Restrictive Measures

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to adjust the regulations governing the trade of tuna and tuna-like species in the North and South Atlantic Ocean to implement recommendations adopted at the 2011 meeting of the International Commission for the Conservation of Atlantic Tunas (Commission). The proposed rule would lift the trade restrictions on importing bigeye tuna from Bolivia and Georgia. Additionally, the proposed rule would make administrative changes to the section containing species-specific harmonized tariff codes in support of the International Trade Program.

DATES: Written comments must be received on or before July 26, 2012.

ADDRESSES: You may submit comments, identified by ''NMFS–NOAA–2012–0117'', by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal, *http://www.regulations.gov.* To submit comments via the e-Rulemaking Portal, first click the ''submit a comment'' icon, then enter ''NOAA–NMFS–2012–0117'' in the keyword search. Locate the document you wish to comment on from the resulting list and click on the ''Submit a Comment'' icon on the right of that line.
- *Fax:* 978–281–9347, Attn: Tom Warren.
- *Mail:* Thomas Warren, Highly Migratory Species Management Division, NMFS, 55 Great Republic Drive, Gloucester, MA 01930.
- *Instructions:* Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, or to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only. To be considered, electronic comments must be submitted via the Federal eRulemaking Portal *http://www.regulations.gov.* Do not submit electronic comments to individual NMFS staff.

Copies of the 2006 Consolidated Highly Migratory Species Fishery Management Plan (Consolidated HMS FMP) and other relevant documents are available from the Highly Migratory Species Management Division Web site at *www.nmfs.noaa.gov/sfa/hms.*

FOR FURTHER INFORMATION CONTACT: Tom Warren at 978–281–9260, or LeAnn Hogan at 301–427–8503.

SUPPLEMENTARY INFORMATION: The U.S. Atlantic tuna fisheries are managed under the Consolidated HMS FMP and regulations at 50 CFR part 635, pursuant to the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), and the Atlantic Tunas Convention Act (ATCA). Under ATCA, the Secretary shall promulgate such regulations as may be necessary and appropriate to carry out ICCAT Recommendations.

Trade Measures

In 2002 and 2003, the Commission adopted binding measures for Parties to prohibit the imports of Atlantic bigeye tuna and its products from Bolivia and Georgia, respectively. Specifically, Recommendations 02–17 and 03–18 prohibited the imports to address illegal, unreported, and unregulated catches of tuna (especially bigeye tuna) by large-scale Bolivian and Georgian longline vessels that operated in a manner that diminished the effectiveness of the Commission measures. Recommendation 02–17 expressed concern regarding the overfished status of bigeye tuna in the Atlantic Ocean and noted the Commission had reviewed information that Bolivian vessels fishing for Atlantic bigeye tuna had continued to operate in a manner that diminished the effectiveness of the Commission conservation and management

measures. Similarly, Recommendation 03–18 expressed concern regarding the overfished status of bigeye tuna in the Atlantic Ocean, and the Commission had reviewed information that Georgian vessels had continued to operate in a manner that diminished the effectiveness of Commission conservation and management measures. Therefore, in 2004, NMFS published a final rule (69 FR 70396; December 6, 2004) that implemented the Commission recommendations. The final rule stated that when Bolivia or Georgia brought its fishing practices into consistency with the Commission conservation and management measures, NMFS would take action to remove the appropriate import restrictions.

At its 2011 annual meeting, the Commission examined recent actions of Bolivia and Georgia, and determined that the actions of their vessels no longer diminish the effectiveness of the Commission's conservation and management measures. Some of the relevant considerations of the Commission were as follows:

- Bolivia and Georgia have been responsive to Commission requests for information on actions taken to control their vessels.
- Since 2006, Bolivia has not registered any fishing vessels to carry out fishing-related activities in the Convention area, and information available to the Commission has indicated that Bolivia has not fished for Commission species in recent years.
- Georgia has recently taken action to de-register those of its vessels fishing without authorization in the Convention area and has considered increased participation in the work of the Commission.

Thus, the Commission adopted Recommendation 11–19, which requires Parties to lift import prohibitions on Atlantic bigeye tuna from Bolivia and Georgia as soon as possible in accordance with domestic procedures. When the import prohibitions were implemented in the 2004 final rule, neither Bolivia nor Georgia had exported Atlantic bigeye tuna to the United States in the past 10 years; therefore, NMFS determined that the import prohibitions would have no socioeconomic impact on fishery participants. Because there were no imports of Atlantic bigeye tuna from these countries prior to the implementation of the prohibitions, and because NMFS does not expect imports in the future, NMFS does not expect that lifting the prohibitions would result in socioeconomic impacts on U.S. entities. Thus, we consider lifting the Atlantic bigeye tuna import prohibitions in this rule to be administrative in nature.

Consistent with the regulations at 50 CFR 635.40(c), for 1 year after the date of filing of the final rule lifting the import restrictions, every shipment of fish in any form that was subject to the import restrictions will continue to be denied entry, unless the shipment is accompanied by a certification executed by an authorized official of the country of export and authenticated by a consular officer or consular agent of the United States certifying that no portion of the shipment is composed of fish taken prior to or during the import restriction.

Harmonized Tariff Codes

NMFS also proposes administrative changes in support of the International Trade Permit program. Importers, exporters, and re-exporters of Atlantic, Pacific, and Southern bluefin tuna, swordfish, frozen bigeye tuna, and shark fins must obtain an International Trade Permit consistent with regulations at 50 CFR part 300, subpart M. Permit holders must include the species-specific harmonized tariff codes on the necessary trade documentation when trading these species. The Harmonized System is an international product nomenclature system developed by the World Customs Organization. It is updated every 5 years, and the most recent update occurred in 2012, with subsequent modifications to the Harmonized Tariff Schedule of the United States. Thus, the section of the regulations that include harmonized tariff codes for highly migratory species products located at 50 CFR 300.184 should be changed accordingly. The proposed changes are not expected to have economic impacts because they are administrative in nature and do not alter the permit holders' substantive obligations; rather, the proposed changes would simply update the harmonized tariff codes to ensure that permit holders have the most recent information in order to simplify compliance with the regulations. The Harmonized Tariff Schedule of the United States is published by the U.S. International Trade Commission. The portion pertaining to fish, including HMS species (chapter 3), is available at the following Web site: *http://www.usitc.gov/publications/docs/tata/hts/bychapter/1202C03.pdf.*

Request for Comments

Comments on this proposed rule may be submitted via *http://www.regulations.gov,* mail, or fax. NMFS solicits comments on this proposed rule by July 26, 2012.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the 2006 Consolidated HMS FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

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

The Chief Council for Regulation of the Department of Commerce certified to the Chief Council for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

This proposed rule is necessary to implement recommendations of the International Commission for the Conservation of Atlantic Tunas (Commission), as required by the Atlantic Tunas Convention Act (ATCA), and to achieve domestic management objectives under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Under ATCA, the Secretary shall promulgate such regulations as may be necessary and appropriate to carry out Commission recommendations.

In 2002 and 2003, the Commission adopted binding measures to prohibit the imports of Atlantic bigeye tuna and its products from Bolivia and Georgia, respectively. Specifically, Recommendations 02–17 and 03–18 prohibited the imports to address the issue of unreported and unregulated catches of tuna (especially bigeye tuna) by large-scale Bolivian and Georgian longline vessels that operated in a manner that diminished the effectiveness of Commission measures. In 2004, the National Marine Fisheries Service (NMFS) published a final rule (69 FR 70396; December 6, 2004) implementing the recommendations.

At its 2011 annual meeting, the Commission determined that Bolivian and Georgian vessels no longer diminish the effectiveness of the Commission's conservation and management measures. As a result, the Commission adopted Recommendation 11–19, which requires Parties to lift import prohibitions on Atlantic bigeye tuna from Bolivia and Georgia as soon as possible in accordance with domestic procedures. Prior to 2004, neither Bolivia nor Georgia had exported Atlantic bigeye tuna to the United States in the past 10 years, so NMFS

determined that the import prohibitions would have no socioeconomic impact on fishery participants. Because there were no imports of Atlantic bigeye tuna from these countries prior to the implementation of the prohibitions, and because NMFS does not anticipate imports in the future, NMFS does not expect that lifting the prohibitions would result in socioeconomic impacts on U.S. entities. Thus, we consider the lifting of the Atlantic bigeye tuna import prohibitions in this rule to be administrative in nature.

In this rulemaking, we would also consider administrative changes in support of the International Trade Permit (ITP) program. Importers, exporters and re-exporters of Atlantic, Pacific and Southern bluefin tuna, swordfish, frozen bigeye tuna, and shark fins must obtain an ITP consistent with regulations at 50 CFR part 300, subpart M. There are currently 241 small entities that hold an ITP. Permit holders must include the species-specific harmonized tariff codes on the necessary trade documentation when trading these species. The Harmonized System is an international product nomenclature system developed by the World Customs Organization. It is updated every 5 years, and the most recent update occurred in 2012, with subsequent modifications to the Harmonized Tariff Schedule of the United States. Because 50 CFR 300.184 currently lists the previous harmonized tariff codes for highly migratory species products, the regulations need to be changed to be consistent with the recent changes to the Harmonized Tariff Schedule of the United States. These proposed administrative changes are not expected to have economic impacts because they do not create or alter any substantive obligations for ITP holders or other regulated entities; rather, the changes are necessary in order to maintain consistency with current trade regulations and to ensure that ITP holders have the most recent information in order to simplify compliance with the regulations.

As described above, the proposed changes in this rule are administrative in nature and, if implemented, would not have a significant economic impact on a substantial number of small entities. Because the proposed changes would not have a significant impact on a substantial number of small entities, an initial regulatory flexibility analysis is not required and none has been prepared.

List of Subjects

50 CFR Part 300

Antarctica, Canada, Exports, Fish, Fisheries, Fishing, Imports, Indians, Labeling, Marine resources, Reporting and recordkeeping requirements, Russian Federation, Transportation, Treaties, Wildlife.

50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Imports, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: June 21, 2012.

Paul N. Doremus,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 300 and 635 are proposed to be amended as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

1. The authority citation for part 300 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.,* 16 U.S.C. 5501 *et seq.,* 16 U.S.C. 2431 *et seq.,* 31 U.S.C. 9701 *et seq.*

2. Section 300.184 is revised to read as follows:

§ 300.184 Species subject to permitting, documentation, reporting, and recordkeeping requirements.

(a) Except as noted at (b), the following fish or fish products are subject to the requirements of this subpart, regardless of ocean area of catch, and must be accompanied by the appropriate heading or subheading numbers from the Harmonized Tariff Schedule of the United States (HTS).

(1) bluefin tuna,

(2) southern bluefin tuna,

(3) frozen bigeye tuna,

(4) swordfish, and

(5) shark fins.

(b) For bluefin tuna, southern bluefin tuna, frozen bigeye tuna, and swordfish, fish parts other than meat (e.g., heads, eyes, roe, guts, and tails) may be imported without documentation.

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

3. The authority citation for part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.;* 16 U.S.C. 1801 *et seq.*

§ 635.41 [Amended]

4. In § 635.41, remove and reserve paragraph (a).

[FR Doc. 2012–15582 Filed 6–25–12; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 77, No. 123

Tuesday, June 26, 2012

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2012–0006]

Notice of Establishment of a Commodity Import Approval Process Web Site

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are announcing the creation of a new Plant Protection and Quarantine Web site that will provide stakeholders with information about the commodity import approval process for plants and plant products and give them the opportunity to consult with us on risk assessments as they are being drafted. We are doing this in response to stakeholder requests for more information about the commodity import approval process and the opportunity to comment on draft risk assessments. This Web site will make the commodity import approval process more visible to stakeholders and allow them to comment on draft risk assessments.

FOR FURTHER INFORMATION CONTACT: Ms. Charisse Cleare, Project Coordinator, Regulations, Permits, and Manuals, PPQ, APHIS, 4700 River Road Unit 156, Riverdale, MD 20737–1231; (301) 851–2037.

SUPPLEMENTARY INFORMATION: The regulations contained in 7 CFR part 319 (referred to below as the regulations) prohibit or restrict the importation of plants, plant parts, and plant products into the United States in accordance with the authority conferred on the Secretary of Agriculture by the Plant Protection Act (PPA, 7 U.S.C. 7701 *et seq.*). The Animal and Plant Health Inspection Service (APHIS) is the U.S. Department of Agriculture agency responsible for enforcing the regulations and considering requests to amend the regulations to allow the importation of plants, plant parts, or plant products that are not currently allowed importation under the regulations.

Persons who request changes to the import regulations and who wish to import plants, plant parts, or plant products that are not allowed importation into the United States, must file a request with APHIS for consideration to determine whether the new commodity may be safely imported. The regulations in § 319.5 set forth the procedures for submitting requests and supporting information, which includes information about the requestor, information about the commodity to be imported, shipping information, a description of pests and diseases associated with the commodity, risk mitigation or management strategies, and additional information as determined by APHIS to complete a pest risk analysis in accordance with international standards. Once the risk analysis has been completed and APHIS makes the determination that the risks associated with the commodity in question can be adequately mitigated, the risk analysis is made available for public comment either through a notice published in the **Federal Register** or as a supporting document with a proposed rule published in the **Federal Register**.

Our stakeholders have expressed an interest in knowing more about the commodity import approval process and participating at an earlier stage in the development of risk assessments as they are being drafted. To this end, APHIS' Plant Protection and Quarantine (PPQ) program has created a Web site [1] that will provide stakeholders with information about the commodity import approval process for plants and plant products, including fruits, vegetables, plants for planting, cut flowers, wood, and wood products. The Web site will describe each major step in the commodity import approval process, including a general description of the following: Determination of the import status of a commodity, submission of a request by a national plant protection organization, initiation and drafting of risk assessment and risk management documents, completion of an environmental review, and publication and implementation of new requirements, as applicable.

The Web site will also provide a means for stakeholders to consult with PPQ on drafts of risk assessments. To do this, stakeholders will first need to subscribe to the APHIS stakeholder registry [2] and submit an email address, which will be used to send an alert whenever a draft risk assessment becomes available for comment. We will post the draft risk assessment on the Web site for 30 days to give stakeholders an opportunity to review the draft and provide comments via email. We will consider the comments and make changes if warranted. While we will not provide individual responses to stakeholders who have submitted comments on the draft risk assessment, we will continue to respond to comments submitted after availability of the completed risk assessment is announced in the **Federal Register**.

Questions concerning PPQ's Web site for the commodity import approval process for plants and plant products may be directed to the person listed under **FOR FURTHER INFORMATION CONTACT**.

Done in Washington, DC, this 20th day of June 2012.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2012–15562 Filed 6–25–12; 8:45 am]

BILLING CODE 3410–34–P

[1] *http://www.aphis.usda.gov/import_export/plants/plant_imports/process/.*

[2] *https://public.govdelivery.com/accounts/USDAAPHIS/subscriber/new.*

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

WTO Agricultural Safeguard Trigger Levels

AGENCY: Foreign Agricultural Service, U.S. Department of Agriculture

ACTION: Notice of product coverage and trigger levels for safeguard measures provided for in the World Trade Organization (WTO) Agreement on Agriculture; Correction

SUMMARY: The Foreign Agricultural Service published a document in the **Federal Register** of May 25, 2012, updating the trigger levels for products which may be subject to measures under the safeguard provisions of the WTO

Agreement on Agriculture. The document contained incorrect trigger levels.

FOR FURTHER INFORMATION CONTACT: Safeguard Staff, Import Policies and Export Reporting Division, Office of Trade Programs, Foreign Agricultural Service, U.S. Department of Agriculture, Stop 1021, 1400 Independence Avenue SW., Washington, DC 20250–1021; or by telephone at (202) 720–0638, or by email at *itspd@fas.usda.gov.*

Correction

In the **Federal Register** of May 25, 2012, in FR Doc. 2012–12691, on pages 31296–31298, correct the Quantity-Based Safeguard Trigger Annex to read:

ANNEX—QUANTITY–BASED SAFEGUARD TRIGGER

Product	Trigger level	Period
Beef	239,476 mt	January 1, 2012 to December 31, 2012.
Mutton	5,964 mt	January 1, 2012 to December 31, 2012.
Cream	484,311 liters	January 1, 2012 to December 31, 2012.
Evaporated or Condensed Milk	1,268,235 kilograms	January 1, 2012 to December 31, 2012.
Nonfat Dry Milk	461,559 kilograms	January 1, 2012 to December 31, 2012.
Dried Whole Milk	3,141,891 kilograms	January 1, 2012 to December 31, 2012.
Dried Cream	11,195 kilograms	January 1, 2012 to December 31, 2012.
Dried Whey/Buttermilk	32,319 kilograms	January 1, 2012 to December 31, 2012.
Butter	5,932,688 kilograms	January 1, 2012 to December 31, 2012.
Butter Oil and Butter Substitutes	6,174,513 kilograms	January 1, 2012 to December 31, 2012.
Dairy Mixtures	24,201,559 kilograms	January 1, 2012 to December 31, 2012.
Blue Cheese	4,334,092 kilograms	January 1, 2012 to December 31, 2012.
Cheddar Cheese	8,068,067 kilograms	January 1, 2012 to December 31, 2012.
American-Type Cheese	2,721,110 kilograms	January 1, 2012 to December 31, 2012.
Edam/Gouda Cheese	6,010,547 kilograms	January 1, 2012 to December 31, 2012.
Italian-Type Cheese	20,021,048 kilograms	January 1, 2012 to December 31, 2012.
Swiss Cheese with Eye Formation	25,445,598 kilograms	January 1, 2012 to December 31, 2012.
Gruyere Process Cheese	3,242,155 kilograms	January 1, 2012 to December 31, 2012.
Lowfat Cheese	367,975 kilograms	January 1, 2012 to December 31, 2012.
NSPF Cheese	41,875,793 kilograms	January 1, 2012 to December 31, 2012.
Peanuts	19,279 mt	April 1, 2011 to March 31, 2012.
	19,018 mt	April 1, 2012 to March 31, 2013.
Peanut Butter/Paste	4,498 mt	January 1, 2012 to December 31, 2012.
Raw Cane Sugar	1,278,131 mt	October 1, 2011 to September 30, 2012.
	1,054,460 mt	October 1, 2012 to September 30, 2013.
Refined Sugar and Syrups	203,088 mt	October 1, 2011 to September 30, 2012.
	208,571 mt	October 1, 2012 to September 30, 2013.
Blended Syrups	192 mt	October 1, 2011 to September 30, 2012.
	154 mt	October 1, 2012 to September 30, 2013.
Articles Over 65% Sugar	247 mt	October 1, 2011 to September 30, 2012.
	185 mt	October 1, 2012 to September 30, 2013.
Articles Over 10% Sugar	16,434 mt	October 1, 2011 to September 30, 2012.
	13,061 mt	October 1, 2012 to September 30, 2013.
Sweetened Cocoa Powder	700 mt	October 1, 2011 to September 30, 2012.
	305 mt	October 1, 2012 to September 30, 2013.
Chocolate Crumb	8,011,270 kilograms	January 1, 2012 to December 31, 2012.
Lowfat Chocolate Crumb	213,313 kilograms	January 1, 2012 to December 31, 2012.
Infant Formula Containing Oligosaccharides	798,644 kilograms	January 1, 2012 to December 31, 2012.
Mixes and Doughs	286 mt	October 1, 2011 to September 30, 2012.
	218 mt	October 1, 2012 to September 30, 2013.
Mixed Condiments and Seasonings	432 mt	October 1, 2011 to September 30, 2012.
	419 mt	October 1, 2012 to September 30, 2013.
Ice Cream	1,693,727 liters	January 1, 2012 to December 31, 2012.
Animal Feed Containing Milk	61,103 kilograms	January 1, 2012 to December 31, 2012.
Short Staple Cotton	30,605 kilograms	September 20, 2011 to September 19, 2012.
	1,056,786 kilograms	September 20, 2012 to September 19, 2013.
Harsh or Rough Cotton	60 kilograms	August 1, 2011 to July 31, 2012.
	60 kilograms	August 1, 2012 to July 31, 2013.
Medium Staple Cotton	51,298 kilograms	August 1, 2011 to July 31, 2012.
	8,805 kilograms	August 1, 2012 to July 31, 2013.
Extra Long Staple Cotton	1,007,631 kilograms	August 1, 2011 to July 31, 2012.
	64 kilograms	August 1, 2012 to July 31, 2013.
Cotton Waste	595,320 kilograms	September 20, 2011 to September 19, 2012.
	393,492 kilograms	September 20, 2012 to September 19, 2013.
Cotton, Processed, Not Spun	75,787 kilograms	September 20, 2011 to September 19, 2012.
	77,794 kilograms	September 20, 2012 to September 19, 2013.

Dated: June 7, 2012.

Suzanne E. Heiner,

Administrator, Foreign Agricultural Service.

[FR Doc. 2012–15560 Filed 6–25–12; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Forest Service

Boundary Establishment for the Allegheny National Wild and Scenic River, Allegheny National Forest, Warren, Forest, and Venango Counties, PA; Correction

AGENCY: Forest Service, USDA.

ACTION: Notice of availability; correction.

SUMMARY: In accordance with Section 3(b) of the Wild and Scenic Rivers Act, the USDA Forest Service, Allegheny National Forest, published a document in the **Federal Register** of April 10, 2012, concerning boundary establishment for the Allegheny National Wild and Scenic River. This document was published before sufficient consultation with the Seneca Nation of Indians (SNI).

FOR FURTHER INFORMATION CONTACT: Information may be obtained by contacting Operations Staff Officer Jim Seyler, Allegheny National Forest, 4 Farm Colony Drive, Warren, PA or phone (814) 728–6239.

Correction: In the **Federal Register** of April 10, 2012, in FR Doc. 2012–8451, on page 21522, in the first column, the USDA Forest Service, Allegheny National Forest, published a document concerning boundary establishment for the Allegheny Wild and Scenic River, Allegheny National Forest, Warren, Forest and Venango Counties, PA. This document was published before sufficient consultation with the SNI. The Allegheny National Forest will initiate consultation with the SNI. Following consultation, if the Forest Service determines a boundary change is necessary, the Allegheny National Forest will publish a new notice in the **Federal Register** of boundary establishment for the Allegheny National Wild and Scenic River and the USDA Forest Service, Washington Office, will transmit the changed final boundary to Congress.

Dated: June 19, 2012.

Erin Connelly,

Forest Supervisor.

[FR Doc. 2012–15530 Filed 6–25–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice for Request To Reinstate Previously Approved Information Collection

AGENCY: Rural Housing Service, USDA.

ACTION: Proposed collection; comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Housing Service's (RHS) intent to reinstate a previously approved information collection in support of the Single Family Housing Guaranteed Loan Program.

DATES: Comments on this notice must be received by August 27, 2012 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Debra A. Terrell, Senior Loan Specialist, Single Family Housing Guaranteed Loan Division, Stop 0784, Room 2250, USDA Rural Development, South Agriculture Building, 1400 Independence Avenue SW., Washington, DC 20250–0784, telephone (918) 534–3254, Email *debra.terrell@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Single Family Housing Guaranteed Loan Program.

OMB Number: 0575–0179.

Type of Request: Reinstatement of a Previously Approved Information Collection.

Abstract: Under this program, loan guarantees are provided to participating lenders who make loans to income eligible borrowers in rural areas. The purpose of this program is to promote affordable housing for low- and moderate-income borrowers in rural America.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 49 minutes per response.

Respondents: Private sector lenders participating in the Rural Development Single Family Housing Guaranteed Loan Program.

Estimated Number of Respondents: 3,581.

Estimated Number of Responses per Respondent: 284.

Estimated Number of Responses: 1,018,735.

Estimated Total Annual Burden on Respondents: 821,962.

Copies of this information collection can be obtained from Jeanne Jacobs, Regulations and Paperwork Management Branch, Support Services Division, at (202) 692–0040.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of USDA, including whether the information will have practical utility; (b) the accuracy of USDA's estimate of the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Jeanne Jacobs, Regulations and Paperwork Management Branch, Support Services Division, U.S. Department of Agriculture, Rural Development, Stop 0742–1400 Independence Avenue SW., Washington, DC 20250–0742. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: June 11, 2012.

Tammye Treviño,

Administrator, Housing and Community Facilities Programs.

[FR Doc. 2012–15580 Filed 6–25–12; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: Annual Survey of School System Finances.

OMB Control Number: 0607–0700.

Form Number(s): F–33, Survey Announcement, F–33–L1, F–33–L2, F–33–L3.

Type of Request: Extension of a currently approved collection.

Burden Hours: 3,990.

Number of Respondents: 3,230.

Average Hours per Response: 1 hour and 14 minutes.

Needs and Uses: The U.S. Census Bureau requests an extension of the current expiration date of the Annual Survey of School System Finances (formerly named the Annual Survey of Local Government Finances—School Systems) to ensure accurate collection of information about public school finances.

The Census Bureau's collection of school district finance data and

associated publications are the most comprehensive sources for pre-kindergarten through grade 12 finance data. The data are collected from the universe of school districts using uniform definitions and concepts of revenue, expenditure, debt, and assets. This effort is part of the Census Bureau's Annual Survey of State and Local Government Finances (OMB No. 0607–0585). Data collected from cities, counties, states, and special district governments are combined with data collected from local school systems to produce state and national totals of government spending. Local school system spending comprises a significant portion of total government spending. In 2010, public elementary-secondary expenditures accounted for nearly 30 percent of local government spending and 35.8 percent of state government spending.

This comprehensive and ongoing, time series collection of local education agency finances maintains historical continuity in the state and local government statistics community. Elementary-secondary education related spending is the single largest financial activity of state and local governments. Education finance statistics provided by the Census Bureau allow for analyses of how public elementary-secondary school systems receive and spend funds. Increased focus on education has led to a demand for data reflecting student performance, graduation rates, and school finance policy—all of which are related to the collection of this local education finance data. State legislatures, local leaders, university researchers, and parents increasingly rely on data to make substantive decisions about education. School district finance is a vital sector of the education data spectrum used by stakeholders to form policy and to develop new education strategies.

The education finance data collected and processed by the Census Bureau are an essential component of the agency's state and local government finance collection and provide unique products for users of education finance data.

The Bureau of Economic Analysis (BEA) use items on Form F–33 to develop figures for the Gross Domestic Product (GDP). Reported F–33 data items specifically contribute to the estimates for National Income and Product Accounts (NIPA), Input-Output accounts (I–O), and gross domestic investments. BEA also uses the data to assess other public fiscal spending trends and events.

The Census Bureau's Government Finances program has made possible the dissemination of comprehensive and comparable public fiscal data since 1902. School finance data, which comprise nearly 30 percent of all local government spending in 2010, are currently incorporated into the local government statistics reported on the Annual Survey of State and Local Government Finances. The report contains benchmark statistics on public revenue, expenditure, debt, and assets. They are widely used by economists, legislators, social and political scientists, and government administrators. The Census Bureau expects to release school finance data as part of its 2012 Census of Governments products.

The Census Bureau makes available detailed files for all school systems from its Internet Web site, *www.census.gov/govs/school/*. That Web site currently contains data files and statistical tables for the 1992 through 2009 fiscal year surveys. Historical files and publications prior to 1992 are also available upon request for data users engaged in longitudinal studies. In addition to numerous academic researchers who use F–33 products, staff receive inquiries from state government officials, legislatures, public policy analysts, local school officials, non-profit organizations, and various Federal agencies.

The U.S. Department of Education's National Center for Education Statistics (NCES) jointly conducts this survey annually with the Census Bureau as part of the Common Core of Data (CCD) program. The education finance data collected by the Census Bureau are the sole source of school district fiscal information for the CCD. NCES data users utilize electronic tools to search CCD databases for detailed fiscal and non-fiscal variables. Additionally, NCES uses F–33 education finance files to publish annual reports on the fiscal state of education.

Affected Public: State, local, or Tribal government.

Frequency: Annually.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, Sections 161 and 182, of the United States Code.

OMB Desk Officer: Brian Harris-Kojetin, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Jennifer Jessup, Departmental Paperwork Clearance Officer, (202) 482–0336, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *jjessup@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Brian Harris-Kojetin, OMB Desk Officer either by fax (202–395–7245) or email (*bharrisk@omb.eop.gov*).

Dated: June 21, 2012.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2012–15515 Filed 6–25–12; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: Quarterly Survey of Plant Capacity Utilization.

OMB Control Number: 0607–0175.

Form Number(s): MQ–C2.

Type of Request: Extension of a currently approved collection.

Burden Hours: 60,000.

Number of Respondents: 7,500.

Average Hours per Response: 2 hours.

Needs and Uses: With support from the Federal Reserve Board (FRB) and the Defense Logistics Agency (DLA), the U.S. Census Bureau requests an extension of approval for the Quarterly Survey of Plant Capacity Utilization (QPC). The quarterly survey provides information on use of industrial capacity in manufacturing and publishing plants as defined by the North American Industry Classification System (NAICS). It is the only source of capacity rates at industry levels. Changes in capacity utilization are considered important indicators of investment demand and inflationary pressure. For these reasons, the estimates of capacity utilization are closely monitored by government policy makers and private sector decision makers.

This survey utilizes a multi-mode data collection process that includes internet reporting, fax, telephone and mail. The survey collects the value of quarterly production and the value of production that could be achieved if operating under ''full production'' capability and ''emergency production'' capability. The ratio of the actual to the full is the basis of the estimates of full capacity utilization rates and similarly, the actual to the emergency for the emergency capacity utilization rates.

The survey also collects information by shift, on work patterns at the actual production level.

The FRB is the primary user of the current QPC data and expressed the need for these quarterly data. The FRB publishes measures of industrial production (IP) that are either estimated from physical product data or estimated from monthly data on inputs to the production process, specifically production worker hours and an indicator of capital input. For many years, data on electric power use was used as the indicator of industry capital input. The deregulation of electricity markets led to the deterioration in the coverage and quality of the electricity data. As a result, in November 2005, the FRB discontinued its use of the industrial electric power data in the current estimates of IP. In order to maintain the quality of the IP index, the collection of these quarterly utilization data, such as the workweek of capital, become critical indicators of capital input use and industry output.

The FRB will use these data in several ways. First, the QPC data is the primary source of the benchmark information for utilization rates. Second, the capital workweek data is used as an indicator of capital use in the estimation of monthly output (IP). Third, the workweek data is used to improve the projections of labor productivity that are used to align IP with comprehensive benchmark information from the Economic Census covering the Manufacturing sector and Annual Survey of Manufactures. Finally, utilization rate data will assist in the assessment of recent changes in IP, as most of the high-frequency movement in utilization rates reflect production changes rather than capacity changes.

The Defense Logistics Agency uses the data to assess readiness to meet demand for goods under selected national emergency scenarios.

Affected Public: Business or other for-profit.

Frequency: Quarterly.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C., Section 182.

OMB Desk Officer: Brian Harris-Kojetin, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Jennifer Jessup, Departmental Paperwork Clearance Officer, (202) 482–0336, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *jjessup@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Brian Harris-Kojetin,

OMB Desk Officer either by fax (202–395–7245) or email (*bharrisk@omb.eop.gov*).

Dated: June 21, 2012.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2012–15522 Filed 6–25–12; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: Advance Monthly Retail Trade Survey.

OMB Control Number: 0607–0104.

Form Number(s): SM–44(06)A, SM–44(06)AE, SM–44(06)AS, SM–72(06)A, SM–44(06)FA, SM–44(06)FAE, SM–44(06)FAS, SM–72(06)FA.

Type of Request: Extension of a currently approved collection.

Burden Hours: 5.000.

Number of Respondents: 5,000.

Average Hours per Response: 5 minutes.

Needs and Uses: The Advance Monthly Retail Trade Survey (MARTS) covers employer firms with establishments located in the United States and classified in retail trade and/or food services sectors as defined by the North American Industry Classification System (NAICS). The MARTS was developed in response to requests by government, business, and other users to provide an early indication of current retail trade activity in the United States. MARTS also provides an estimate of monthly sales at food service establishments and drinking places. Policymakers such as the Federal Reserve Board need to have the timeliest estimates in order to anticipate economic trends and act accordingly. Results from this survey provide the earliest possible look at consumer spending and are necessary for the calculation of the personal consumption expenditures component of Gross Domestic Product (GDP). Without the MARTS, the Census Bureau's earliest measure of retail sales is the ''preliminary'' estimate from the full monthly sample released about 40 days after the reference month. Advance estimates are released approximately 12 days after the reference month. We intend to introduce a new MARTS sample in Spring 2013.

The U.S. Census Bureau tabulates the collected data to provide, with measured reliability, statistics on United States retail sales. These sales estimates, are used by the Council of Economic Advisers, Bureau of Economic Analysis, Federal Reserve Board, and other government agencies, as well as business users in formulating economic decisions. These estimates are especially valued by data users because of their timeliness. There would be approximately a one month delay in the availability of these statistics if this survey were not conducted.

Affected Public: Business or other for-profit.

Frequency: Monthly.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C., Section 182.

OMB Desk Officer: Brian Harris-Kojetin, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Jennifer Jessup, Departmental Paperwork Clearance Officer, (202) 482–0336, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *jjessup@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Brian Harris-Kojetin, OMB Desk Officer either by fax (202–395–7245) or email (*bharrisk@omb.eop.gov*).

Dated: June 21, 2012.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2012–15525 Filed 6–25–12; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–46–2012]

Foreign-Trade Zone 70—Detroit, MI Application for Reorganization Under Alternative Site Framework

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Greater Detroit Foreign-Trade Zone, Inc., grantee of FTZ 70, requesting authority to reorganize the zone under the alternative site framework (ASF) adopted by the Board

(15 CFR Sec. 400.2(c)). The ASF is an option for grantees for the establishment or reorganization of general-purpose zones and can permit significantly greater flexibility in the designation of new subzones or ''usage-driven'' FTZ sites for operators/users located within a grantee's ''service area'' in the context of the Board's standard 2,000-acre activation limit for a general-purpose zone project. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on June 20, 2012.

FTZ 70 was approved by the Board on July 21, 1981 (Board Order 176, 46 FR 38941, 7/30/1981) and expanded on April 15, 1985 (Board Order 299, 50 FR 16119, 4/24/1985), November 27, 1989 (Board Order 453, 54 FR 50258, 12/5/1989), April 20, 1990 (Board Order 471, 55 FR 17775, 4/27/1990), February 20, 1996 (Board Order 802, 61 FR 7237, 2/27/1996), August 26, 1996 (Board Order 843, 61 FR 46763, 9/5/1996), April 5, 2001 (Board Order 1162, 66 FR 19423, 4/16/2001), May 23, 2005 (Board Order 1395, 70 FR 32570–32571, 6/3/2005), June 22, 2007 (Board Order 1515, 72 FR 35968, 7/2/2007) and October 29, 2010 (Board Order 1719, 75 FR 68604, 11/11/2010).

The current zone project includes the following sites: *Site 2* (31 acres)—Nicholson Terminal and Dock Company, along the Detroit River on Great Lakes Avenue, Ecorse, Wayne County; *Site 3* (56 acres)—Metro Airport Center Industrial Park, west of Wayne Road between Grant Road and the Norfolk Southern Railroad Line, adjacent to the Detroit Metropolitan Airport, also includes a building at 6850 Middlebelt Road, Romulus, Wayne County; *Site 4* (4.82 acres)—Westside Industrial Park, 2030 Howard Street, Detroit, Wayne County; *Site 5* (22 acres)—6490 Lynch Road, Detroit, 6307 West Fort Street, Detroit and 214 East Maple Road, Detroit; *Site 6* (2.5 acres)—308 Antoine Street, Wyandotte, Wayne County; *Site 8* (7.48 acres)—17423 West Jefferson Avenue, Riverview, Wayne County; *Site 9* (1.07 acres)—28000 Goddard Road, Romulus, Wayne County; *Site 10* (4.7 acres)—18765 Seaway Drive, Melvindale, Wayne County; *Site 11* (21.47 acres)—1725 Cicotte Avenue, Lincoln Park, 4825 Cabot Street, Detroit and 9450 Buffalo Street, Hamtramck, Wayne County (expires 11/30/2012); *Site 12* (87 acres)—Detroit Metropolitan Wayne County Airport, Detroit, Wayne County; *Site 13* (1.08 acres)—13542 Helen Street, Detroit, Wayne County; *Site 14* (35.52 acres)—3333 West Fort Street, 2301 West Lafayette Street and 3801 W. Jefferson Avenue, Detroit, Wayne County; *Site 15* (15 acres)—151 Lafayette Street and 12240 Oakland Park Boulevard (Site 15A), Mt. Clemens, Macomb County (expires 11/30/2012); *Site 17* (2.33 acres)—26980 Trolley Drive, Taylor, Wayne County; *Site 18* (17 acres)—7111 Crabb Road, Temperance, Monroe County (expires 6/30/2013); *Site 19* (2,300 acres)—Willow Run Airport, 801 Willow Run Airport, Ypsilanti, Washtenaw County; *Site 20* (4 acres)—25200 Malvina Street, Warren, Macomb County; *Site 21* (4 acres)—21100 Trolley Industrial Drive, Taylor, Wayne County; *Site 22* (12 acres)—1200 E. McNichols Road, Highland Park, Wayne County; *Site 23* (1.26 acres)—160 Visger Road, River Rouge, Wayne County (expires 11/30/2012); *Site 24* (2.85 acres)—12850 E. Nine Mile Road, Warren, Macomb County (expires 11/30/2012); *Site 25* (2.07 acres)—6100 Linsdale Street, Detroit, Wayne County (expires 11/30/2012); *Site 26* (0.92 acres)—21146 Trolley Industrial Drive, Taylor, Wayne County (expires 11/30/2012); *Site 29* (7.19 acres)—8650 Mt. Elliot, Detroit, Wayne County (expires 11/30/2012); *Site 30* (4.69 acres)—2599 22nd Street, Detroit, Wayne County (expires 11/30/2012); *Site 31* (16.31 acres)—26090 23 Mile Road, Chesterfield, Macomb County (expires 11/30/2012); *Site 33* (2.63 acres)—36253 Michigan Avenue, Wayne, Wayne County (expires 11/30/2012); *Site 34* (0.92 acres)—21140 Trolley Industrial Drive, Taylor, Wayne County (expires 11/30/2012); *Site 35* (32.5 acres)—6837 Wyoming Street, Dearborn, Wayne County; *Site 36* (38.9 acres)—9400 McGraw Street, Detroit, Wayne County; *Site 37* (16.03 acres)—8249 Haggerty Rd, Canton, Wayne County (expires 10/31/2013); *Site 38* (34.62 acres)—1515 Newburgh, Westland, Wayne County (expires 11/30/2012); *Site 39* (2.96 acres)—7900 Haggerty Rd, Canton, Wayne County (expires 11/30/2012); *Site 40* (2.9 acres)—1550 Superior Parkway, Westland, Wayne County (expires 11/30/2012); *Site 41* (18.16 acres)—20495 Pennsylvania Road, Brownstown Township, Wayne County (expires 10/31/2013); *Site 42* (1.83 acres)—50750 Russell Schmidt Boulevard, Chesterfield, Macomb County (expires 10/31/2013); *Site 49* (5 acres)—9303 West Jefferson Avenue, Detroit, Wayne County (expires 11/30/2012); *Site 50* (30 acres)—4105 West Jefferson Avenue, Detroit, Wayne County (expires 12/31/2012); and, *Site 51* (7 acres)—13725 Pennsylvania Road, Riverview, Wayne County (expires 4/30/2013).

The grantee's proposed service area under the ASF would be Macomb, Monroe, Oakland, Washtenaw and Wayne Counties, Michigan, as described in the application. If approved, the grantee would be able to serve sites throughout the service area based on companies' needs for FTZ designation. The proposed service area is within and adjacent to the Detroit Customs and Border Protection port of entry.

The applicant is requesting authority to reorganize its existing zone project to include existing Sites 3, 5, 12, 14 and 19 as ''magnet'' sites and Sites 2, 4, 6, 8–11, 13, 15, 17, 18, 20–26, 29–42 and 49–51 as ''usage-driven'' sites. The applicant is also requesting that Site 15A be removed, that parcels from Site 5 be renumbered as Sites 43 and 44, that parcels from Site 11 be renumbered as Sites 45 and 46 and that parcels from Site 14 be renumbered as Sites 47 and 48. The renumbered parcels would be designated as usage-driven sites. The application would have no impact on FTZ 70's previously authorized subzones.

In accordance with the Board's regulations, Elizabeth Whiteman of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the Board.

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is August 27, 2012. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to September 10, 2012.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the Board's Web site, which is accessible via *www.trade.gov/ftz.* For further information, contact Elizabeth Whiteman at *Elizabeth.Whiteman@trade.gov* or (202) 482–0473.

Dated: June 20, 2012.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2012–15570 Filed 6–25–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

Corporation for Travel Promotion (dba Brand USA)

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of an opportunity for travel and tourism industry leaders to apply for membership on the Board of Directors of the Corporation for Travel Promotion.

SUMMARY: The Department of Commerce is currently seeking applications from travel and tourism leaders from specific industries for membership on the Board of Directors of The Corporation for Travel Promotion (Board) (dba Brand USA). The purpose of the Board is to guide the Corporation for Travel Promotion on matters relating to the promotion of the U.S. travel and tourism industry, among other tasks.

ADDRESSES: Electronic applications may be sent to: *OACIE@trade.gov.* Written applications can be submitted to Jennifer Pilat, Director, Office of Advisory Committees and Julie Heizer, Acting Director, Office of Travel and Tourism Industries, Room 4043, U.S. Department of Commerce, Room 4043, 1401 Constitution Avenue NW., Washington, DC 20230, telephone: 202–482–4501, email: *jennifer.pilat@trade.gov.*

DATES: All applications must be received by the Office of Advisory Committees by close of business on July 10, 2012.

FOR FURTHER INFORMATION CONTACT: Julie Heizer, Acting Director, Office of Travel and Tourism Industries, Room 4043, 1401 Constitution Avenue NW., Washington, DC, 20230, telephone: 202–482–4904, email: *julie.heizer@trade.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Travel Promotion Act (TPA) was signed into law by President Obama on March 4, 2010. The TPA established the Corporation for Travel Promotion (the Corporation), as a non-profit corporation charged with the development and execution of a plan to (A) Provide useful information to those interested in traveling to the United States; (B) identify and address perceptions regarding U.S. entry policies; (C) maximize economic and diplomatic benefits of travel to the United States through the use of various promotional tools; (D) ensure that international travel benefits all States and the District of Columbia, and (E) identify opportunities to promote tourism to rural and urban areas equally, including areas not traditionally visited by international travelers.

The Corporation is governed by a board of directors, consisting of 11 members with knowledge of international travel promotion and marketing, broadly representing various regions of the United States. The TPA directs the Secretary of Commerce (after consultation with the Secretary of Homeland Security and the Secretary of State) to appoint the board of directors for the Corporation for Travel Promotion.

At this time, the Department will be selecting four individuals with the appropriate expertise and experience from specific sectors of the travel and tourism industry to serve on the Board as follows:

(A) 1 shall have appropriate expertise and experience in the hotel accommodations sector;

(B) 1 shall have appropriate expertise and experience in the restaurant sector;

(C) 1 shall have appropriate expertise and experience as an official of a state tourism office; and

(D) 1 shall have appropriate expertise and experience as officials of a city convention and visitors' bureau.

To be eligible for Board membership, one must have international travel and tourism marketing experience and must also be a U.S. citizen. In addition, individuals cannot be federally registered lobbyists or registered as a foreign agent under the Foreign Agents Registration Act of 1938, as amended.

Those selected for the Board must be able to meet the time and effort commitments of the Board. Priority may be given to individuals with experience as a Chief Executive Officer or President (or comparable level of responsibility) of an organization or entity in the travel and tourism sector in the United States.

Board members serve at the discretion of the Secretary of Commerce (who may remove any member of the Board for good cause). The terms of office of each member of the Board appointed by the Secretary shall be 3 years. Board members can serve a maximum of two consecutive full three-year terms. Board members are not considered Federal government employees by virtue of their service as a member of the Board and will receive no compensation from the Federal government for their participation in Board activities. Members participating in Board meetings and events will be paid actual travel expenses and per diem when away from their usual places of residence.

To be considered for membership, please provide the following:

1. Name, title, and personal resume of the individual requesting consideration; and

2. A brief statement of why the person should be considered for membership on the Board. This statement should also address the individual's relevant international travel and tourism marketing experience and indicate clearly the sector or sectors enumerated above in which the individual has the requisite expertise and experience. Individuals who have the requisite expertise and experience in more than one sector can be appointed from only one of those sectors. Appointments of members to the Board will be made by the Secretary of Commerce.

Dated: June 20, 2012.

Jennifer Pilat,

Director, Office of Advisory Committees.

[FR Doc. 2012–15528 Filed 6–25–12; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–888]

Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof From the People's Republic of China: Notice of Court Decision Not in Harmony With Final Results and Notice of Amended Final Results

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On June 14, 2012, the United States Court of International Trade (the Court) issued final judgment in *Home Products International, Inc.* v. *United States,* Court No., 11–00104, sustaining the Department of Commerce's (the Department) final results of redetermination pursuant to remand.[1] Consistent with the decision of the United States Court of Appeals for the Federal Circuit (Federal Circuit) in *Timken Co.,* v. *United States,* 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), as clarified by *Diamond Sawblades Mfrs. Coalition* v. *United States,* 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*), the Department is notifying the public that the final judgment in this case is not in harmony with the Department's final results and is amending the final results of floor

[1] *See* Final Results of Redetermination Pursuant to Court Remand, Floor-Standing Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China, *Home Products International, Inc.* v. *United States* Court No., 11–00104, March 14, 2012, (*Remand Results*) available, at *http://www.ia.ita.doc.gov/remands/index.html.*

standing metal-top ironing tables from the People's Republic of China with respect to the margin assigned to Since Hardware (Guangzhou) Co., Ltd. (Since Hardware) covering the period August 1, 2007, through July 31, 2008.[2]

DATES: *Effective Date:* June 26, 2012.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney or Robert James, 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) 482–4475 or (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION: On January 6, 2012, the Court remanded the *Final Results,* and instructed the Department to reconcile its exclusion of Indian data from the labor value with certain concerns raised in *Shandong Rongxin Import & Export Co.,* v. *United States,* 774 F.Supp. 2d 1307 (2011) (*Shandong*).[3] On remand, the Department recalculated Since Hardware's labor value using additional labor data, including labor data from the primary surrogate country, India. As a result, Since Hardware's margin changed from 67.37 percent to 66.06 percent. On June 14, 2012, the Court sustained the Department's *Final Results* and *Remand Results.*[4]

Timken Notice

In its decision in *Timken,* 893 F.2d at 341, as clarified by *Diamond Sawblades,* the Federal Circuit has held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended, (the Act) the Department must publish a notice of a court decision not ''in harmony'' with a Department determination, and must suspend liquidation of entries pending a ''conclusive'' court decision. The Court's June 14, 2012, judgment sustaining the *Final Results* and *Remand Results* constitutes a final decision of the Court that is not in harmony with the Department's *Final Results.* This notice is published in fulfillment of the publication requirement of *Timken.* Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal, or if appealed, pending a final and conclusive court decision. The cash deposit rate will remain the company-specific rate established for Since Hardware for the subsequent and most recent period during which the respondent was reviewed.[5]

Amended Final Determination

Because there is now a final court decision, we are amending the *Final Results* with respect to Since Hardware's margin for the period August 1, 2007, through July 31, 2008. The revised weighted-average dumping margin is as follows:

Exporter	Percent margin
Since Hardware	66.06

In the event the Court's ruling is not appealed, or if appealed, upheld by the Federal Circuit, the Department will instruct U.S. Customs and Border Protection to assess antidumping duties on entries of the subject merchandise exported by Since Hardware using the revised assessment rate calculated by the Department in the *Remand Results.*

This notice is issued and published in accordance with sections 516(A)(e)(1), 751(a)(1), and 777(i)(1) of the Act.

Dated: June 20, 2012.

Ronald K. Lorentzen,

Assistant Secretary for Import Administration.

[FR Doc. 2012–15576 Filed 6–25–12; 8:45 am]

BILLING CODE 3510–DS–P

[2] *See Floor-Standing Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review,* 76 FR 15295 (March 21, 2011) (*Final Results*)

[3] *See Home Products International* v. *United States,* Slip Op. 12–4, p.12 (January. 6, 2012).

[4] *See Home Products International, Inc.* v *United States Court No.,* 11–00104 Slip Op. 12–84 (CIT June 14, 2012)

[5] *See Floor-Standing Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review,* 76 FR 15295 (March 21, 2011).

DEPARTMENT OF COMMERCE

International Trade Administration

Reestablishment of the Renewable Energy and Energy Efficiency Advisory Committee and Solicitation of Nominations for Membership

ACTION: Notice of Reestablishment of the Renewable Energy and Energy Efficiency Advisory Committee and Solicitation of Nominations for Membership.

SUMMARY: Pursuant to provisions under the Federal Advisory Committee Act, 5 U.S.C. App., the Department of Commerce announces the reestablishment of the Renewable Energy and Energy Efficiency Advisory Committee (the Committee). The Committee shall advise the Secretary regarding the development and administration of programs and policies to expand the competitiveness of U.S. exports of renewable energy and energy efficiency goods and services, in accordance with applicable United States regulations. The Committee's work on energy efficiency will focus on technologies, services, and platforms that provide system-level energy efficiency to electricity generation, transmission, and distribution. For the purposes of this Committee, covered goods and services will not include vehicles, feedstock for biofuels, or energy efficiency as it relates to consumer goods. Non-fossil fuels that are considered renewable (e.g., liquid biofuels and pellets) are included. This notice also requests nominations for membership.

DATES: Nominations for members must be received on or before 4 p.m. Eastern Daylight Time (EDT), July 16, 2012.

Nominations: The Secretary of Commerce invites nominations to the committee of U.S. citizens who will represent U.S. companies in the renewable energy and energy efficiency sector that trade internationally, or U.S. trade associations or U.S. private sector organizations with activities focused on the competitiveness of U.S. exports of renewable energy and energy efficiency goods and services. No member may represent a company that is majority owned or controlled by a foreign government entity or foreign government entities. Nominees meeting the eligibility requirements will be considered based upon their ability to carry out the goals of the Committee as articulated above. Self-nominations will be accepted. If you are interested in nominating someone to become a member of the Committee, please provide the following information:

(1) Name, title, and relevant contact information (including phone, fax, and email address) of the individual requesting consideration;

(2) Sponsor letter on the company's, trade association's, or organization's letterhead containing a brief description why the nominee should be considered for membership, including the nominee's ability to meet the expected time commitments of Committee work. Committee work includes the ability to attend in person approximately four committee meetings a year (lasting one day each), plus additional work outside of full committee meetings including subcommittee conference calls or meetings as needed, and frequently draft, prepare, or comment on proposed recommendations to be evaluated at Committee meetings;

(3) Short biography of nominee including credentials;

(4) Brief description of the company, trade association, or organization to be represented and its business activities; company size (number of employees and annual sales); and export markets served;

(5) An affirmative statement that the nominee is not a Federally registered lobbyist, and that the nominee understands that if appointed, the nominee will not be allowed to continue to serve as a Committee member if the nominee becomes a Federally registered lobbyist;

(6) An affirmative statement that the nominee meets all Committee eligibility requirements. Please do not send company, trade association, or organization brochures or any other information.

Nominations may be emailed to *jennifer.derstine@trade.gov* or faxed to the attention of Jennifer Derstine at 202–482–5665, or mailed to Jennifer Derstine, Office of Energy & Environmental Industries, Room 4053, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230, and must be received before July 16, 2012. Nominees selected for appointment to the Committee will be notified by return mail.

FOR FURTHER INFORMATION CONTACT: Jennifer Derstine, Office of Energy & Environmental Industries, Room 4053, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; phone 202–482–3889; fax 202–482–5665; email *jennifer.derstine@trade.gov.*

Dated: June 20, 2012.

Brian P. O'Hanlon,

Acting Director, Office of Energy and Environmental Industries.

[FR Doc. 2012–15529 Filed 6–25–12; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Federal Advisory Committee; Defense Intelligence Agency (DIA) Advisory Board; Closed Meeting

AGENCY: DIA, Department of Defense (DoD).

ACTION: Meeting notice.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. Appendix 2 (2001)), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b), and 41 CFR 102–3.10, DoD hereby announces that the DIA Advisory Board will meet on July 23, 2012. The meeting is closed to the public. The meeting necessarily includes discussions of classified information relating to DIA's intelligence operations including its support to current operations.

DATES: The meeting will be held on July 23, 2012 (from 1 p.m. to 3:30 p.m.).

ADDRESSES: The meeting will be held at Joint-Base Bolling-Anacostia, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Harrison, (703) 697–5102, Alternate Designated Federal Official, DIA Office for Congressional and Public Affairs, Pentagon 1A874, Washington, DC 20340–5100.

Committee's Designated Federal Official: Mr. William Caniano, (703) 614–4774, DIA Office for Congressional and Public Affairs, Pentagon 1A874, Washington, DC 20340–5100. *William.Caniano@dodiis.mil.*

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting

For the Advisory Board to discuss DIA operations and capabilities in support of current intelligence operations.

Agenda

July 23, 2012

1 p.m.—Call to Order
Mr. William Caniano, Designated Federal Official, Mrs. Mary Margaret Graham, Chairman
1 p.m.—Working Lunch
2 p.m.—Break
2:15 p.m.—Administrative Business
2:30 p.m.—Classified Briefing
3:30 p.m.—Adjourn

Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.155, the Director, DIA, has determined that the all meetings shall be closed to the public. The Director, DIA, in consultation with the DIA Office of the General Counsel, has determined in writing that the public interest requires that all sessions of the Board's meetings be closed to the public because they include discussions of classified information and matters covered by 5 U.S.C. 552b(c)(1).

Written Statements

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, and section 10(a)(3) of the Federal Advisory Board Committee Act of 1972, the public or interested organizations may submit written statements at any time to the DIA Advisory Board regarding its missions and functions. All written statements shall be submitted to the Designated Federal Official for the DIA Advisory Board. The Designated Federal Official will ensure that written statements are provided to the Board for its consideration. Written statements may also be submitted in response to the stated agenda of planned board meetings. Statements submitted in response to this notice must be received by the Designated Federal Official at least five calendar days prior to the meeting which is the subject of this notice. Written statements received after that date may not be provided or considered by the Board until its next meeting. All submissions provided before that date will be presented to the Board before the meeting that is subject of this notice. Contact information for the Designated Federal Official is listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: June 20, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2012–15433 Filed 6–25–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

TRICARE Management Activity Adoption of Department of the Treasury's Administrative Wage Garnishment Procedures

AGENCY: TRICARE Management Activity (TMA), DoD.

ACTION: Adoption of Department of the Treasury administrative wage garnishment procedures.

SUMMARY: This notice is to advise TRICARE sponsors, beneficiaries, providers, physicians, other suppliers of services or supplies, and any other persons who for any reason have been erroneously paid under TRICARE, that TRICARE Management Activity (TMA) is adopting by reference Department of the Treasury (Treasury) administrative wage garnishment procedures as established at 31 CFR 285.11. By adopting this regulation, TMA will authorize Treasury's Financial Management Service (FMS), to use administrative wage garnishment as an additional tool to collect TMA's debts once such legally enforceable non-tax debts are transferred to Treasury for collection through cross servicing pursuant to 32 CFR 199.11(f)(6)(vi). When a TMA debtor is employed in the private sector or by a state or local government, Treasury may be able to collect the debt by garnishing a portion of the debtor's disposable pay as defined

in 31 CFR 285.11. Administrative wage garnishment will not affect a significant number of TMA debtors, as TMA estimates 6% of its debt cases and less than 0.3% of total debt may be eligible for collection with this tool.

DATES: TMA's adoption of the Department of the Treasury's administrative wage garnishment procedures is effective 30 days after publication of the notice.

ADDRESSES: TRICARE Management Activity (TMA), Claims Collection Section, Office of General Counsel, 16401 East Centretech Parkway, Aurora, CO 80011–9066.

FOR FURTHER INFORMATION CONTACT: Michael R. Bibbo, TRICARE Management Activity, Office of General Counsel, telephone (303) 676–3705.

SUPPLEMENTARY INFORMATION: TMA's authority to recover overpayments is outlined in 32 CFR 199.11. The Federal Claims Collection Act, as amended by the Debt Collection Act of 1982 and the Debt Collection Improvement Act of 1996, and Treasury regulations implementing these statutes, provides the basic authority under which claims may be asserted pursuant to § 199.11. Specific recoupment procedures are listed at 32 CFR 199.11(f)(6), including collection by transfer of debts to Treasury or a Treasury-designated debt collection center for collection through cross servicing per 32 CFR 199.11(f)(6)(vi). Pursuant to Title 31, United States Code (U.S.C.), Section 3711(g) and 31 CFR 285.12, the Director, TMA is required to transfer legally enforceable non-tax debts that have been delinquent for more than 180 days to Treasury's FMS for collection. The FMS cross-servicing program uses various means to collect debts, including offsetting federal payments, the use of private collection agencies and the garnishment of wages through administrative wage garnishment procedures. The Treasury Financial Manual, Part 4–Chapter 4000, requires agencies transferring debts to FMS to have administrative wage garnishment procedures or regulations.

Federal agencies are authorized to collect delinquent nontax debt owed to the United States from debtors' wages by means of administrative wage garnishment in accordance with the requirements of 31 U.S.C. 3720D and 31 CFR 285.11. The implementing regulations provide due process for nontax debtors. Agencies may prescribe their own conforming regulations, containing the same substantive and procedural requirements as the Treasury final rule on wage garnishment, for the conduct of administrative wage garnishment hearings. In the alternative, creditor agencies may adopt Treasury's administrative wage garnishment regulation, 31 CFR 285.11, without change by reference in order to authorize Treasury to use administrative wage garnishment as one of many debt collection remedies available to collect delinquent debts transferred to Treasury by a creditor agency.

Administrative wage garnishment is available for use against a narrow class of TMA's debtors. For a debtor's wages to be garnished, he or she must be an individual employed in the private sector or by a state or local government. TMA's debtors are primarily commercial medical providers. In addition, TMA debtors are often active duty or reserve military members or retirees whose debts are frequently satisfied by offsetting federal salary or retirement payments through the Defense Finance and Accounting Service. In January 2012, TMA had 1,821 open debt cases, 105 of which may have been subject to administrative wage garnishment. As these debts are generally much smaller than those incurred by commercial providers, they represent less than 0.3% of TMA open debt. With this notice, TMA adopts, without change, all of the provisions of 31 CFR 285.11 concerning administrative wage garnishment, including the Treasury hearing procedures described in 31 CFR 285.11(f). At least thirty (30) days prior to FMS initiating an administrative wage garnishment, FMS will send notice to the debtor, in accordance with the requirements of 31 CFR 285.11(e), informing the debtor that administrative wage garnishment will be initiated and how the debtor may request a hearing. If a debtor makes a timely hearing request, administrative wage garnishment will not begin until a hearing is held and a decision is sent to the debtor in accordance with the provisions of 31 CFR 285.11(f)(4). If a debtor's hearing request is untimely, FMS may suspend collection by administrative wage garnishment in accordance with the provisions of 31 CFR 285.11(f)(5). All travel expenses incurred by the debtor in connection with an in-person hearing will be borne by the debtor. This regulation does not apply to federal salary offset, the process by which federal agencies collect debts from the salaries of federal employees. Additionally, when TMA collects debts of military members or retirees through offsetting Defense Finance and Accounting Service payments, the provisions of 32 CFR 199.11(f)(6)(vii) govern.

Dated: June 20, 2012.

Patricia Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2012–15506 Filed 6–25–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

TRICARE; Implementation of TRICARE Transitional Outpatient Payments

AGENCY: Department of Defense (DoD).

ACTION: Notice of TRICARE Transitional Outpatient Payments (TTOPs)

SUMMARY: This notice informs hospitals of TRICARE's Transitional Outpatient Payments (TTOPs) under TRICARE's Outpatient Prospective Payment System (OPPS).

DATES: The TTOPs are effective January 1, 2010.

ADDRESSES: TRICARE Management Activity (TMA), Medical Benefits and Reimbursement Branch, 16401 East Centretech Parkway, Aurora, CO 80011–9066.

FOR FURTHER INFORMATION CONTACT: Ms. Martha M. Maxey, TMA, Medical Benefits and Reimbursement Branch, telephone (303) 676–3627.

SUPPLEMENTARY INFORMATION: With implementation of the Medicare OPPS, certain hospitals were eligible to receive additional transitional outpatient payments (TOPS) if the payments they received under the OPPS were less than the payments they could have received for the same services under the payment system in effect before the OPPS. Medicare refers to these transitional payments as hold harmless TOPs and they applied to small rural hospitals with 100 or fewer beds and rural Sole Community Hospitals (SCHs) with 100 or fewer beds. TRICARE's OPPS Final Rule, published in the **Federal Register** (73 FR 74945) on December 10, 2008, states Agency will adopt the hold harmless TOPs for rural hospitals having 100 or fewer beds and SCHs. Medicare's hold harmless TOPs was scheduled to expire January 1, 2010. TRICARE delayed implementation of its OPPS for small rural hospitals with 100 or fewer beds and rural SCHs with 100 or fewer beds until January 1, 2010, with the expectation that the Medicare TOPs would expire, negating the need to implement the TRICARE TOPs provision. The Patient Protection and Affordable Care Act (PPACA) extended the hold harmless provision under Medicare, beyond January 1, 2010; therefore TRICARE will need to

implement TOPS as of January 1, 2010. The PPACA also expanded the hold harmless provision to all SCHs.

TTOPs will be made to qualifying hospitals that have OPPS costs that are greater than their TRICARE allowed amounts using a method similar to Medicare. TRICARE will pay an amount equal to 85 percent of the difference between the estimated OPPS costs and the OPPS payment.

The process for determining the TTOPs will be outlined in a future revision to the TRICARE Reimbursement Manual. The TRICARE Reimbursement Manual is available at *http://manuals.tricare.osd.mil/.*

Dated: June 20, 2012.

Patricia Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2012–15504 Filed 6–25–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

TRICARE; Revised Guideline for Determining the Outpatient Prospective Payment System (OPPS) General Temporary Military Contingency Payment Adjustment (TMCPA) Amount

AGENCY: Department of Defense (DoD).

ACTION: Notice of revised guideline for determining TRICARE's OPPS General TMCPA amount.

SUMMARY: This notice advises interested parties of a guideline concerning the methodology to calculate TRICARE's OPPS General TMCPA amount for qualifying hospitals.

DATES: The guideline for calculating TRICARE's OPPS General TMCPA amount is effective for OPPS year 4 (May 1, 2012–April 30, 2013) and subsequent years.

ADDRESSES: TRICARE Management Activity (TMA), Medical Benefits and Reimbursement Branch, 16401 East Centretech Parkway, Aurora, CO 80011–9066.

FOR FURTHER INFORMATION CONTACT: Ms. Martha M. Maxey, TMA, Medical Benefits and Reimbursement Branch, telephone (303) 676–3627.

SUPPLEMENTARY INFORMATION: TRICARE's OPPS Final Rule that was published in the **Federal Register** on December 10, 2008, states that TMCPAs are intended to provide additional payments above the Medicare payment level for hospitals that are ''deemed essential for military readiness and deployment in time of contingency operations.''

The final rule stated that the procedures to be followed when submitting a TMCPA request would be outlined in the TRICARE Reimbursement Manual (TRM). For the first three OPPS years, (May 1, 2009–April 30, 2012), TMA implemented the criteria for General TMCPA payments and reviewed applications for General TMCPA payments. The TRM states that for qualifying hospitals, the General TMCPA adjustment cannot exceed 95 percent of the amount that would have been paid prior to implementation of OPPS.

We experienced two major problems with the approach:

1. The use of the current approach allows the payments to exceed the average payment-to-cost ratios (PCRs) paid by other payers. When DoD adopted the Medicare OPPS, the intent was to align our payment structure more closely with Medicare and assist those facilities that are ''deemed essential for military readiness and deployment in time of contingency operations'' by giving them a reasonable adjustment. As discussed below, paying hospitals up to 95 percent of the pre-OPPS amounts for hospital outpatient department services could be equivalent to reimbursing them at very high (PCRs), resulting in DoD paying higher rates than most purchasers of care at these facilities.

2. There is also a lack of fairness in the current method of determining General TMCPA payments for the various facilities because it is tied to the level of pre-OPPS allowed amounts. For the most part, pre-OPPS payments were made on the basis of the charges billed by the facility. DoD policy at that time was to pay these ''billed charge amounts.'' Thus, using 95 percent of pre-OPPS allowed amounts could allow hospitals that had higher billed charges to receive higher levels of General TMCPA payments than those that had billed at lower ''billed charge amounts'' for the same services. This could be true even if a lower charging facility saw the same or greater number of DoD active duty and family members or if the facilities' percentage of revenue received from DoD were the same. This result is inequitable to the various facilities and inconsistent with the intent of the General TMCPA.

In an attempt to resolve these inequities, the Department looked at the rates paid by other private payers. A report published by the American Hospital Association (AHA) in December 2010 indicates that the aggregate PCRs for private payers are in the range of 1.15 to 1.35. A ratio of 1.0 means a hospital meets their costs and a ratio of greater than 1.0 means payments exceeds costs. Using an adjustment guideline to allow the Department to apply General TMCPA payments so that the total of payments to a qualifying hospital falls within these private pay norms was chosen as a method to more equitably meet DoD's objectives in making these payment adjustments. As a result, TRICARE is revising its guidelines for determining the level of payment for a General TMCPA from a maximum 95 percent of the pre-OPPS amount to a maximum PCR of 1.3 for OPPS year 4 (May 1, 2012–April 30, 2013) and subsequent years. The ratio 1.30 was selected because this is the average level of aggregate PCRs that AHA reports that hospitals have received from private payers during the 2003–2009 period. The use of a PCR as a guideline to determine the limit on the level of payment for General TMCPA payments is simple, transparent, and will provide fair and equitable payments to the qualifying hospitals and is supported by data indicating it is a reasonable approach.

The procedures that are to be followed when submitting a TMCPA request will be outlined in the TRM.

Dated: June 20, 2012.

Patricia Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2012–15505 Filed 6–25–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2458–198]

Great Lakes Hydro America, LLC; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Application Type:* Amendment of License Article 408.

b. *Project No.:* 2458–198.

c. *Date Filed:* April 13, 2012.

d. *Applicant:* Great Lakes Hydro America, LLC.

e. *Name of Project:* Penobscot Mills.

f. *Location:* North Twin development, West Branch Penobscot River, Maine.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Kevin Bernier, Manager, Licensing and Compliance,

Great Lakes Hydro America, LLC, 1024 Central Street, Millinocket, ME 04462, (207) 723–4341, Ext. 118.

i. *FERC Contact:* John K. Novak, (202) 502–6076, *john.novak@ferc.gov.*

j. Deadline for filing comments, motions to intervene, and protests, is July 23, 2012.

All documents may be filed electronically via the Internet. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov/docs-filing/efiling.asp.* If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and seven copies should be mailed to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments.

Please include the project number (P–2458–198) on any comments, motions, or recommendations filed.

k. *Description of Request:* Great Lakes Hydro America, LLC requests Commission approval of amendment of Article 408 to eliminate the water level management requirements in the North Twin impoundment for lake trout spawning/incubation. The propagation of wild lake trout has not been successful after several years of controlling the reservoir levels in compliance with Article 408. Removal of reservoir level requirements for lake trout would provide more flexibility in providing power and non-power benefits at the development including the maintenance of higher flows to benefit the tailwater fishery. Great Lakes Hydro America, LLC proposes to request a modification to its Water Quality Certificate from the Maine Department of Environment Protection.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/efiling.asp.* Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* All filings must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to project works which are the subject of the amendment. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: June 20, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–15521 Filed 6–25–12; 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 exempt wholesale generator filings:

Docket Numbers: EG12–78–000.
Applicants: NaturEner Rim Rock Wind Energy, LLC.
Description: Notice of Self Certification of Exempt Wholesale Generator Status of NaturEner Rim Rock Wind Energy, LLC.
Filed Date: 6/18/12.
Accession Number: 20120618–5059.
Comments Due: 5 p.m. ET 7/9/12.

Docket Numbers: EG12–79–000.
Applicants: NaturEner Glacier Wind Energy 1, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of NaturEner Glacier Wind Energy 1, LLC.
Filed Date: 6/18/12.
Accession Number: 20120618–5073.
Comments Due: 5 p.m. ET 7/9/12.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER12–2041–001.
Applicants: ISO New England Inc., New England Power Pool Participants Committee.
Description: Errata to Defined Term Revisions to be effective 8/14/2012.
Filed Date: 6/18/12.
Accession Number: 20120618–5024.
Comments Due: 5 p.m. ET 7/9/12.

Docket Numbers: ER12–2057–000.
Applicants: NaturEner Glacier Wind Energy 1, LLC.
Description: Filing of Temporary Use Agreement and Request for Waivers and Expedited Action to be effective 6/19/2012.
Filed Date: 6/18/12.
Accession Number: 20120618–5045.
Comments Due: 5 p.m. ET 7/9/12.

Docket Numbers: ER12–2058–000.
Applicants: Southwestern Electric Power Company.
Description: NTEC Sabine DPA to be effective 6/1/2012.
Filed Date: 6/18/12.
Accession Number: 20120618–5061.
Comments Due: 5 p.m. ET 7/9/12.

Docket Numbers: ER12–2059–000.

Applicants: Southwestern Electric Power Company.
Description: NTEC Scroggins 138 DPA to be effective 6/1/2012.
Filed Date: 6/18/12.
Accession Number: 20120618–5062.
Comments Due: 5 p.m. ET 7/9/12.
Docket Numbers: ER12–2060–000.
Applicants: Public Service Company of Oklahoma.
Description: WFEC Wardville Delivery Point Agreement to be effective 6/1/2012.
Filed Date: 6/18/12.
Accession Number: 20120618–5063.
Comments Due: 5 p.m. ET 7/9/12.
Docket Numbers: ER12–2061–000.
Applicants: AEP Texas Central Company.
Description: Los Vientos 1B IA to be effective 5/24/2012.
Filed Date: 6/18/12.
Accession Number: 20120618–5066.
Comments Due: 5 p.m. ET 7/9/12.
Docket Numbers: ER12–2062–000.
Applicants: Southwest Power Pool, Inc.
Description: Southwest Power Pool, Inc.'s Notice of Cancellation of Generator Interconnection Agreement.
Filed Date: 6/15/12.
Accession Number: 20120615–5188.
Comments Due: 5 p.m. ET 7/6/12.
Docket Numbers: ER12–2063–000.
Applicants: AEP Texas Central Company.
Description: Los Vientos 1A Amended & Restated IA to be effective 5/24/2012.
Filed Date: 6/18/12.
Accession Number: 20120618–5074.
Comments Due: 5 p.m. ET 7/9/12.
Docket Numbers: ER12–2064–000.
Applicants: Southwest Power Pool, Inc.
Description: 2439 Kansas Municipal Energy Agency NITSA NOA to be effective 6/1/2012.
Filed Date: 6/18/12.
Accession Number: 20120618–5097.
Comments Due: 5 p.m. ET 7/9/12.
Docket Numbers: ER12–275–004.
Applicants: Dynegy Oakland, LLC.
Description: Compliance Filing to be effective 1/1/2012.
Filed Date: 6/18/12.
Accession Number: 20120618–5092.
Comments Due: 5 p.m. ET 7/9/12.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 19, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–15499 Filed 6–25–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Commission Staff Attendance

The Federal Energy Regulatory Commission hereby gives notice that members of the Commission's staff may attend the following meetings related to the transmission planning activities of the Midwest Independent Transmission System Operator, Inc. (MISO):

RECB Task Force & Planning Advisory Committee—June 28, 2012;
Order 1000 Right of First Refusal Task Team—June 28, 2012;
Order 1000 Right of First Refusal Task Team—June 29, 2012.

The above-referenced meeting will be held at: MISO Headquarters, 720 City Center Drive, Carmel, IN 46032.

The above-referenced meeting is open to the public.

Further information may be found at *www.misoenergy.org.*

The discussions at the meeting described above may address matters at issue in the following proceedings:

Docket No. ER12–1577–000, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER12–715, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER12–480, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER12–309, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER11–1844, *Midwest Independent Transmission System Operator, Inc.*
Docket No. EL11–56, *FirstEnergy Service Company.*
Docket No. EL11–30, *E.ON Climate & Renewables North America, LLC* v. *Midwest Independent Transmission System Operator, Inc.*
Docket No. EL12–24–000, *Pioneer Transmission LLC* v. *Midwest Independent Transmission System Operator, Inc.*
Docket No. EL12–28–000, *Xcel Energy Services Inc.* v. *American Transmission Company, LLC.*
Docket No. OA08–53, *Midwest Independent Transmission System Operator, Inc.*

For more information, contact Christopher Miller, Office of Energy Markets Regulation, Federal Energy Regulatory Commission at (317) 249–5936 or *christopher.miller@ferc.gov.*

Dated: June 19, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–15487 Filed 6–25–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Commission Staff Attendance

The Federal Energy Regulatory Commission hereby gives notice that members of the Commission's staff may attend the following meeting related to the transmission planning activities of ISO New England Inc., New York Independent System Operator, Inc., and PJM Interconnection, L.L.C.:

Inter-Regional Planning Stakeholder Advisory Committee

June 22, 2012, 9 a.m. to 12 p.m., Local Time

The above-referenced meeting will be held via teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at *www.pjm.com.*

The discussions at the meetings described above may address matters at issue in the following proceedings:

Docket No. ER08–1281, *New York Independent System Operator, Inc.*
Docket Nos. ER10–787, EL10–50, and EL10–57, *ISO New England Inc. and the New England Power Pool Participants Committee*
Docket No. ER11–2216, *ISO New England Inc. and the Participating Transmission Owners Administrative Committee*
Docket No. ER11–2580, *ISO New England Inc.*
Docket No. ER11–3953, *ISO New England Inc. and the New England Power Pool Participants Committee*

Docket No. ER11–4336, *ISO New England Inc.*
Docket No. ER12–729, *ISO New England Inc. and the New England Power Pool Participants Committee*
Docket No. ER12–757, *ISO New England Inc.*
Docket No. ER12–953, *ISO New England Inc. and the New England Power Pool Participants Committee*
Docket No. ER12–991, *ISO New England Inc.*
Docket No. EL05–121, *PJM Interconnection, L.L.C.*
Docket No. ER06–456, ER06–954, ER06–1271, ER07–424, ER06–880, EL07–57, ER07–1186, ER08–229, ER08–1065, ER09–497, and ER10–268, *PJM Interconnection, L.L.C.*
Docket No. ER10–253 and EL10–14, *Primary Power, L.L.C.*
Docket No. EL10–52, *Central Transmission, LLC* v. *PJM Interconnection, L.L.C.*
Docket No. ER11–4070, *RITELine Indiana et al.*
Docket No. ER11–2875 and EL11–20, *PJM Interconnection, L.L.C.*
Docket No. ER09–1256, *Potomac-Appalachian Transmission Highline, L.L.C.*
Docket No. ER09–1589, *FirstEnergy Service Company*
Docket No. EL11–56, *FirstEnergy Service Company*
Docket No. ER11–1844, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER12–718, *New York Independent System Operator, Inc.*
Docket No. ER12–1177, *PJM Interconnection, L.L.C.*
Docket No. ER12–1178, *PJM Interconnection, L.L.C.*
Docket No. ER12–1693, *PJM Interconnection, L.L.C.*

For more information, contact James Eason, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (202) 502–8622 or *James.Eason@ferc.gov*.

Dated: June 20, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–15520 Filed 6–25–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Commission Staff Attendance

The Federal Energy Regulatory Commission hereby gives notice that members of the Commission's staff may attend the following meeting related to the transmission planning activities of the Southern Company Services, Inc.:

2012 Southeastern Regional Transmission Planning Process (SERTP) 2nd Quarter Preliminary Expansion Plan Meeting

June 27, 2012, 10 a.m.–3 p.m., Local Time

The above-referenced meeting will be held at:

Municipal Electric Authority of Georgia Corporate Headquarters Atlanta, Georgia.

The above-referenced meeting is open to stakeholders.

Further information may be found at: *www.southeasternrtp.com.*

The discussions at the meeting described above may address matters at issue in the following proceeding:

Docket No. ER12–337, *Mississippi Power Company.*

For more information, contact Valerie Martin, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (202) 502–6139 or *Valerie.Martin@ferc.gov.*

Dated: June 20, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–15519 Filed 6–25–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–2065–000]

Aequitas Energy, Inc.; 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 Aequitas Energ, Inc.'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 July 10, 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: June 20, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–15497 Filed 6–25–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–2051–000]

SPS Alpaugh 50, 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 SPS Alpaugh 50, 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 July 10, 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: June 20, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–15501 Filed 6–25–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–2052–000]

SPS Alpaugh North, 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 SPS Alpaugh North, 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 July 10, 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: June 20, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–15502 Filed 6–25–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–1932–000]

Franklin County Wind, 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 Franklin County Wind, 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 July 10, 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: June 20, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–15500 Filed 6–25–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–2068–000]

Blue Sky East, 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 Blue Sky East, 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 July 10, 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: June 20, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–15498 Filed 6–25–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–2055–000]

San Gorgonio Farms, Inc.; 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 San Gorgonio Farms, Inc.'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 July 10, 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: June 20, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–15496 Filed 6–25–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11841–020]

Ketchikan Public Utilities; Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Application to amend project access road and Whitman Lake trail plan.

b. *Project No:* 11841–020.

c. *Date Filed:* June 15, 2012.

d. *Applicant:* Ketchikan Public Utilities.

e. *Name of Project:* Whitman Lake Hydroelectric Project.

f. *Location:* Whitman Creek in Ketchikan Gateway Borough, Alaska.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Jennifer Holstrom, Ketchikan Public Utilities, Electric Division, 1065 Fair Street, Ketchikan, Alaska 99901, *jenniferh@city.ketchikan.ak.us,* (907) 228–4733.

i. *FERC Contact:* Mark Carter, (678) 245–3083, *mark.carter@ferc.gov.*

j. *Deadline for filing comments, motions to intervene, and protests:* July 5, 2012.

All documents may be filed electronically via the Internet. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Please include the project number (P–11841–020) on any comments, motions, or recommendations filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Application:* Ketchikan Public Utilities (licensee) requests Commission approval to modify the location of the project's access road, which has not yet been constructed. The access road would also serve as a recreational hiking, bicycling, and skiing trail pursuant to license article 422. The road and trail would originate off South Tongass Highway, run approximately adjacent to Whitman Creek, and terminate at an overlook near the Achilles diversion, a project feature.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov*, for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) Bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: June 20, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–15518 Filed 6–25–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL12–74–000]

Idaho Wind Partners 1, LLC; Notice of Petition for Declaratory Order

Take notice that on June 15, 2012, pursuant to Rule 207 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207, the Idaho Wind Partners 1, LLC submitted a Petition for Declaratory Order seeking that the Commission rule that Idaho Power Company's (Idaho Power) new curtailment policy would violate the Public Utility Regulatory Policies Act of 1978 if Idaho Power curtails purchases from QFs with fixed rate avoided cost contracts, whether Idaho Power acts unilaterally or acts pursuant to a schedule or policy approved by the Idaho Public Utility Commission.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC.

There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on July 16, 2012.

Dated: June 19, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–15485 Filed 6–25–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL12–73–000]

California Independent System Operator Corporation; Notice of Petition for Declaratory Order

Take notice that on June 8, 2012, pursuant to Rule 207 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207, the California Independent System Operator Corporation (CAISO) submitted a Petition for Declaratory Order requesting that the Commission confirm that CAISO's settlement of day-ahead bid cost recovery from April 1, 2009 through March 25, 2011 was inconsistent with the provisions of the CAISO Tariff and that it is appropriate for CAISO to resettle day-ahead bid cost recovery payments during that period.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on July 9, 2012.

Dated: June 18, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–15484 Filed 6–25–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL12–75–000]

Pepco Holdings, Inc.; Notice of Petition for Limited Waiver

Take notice that on June 15, 2012, pursuant to Rule 207(a)(5) of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (Commission), Pepco Holdings, Inc. (PHI) filed a petition for limited waiver concerning the Commission's affiliate transaction pricing rules, established by Order Nos. 707 and 707–A, for sales of non-power goods and services. PHI requests waivers of 18 CFR 35.44(b) so that it may use ''at cost'' pricing for a limited set of transitions, as more fully described in the filing.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

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 St. NE., Washington, DC 20426.

The filings in the above proceedings 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.

Comment Date: 5 p.m. Eastern Time on Friday, July 6, 2012.

Dated: June 19, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–15486 Filed 6–25–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14380–000]

Grand Coulee Project Hydroelectric Authority; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On April 4, 2012, Grand Coulee Project Hydroelectric Authority filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Pinto Dam Hydroelectric Project (Pinto Dam Project or project) to be located at the U.S.

Bureau of Reclamation's Pinto dam, on Billy Clapp Lake near the city of Moses Lake in Grant County, Washington. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would use the existing Pinto dam, and would consist of the following new facilities: (1) A 72-inch-diameter penstock connecting the existing Pinto dam outlet tunnel to a powerhouse located immediately downstream of the dam; (2) a powerhouse containing a 3.4-megawatt Francis turbine/generator unit; (3) a tailrace discharging flows into the existing feed route between Billy Clapp Lake and Brook Lake; (4) a 7,000-foot-long, 34.5-kilovolt (kV) transmission line extending from the project to a 34.5-kV transmission line owned by the Public Utility District No. 1 of Grant County, Washington; and (5) appurtenant facilities. The estimated annual generation of the Pinto Dam Project would be 8.1 gigawatt-hours.

Applicant Contact: Mr. Ronald K. Rodewald, Secretary-Manager, Grand Coulee Project Hydroelectric Authority, P.O. Box 209, Ephrata, Washington 98823; phone: (509) 754–2227.

FERC Contact: Jennifer Harper; phone: (202) 502–6136.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14380) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: June 19, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–15482 Filed 6–25–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13860–001]

Jones Canyon Hydro, LLC; Notice of Application for Amendment of Preliminary Permit Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

On May 29, 2012, Jones Canyon Hydro, LLC filed an amendment to their preliminary permit issued March 28, 2011 for the Jones Canyon Pumped Storage Project. The proposed project would be a closed-loop pumped storage project located near Grass Valley, in Sherman County, Oregon.

The applicant proposes to make the following changes to their issued permit: (1) Expand the project boundary to include a second canyon north of the project; (2) change the location of the proposed lower reservoir dam to north of the current location and include an additional canyon; (3) expand the lower reservoir from 68 surface acres to 98 surface acres at an elevation of 1,150 feet above mean sea level; (4) change the total installed capacity of the project from 400 megawatts (MW) to 500 MW; (5) change the length of the transmission line from 0.34 miles to 4.5 miles; (6) lengthen the conduit between the proposed reservoirs from 6,225 feet to 7,330 feet; and (7) change the name of the project from ''Jones Canyon Pumped Storage Project'' to ''Oregon Winds Pumped Storage''.

FERC Contact: Jennifer Harper, 202–502–6136.

Deadline for filing comments or motions to intervene: 30 days from the issuance of this notice. Comments and motions to intervene may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13860–001) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: June 19, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–15483 Filed 6–25–12; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2012–0452; FRL–9680–6]

EPA Activities To Promote Environmental Justice in the Permit Application Process

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability of Proposed Regional Actions to Promote Public Participation in the Permitting Process and Draft Best Practices for Permit Applicants Seeking EPA-Issued Permits; Request for Comments.

SUMMARY: As part of its ongoing efforts under Plan EJ 2014 to integrate environmental justice into all of its programs, the Environmental Protection Agency (EPA) is soliciting public comment on ways that EPA and permit applicants can meaningfully engage communities in the permitting process. This notice describes and seeks comment on actions that EPA regional offices can take when issuing EPA permits to promote greater participation in the permitting process by communities that have historically been underrepresented in that process. This notice also announces the availability of

draft best practices for permit applicants seeking EPA-issued permits (located in the appendix to this notice). The best practices are designed to encourage and assist permit applicants to reach out to neighboring communities when applying for permits that may affect the community's quality of life, including their health and environment.

DATES: Written comments must be received on or before August 27, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2012–0452 by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Mail:* ''Plan EJ 2014: Considering EJ in EPA's Permitting Process'' Docket, Environmental Protection Agency, EPA Docket Center, Mailcode 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.
- *Hand Delivery:* ''Plan EJ 2014: Considering EJ in EPA's Permitting Process'' Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC 20460. Such deliveries are accepted only during the Docket's normal hours of operation, and special arrangement should be made for deliveries of boxed information.

EPA's policy is that all comments received will be included in the public docket without change and may be available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information of which disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If 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, avoid any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/cpallomc/dockets.htm.* EPA also encourages the public to review and participate in the Environmental Justice in Action Blog which can be found at *https://blog.epa.gov/ej.* EPA intends to use the Environmental Justice in Action Blog to encourage different public stakeholders to dialogue over the ideas set forth in this **Federal Register** Notice. The Environmental Justice in Action Blog does not replace the conventional public comment process described above. Rather, EPA hopes that the Environmental Justice in Action Blog provides an informal public forum for stakeholders to exchange idea and share views, which may help shape comments submitted to EPA through Regulations.gov. As this public participation initiative illustrates, EPA believes that early and frequent dialogue among people with different points of view can lead to more thoughtful outcomes.

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I. General Information

Expanding the conversation on environmentalism and working for environmental justice are top priorities of the Environmental Protection Agency (EPA). In 2011, EPA published Plan EJ 2014, the Agency's overarching strategy for advancing environmental justice. The Plan has three objectives:

1. Protect health and the environment in overburdened communities;
2. Empower communities to take action to improve their health and environment; and
3. Establish partnerships with local, state, tribal, and federal governments and organizations to achieve healthy and sustainable communities.

The year 2014 marks the 20th anniversary of the signing of Executive Order 12898 on environmental justice, which directs each federal agency to ''make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities.'' Plan EJ 2014 is EPA's roadmap for integrating environmental justice into its programs, policies and activities. One focus area of the Plan is ''Considering Environmental Justice in Permitting.'' Environmental permits play a key role in providing effective protection of public health and the environment in communities. Thus, Plan EJ 2014 calls upon EPA to: (1) Enhance the ability of overburdened communities to participate fully and meaningfully in the permitting process for EPA-issued permits; and (2) take steps to meaningfully address environmental justice issues in the permitting process for EPA-issued permits to the greatest extent practicable.

Plan EJ 2014 directs EPA to make achieving environmental justice part of its mission, and to be a leader among federal departments and agencies in addressing the impacts of federal activities on overburdened communities. EPA believes that environmental permitting presents opportunities to address environmental justice, and that the Agency has the responsibility to lead by example to address environmental justice in permits issued by EPA. Therefore, the actions described in this notice focus on EPA-issued permits. Although EPA issues few environmental permits compared to state, local and tribal governments that implement federal environmental laws as approved or delegated by EPA, EPA intends to share its experiences and ideas with these governments as well as with other federal agencies, with the goal of promoting similar efforts.

In this notice, EPA focuses on enhancing the opportunity and ability of overburdened communities to participate in the permitting process. Overburdened communities are communities that potentially experience disproportionate environmental harms and risk as a result of cumulative impacts or greater vulnerability to environmental hazards. EPA believes that the participation of overburdened communities in the permitting process is an essential step toward the ultimate goal of achieving permits that meaningfully address environmental justice issues. Following the National Environmental Justice Advisory Council (NEJAC) recommendation to encourage more public participation in the permitting decision-making process, EPA has identified actions that EPA and permit applicants, both for new and renewed permits, can take to reduce barriers to participation in the permitting process. In overburdened communities, these barriers can include lack of trust, lack of awareness or information, language barriers, and limited access to technical and legal resources. In EPA's view, more transparency and dialogue can lead to better permit outcomes for the community as well as permit applicants. Thus, EPA believes it is especially important to make special efforts to provide enhanced public participation

opportunities to overburdened communities, particularly minority, low-income, and indigenous communities. EPA also realizes that enhanced public engagement is only one aspect of attention to environmental justice in the context of permitting.

Both EPA regional offices and permit applicants can—and in some cases already do—bring overburdened communities into the permitting process through special outreach efforts. EPA believes that permit applicants have unique opportunities in this area. Many companies are already active, contributing members of the community. In addition to their important role as a source of employment and economic stability within a community, permit applicants play other roles. Many facilities applying for permits, for example, have robust community engagement strategies that recognize the value of community outreach. Pursuant to these strategies, facilities engage actively with the community through environmental initiatives, neighborhood beautification projects, education programs and charitable giving, civic programs and the arts, youth activities, and other investments in the community. These existing ties between permit applicants and the broader communities where they are located provide a foundation for permit applicants to reach out to their immediate neighbors along the facility's fence-line—ideally, to discuss health or environmental issues associated with their plans for new or increased pollutant releases.

EPA has compiled the draft list of activities and best practices presented in this notice from many sources. EPA surveyed its regional offices, where EPA permitting activity predominantly occurs, to determine what steps are currently or could be taken to meaningfully involve overburdened communities in the permitting process. Additionally, EPA conducted numerous listening sessions, conference calls and meetings with a variety of stakeholders, including environmental justice stakeholders, members of the business community, state, local and tribal governments and communities, non-governmental organizations, and the NEJAC, to gather more input on how to enhance participation of overburdened communities in EPA's process of issuing environmental permits. One set of ideas, presented in Section II below, focuses on activities that EPA, as the permitting authority, can undertake to make it easier for communities to engage meaningfully and effectively in the permitting process. The second set of ideas, described in Section III below, presents best practices that permit applicants can use to initiate and sustain a dialogue with the communities at their fence-line when the companies seek environmental permits that may be affected by the permitting action.

EPA recognizes that some states have made significant progress in meaningfully involving overburdened communities in the permitting process. While the focus of today's notice is on EPA-issued permits, EPA believes that states with experience in this area can provide valuable information that will strengthen EPA's efforts. Therefore, EPA invites states to share their ideas for ensuring the meaningful involvement of overburdened communities in the permitting process and encouraging dialogue between permit applicants and communities.

The ideas in this notice are meant to complement all of the other tools and resources developed under Plan EJ 2014 and other EPA initiatives to aid communities and EPA permitting authorities in incorporating environmental justice into the permitting process. The tools and resources include the EJ *Legal Tools,* which addresses EPA's legal authority to consider environmental justice, EPA's effort to develop a *nationally consistent screening tool for environmental justice,* and EPA's efforts to meaningfully engage local communities and stakeholders in government decisions on land cleanup, emergency preparedness and responses and the management of hazardous substances and wastes through the *Community Engagement Network,* and EPA's collaboration with other federal agencies to improve our community-based actions and assistance and to strengthen the use of *interagency legal tools,* such as the National Environmental Policy Act and Title VI of the Civil Rights Act. These resources supplement information disseminated by *EPA regional offices* about their permit processes and particular permits.

II. Actions That EPA Regional Offices Can Take To Promote Meaningful Engagement in the Permitting Process by Overburdened Communities

As noted above, EPA has identified a number of activities and approaches that can be used to promote greater public involvement of overburdened communities in its permitting processes, particularly for major permitting actions that may significantly impact them. Each EPA regional office will put in place a regional implementation plan to address meaningful engagement of overburdened communities in their permitting activities. This notice describes the general expectations for the regional plans and presents the framework and specific activities intended to enhance public participation.

EPA's expectation is that each regional office will use the agency-wide guidelines to develop a regional implementation plan that is appropriate for the particular circumstances within that region. The agency-wide guidelines in this notice are designed to promote consistency among regional offices and provide EPA's expectation for a basic regional plan. At the same time, EPA recognizes that each permit and community is different and that each EPA regional office has the insight and experience to develop strategies tailored to the particular communities and needs within that region. Therefore, EPA couples these agency-wide guidelines with the expectation that EPA regional offices have the flexibility in developing their implementation plans to take actions suited to the concerns of impacts on overburdened communities typically raised within their regions.

This notice does not address any obligations imposed by the Civil Rights Act of 1964 or under EPA regulations at 40 CFR part 7. Please refer to *EPA's Guidance to Environmental Protection Agency Financial Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons* and *Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs.* This notice does not address *Executive Order 13175* or *EPA's Policy on Consultation and Coordination with Tribes.* It is important to note the difference between the meaningful involvement of tribal communities as it is used in the EJ context and consultation with tribes. The Agency's responsibilities under E.O. 13175 are separate from the responsibilities under E.O. 12898 and stem from federally recognized tribes' status as sovereign governments.

The activities described in this notice go beyond the standard notice-and-comment procedures required by law. EPA believes, however, that enhanced outreach can help to remove some of the barriers that can discourage overburdened communities from participating in permit processes that affect them and are appropriate in some circumstances.

A. Agency-Wide Guidelines for EPA Regional Offices

The guidelines presented here provide a framework for the regional offices to identify possible actions they

can take to promote the meaningful engagement of overburdened communities for priority permits. Specifically, the guidelines for EPA regional offices are designed to: (1) Help regional offices identify which permits to prioritize for greater public involvement for overburdened communities; and (2) suggest activities the regional offices can undertake to promote greater public involvement in their permitting process.

1. Priority Permits for Enhanced Public Involvement Opportunities

Although any permit action may be an opportunity to enhance the engagement of a community, EPA believes that it is particularly important to provide meaningful engagement opportunities in permitting actions that may have significant public health or environmental impacts, such as a new operation or a modification of an existing operation, which may affect overburdened communities. Significant public outreach and engagement require significant resources. EPA recognizes its regional offices' limited ability to enhance engagement for every EPA-issued permit as well as the limited ability of overburdened communities to engage on every permit potentially impacting them. For this reason, EPA will consider prioritizing enhanced public involvement opportunities for those EPA-issued permits with significant public health or environmental impacts on already overburdened communities, determined by regional offices' use of a screening tool or other methodology. Examples of permits that may have significant public health or environmental impacts include, but are not limited to, the following:

- Construction permits under the Clean Air Act, especially new major sources (or major modifications of sources) of criteria pollutants;
- Significant Underground Injection Control Program permits under the Safe Drinking Water Act;
- ''Major'' industrial National Pollutant Discharge Elimination System (NPDES) permits (as defined in 40 CFR 122.2) under the Clean Water Act that are for:
  - ○ New sources or new dischargers, or
  - ○ Existing sources with major modifications, including, but not limited to, a new outfall, a new or changed process that results in the discharge of new pollutants, or an increase in production that results in an increased discharge of pollutants;
- ''Non-Major'' industrial NPDES permits (as defined in 40 CFR 122.2) under the Clean Water Act that are identified by EPA on a national or regional basis as a focus area, for:
  - ○ New sources or new dischargers, or
  - ○ Existing sources with major modifications, including, but not limited to, a new outfall, a new or changed process that results in the discharge of new pollutants, or an increase in production that results in an increased discharge of pollutants; and
- RCRA permits associated with new combustion facilities or modifications to existing RCRA permits that address new treatment processes or corrective action cleanups involving potential off-site impacts.

In addition, EPA will consider prioritizing for enhanced public involvement activities both permit applications and renewals for which a community has raised plausible environmental justice concerns, and permit applications and renewals where EPA has other information indicating environmental justice concerns related to the permit.

In further recognition of EPA's regional offices' limited ability for enhanced public engagement, a regional office may not prioritize every EPA-issued permit with significant public health or environmental impacts on already overburdened communities.

Additionally, there may be circumstances under which a regional office finds enhanced public outreach appropriate irrespective of whether the permitting action has a significant public health or environmental impacts on already overburdened communities.

2. Regional Offices' Activities To Promote Greater Public Involvement in the Permitting Process

Presented below is a proposed list of activities that EPA regional offices could undertake at key junctures in the permitting process to promote greater involvement of overburdened communities. The list of proposed activities is intended to identify priority areas of activity and to provide options for proposed activities in the development of regional implementation plans. Regional offices, therefore, may choose not to implement all of the proposed activities listed below. Similarly, the list of activities is not meant to be comprehensive or exhaustive. Different situations will justify different responses.

Planning & Gathering Information:

○ Identify upcoming priority permits for promoting greater public involvement. When identifying priority permits, focus on permits that the community has identified as a priority, to the extent such information is available.

○ Locate existing data and studies that are relevant to the particular community.

○ Explore ways to reach out to the affected community in coordination with relevant EPA staff, including permit writers, EJ coordinators, public affairs staff, the press office, and EPA's Conflict Prevention & Resolution Center.

○ Evaluate the appropriate length of the public comment period.

○ Consider holding information meetings for the public in addition to formal public comment sessions.

Coordinating within EPA:

○ For applicants with multiple EPA permits, inform EPA permit writers from other offices in the region that your office has received a permit application from the applicant.

Communicating with the Community:

○ Designate EPA point(s) of contact that the community can contact to discuss environmental justice concerns or questions of a technical nature about the permit application.

○ Explain the permitting process by making informational fact sheets available.

○ Use plain language when communicating with the public.

○ Use communication techniques the community values, such as direct mailings, posters, articles in local newspapers, and emails to list serves.

○ Offer translation services for communities with multi-lingual populations (including interpreters at public meetings or translations of public documents).

○ Make key documents on the proposed project readily accessible to the community, using a variety of media tools (paper copies, online, etc.), when appropriate.

○ Hold public meetings at times and places in the community best designed to afford the public a meaningful chance to attend.

○ After the permit has been issued, make available to the community a summary of EPA's comment responses and provide information on where the community can find the entire comment response document.

Communicating with the Permit Applicant:

○ Encourage the permit applicant to provide EPA with a plain-language description of its proposed project or permit application.

○ Encourage the permit applicant to consult EPA guidance on environmental justice and other resources developed under Plan EJ 2014, including the (when

finalized) Draft Best Practices for Permit Applicants Seeking EPA-Issued Permits: Ways to Engage Communities at the Fence-Line. (See appendix.)

B. EPA's Expectations for Regional Implementation Plans

EPA expects each regional office to develop, implement and make publically available a regional implementation plan consistent with the agency-wide guidelines presented in this notice in order to support the meaningful engagement of overburdened communities in the permitting process for priority permits. EPA believes that regional offices will be better able to provide opportunities for enhanced public participation when they have planned and allocated resources for outreach in advance through the development of regional implementation plans. EPA also believes that making the regional implementation plans publically available will increase transparency and inform communities of EPA regional offices' efforts to create opportunities for overburdened communities to meaningfully engage in the permitting process.

EPA expects the regional implementation plans to address with more specificity the process that a regional office will use to prioritize permits for enhanced engagement, including the types of permits and activities the regional offices plan to implement. EPA expects the regional plans to be tailored to the region's specific needs but also to be consistent with the agency-wide guidelines direction on prioritization of permits for enhanced engagement and priority areas of outreach activities outlined in today's notice.

Consistent with the agency-wide guidelines previously discussed, the regional implementation plans will include:

I. The EPA Regional Office's process for prioritizing permits for enhanced engagement

a. Use of a screening tool or other methodology to identify already overburdened communities;

b. Types of permits with significant public health or environmental impacts.

II. Priority Enhanced Outreach Activities

a. Planning and gathering information;

b. Coordinating within EPA;

c. Communicating with the Community;

d. Communicating with the Permit Applicant.

C. Solicitation of Comments

EPA welcomes all comments on the proposed actions that Regional offices can take to promote the meaningful engagement of overburdened communities in the permitting process, but is particularly interested in comments addressing the following questions:

- Has EPA identified the appropriate agency-wide guidelines to inform the development of regional implementation plans? What other guidelines should EPA consider that provide both agency-wide consistency and regional flexibility in promoting the meaningful engagement of overburdened communities in the permitting process?
- What criteria should regional offices use to prioritize permits for enhanced outreach?
- For priority permits, has EPA identified the appropriate activities that regional offices can take to promote the greater involvement of overburdened communities in the permitting process? What other activities should EPA consider?
- Based on experiences you have had in the permitting process, what lessons have you learned that can be applied to improve the agency-wide guidelines or the regional implementation plans?

III. Draft Best Practices for Permit Applicants Seeking EPA-Issued Permits: Ways To Engage Communities at the Fence-Line

Even though EPA is the permitting authority for EPA-issued permits, both the permit applicant and the potentially affected community are also key stakeholders in the permit process. Therefore, EPA engaged in extensive outreach to these stakeholders, and in particular the business community, on how to meaningfully engage fence-line communities in the permitting process. Business leaders on environmental justice issues shared their experiences and insights with EPA. EPA learned that if a permit applicant engages a community early and maintains that conversation, a partnership can form that facilitates the exchange of information and provides the foundation for dialogue on issues that may arise during the permitting process.

Such engagement may be especially beneficial with communities that have historically been underrepresented in the permitting process and that potentially bear a real or perceived disproportionate burden of an area's pollution. EPA learned from its conversations with business stakeholders that dialogue with the community early in the permitting process promotes reasonable expectations among the public and, therefore, more predictable outcomes for the permit applicant. EPA also learned that permit applicants that invest in outreach may avoid the costs of delay, negative publicity among peers and investors, and community distrust resulting from a community objecting to a permit late in the permitting process.

EPA believes that a facility that believes in environmental stewardship in all its dimensions and that acts consistently with that belief, including accountability to the neighboring community, may achieve more environmental good than any permit can compel. Reducing treatment failures, spills or other incidents becomes a source of organizational pride when the trends—and the facility's response and prevention strategies—are publicized within the community. These practices also make good business sense because facilities save energy, devise new technologies, reduce the rate of equipment failures, and develop cleaner products, among other things. This ethic of corporate responsibility—more than any permit—can improve the environment at the fence-line and far beyond. Engaging meaningfully with the local community is another facet of responsible corporate citizenship that achieves environmental results. EPA believes that a partnership with the community can lead to more informed permits, resulting in better outcomes for the permit applicant as well as the community that has a stake in the success of the facility.

In order to maximize the benefits of community engagement, and conserve the limited resources of both the permit applicants and the communities for outreach, EPA has identified what it considers to be effective communication practices and strategies that permit applicants can employ to meaningfully involve communities in the permitting process. EPA gathered these practices and strategies from numerous conversations with environmental justice stakeholders, members of the business community, state, local and tribal governments and communities, non-governmental organizations, and the NEJAC. Based on these conversations, EPA has developed and solicits comment on the Draft Best Practices for Permit Applicants Seeking EPA-Issued Permits: Ways to Engage Communities at the Fence-line. (See appendix.)

EPA hopes that these best practices, once finalized, will inform businesses and other participants in the permitting process of some effective techniques for

meaningfully engaging overburdened communities in the permitting process for EPA-issued permits. The final document would supplement existing guidance and recommendations issued by permitting authorities, including state and local agencies.

The draft best practices presented here are designed to foster emerging leadership among permit applicants operating (or proposing to operate) facilities in overburdened communities. EPA emphasizes that no permit applicant will be required to follow these suggestions. To the contrary, EPA will continue to evaluate permit applications solely based on applicable regulations.

EPA welcomes all comments on these draft best practices for permit applicants. EPA is particularly interested in comments addressing the following questions:

- What different or additional activities could permit applicants employ in the permitting process to meaningfully involve overburdened communities?
- Based on experiences you have had in the permitting process, what lessons have you learned or successful approaches you have employed that can be used by EPA to improve the best practice recommendations for permit applicants?
- How can EPA ensure that communities are aware of the opportunity to have a two-way dialogue with permit applicants through the ideas provided here?

IV. Conclusion

EPA looks forward to considering suggestions and comments received in response to this notice. EPA hopes the creation of agency-wide guidelines and the development of regional implementation plans, as well as the presentation of best practices for permit applicants, will increase the meaningful participation of overburdened communities in the permitting process for EPA-issued permits. Although meaningful involvement in the permitting process may not always lead to reduced environmental impacts, EPA believes that every time an EPA permit writer or a permit applicant acknowledges a concern that would not have been aired but for enhanced outreach, communities and the permit applicant benefit. EPA further believes that every time this enhanced outreach leads to a feasible solution to an issue of interest to the community, all stakeholders benefit.

Dated: June 15, 2012.

Janet McCabe,

Principal Deputy Assistant Administrator, Office of Air and Radiation.

Appendix

Best Practices for Permit Applicants Seeking EPA-Issued Permits: Ways To Engage Communities at the Fence-Line

I. Introduction

Achieving environmental justice is an integral part of EPA's mission to protect human health and the environment. One way EPA promotes environmental justice is to ensure that individuals in all parts of society have access to information sufficient to help them participate in EPA decision-making.

EPA decision-making takes many forms. These best practices focus on the permitting process, through which EPA authorizes industrial and municipal facilities to release pollutants into the environment at levels intended to meet applicable standards.

By soliciting public comment prior to issuing environmental permits, EPA plays an important role in bringing communities and other members of the public into the permitting conversation. But the best time to achieve positive, collaborative dialogue is before the permit is drafted, even before a permit application is filed. And the key players are not EPA but rather permit applicants and members of the neighboring community. Both sets of individuals have a long-term stake in the health of the community and the success of the company or enterprise.

Information is critical at this early stage in the permitting process, and the permit applicant has access to the information that can create a constructive dialogue throughout the permitting process. The permit applicant also has an interest in being a good neighbor to the community on the other side of the facility's fence. EPA believes that many applicants for EPA-issued permits are employing practices to be good neighbors. These best practices are designed to help a permit applicant to apply its good neighbor values to the permitting process, with an emphasis on ways to reach out effectively to the community at the fence-line.

EPA encourages all permit applicants to experiment with these practices; all neighborhoods and communities will benefit when a facility reaches out as part of its environmental permitting process. This document emphasizes communities at the fence-line because, for the vast majority of permits, communities most proximate to a facility are likely to be the most impacted by a permitting decision. For some permits, however, the communities most impacted by a permitting decision may exist beyond the fence-line. EPA encourages permit applicants for such permits to make efforts to engage the communities that are likely to experience public health or environmental impacts by their permitted activities. These practices also have particular value in overburdened neighborhoods that have been historically underrepresented in the permitting process and may face barriers to participation in the permitting process, such as include lack of trust, lack of awareness or information, language barriers, and limited access to technical and legal resources.

While EPA will evaluate a permit application based solely on the applicable regulations, permit applicants are encouraged to employ the suggestions in these best practices. EPA hopes that these best practices—which emerged from EPA's conversations with a host of community, permit applicants and government stakeholders—will help applicants for EPA-issued permits to seize a leadership role in this important area and, in doing so, demonstrate publicly that the core values on their Web sites do indeed influence corporate behavior.

II. The Purpose of Best Practices

The purpose of these best practices is to publicize the good neighbor practices already employed by permit applicants across the country and to encourage their greater use. Many of these practices are quite simple. The best practices can help build trust, promote a better understanding in the community of the facility's environmental impacts, foster realistic expectations and help build strong partnerships that will lead to better results for all parties. Investing in communities is a cost-effective strategy. EPA encourages permit applicants to make each of its facilities a good neighbor to the communities at their fence-line. EPA hopes that the best practices will help companies think of ways to engage the communities at their fence-lines and, in doing so, become better neighbors.

III. Why is EPA Providing Best Practices to Permit Applicants?

Industrial facilities are important members of the communities in which they are located. In addition to their important role as a source of employment and economic stability within a community, facilities play other roles. Many facilities, for example, have robust community engagement strategies that recognize the value of community outreach. Pursuant to these strategies, facilities engage actively with the community through environmental initiatives, neighborhood beautification projects, education programs and charitable giving, civic programs and the arts, youth activities, and other investments in the community. Indeed, many companies and public authorities embody these principles in their mission statements, using words and phrases like collaboration, respect, and building mutually beneficial relationships. Some even aspire to measure their own success by the success of their customers, shareholders, employees and communities. In short, a corporate culture is emerging in this Nation that values and actively promotes community partnerships.

EPA recognizes that many permit applicants already practice community outreach. These best practices are meant to encourage those leaders to continue their efforts. EPA hopes that the best practices will persuade those who are new to these ideas to experiment with this form of leadership, and to provide helpful suggestions for those seeking greater direction. Indeed, engaging with their communities as described here is consistent with many permit applicants' core

values. These principles, practices and values lead to corporate sustainability, stability and—ultimately—profitability.

Early and meaningful dialogue between the permit applicant and the community is especially important in overburdened communities that have historically been underrepresented in the permitting process and that potentially bear a real or believed disproportionate burden of an area's pollution. Meaningful dialogue promotes environmental justice. EPA strongly encourages applicants for EPA-issued permits to engage in public outreach to the neighboring community whenever the facility's pollutant releases have—or may be perceived to have—potential health and environmental impacts on overburdened communities. This approach is consistent with EPA's objectives under Plan EJ 2014, which promotes meaningful involvement of the affected community in the permitting process.

EPA believes these best practices can foster a smoother and faster permitting process. This outcome is in everyone's interest—EPA, permit applicants and communities alike. The permit applicant and EPA have an interest in an efficient permitting process. The permit applicant wants permission to make operational improvements or construct a new facility. The permitting authority wants to efficiently issue a permit that comports with the law and accounts for public comment. The community at the very least wants the assurance that, through appropriate permit terms and conditions, the permit applicant accepts responsibility for appropriately controlling its pollutant releases and keeps the community informed of its control successes (and failures). These interests, while different, do not conflict. Conversations between the permit applicant and the community *before the permit application is filed* can help launch the permit process in a way that achieves all of these interests, with minimum conflict and delay. This could result in a more expeditious permitting process.

Engagement early can also yield a less contentious permitting process. It seems axiomatic that no community welcomes one more source of pollution, especially when the community already feels aggrieved by past siting decisions. When the new project accelerates a transition to cleaner energy or achieves another important environmental objective with benefits beyond the local community, interests may seem to collide. Early meaningful dialogue can help sort out the interests, encourage a permit applicant to accept responsibility for *its* impacts, and perhaps find low-cost ways valuable to the community by which the permit applicant can voluntarily mitigate environmental burdens. A community is less likely to hold a new project responsible for past unrelated actions if the permit applicant accepts responsibility for its own actions and is willing to help make community life better.

IV. How Can a Permit Applicant Enhance its Outreach to a Fence-Line Community?

There are many ways that a facility can enhance its outreach to a community. Whatever degree of outreach a facility chooses to employ, the following best practices are designed to help both the permit applicant and the surrounding communities get a reasonable return on their investment of time, energy and other resources. EPA gathered these ideas from permit applicants that have employed them, but the permit applicant and the affected community are in the best position to determine what engagement strategy is most appropriate for their particular circumstances.

1. Think Ahead

Before deciding whether to undertake special efforts to reach out to the neighboring community regarding a permit application, a permit applicant may want to ask itself the following types of questions. The answers to these questions may help the permit applicant decide what kind of community engagement will make sense under the circumstances.

- Would the new permit introduce new or additional pollutants to the fence-line community?
- Is the fence-line community already exposed to pollutants originating from other facilities?
- How will changes at the facility site affect the quality of life in the fence-line community, independent of the pollutants released?
- Is the proposed pollutant release—or associated activity—likely to cause concern in the community?
- If a risk assessment has been performed for the community, what does it say? What does the community think it says?
- What direction do the permit applicant's published core values offer?

Some laws, such as the Resource Conservation and Recovery Act, require permit applicants to reach out to the neighboring community before applying for a permit. In most cases, however, the decision on whether to engage in pre-application outreach is committed to the permit applicant's good judgment. (See Section V below for a discussion of the benefits to permit applicants when they engage the community as part of permit applications.) But whatever way a permit applicant chooses to engage the neighboring community, its outreach activities should be proportional to the actual or perceived impact the facility's proposed permitting action would have upon the community. In other words, permitting actions that may have a significant impact on the community may justify more extensive outreach than permits likely to have fewer impacts. Engaging the community early in the permitting process can help a permit applicant gauge the level of outreach appropriate to the community's concerns.

A public participation plan can be a useful tool for permit applicants engaged in outreach on permit actions. A public participation plan is one way to organize all of the permit applicant's outreach activities and to communicate those activities to the community.

EPA also recognizes that a permit applicant, despite its planning and execution, might not elicit community interest in its project. For example, few people might attend meetings or visit the plant for tours. Before concluding that the community is uninterested in the project, the company may want to explore whether its engagement efforts were sufficiently tailored for the community. Other factors, such as lack of awareness of the engagement opportunity or the timing of the opportunity, may not have afforded the community a meaningful chance to attend. If the permit applicant's efforts to engage the community are made in good faith and are sufficiently tailored for the community, this will go a long way toward building trust.

2. Engage Community Leaders

One of the best ways to promote early and meaningful engagement between a permit applicant and the surrounding community is by creating a community environmental partnership. The key is to assemble the *right* people to be in partnership. EPA has learned from stakeholders that the first step in meaningful engagement is the cultivation of a trusting relationship among participating individuals; doing so will then foster effective relationships among the interests they represent and will help identify their common as well as their unique goals. The following best practices can help a company create a successful community environmental partnership.

- Find out who the established community leaders are, both elected and unelected.
- On tribal lands, work with the tribal government and other contacts to identify tribal community leaders to commence outreach and assistance to tribal communities.
- Identify people who collectively understand the needs (and aspirations) of *local* stakeholders (permit applicant, community, environmental groups, academic, etc.)
- Recruit stakeholder representatives who have strong interpersonal skills and are willing to:
  - Seek common interests;
  - Cultivate a trusting relationship
- Engage with diverse leadership so that many views can be brought into the dialogue. Successful partnerships have a variety of *local* perspectives, including:
  - Grassroots organizations and leaders
  - Faith community leaders
  - Tribal government and community representatives
  - Academic institutions
  - State, county or local governments
  - Environmental groups
  - Health organizations
  - Permittees, including, ideally, the facilities in the neighborhood that engage in activities that generate pollution.

Text Box 1: Community Advisory Councils, such as The Deer Park Community Advisory Council (DPCAC, *http://www.deerparkcac.org/*) provide a ''forum for an open and frank mutual exchange of ideas between representatives of the local community and industry.'' These groups engage in frequent dialogue to help build understanding between industry and community.

- Foster sustained involvement by the participants; relationships are created

between individuals, not the positions they hold.

3. Engage Effectively

As is the case with any relationship, predictable and ongoing interactions are key to a strong partnership between a permit applicant and community. A permit applicant engaging a community early in the permitting process, or even before the formal permitting process begins through pre-application meetings, can lay the foundation for a positive relationship with a community. In addition to early engagement, holding regularly scheduled meetings throughout the permitting process can build on that earlier outreach, further fostering the relationship between the community and permit applicant.

The following best practices can help the permit applicant engage effectively with the community.

- If a public participation plan describing outreach activities was developed, make it available to the public as a sign of the permit applicant's intention to engage meaningfully with the community.
- Invite community members and leaders to comment on community outreach plans and processes, and give feedback on what is working and lessons learned.
- Discuss project plans and potential impacts as early in the planning process as possible, even if the permit applicant can speak only in general terms.
  - If the permit applicant is unsure about potential impacts, it is better to acknowledge this fact; denying the existence of potential impacts can undermine credibility and trust.
  - Encourage input from the community on their concerns about particular impacts early in the planning stages.
- Provide progress or status reports
- Invite members of the community and community leaders for regular tours of the facility, especially when the facility is planning to change a process that might affect the community.
- Consider investing time in public education, e.g., by hosting one or two day public information sessions with posters and kiosks dedicated to specific topics, with discussions led by facility personnel who are both familiar with the subject *and* capable of effective discussion with the public (conversational tone, not defensive, non-technical language, etc.)

4. Communicate Effectively

Permit applicants may need help to determine the most effective and appropriate methods for informing and receiving input from the community. Community leaders can provide this help. For example they can identify commonly spoken languages and any language barriers or Limited English Proficiency within the fence-line. They can also help identify which media outlets (radio, newspaper, church bulletins), outreach methods (knocking door-to-door, using social media, texting, phoning, putting up fliers) and outreach materials (brochures, fact sheets, postcards, letters) will be most effective in communicating with the community. Community leaders can also help to create more effective opportunities to receive information from the public (individual/small/large/public/private meetings, anonymous hotlines, solicitation of written comments). Every community is different, so permit applicants that listen to their community's advice and involve them in their outreach efforts have a greater chance of a successful outcome.

A key component of effective communication is creating an environment for all stakeholders to meaningfully participate in a dialogue. Good ideas, including ideas that are good for the permitted enterprise or business, can come from many sources. By meaningfully engaging with the community potentially affected by an environmental permit, a permit applicant may acquire a better sense of a community's true concerns and ways a permit applicant could help alleviate them. Transparency and disclosure of information that may be of interest to a community, such as performance reports, can build trust conducive to meaningful dialogue.

Text Box 2: Alternative Dispute Resolution

The success of pre-application meetings will vary widely depending on the proposed project, the concerns of the community, and the ability of the permit applicant and the community to agree upon potential solutions. Sometimes, conversations between a community and a permit applicant have the potential to be contentious. As such, EPA recommends the use of a professional, trained, neutral facilitator to aid in creating and implementing their outreach strategy. EPA and The U.S. Institute for Environmental Conflict Resolution have designed and initiated The National Roster of Environmental Dispute Resolution and Consensus Building Professionals (*http://roster.ecr.gov/Search.aspx*), which is a resource to identify neutral third parties and connect them with appropriate projects.

EPA recognizes that both permit applicants and the communities have limited resources to engage in dialogue. The following best practices on fostering two-way communication and collaboration between permit applicants and communities, collected from permit applicants and communities, may help permit applicants communicate more effectively and thus efficiently use their resources.

- Set up a hotline for community members to report a problem or concern about the proposed project.
- Identify a single person within the facility to be the liaison that community members can call with concerns or problems.
- Institute regular meetings among all stakeholders
- Consider organizing citizen advisory councils or community environmental partnerships
- Select meeting locations and times that are convenient and comfortable for the community. Follow advice from community leaders to communicate in ways most effective for the community you are trying to reach. Use language and terminology that the community understands, including providing technical data in every-day terms.
- Build in mechanisms for meeting attendees to ask questions, express concerns and propose solutions.
- During the meeting, talk about participants' concerns and questions (rather than simply ''taking note'' of them).
- Recognize that community members may be concerned about a variety of things, within and outside the permit applicant's control, including matters that do not relate to the permit under discussion (e.g., truck routes, delivery times, etc.)
  - Careful listening and an effort to understand the underlying interests behind related and seemingly unrelated complaints might yield a solution that addresses the community's true concerns at a reasonable (or even minimal) cost to the facility.
- Consider using a neutral facilitator to assist in designing an effective public participation process and conduct meetings to encourage all participants (permit applicant and community like) to listen effectively, focus on interests rather than initial positions, and to identify potential solutions.

5. Follow Up

Follow-up can be crucial in building a strong partnership with a community. The repeated interaction that follow-up provides can create a predictable pattern of engagement that is conducive to building trust. When a permit applicant delivers on commitments made during meetings (e.g., to provide additional information) a permit applicant demonstrates responsibility, integrity and commitment to the process. The following best practices can help permit applicants design follow-up activities with communities.

- If the public is invited to comment on plans, discuss the comments with the community after considering them.
  - If a comment is not clear, ask for clarification; do not ignore a suggestion due to a lack of understanding.
  - Report back to the community to let them know how their comments affected the permit applicant's planning or operation.
  - Explain when comments cannot be incorporated into the permit applicant's planned actions.
- Consider using a good neighborhood agreement to memorialize agreements between permit applicants and communities.
- Make environmental performance records available to the community without being asked, especially regarding pollution matters that are important to the community.
- Keep the conversation going even after the permit has been issued; maintaining a collaborative relationship with the community can pay benefits at unexpected times.

V. Return on Investment: Benefits of Outreach to Permit Applicants

EPA recognizes that a permit applicant would need to invest time, energy and money

in order to reach out to the neighboring community. For some permit applicants, ''business as usual'' might appear to be the path of least resistance. But EPA has learned from conversations with permittees that permit applicants that engage in effective outreach with fence-line communities can realize a meaningful return on that investment. The list below reflects these conversations. To further illustrate these ideas, we present text (in italics) from corporate mission statements, lists of corporate values, and annual reports linking these benefits from effective community outreach and engagement to overarching business principles.

1. *The neighborhood has a stake in a permit applicant's success.* Community members are not only neighbors, but also often employees, customers or investors. As such, healthy and sustainable companies directly promote healthy and sustainable communities. That alignment of interests can lead to creative solutions that promote the achievement of mutual economic goals in more sustainable ways. *We are proud of our involvement in the communities where we operate. It's our goal not only to support important projects in the communities where we operate, but also to partner and build relationships where we live and work. We always listen to local needs and find ways to invest that are relevant to our business.*

2. *An environment of trust pays dividends throughout the permit term.* A permit applicant not only applies for a permit but also develops strategies for complying with its requirements. Meaningful public engagement during the permitting process and throughout the permit term can be a thoughtful component of a permit applicant's compliance strategy. Community members often say they have nowhere to turn when they worry about their local environment; a meaningful dialogue with the permit applicant that addresses their concerns can build trust. So, a permit applicant that experiences a failure of its treatment processes—and, in real time, discloses and takes action to remedy the problem—may maintain its reservoir of trust within the community. *We know you have questions; call us.* We believe that people work best when there's a foundation of trust.

3. *Engaging with the community is an effective cost-containment strategy.* Permit applicants that foster meaningful community outreach experience ''costs'' in terms of time, resources energy, and money. But a permit applicant that bypasses outreach incurs costs as well, especially when these choices lead to misunderstandings in the community. Even if the permit is granted, at what cost? Certainly, the permit applicant incurs the cost of delay, negative publicity among peers and investors, and community distrust (even apart from attorneys' fees associated with litigation). Each of these costs has a monetary value and each is potentially avoidable with an upfront investment. Good business sense often dictates a small investment early in order to avert larger costs later. Corporate leaders tell us that meaningful community outreach is no different. *Successful companies engage in long-term planning to achieve strategic goals. Working with the community during project development and implementation is just part of the process.*

4. *Engaging with the community is an effective risk management strategy.* Thoughtful risk-taking is a characteristic of many successful enterprises. A permit applicant engaged in thoughtful risk-taking around a new idea routinely gathers information and critically examines the idea from many perspectives, identifies the range of possible risks, modifies the idea as appropriate to minimize the risks, and then weighs the benefits against the risks that remain. The better a permit applicant anticipates and manages the risks, the more predictable and successful the outcome. Engaging the community early in a permit applicant's decision-making process can be an effective way to manage the risks of a new idea. A permit applicant that is truly open to gathering information, dialogue, and collaboration will find itself with a more predictable operating or business environment, reduced conflict, and, frequently, an outcome that achieves greater operational efficiency and community support. Its risk-taking is thoughtful because it identifies, analyzes and manages its risks. Permit applicants that are thoughtful risk-takers recognize that having an engaged and informed community as an ally promotes reasonable expectations among the public and, therefore, more predictable outcomes. *We practice humility and intellectual honesty. We consistently seek to understand and constructively deal with reality in order to create value and achieve personal improvement.*

5. *A permit applicant that engages meaningfully with a community is more likely to be considered a good neighbor.* A permit applicant is more likely to be seen as a good neighbor by a community when it makes efforts to engage and build a relationship with the community. Having treated the community as a good neighbor, the permit applicant is more likely to be treated as a good neighbor in return by the community. A community that understands the actual impacts a facility has on the neighborhood and trusts the facility to behave responsibly may also be less likely to hold the facility responsible for other facilities' pollution. *We are committed to improving our environmental performance: we track our progress and report our results to the public.*

6. *Investors prefer good corporate citizens.* Even if a permit applicant survives a dispute with a community over a new project and obtains the necessary environmental permits, investors may well inquire whether that costly battle could have been avoided. Indeed, some investors might even wonder whether the permit applicant's inadequate response to the neighboring community's concerns signals a lack of corporate responsibility, values-based leadership, or long-term strategic thinking that is important in other areas of the business. Leaders in this area say: *It is more important than ever that we continually earn investor confidence. We will do this by remaining a leader in good corporate governance and providing clear, consistent, and truthful communication about our performance.*

Text Box 3: Collaborations in Chester, Pennsylvania

Since the early 1990s, US EPA Region III has been working closely with the community and residents of Chester. With effective collaborations and partnerships, the City of Chester and its residents have successfully worked with local business and industry, government, and academia. These community-driven partnerships have led to increased awareness of environmental justice within the City of Chester.

When citizens first raised their Environmental Justice concerns to EPA Region III, the regional Office took action by establishing a dialogue with the citizens, PADEP, PADOH, and a number of local businesses in an effort to bring greater understanding and resources to the issues and concerns. EPA Region III, PADEP, and PADOH were active in working with the community and the other partners to address the issues that had been raised. The 1995 EPA Chester Risk Study not only looked at community risk and environmental concerns, but opened dialogues among the partners, and led to the formation of a number of workgroups. The workgroups then undertook on-the-ground actions to address some of the local concerns. PADEP provided an onsite inspector for the City of Chester. EPA and PADEP continued their dialogue on Environmental Justice, holding a number of joint meetings on the issues.

Covanta Energy applied for permits to operate in Chester, and the citizens raised their concerns to Region III and PADEP. PADEP hosted a series of meetings between the citizens and the company. From these collaborative discussions, the Chester residents' concerns were heard and considered, and an agreement was reached that allowed for the citizens and the company to have their needs met. Covanta continues to work proactively with the citizens in a productive and successful partnership, primarily through a citizen-led community organization called the Chester Environmental Partnership, founded and chaired by Reverend Dr. Horace Strand. The residents and other community stakeholders, including Covanta, have worked together in a primarily cooperative fashion to effect change and environmental improvement in Chester. The Chester Environmental Partnership works to bring about environmental improvement and growth by bringing all parties to the table—industry, government, non-government organizations, and the citizens—to have face to face dialogue on issues of concern. Covanta has taken an active partnership role in CEP. The ongoing dialogue and ground work of the partnership is a hallmark of these collaborative efforts and reflects a community-driven model that has produced positive results for Chester and its neighbors.

Conclusion

The best practices are a starting point intended to initiate partnerships between communities and permit applicants. EPA believes that a permit applicant that follows the best practices will take an important step on the path to building a fruitful and cooperative relationship with the community

on environmental issues. EPA also believes that a permit applicant's efforts to meaningfully engage an overburdened community are an important way to promote environmental justice. EPA agrees with the message that many stakeholders send: collaborations between permit applicants and the surrounding neighborhoods achieve greater environmental protections, more profitable operations, and more sustainable communities.

[FR Doc. 2012–15605 Filed 6–25–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9693–1]

Proposed Consent Decree

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed consent decree; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended (''Act''), notice is hereby given of a proposed consent decree to resolve two lawsuits filed by various parties and consolidated in the United States District Court for the District of Columbia. Plaintiffs filed the lawsuits under the Act alleging that EPA has violated a nondiscretionary duty under the Clean Air Act, to complete a five-year review of the national ambient air quality standards (''NAAQS'') for particulate matter. Under the terms of the proposed consent decree, EPA agrees that no later than December 14, 2012, EPA shall sign a notice of final rulemaking setting forth its final decision concerning its review of the NAAQS for particulate matter and promulgating such revisions to the NAAQS and/or promulgating such new NAAQS as may be appropriate.

DATES: Written comments on the proposed settlement agreement must be received by July 26, 2012.

ADDRESSES: Submit your comments, identified by Docket ID number EPA–HQ–OGC–2012–0474, online at *www.regulations.gov* (EPA's preferred method); by email to *oei.docket@epa.gov;* by mail to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD–ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: Steven Silverman, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone: (202) 564–5523; fax number (202) 564–5603; email address: *silverman.steven@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Additional Information About the Proposed Consent Decree

This proposed consent decree would potentially resolve lawsuits consolidated in the United States District Court for the District of Columbia that were filed by the following plaintiffs: American Lung Association and National Parks Conservation Association (Civil Action No. 1:12–cv–00243–RLW), and the State of New York, et al. (Civil Action No. 1:12–cv–00531–RLW). Plaintiffs filed the lawsuits under the Act alleging that EPA has violated a nondiscretionary duty under the Clean Air Act, 42 U.S.C. 7409(d)(1), to complete a five-year review of the NAAQS for particulate matter. Under the terms of the proposed consent decree, EPA agrees that no later than December 14, 2012, EPA shall sign a notice of final rulemaking setting forth its final decision pursuant to 42 U.S.C. 7409(d)(1) concerning its review of the NAAQS for particulate matter and promulgating such revisions to the NAAQS and/or promulgating such new NAAQS as may be appropriate in accordance with 42 U.S.C. 7408 and 7409(b); that EPA shall seek expedited publication in the **Federal Register** of the notice of final rulemaking; and shall establish the effective date of the final decision such that any final rule shall become effective, barring intervening congressional or judicial action, on the earliest date that complies with the Congressional Review Act, 5 U.S.C. 801 *et seq.*

For a period of thirty (30) days following the date of publication of this notice, the Agency will accept written comments relating to the proposed consent decree from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines, based on any comment submitted, that consent to this decree should be withdrawn, the terms of the consent decree will be affirmed.

II. Additional Information About Commenting on the Proposed Consent Decree

A. How can I get a copy of the proposed consent decree?

The official public docket for this action (identified by Docket ID No. EPA–HQ–OGC–2012–0474) contains a copy of the proposed consent decree. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

An electronic version of the public docket is available through *www.regulations.gov.* You may use the *www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select ''search''.

It is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at *www.regulations.gov* without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and to whom do I submit comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an email address or other contact information in the body of your comment and with any disk or CD ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the *www.regulations.gov* Web site to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an ''anonymous access'' system, which means EPA will not know your identity, email address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (email) system is not an ''anonymous access'' system. If you send an email comment directly to the Docket without going through *www.regulations.gov,* your email address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: June 19, 2012.

Lorie J. Schmidt,

Associate General Counsel.

[FR Doc. 2012–15603 Filed 6–25–12; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection Approved by the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice of public information collection approved by the Office of Management and Budget.

SUMMARY: The Federal Communications Commission has received the Office of Management and Budget (OMB) approval for the following public information collection(s) pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). An agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number, and no person is required to respond to a collection of information unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT: Jane C. Kelly, *Jane.Kelly@fcc.gov,* or by phone on (202) 418–2832.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1003.

OMB Approval Date: June 8, 2012.

Expiration Date: June 30, 2015.

Title: Communications Disaster Information Reporting System (DIRS).

Form No.: Not applicable.

Number of Respondents/Responses: 6,750 respondents; 6,750 responses.

Estimated Time per Response: 0.1–0.50 hours.

Total Annual Burden: 4,725.

Total Annual Cost: None.

Obligation To Respond: Voluntary. The statutory authority for this collection is contained in 47 U.S.C. 154(i), 218, 303(r) of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: The Commission acknowledges and agrees that is consistent with the primary objective of the DIRS to treat filings as confidential. We will work with respondents to ensure that their concerns regarding the confidentiality of DIRS filings are resolved in a manner consistent with Commission rules.

Needs and Uses: The Commission submitted this information collection to the Office of Management and Budget (OMB) as a revision and received a three year approval from OMB for the collection.

In response to the events of September 11, 2001, the Federal Communications Commission (Commission or FCC) created an Emergency Contact Information System to assist the Commission in ensuring rapid restoration of communications capabilities after disruption by a terrorist threat or attack, and to ensure that public safety, public health, and other emergency and defense personnel have effective communications services available to them in the immediate aftermath of any terrorist attack within the United States. The Commission submitted, and OMB approved, a collection through which key communications providers could voluntarily provide contact information.

The Commission's Public Safety and Homeland Security Bureau (PSHSB) updated the Emergency Contact Information system with a Disaster Information Reporting System (DIRS) that uses electronic forms to collect Emergency Contact Information forms and through which participants may inform the Commission of damage to communications infrastructure and facilities and may request resources for restoration. The Commission updated the process by increasing the number of reporting entities to ensure inclusion of wireless, wireline, broadcast, cable and satellite communications providers.

In recent years, communications have evolved from a circuit-switched network infrastructure to broadband networks. The Commission is seeking to extend the Disaster Information Reporting System to include interconnected Voice over Internet Protocol and broadband Internet Service Providers. Increasing numbers of consumers, businesses, and government agencies rely on broadband and interconnected VoIP services for everyday and emergency communications needs, including vital 9–1–1 services. It is therefore imperative that the Disaster Information Reporting System be expanded to include these new technologies in order for the Commission the gain an accurate picture of communications landscape during disasters. Therefore, the Commission has revised its DIRS screen shots and is including a copy of the DIRS user manual for which the Commission has received OMB approval on June 8, 2012.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2012–15589 Filed 6–25–12; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[AU Docket No. 12–25; DA 12–947]

Mobility Fund Phase I Auction Supplemental Short-Form Instructions and Other Information

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Commission's Wireless Telecommunications and Wireline

Competition Bureaus provide supplemental filing instructions for the Mobility Fund Phase I Auction for completing FCC Form 180, announce the availability of certain updated files and provide other information regarding Auction 901.

DATES: Short-Form applications are due prior to 6 p.m. on July 11, 2012.

FOR FURTHER INFORMATION CONTACT: Wireless Telecommunications Bureau, Auctions and Spectrum Access Division: For Mobility Fund Phase I supplemental filing instructions: Lisa Stover at (717) 338–2868.

SUPPLEMENTARY INFORMATION: This is a summary of the *Mobility Fund Phase I Supplemental Public Notice* (Supplemental Filing Instructions Public Notice) released on June 15, 2012. The *Supplemental Filing Instructions Public Notice* and its associated attachment as well as related Commission documents may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone 202–488–5300, fax 202–488–5563, or you may contact BCPI at its Web site: *http://www.BCPIWEB.com.* When ordering documents from BCPI, please provide the appropriate FCC document number, for example, DA 12–947. The *Supplemental Filing Instructions Public Notice* and related documents also are available on the Internet at the Commission's Web site: *http://wireless.fcc.gov/auctions/901/* or by using the search function for AU Docket No. 12–25 on the Commission's Electronic Comment Filing System (ECFS) Web page at *http://www.fcc.gov/cgb/ecfs/.*

1. On May 2, 2012, the Wireless Telecommunications Bureau and Wireline Competition Bureau (the Bureaus) announced the procedures for the Mobility Fund Phase I auction scheduled for September 27, 2012 (Auction 901). The Bureaus provide supplemental filing instructions for completing FCC Form 180, announce the availability of certain updated files, and provide additional information regarding certain details of Auction 901.

Short-Form Application (FCC Form 180) Filing Instructions

2. In the *Auction 901 Procedures Public Notice,* 77 FR 32092, May 31, 2012, the Bureaus provided general instructions for completing FCC Form 180 and stated that they would provide additional information about accessing, completing, and viewing the FCC Form 180 in a separate public notice. The instructions provided in Attachment A to the *Supplemental Filing Instructions Public Notice* supplement those contained in the *Auction 901 Procedures Public Notice.*

Updated Files

3. In the *Auction 901 Procedures Public Notice,* the Bureaus identified census blocks eligible for the Mobility Fund Phase I support to be offered in Auction 901. The Bureaus also released files containing detailed information about these census blocks. In the *Auction 901 Additional Data Formats Public Notice,* (DA 12–721 released May 8, 2012) the Bureaus announced the availability of an additional file with information about the biddable geographic areas for Auction 901. In the *Supplemental Filing Instructions Public Notice*, the Bureaus announce the availability of updated versions of some of these files, which are available via the link for *Attachment A Files* at *http://wireless.fcc.gov/auctions/901/.* Specifically, the *Biddable Items* file, the *All Eligible Census Blocks* file, and five of the state spreadsheets have been updated. In the *Biddable Items* file, the header of one of the columns has been changed from *Pop10* to *Population,* and the header of another column has been changed from *Tribal Area* to *Tribal Land.* These changes were made to be more consistent with how the data will be presented in the FCC Auction System. Additionally some of the entries in the *Tribe* and *Tribal Land* columns have been changed. In the previous version of the file, the name of any tribe or Tribal land that should have included an apostrophe erroneously included two apostrophes. The new file fixes this.

4. The apostrophe anomaly also affected the *All Eligible Census Blocks* file and five of the state spreadsheets. Consequently, the *All Eligible Census Blocks* file and the state spreadsheets for Alaska, Arizona, Idaho, Michigan, and Montana have been revised.

Additional Details for Determining Winning Bids

5. In the *Auction 901 Procedures Public Notice,* the Bureaus described the approach they would use to determine winning bids, including procedures to ensure that at most one bid per geographic area is awarded, the use of random numbers to address tied bids, and the Bureaus procedures when remaining funds are insufficient to support the next lowest bid. The Bureaus clarify those procedures, in particular with respect to the Bureaus use of random selection numbers, so that funds may be used to support new service to as many road miles as possible within the Bureaus' $300 million budget.

6. For each submitted bid, the Bureaus will assign a random selection number, which they will use in two ways: To break any tied bids for the same area, and to establish an order in which they will assign bids with the same dollars per road mile amount for different areas when the remaining funds are insufficient to award support to all the bids in that amount. The Bureaus will also calculate a gross dollar support amount associated with the bid, equal to the gross bid amount times the number of qualifying road miles in the area. To ensure that they award support to at most one bid per geographic area, the Bureaus will first compare net bids (taking into account bidding credits where applicable) for each biddable area, and for each area, retain the lowest net bid for further consideration. If there are ties for the lowest bid for an area, the Bureaus will retain the bid with the highest selection number.

7. To select winning bids, the Bureaus will then compare the retained bids for all areas by sorting them in ascending order of net bid amount (dollars per road mile) and descending order of selection number. The Bureaus will award support to bids in this order, starting with the lowest bid/highest selection number, as long as remaining funds are sufficient to cover the gross dollar support amount of the bid. If a bid cannot be awarded because its gross dollar support would exceed the remaining funds, the Bureaus will skip the bid and consider the next lowest bid/highest selection number, awarding as much support as possible within the Bureaus' $300 million budget.

Federal Communications Commission.

Gary Michaels,

Deputy Chief, Auctions and Spectrum Access Division, WTB.

[FR Doc. 2012–15458 Filed 6–25–12; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MEDIATION AND CONCILIATION SERVICE

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Notice of request for renewal of previously approved collection form FMCS F–7.

SUMMARY: The Federal Mediation and Conciliation Service (FMCS) invites

comments about our intention to request the Office of Management and Budget (OMB) to approve the renewal of the Notice to Mediation Agencies Form (FMCS Form F–7; OMB control number 3076–0004). The request will seek a three-year extension. There are no changes being submitted with this request. FMCS is soliciting comments on specific aspects of the collection as described below.

DATES: Comments must be submitted on or before August 27, 2012.

ADDRESSES: Submit written comments by mail to the Office of Arbitration Services, Federal Mediation and Conciliation Service, 2100 K Street NW., Washington, DC 20427 or by contacting the person whose name appears under the section titled **FOR FURTHER INFORMATION CONTACT**. Comments may be submitted also by fax at (202) 606–3749 or electronic mail (email) to *arbitration@fmcs.gov.* All comments must be identified by the appropriate agency form number. No confidential business information (CBI) should be submitted through email. Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of the information as ''CBI''. Information so marked will not be disclosed but a copy of the comment that does contain CBI must be submitted for inclusion in the public record. FMCS may disclose information not marked confidential publicly without prior notice. All written comments will be available for inspection in Room 704 at the Washington, DC address above from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Vella M. Traynham, Director of Arbitration Services, FMCS, 2100 K Street NW., Washington, DC 20427. Telephone (202) 606–5111; Fax (202) 606–3749.

SUPPLEMENTARY INFORMATION: Copies of the Notice to Mediation Agencies (FMCS Form 7; OMB control number 3076–0004) are available from the Office of Arbitration Services by calling, faxing or writing to Vella M. Traynham at the address above. Please ask for the form by title and agency form number.

I. Information Collection Requests

FMCS is seeking comments on the following Information Collection Request (ICR).

Title: Notice to Mediation Agencies; FMCS Form F–7; OMB No. 3076–0004; Expiration date: October 1, 2012.

Type of Request: Request for Renewal of a previously approved notice without changes in the collection.

Affected Entities: Parties affected by this information collection are private sector employers and labor unions involved in interstate commerce who file notices for mediation services to the FMCS.

Frequency: Parties complete this form once, which is at the time of an impending expiration of a collective bargaining agreement.

Abstract: Under the Labor Management Relations Act of 1947, 29 U.S.C. 158(d), Congress listed specific notice provisions so that no party to a collective bargaining agreement can terminate or modify a collective bargaining contract, unless the party wishing to terminate or modify the contract sends a written notice to the other party sixty days prior to the expiration date (29 U.S.C. 158(d)(1)), and offers to meet and confer with the other party for the purpose of negotiating a new or modified contract (29 U.S.C. 158(d)(2)). The Act requires that parties notify FMCS within thirty days after such notice of the existence of a bargaining dispute (29 U.S.C. 158(d)(3)). The 1974 amendments to the National Labor Relations Act extended coverage to nonprofit health care institutions, including similar notices to FMCS. 29 U.S.C. 158(d) and (g). To facilitate handling around 14,400 notices a year, FMCS created information collection form F–7. The purpose of this information collection activity is for FMCS to comply with its statutory duty to receive these notices, to facilitate assignment of mediators to assist in labor disputes, and to assist the parties in knowing whether or not proper notice was given. The information from these notices is sent electronically to the appropriate field manager who assigns the cases to a mediator so that the mediator may contact labor and management quickly, efficiently, and offer dispute resolution services. Either party to a contract may make a request in writing for a copy of the notice filed with FMCS. Form F–7 was created to allow FMCS to gather desired information in a uniform manner. The collection of such information, including the name of the employer or employer association, address and phone number, email address, official contact, bargaining unit and establishment size, location of affected establishment and negotiations, industry, union address, phone number, email address and official contact, contract expiration date or renewal date, whether the notice is filed on behalf of the employer or the union, and whether this is a health care industry notice is critical for reporting and mediation purposes.

Burden Statement: The current annual burden estimate is approximately 14,400 respondents. The annual hour burden is estimated at 2,400 hours, approximately 10 minutes for each notice to fill out a one-page form.

II. Request for Comments

FMCS solicits comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information to be collected will have practical utility.

(ii) Enhance the accuracy of the agency's estimates of the burden of the proposed collection of information.

(iii) Enhance the quality, utility, and clarity of the information to be collected.

(iv) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic collection technologies or other forms of information technology.

III. The Official Record

The official record is the paper electronic record maintained at the address at the beginning of this document. FMCS will transfer all electronically received comments into printed-paper form as they are received.

Dated: June 21, 2012.

Jeannette Walters-Marquez,

Attorney-Advisor.

[FR Doc. 2012–15532 Filed 6–25–12; 8:45 am]

BILLING CODE 6732–01–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 application also will be available for inspection at the offices of the Board of Governors. Interested

persons may express their views in writing on the standards enumerated in the 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 July 21, 2012.

A. Federal Reserve Bank of Dallas (E. Ann Worthy, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Carlile Bancshares, Inc., Fort Worth, Texas, to acquire 100 percent of the common stock of Washington Investment Company, and thereby indirectly acquire Colorado Community Bank, both of Yuma, Colorado. Applicant also has applied to acquire Colorado Front Range Holdings, Inc., Yuma, Colorado, and thereby engage in lending activities pursuant to section 225.28 (b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System.

Dated: June 21, 2012.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2012–15516 Filed 6–25–12; 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 July 21, 2012.

A. Federal Reserve Bank of Dallas (E. Ann Worthy, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Odessa SouthWest Bancshares, Inc., Odessa, Texas,* to become a bank holding company by acquiring 100 percent of SouthWest Bank, Odessa, Texas.

Board of Governors of the Federal Reserve System.

Dated: June 21, 2012.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2012–15517 Filed 6–25–12; 8:45 am]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0044; Docket 2012–0001; Sequence 8]

Public Buildings Service; Information Collection; GSA Form 3453, Application/Permit for Use of Space in Public Buildings and Grounds

AGENCY: Public Buildings Service, GSA.

ACTION: Notice of request for comments regarding 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 to review and approve an extension of a previously approved information collection requirement regarding GSA Form 3453, Application/Permit for Use of Space in Public Buildings and Grounds.

Public comments are particularly invited on: Whether this collection of information is necessary and whether it 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.

DATES: Submit comments on or before: August 27, 2012.

FOR FURTHER INFORMATION CONTACT: Ms. Karen Handsfield, Public Buildings Service, at telephone (202) 208–2444, or via email to *Karen.handsfield@gsa.gov.*

ADDRESSES: Submit comments identified by Information Collection 3090–0044, GSA Form 3453, Application/Permit for Use of Space in Public Buildings and Grounds, 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 3090–0044, GSA Form 3453, Application/Permit for Use of Space in Public Buildings and Grounds''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 3090–0044, GSA Form 3453, Application/Permit for Use of Space in Public Buildings and Grounds'' 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 3090–0044, GSA Form 3453, Application/Permit for Use of Space in Public Buildings and Grounds.

Instructions: Please submit comments only and cite Information Collection 3090–0044, GSA Form 3453, Application/Permit for Use of Space in Public Buildings and Grounds, 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.

SUPPLEMENTARY INFORMATION:

A. Purpose

The general public uses GSA Form 3453, Application/Permit for Use of Space in Public Buildings and Grounds, to request the use of public space in Federal buildings and on Federal grounds for cultural, educational, or recreational activities. A copy, sample, or description of any material or item proposed for distribution or display must also accompany this request.

B. Annual Reporting Burden

Respondents: 8,000.
Responses per Respondent: 1.
Hours per Response: 0.05.
Total Burden Hours: 400.
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. 3090–0044, GSA Form 3453, Application/Permit for Use of Space in Public Buildings and Grounds, in all correspondence.

Dated: June 13, 2012.

Casey Coleman,

Chief Information Officer.

[FR Doc. 2012–15480 Filed 6–25–12; 8:45 am]

BILLING CODE 6820–34–P

GENERAL SERVICES ADMINISTRATION

[Notice–MK–2012–01; Docket No. 2012–0002; Sequence 14]

The President's Management Advisory Board (PMAB); Notification of Upcoming Public Advisory Meeting

AGENCY: Office of Executive Councils, U.S. General Services Administration (GSA).

ACTION: Meeting notice.

SUMMARY: The President's Management Advisory Board (PMAB), a Federal Advisory Committee established in accordance with the Federal Advisory Committee Act (FACA), 5 U.S.C., App., and Executive Order 13538, will hold a public meeting on Wednesday, July 11, 2012.

DATES: *Effective date:* June 26, 2012.

Meeting date: The meeting will be held on Wednesday, July 11, 2012, beginning at 9 a.m. eastern time, ending no later than 3 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Scott Winslow, Designated Federal Officer, President's Management Advisory Board, Office of Executive Councils, General Services Administration, 1776 G Street NW., Washington, DC 20006, at *scott.winslow@gsa.gov.*

SUPPLEMENTARY INFORMATION:

Background: The PMAB was established to provide independent advice and recommendations to the President and the President's Management Council on a wide range of issues related to the development of effective strategies for the implementation of best business practices to improve Federal Government management and operation, with a particular focus on productivity and the application of technology.

Agenda: The main purpose for this meeting is for the PMAB to discuss their work on the following: Improving Strategic Sourcing and Curbing Improper Payments. Additionally, PMAB will hear reports from federal agency executives regarding their progress implementing last year's recommendations to the President's Management Council. Those recommendations were aimed at improving Information Technology (IT) portfolio and project management, IT vendor performance management, Senior Executive Service (SES) leadership development and SES performance appraisal systems. More detailed information on the PMAB recommendations can be found on the PMAB Web site (see below).

Meeting Access: The PMAB will convene its meeting in the Eisenhower Executive Office Building, 1650 Pennsylvania Avenue NW., Washington, DC. Due to security, there will be no public admittance to the Eisenhower Building to attend the meeting. However, the meeting is open to the public; interested members of the public may view the PMAB's discussion at *http://www.whitehouse.gov/live.* Members of the public wishing to comment on the discussion or topics outlined in the Agenda should follow the steps detailed in Procedures for Providing Public Comments below.

Availability of Materials for the Meeting: Please see the PMAB Web site (*http://www.whitehouse.gov/administration/advisory-boards/pmab*) for any available materials and detailed meeting minutes after the meeting.

Procedures for Providing Public Comments: In general, public statements will be posted on the PMAB Web site (see above). Non-electronic documents will be made available for public inspection and copying in PMAB offices at GSA, 1776 G Street NW., Washington, DC 20006, on official business days between the hours of 10 a.m. and 5 p.m. eastern time. You can make an appointment to inspect statements by telephoning (202) 501–1398. All statements, including attachments and other supporting materials, received are part of the public record and subject to public disclosure. Any statements submitted in connection with the PMAB meeting will be made available to the public under the provisions of the Federal Advisory Committee Act.

The public is invited to submit written statements for this meeting to the PMAB prior to the meeting until 5 p.m. eastern time on Tuesday, July 10, 2012, by either of the following methods:

Electronic or Paper Statements: Submit written statements to Mr. Winslow, Designated Federal Officer at *scott.winslow@gsa.gov;* or send paper statements in triplicate to Mr. Winslow at the PMAB GSA address above.

Dated: June 20, 2012.

John C. Thomas,

Deputy Director, Office of Committee and Regulatory Management, General Services Administration.

[FR Doc. 2012–15527 Filed 6–25–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30-Day–12–12ET]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call (404) 639–7570 or send an email to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Communications Research for the Development of Messages and Materials about Cytomegalovirus (CMV)—NEW—Prevention Research Branch, National Center on Birth Defects and Developmental Disabilities (NCBDDD), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Cytomegalovirus (CMV) is the most common congenital infection in the U.S., causing disabilities in more than 5,500 children born each year (CDC, 2010). Disabilities related to congenital CMV are more common than other well-known childhood conditions, such as Down syndrome, fetal alcohol syndrome, and neural tube defects, and can include hearing or vision loss, mental retardation, psychomotor delays, and speech and language impairment.

This is a multiphase communication research study that will help inform CDC's development of materials and prevention messaging about congenital CMV. The information collection activities will consist of two phases of research: Phase I will consist of focus groups and Phase II will consist of a web survey. First, we plan to conduct 8

focus groups with 9 respondents each to identify potential messaging frames for communicating information about congenital CMV to the target audiences and adopting CMV preventive guidelines. We will also conduct some preliminary testing of existing CDC CMV draft materials (factsheet and video). We estimate that we will screen 144 women in order to recruit 72 participants for the focus groups. These focus groups will be conducted in Atlanta, Georgia (4) and San Diego, California (4). Findings from the Phase I focus groups will inform refinements to existing CDC messages and materials (factsheet and video), which will be further tested in the second information collection activity, the web survey. Phase II research will include an online survey to test the refined communication interventions (factsheet and video). This web survey will: (1) Examine baseline awareness and knowledge regarding CMV, (2) assess baseline CMV prevention behaviors prior to viewing CMV communication interventions (factsheet and video), (3) assess appeal and evaluate the impact of CMV communication interventions on their attitudes, beliefs, and behavioral intentions regarding prevention behaviors and (4) assess knowledge, attitudes and behaviors pre- and post-interventions with a larger target audience sample (N=800). We estimate that we will screen 4,800 women in order to recruit 800 respondents for the online survey.

This request is submitted to obtain OMB clearance for two years. There are no costs to the respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Phase I: Focus Groups					
Women of childbearing age	Participant screener	144	1	5/60	12
	Demographic questionnaire.	72	1	15/60	18
	Informed consent form	72	1	15/60	18
	Focus group	72	1	90/60	108
Phase II: Web Survey					
Women of childbearing age	Participant per screener	4,800	1	3/60	240
	Web Survey	800	1	11/60	147

Dated: June 18, 2012.

Ron A. Otten,

Director, Office of Scientific Integrity (OSI), Office of the Associate Director for Science (OADS), Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2012–15574 Filed 6–25–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–5505–N3]

Medicare Program; Announcement of a New Opportunity for Participation in the Advance Payment Model for Accountable Care Organizations (ACOs)

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice announces a new opportunity for participation in the Advance Payment Model for certain accountable care organizations participating in the Medicare Shared Savings Program scheduled to begin in January 2013.

DATES: *Application Submission Deadline for the Advance Payment Model:* Applications for the performance period beginning on January 1, 2013 will be accepted from August 1, 2012 through September 19, 2012.

FOR FURTHER INFORMATION CONTACT: Maria Alexander, (410) 786–4792.

SUPPLEMENTARY INFORMATION:

I. Background

The Centers for Medicare & Medicaid Services (CMS) is committed to achieving better health for populations, better health care for individuals, and lower growth in expenditures through continuous improvement for Medicare, Medicaid, and Children's Health Insurance Program beneficiaries. One potential mechanism for achieving these goals is for CMS to partner with groups of health care providers of services and suppliers that have a mechanism for shared governance and have formed an Accountable Care Organization (ACO) through which they work together to coordinate care for a specified group of patients. We will pursue such partnerships through complementary efforts, including the Medicare Shared Savings Program and initiatives undertaken by the Center for Medicare and Medicaid Innovation (Innovation Center).

The Advance Payment Model is an Innovation Center initiative designed for participants in the Medicare Shared Savings Program in need of prepayment of expected shared savings to build their capacity to provide high quality, coordinated care and generate cost savings. The Advance Payment Model will test whether and how prepaying a portion of future shared savings could increase participation in the Medicare Shared Savings Program, and whether advance payments will enhance the ability of ACOs to effectively coordinate care and generate Medicare savings, as well as the speed at which they attain that goal.

In the November 2, 2011 **Federal Register** (76 FR 68012), we published a notice entitled ''Medicare Program; Advance Payment Model'' that announced the testing of the Advance Payment Model for certain ACOs participating in the Medicare Shared Savings Program scheduled to begin in 2012 and provided information about the Advance Payment Model and the application process. In November 30, 2011 **Federal Register** (76 FR 74067), we published a second notice that extended the application deadline for the first

performance period that began on April 1, 2012. We announced the organizations participating in the Advanced Payment Model for the first performance period (which began on April 1, 2012) on April 10, 2012. The second performance period of the Advance Payment Model will begin on July 1, 2012.

Additional information about the Advance Payment Model, including organizations currently participating in the testing of the Model, is available on the Advance Payment Model Web site at *http://www.innovations.cms.gov/initiatives/ACO/Advance-Payment/.*

II. Provisions of the Notice

We will be launching a third group of Advance Payment Model ACOs on January 1, 2013. We will accept applications as specified in the **DATES** section of this notice. We are creating this new opportunity in response to requests from stakeholders and potential partners who requested additional opportunities to partner with CMS as Advance Payment ACOs.

Organizations interested in applying to the Advance Payment Model must also complete an application for the Shared Savings Program. Information about the application process and deadlines for the Shared Savings Program is available at *http://www.cms.gov/sharedsavingsprogram.* Additional information about the application process for the Advance Payment Model is available on the Advance Payment Model Web site at *http://www.innovations.cms.gov/initiatives/ACO/Advance-Payment/.*

Authority: Section 1115A of the Social Security Act.

Dated: June 19, 2012.

Marilyn Tavenner,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2012–15541 Filed 6–22–12; 11:15 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–1445–N]

Medicare Program; Public Meeting Regarding Inherent Reasonableness of Medicare Fee Schedule Amounts for Non-Mail Order (Retail) Diabetic Testing Supplies

ACTION: Notice of meeting.

SUMMARY: This notice announces a public meeting that provides an opportunity for CMS to consult with representatives of suppliers and other interested parties regarding options to adjust the Medicare payment amounts for non-mail order diabetic testing supplies. This meeting will provide the public an opportunity to offer oral and written comments.

DATES: *Meeting Date:* The public meeting will be held on Monday, July 23, 2012, 9 a.m. to 1 p.m. eastern daylight time (e.d.t.).

Deadline for Attendees that are Foreign Nationals (reside outside the U.S.) Registration: Prospective attendees that are foreign nationals (as described in section V. of this notice) are required to identify themselves as such, and provide the necessary information for security clearance (as described in section V. of this notice) by 5 p.m. e.d.t. Thursday, July 5, 2012.

Deadline for All Other Attendees: All other individuals who plan to attend the public meeting must register by 5 p.m. e.d.t. Monday, July 16, 2012.

Deadline for Requesting Special Accommodations: Persons attending the meeting who are hearing or visually impaired, or have a condition that requires special assistance or accommodations, are asked to contact the persons as specified in the **FOR FURTHER INFORMATION CONTACT** section of this notice no later July 9, 2012, 5 p.m., e.d.t.

Deadline for Submission of Written Comments: Written comments must be received at the address specified in the **ADDRESSES** section of this notice by 5 p.m. e.d.t., Monday, July 30, 2012. Once submitted, all comments are final.

ADDRESSES: *Meeting Location:* The public meeting will be held in the main auditorium of the central building of the Centers for Medicare and Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Submission of Written Comments: Written comments may either be emailed to *DMEPOS@cms.hhs.gov* or sent via regular mail to Elliot Klein, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Mail Stop C5–03–17, Baltimore, MD 21244–1850.

Registration and Special Accommodations: Individuals wishing to participate or who need special accommodations or both must register by completing the on-line registration located at *http://www.cms.gov/apps/events/upcomingevents.asp* or by contacting one of the persons listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

FOR FURTHER INFORMATION CONTACT: Hafsa Vahora at (410) 786–7899 or *Hafsa.Vahora@cms.hhs.gov*

Elliot Klein at (410) 786–0415 or *Elliot.Klein@cms.hhs.gov*

SUPPLEMENTARY INFORMATION:

I. Background

A. Process for Using Inherent Reasonableness Authority

In the December 13, 2005 **Federal Register** (70 FR 73623), we published a final rule entitled ''Medicare Program; Application of Inherent Reasonableness Payment Policy to Medicare Part B Services (Other Than Physician Services)'' that finalized a process for establishing a realistic and equitable payment amount for Medicare Part B services (other than physicians' services) when the existing payment amounts are inherently unreasonable because they are either grossly excessive or grossly deficient. In that December 2005 final rule, we define grossly excessive and deficient payment amounts and provide the criteria for using valid and reliable data in making an inherent reasonableness determination.

Sections 1842(b)(8) and (9) of the Act and our regulations at 42 CFR 405.502(g) and (h) set forth the steps that the Secretary must follow in determining whether a payment amount is grossly excessive and in setting a special payment limit. Those steps are as follows:

• *Factors Considered In Determining Whether Payment Amount is Grossly Excessive or Deficient.* When making a determination that a payment amount is grossly excessive, we take into account several factors. Factors that may result in grossly excessive or deficient payment amounts include, but are not limited, to the following:

++ The marketplace is not competitive.

++ Medicare and Medicaid are the sole or primary sources of payment for a category of items and services.

++ The payment amounts for a category of items and services do not reflect changing technology, increased facility with that technology, or changes in acquisition, production, or supplier costs.

++ The payment amounts for a category of items or services in a particular locality are grossly high or lower than payment amounts in other comparable localities for the category of items or services.

++ Payment amounts for a category of items and services are grossly higher or lower than acquisition or production

costs for the category of items and services.

++ There have been increases in payment amounts for a category of items or services that cannot be explained by inflation or technology.

++ The payment amounts for an item or service are grossly higher or lower than the payment amounts made for the item or service by other purchasers in the same locality.

++ A new technology exists which is not reflected in the existing payment allowances.

• *Factors Considered in Establishing a Payment Limit.* In establishing a payment limit for a category of items or services, we consider the available information that is relevant to the category of items or services and establish a payment amount that is realistic and equitable. The factors we consider in setting a payment include, but are not limited to the following:

++ Price markup.

++ Differences in charges.

++ Costs.

++ Use.

++ Payment amounts in other localities.

• *Use of Valid and Reliable Data.* In determining whether a payment amount is grossly excessive or deficient and in establishing an appropriate payment amount, we use valid and reliable data. To ensure that valid and reliable data are used, we must meet the criteria set forth at 42 CFR 405.502(g)(4)(i) through (xi), to the extent applicable.

• *Impact Analysis.* We consider the potential impact of the payment adjustments on quality, access, beneficiary liability, assignment rates, and participation of suppliers.

• *Supplier Consultation.* Before making a determination that a payment amount is not inherently reasonable, we consult with representatives of the supplier industry likely to be affected by the change in payment amounts.

• *Publication of Proposed Determination.* We publish a proposed notice in the **Federal Register** that—

++ Provides the proposed payment amount or method proposed to be established with respect to the item or service;

++ Explains the factors and data considered in determining that the payment amount was grossly excessive or deficient;

++ Explains the factors and data considered in determining the payment amounts or methodology, including the economic justification for a uniform fee or payment limit if it is proposed;

++ Explains the potential impact of the payment adjustments and;

++ Allows at least 60 days for public comment.

• *Publication of Final Determination.* We publish a final notice in the **Federal Register** containing our final determination with respect to the payment amount to be established for the item or service, explaining the factors and data considered in making the final determination, and responding to public comments.

B. Mandate To Phase In Competitive Bidding Programs for Diabetic Testing Supplies

Sections 1847(a)(1)(A) and (a)(2)(A) of the Act mandate the implementation of competitive bidding programs for durable medical equipment (DME) and medical supplies, including diabetic testing supplies. Under these programs, contracts are to be awarded to suppliers for furnishing DME and medical supplies throughout the United States at reduced payment amounts. Diabetic testing supplies are supplies necessary for the effective use of durable blood glucose monitors and include test strips, lancets, spring-powered lancet devices, calibration solution/chips, and replacement batteries. In 2011, annual Medicare Part B allowed charges for these items were approximately $1.6 billion, of which approximately $552 million (over one-third) was attributed to claims for non-mail order items.

Section 1847(a)(1)(B)(ii) of the Act provides authority for phasing in items and services under the competitive bidding programs, starting with the highest cost and highest volume items and services or those items and services determined to have the largest savings potential. The majority of Medicare beneficiaries receive their diabetic testing supplies on a mail order basis, and the competitive bidding program was phased in first for supplies furnished via this delivery method as part of the Round One Rebid of the competitive bidding program. In 2011, Medicare-allowed payment amounts for a box of 50 mail order test strips were reduced by 55 percent on average in 9 local metropolitan areas as a result of these programs.

TABLE 1—COMPARISON OF 2011 FEE SCHEDULE AMOUNTS (NON-MAIL ORDER AND MAIL ORDER) AND MAIL ORDER COMPETITIVE BIDDING AMOUNTS

Local competitive bidding area	Fee schedule amount (non-mail)	Fee schedule amount (mail)	Competitive bidding amount
Charlotte-Gastonia-Concord, NC–SC	$34.85	30.03	14.50
Cincinnati-Middletown, OH	38.74	33.39	15.22
Cleveland-Elyria-Mentor, OH	38.74	33.39	15.62
Dallas-Fort Worth-Arlington, TX	36.24	31.24	14.25
Kansas City, MO–KS	34.35	29.60	13.94
Miami-Fort Lauderdale-Pompano Beach, FL	38.75	33.40	15.20
Orlando, FL	38.75	33.40	14.50
Pittsburgh, PA	38.75	33.40	14.50
Riverside-San Bernardino-Ontario, CA	38.75	33.40	13.88
Average of Nine Areas	37.55	32.36	14.62
National Average	37.67	32.47	.....

A national DMEPOS competitive bidding program for mail order diabetic testing supplies is scheduled to take effect in 2013. For this competition, and future competitions for diabetic testing supplies, the definitions of mail order item and non-mail order item set forth in 42 CFR 414.402 will be used to determine what items will be included in the competitions. These definitions are as follows:

• Mail Order Item—Any item shipped or delivered to the beneficiary's home, regardless of the method of delivery.

• Non-Mail Order Item—Any item that a beneficiary or caregiver picks up

in person at a local pharmacy or supplier storefront.

Because annual allowed charges for non-mail order diabetic testing supplies are approximately $552 million, this category of items and services represents the highest volume category of items or services yet to be phased in under the DMEPOS competitive bidding programs. Also, based on the results of the competition for mail order diabetic testing supplies in nine Competitive Bidding Areas (CBAs) and a review of other pricing information for diabetic testing supplies in general, we believe the savings potential for non-mail order diabetic testing supplies is significant. Although we recognize that there are pricing differences between mail order and non-mail order diabetic testing supplies because of the delivery methods for these supplies, information about the prices of mail order diabetic testing supplies can inform the analysis of prices for non-mail order diabetic testing supplies because several key cost components are identical for both, such as product acquisition costs and administrative costs, including claims processing and paperwork costs. In addition to the significant program and beneficiary savings that can be generated by lowering the payment amounts for non-mail order diabetic testing supplies, adjusting the payment amounts for these items to bring them more in line with the allowed payment amounts for mail order diabetic testing supplies is important for a number of reasons, including the fact that maintaining a significant discrepancy between what Medicare pays for mail order supplies versus non-mail order supplies may encourage fraud and abuse such as billing for mail order supplies as if they were furnished on a non-mail order basis. The discrepancy also penalizes beneficiaries who choose to obtain their supplies on a non-mail order basis in the form of significantly higher coinsurance payments.

C. Use of Inherent Reasonableness Authority To Delay Phase-In of Items Under Competitive Bidding

Rather than phasing in non-mail order diabetic testing supplies under the competitive bidding program at this time, we are considering an alternative for adjusting the payment amounts for non-mail order diabetic testing supplies in the short term using information obtained from the local Round One Rebid competitions for mail order supplies and other pricing information to establish special payment limits for non-mail order diabetic testing supplies. We believe that this alternative would allow beneficiaries the greatest degree of choice in deciding where to obtain their non-mail order diabetic testing supplies as suppliers would not have to be awarded contracts to continue furnishing these items to Medicare beneficiaries. It also has the potential to reduce the significant discrepancy in payment amounts between mail order and non-mail order diabetic testing supplies and generate beneficiary and program savings sooner than could be achieved through competitive bidding. National reductions to the fee schedule amounts would reduce the savings potential that could result from application of competitive bidding. This would alter the standing of non-mail order diabetic testing supplies relative to other items in terms of level of priority for phase-in under the competitive bidding program. It is also possible that use of the inherent reasonableness authority over time to establish special payment limits for non-mail order diabetic testing supplies could mean that including these items under the competitive bidding program will not be necessary as significant savings would not be achieved.

Because information generated from the local Round One Rebid competitions for mail order diabetic testing supplies and information about the cost of diabetic testing supplies is available, we believe we have the information necessary to determine whether payment amounts for non-mail order diabetic testing supplies are grossly excessive and should be adjusted using our inherent reasonableness authority. Use of the inherent reasonableness authority would delay or eliminate the need to have local pharmacies compete and win contracts in order to continue furnishing non-mail order diabetic testing supplies to Medicare beneficiaries, thereby maintaining the option of obtaining these items from any local, enrolled Medicare supplier. Again, given the high volume of expenditures for these items, competitive bidding for these items would need to be implemented in the near future if the savings potential for these items is not lowered through use of the inherent reasonableness authority.

II. Meeting Agenda

The tentative agenda is as follows:

- Sign In
- Opening Remarks
- CMS Presentation Regarding Payment for Non-Mail Order Diabetic Testing Supplies
  - ++ Mandate for Competitive Bidding
  - ++ Establishing Special Payment Limits as a Means of Delaying Competitive Bidding for These Items
  - ++ Steps of the Inherent Reasonableness Process
- Public Comments
- Closing Remarks

III. Meeting Registration

A. Required Information for Registration

The following information must be provided when registering:

- Name.
- Company name and address.
- Direct-dial telephone and fax numbers.
- Email address.
- Special needs information.

A CMS staff member will confirm your registration by email.

B. Registration Process

All comments will be heard and accepted after the presentation by CMS staff is completed until the end of the public meeting. If there are comments after the meeting, we will accept written comments until the date specified in the **DATES** section of this notice.

C. Additional Meeting/Registration Information

This public meeting is scheduled in order to fulfill the requirement of section 1842(b)(9)(A) of the Act to consult with representatives of suppliers or other individuals who furnish an item or service before making a determination under section 1842(b)(8)(B) of the Act with regard to that item or service.

IV. Comment Format

A. Oral Comments From Meeting Attendees

Oral comments will be heard from the meeting attendees during the allotted time during the public meeting. Comments should last no longer than 10 minutes each to allow as much opportunity for comments from as many interested individuals as possible. There will be a sign up during the meeting to accommodate oral comments and speakers will be called in the order in which they sign up. We encourage anyone providing oral comments to also submit their comments in writing.

B. Written Comments From Meeting Attendees

Written comments will be accepted from the general public and meeting registrants until the date specified in the **DATES** section. Comments must be sent to the address specified in the **ADDRESSES** section of this notice. Meeting attendees may also submit their written comments at the meeting.

C. Summary Comments and Responses From Public Meeting

The summarized comments and responses from the public meeting will be provided in the proposed notice for the adjustment of fee-schedule amounts for non-mail order diabetic testing supplies.

V. Security, Building, and Parking Guidelines

The meeting is held within the CMS Complex which is not open to the general public. Visitors to the complex are required to show a valid U.S. Government issued photo identification, preferably a driver's license, at the time of entry. Participants will also be subject to a vehicular search before access to the complex is granted. Participants not in possession of a valid identification or who are in possession of prohibited items will be denied access to the complex. Prohibited items on Federal Property include but are not limited to, alcoholic beverages, illegal narcotics, dogs or other animals except Seeing Eye dogs and other dogs trained to assist the handicapped, explosives, firearms or other dangerous weapons (including pocket knives).

Once cleared for entry to the complex participants will be directed to parking by a security officer. In order to ensure expedited entry into the building it is recommended that participants have their ID and a copy of their written meeting registration confirmation readily available and that they do not bring laptops or large/bulky items into the building. Participants are reminded that photography on the CMS complex is prohibited. CMS has also been declared a tobacco free campus and violators are subject to legal action.

In planning arrival time, we recommend allowing additional time to clear security. Individuals who are not registered in advance will not be permitted to enter the building and will be unable to attend the meeting. The public may not enter the building earlier than 45 minutes before the convening of the meeting. Guest access to the complex is limited to the meeting area, the main lobby, and the cafeteria. If a visitor is found outside of those areas without proper escort they may be escorted out of the facility.

Also be mindful that there will be an opportunity for comment and we request that everyone waits for the appropriate time to present their opinions. Disruptive behavior will not be tolerated and may result in removal from the meetings and escort from the complex. No visitor is allowed to attach USB cables, thumb drives or any other equipment to any CMS information technology (IT) system or hardware for any purpose at anytime. Additionally, CMS staff is prohibited from taking such actions on behalf of a visitor or utilizing any removable media provided by a visitor.

We cannot assume responsibility for coordinating the receipt, transfer, transport, storage, set-up, safety, or timely arrival of any personal belongings or items used for demonstration or to support a comment. Special arrangements and approvals are required at least 2 weeks prior to the public meeting in order to bring pieces of equipment or medical devices. These arrangements need to be made with the public meeting coordinator. It is possible that certain requests made in advance of the public meeting could be denied because of unique safety, security or handling issues related to the equipment. A minimum of 2 weeks is required for approvals and security procedures. Any request not submitted at least 2 weeks in advance of the public meeting will be denied.

CMS policy requires that every foreign visitor is assigned a host. The host/hosting official is required to inform the Division of Critical Infrastructure Protection (DCIP) at least 12 business days in advance of any visit by a foreign national visitor. Foreign National visitors will be required to produce a valid passport at the time of entry. Attendees that are Foreign Nationals need to identify themselves as such, and provide the following information for security clearance to the public meeting coordinator by the date specified in the **DATES** section of this notice:

- Visitor's full name (as it appears on passport).
- Gender.
- Country of origin and citizenship.
- Biographical data and related information.
- Date of birth.
- Place of birth.
- Passport number.
- Passport issue date.
- Passport expiration date.
- Dates of visits.
- Company name.
- Position/Title.

Meeting participants should arrive early to allow time to clear security and sign-in. The meeting is expected to begin promptly as scheduled.

Authority: Section 1842(b)(9) of the Act.

Dated: June 19, 2012.

Marilyn Tavenner,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2012–15425 Filed 6–22–12; 4:15 pm]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[CFDA Number 93.676]

Office of Refugee Resettlement; Announcing the Award of a Single-Source Program Expansion Supplemental Grant for Unaccompanied Alien Children's Shelter Care to Baptist Children and Family Services (BCFS) in San Antonio, TX

AGENCY: Office of Refugee Resettlement, ACF, HHS.

ACTION: The Office of Refugee Resettlement announces the award of a single-source program expansion supplement grant from its Unaccompanied Alien Children's Program.

SUMMARY: The Administration for Children and Families (ACF), Office of Refugee Resettlement (ORR) announces the award of a single-source program expansion supplement grant to Baptist Children and Family Services (BCFS) in San Antonio, TX, for a total of $22,725,223. The additional funding provided by the awards will support services to refugees through September 30, 2012.

DATES: *Project Period:* October 1, 2011—September 30, 2012.

FOR FURTHER INFORMATION CONTACT: Kenneth Tota, Deputy Director, Office of Refugee Resettlement, Administration for Children and Families, 370 L'Enfant Promenade SW., Washington, DC 20447, Telephone (202) 401–4858.

SUPPLEMENTARY INFORMATION: The supplement grant will support the expansion of bed capacity to meet the number of unaccompanied alien children referrals from the Department of Homeland Security (DHS). The funding program is mandated by Section 462 of the Homeland Security Act to ensure appropriate placement of all referrals from the DHS. The program is tied to DHS apprehension strategies and sporadic number of border crossers.

The program has specific requirements for the provision of services to unaccompanied alien children. Existing grantees are the only entities with the infrastructure, licensing, experience and appropriate level of trained staff to meet the required service requirements and the urgent need for expansion of services in response to unexpected arrivals of unaccompanied children. The program expansion supplement will support

such services and alleviate the buildup of children waiting in border patrol stations for placement in shelter care.

Statutory Authority: Awards announced in this notice are authorized by Section 462 of the Homeland Security Act, Public Law 6 U.S.C. 279(b)(A)–(J) and sections 235(a)(5)(C); 235(d) of the Trafficking Victims Protection Reauthorization Act of 2008, (8 U.S.C. 1232).

Eskinder Negash,

Director, Office of Refugee Resettlement.

[FR Doc. 2012–15373 Filed 6–25–12; 8:45 am]

BILLING CODE 4120–27–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Council on Graduate Medical Education; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the following meeting:

Name: Council on Graduate Medical Education (COGME).

Dates and Times: July 23, 2012, 8:30 a.m.–5:00 p.m.

July 24, 2012, 8:00 a.m.–4:00 p.m.

Place: Hilton Washington DC/Rockville, Executive Meeting Center, 1750 Rockville Pike, Rockville, MD 20852.

Status: The meeting will be open to the public.

Purpose: The Council on Graduate Medical Education (the Council), created in 1986, is authorized by section 762 of the Public Health Service Act, as amended by section 5103 of the Affordable Care Act.

The Council provides advice and recommendations to the Secretary of Health and Human Services and to Congress on a range of issues including the supply and distribution of physicians in the United States, current and future physician shortages or excesses, issues relating to foreign medical school graduates, the nature and financing of medical education training, and the development of performance measures and longitudinal evaluation of medical education programs.

At this meeting, the Council will work on its 21st report to Congress on restructuring graduate medical education. Reports are submitted to the Secretary of the Department of Health and Human Services; the Committee on Health, Education, Labor and Pensions of the Senate; and the Committee on Energy and Commerce of the House of Representatives. Some meeting time will be allotted to discuss performance measures and longitudinal evaluation of grant programs over which the Council has legislative authority.

Agenda: The meeting on Monday, July 23, 2012, will begin with opening comments from HRSA senior officials. Next, elections will take place for a chair and vice chair of the Council. The main agenda item will be a discussion of issues relating to the 21st report on restructuring graduate medical education, with a focus on population need and fiscal constraint. Discussion topics include graduate medical education as a public good, new approaches to increasing residency positions, newer structural models for graduate medical education, evaluation of teaching programs especially in terms of meeting community needs, and a re-examination of funding mechanisms and priorities. At the end of the morning session, current and new members will receive ethics training in a session closed to the public. The afternoon session will be devoted to the development of report recommendations.

The meeting on Tuesday, July 24, 2012, will begin with an update and an opportunity to comment on HRSA's Bureau of Health Professions' development of performance measures and methods of longitudinal evaluation specific to the training programs over which the Council has been given new authority under the Affordable Care Act. Much of the agenda will be allotted to small groups working in closed session and then reporting back to the full Council. The Council will plan for a fall meeting, using a webinar format, and determine report work to be done in the interim. Both meeting days will conclude with time for public comment.

For Further Information Contact: For further information regarding the Council, to obtain a roster of members, minutes of the meeting, or other relevant information, contact Jerilyn K. Glass, M.D., Ph.D., Division of Medicine and Dentistry, Bureau of Health Professions, Health Resources and Services Administration, Room 9A–27, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–7271. Information can also be found at the following Web site: *http://www.hrsa.gov/advisorycommittees/bhpradvisory/cogme/index.html.*

Dated: June 20, 2012

Reva Harris,

Acting Director, Division of Policy and Information Coordination.

[FR Doc. 2012–15453 Filed 6–25–12; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Statement of Organization, Functions and Delegations of Authority

This notice amends Part R of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services (HHS), Health Resources and Services Administration (HRSA) (60 FR 56605, as amended November 6, 1995; as last amended at 77 FR 21565–21568 dated April 10, 2012).

This notice reflects organizational changes to the Health Resources and Services Administration. This notice updates the functional statement for the Healthcare Systems Bureau (RR). Specifically, this notice: (1) Renames the Division of Health Facilities to the Division of Poison Control and Healthcare Facilities (RR9); (2) transfers the function of the Poison Control Program from the Office of the Associate Administrator (RR), to the Division of Poison Control and Healthcare Facilities (RR9); (3) updates the functional statement for the Office of the Associate Administrator (RR); and (4) updates the functional statement for the Division of Poison Control and Healthcare Facilities (RR9).

Chapter RR—Healthcare Systems Bureau

Section RR–10, Organization

Delete in its entirety and replace with the following:

The Healthcare Systems Bureau (RR) is headed by the Associate Administrator, who reports directly to the Administrator, Health Resources and Services Administration. The Healthcare Systems Bureau includes the following components:

(1) Office of the Associate Administrator (RR);

(2) Division of Transplantation (RR1);

(3) Division of Vaccine Injury Compensation (RR4);

(4) Office of Pharmacy Affairs (RR7); and

(5) Division of Poison Control and Healthcare Facilities (RR9).

Section RR–20, Functions

(1) Delete the functional statement for the Office of the Associate Administrator (RR) and replace in its entirety; and (2) delete the functional statement for the Division of Health Facilities and replace in its entirety.

Office of the Associate Administrator (RR)

The Healthcare Systems Bureau leads the Agency in providing health care programs to eligible organizations around the country. Specifically, (1) Administers the Organ Transplantation Program to include the Organ Procurement and Transplantation Network to facilitate the allocation of donor organs to patients waiting for an organ transplant and the Scientific Registry of Transplant Recipients that provides analytic support to the Organ Procurement and Transplantation Network in the development and assessment of organ allocation and other Organ Procurement and Transplantation

Network policies; (2) administers the C.W. Bill Young Cell Transplantation Program to increase the number of unrelated blood stem cell transplants and improve the outcomes of blood stem cell transplants; (3) administers the National Cord Blood Inventory to increase the number of high quality cord blood units available for transplantation; (4) develops and maintains a national program of grants and contracts to organ procurement organizations and other entities to increase the number of organs made available for transplantation; (5) manages the national program for compliance with the Hill-Burton uncompensated care requirement and other assurances; (6) directs and administers a congressionally-directed grant program for the construction/renovation/equipping of health care and other facilities; (7) directs and administers the National Vaccine Injury Compensation Program; (8) manages and promotes the 340B Drug Pricing Program; (9) directs and administers the Poison Center Support, Enhancement, and Awareness Act; and (10) implements and administers the Countermeasures Injury Compensation Program under PREP Act authorities.

The Countermeasures Injury Compensation Program administers the Federal compensation program established by the Public Readiness and Emergency Preparedness Act (''PREP Act'') enacted as Division C of the Defense Appropriations Act for fiscal year 2006, Public Law 109–148, which added new authorities under the Public Health Service (PHS) Act to alleviate concerns about liability related to the manufacture, testing, development, distribution, administration, and use of countermeasures against chemical, biological, radiological and nuclear agents of terrorism, epidemics, and pandemics. The program discharges all PREP Act authorities regarding compensation including: (1) Developing and disseminating requests for benefits information to inform individuals that the Countermeasures Injury Compensation Program exists so that people requesting benefits do not miss the 1-year filing deadline; (2) accepting letters of intent to file requests for benefits so that individuals preserve their rights to file by the 1-year deadline; (3) evaluating requests for benefits for compensation filed under the Countermeasures Injury Compensation Program through medical review and assessment of compensability for all complete claims; (4) processing requests for benefits made under the Countermeasures Injury Compensation Program; (5) promulgating regulations to create and revise the Countermeasures Injury Compensation Program Vaccine Injury Tables; (6) developing and maintaining all automated information systems necessary for Program implementation; and (7) collecting, analyzing and disseminating Program information.

Division of Poison Control and Healthcare Facilities (RR9)

The Division of Poison Control and Healthcare Facilities administers the Poison Control Program, substantiates health facilities' compliance with the Hill-Burton uncompensated services assurance, and administers construction grants under section 1610(b) of the Public Health Service Act, under the Health Care and Other Facilities program, and under the Patient Protection and Affordable Care Act, Public Law 111–148. Specifically, the Division: (1) Administers the activities authorized by the Poison Center Support, Enhancement and Awareness Act of 2008, which includes: (a) Maintaining the national toll-free Poison Help hotline (800–222–1222), (b) implementing and expanding a national media campaign to educate the public and health care providers about poisoning prevention, and (c) awarding grants to poison control centers; (2) administers the process for awarding new construction and equipment grants, under section 1610(b), the Health Care and Other Facilities, and the Patient Protection and Affordable Care Act programs, including ensuring the delivery of comprehensive architectural and engineering services and ensuring compliance with historic preservation and other laws and regulations related to construction projects, maintaining a computerized database of key project information, and providing technical assistance in application preparation to potential grantees under Division grant programs; (3) monitors grant projects during construction to assure compliance with the terms of the award, including reviewing requests for changes in scope to grant projects and obtaining information needed to close out completed grant projects; (4) establishes, develops, monitors, and enforces the implementation of Hill-Burton regulations, policies, procedures, and guidelines for use by staff and health care facilities; (5) maintains a system for receipt, analysis and disposition of audit appeals by Hill-Burton obligated facilities and for receiving and responding to patient complaints; (6) manages the recovery or waiver of recovery of Federal grant funds process for Titles VI and XVI; (7) manages the national Hill-Burton Hotline to ensure that consumers receive timely and accurate information on the program; and (8) provides architectural and engineering services to other Agencies such as the Administration for Children and Families and the Food and Drug Administration.

Section RR–30, Delegations of Authority

All delegations of authority and re-delegations of authority made to HRSA officials that were in effect immediately prior to this reorganization, and that are consistent with this reorganization, shall continue in effect pending further re-delegation.

This reorganization is effective upon date of signature.

Dated: June 14, 2012.

Mary K. Wakefield,

Administrator.

[FR Doc. 2012–15474 Filed 6–25–12; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; The National Diabetes Education Program Survey of the Public

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request to review and approve the reinstatement without change for the information collection listed below. The proposed reinstatement without change for the information collection was previously published in the **Federal Register** on January 25, 2012, pages 3783–3784 and allowed 60 days for public comment. The National Institutes of Health received no comments. 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, the collection of information that has been extended, revised, or implemented unless it displays a currently valid OMB control number.

Proposed Collection: Title: The National Diabetes Education Program Survey of the Public. *Type of Information Collection Request:* Reinstatement without change for the approved information collection

(#0925–0552). *Need and Use of Information Collection:* The National Diabetes Education Program (NDEP) is a partnership of the National Institutes of Health (NIH) and the Centers for Disease Control and Prevention (CDC) and more than 200 public and private organizations.

The longterm goal of the NDEP is to reduce the burden of diabetes and pre-diabetes in the United States, and its territories, by facilitating the adoption of proven strategies to prevent or delay the onset of diabetes and its complications. The NDEP objectives are to: (1) Increase awareness and knowledge of the seriousness of diabetes, its risk factors, and effective strategies for preventing type 2 diabetes and complications associated with diabetes; (2) increase the number of people who live well with diabetes and effectively manage their disease to prevent or delay complications and improve quality of life; (3) decrease the number of Americans with undiagnosed diabetes; (4) Among people at risk for type 2 diabetes, increase the number who make and sustain effective lifestyle changes to prevent diabetes; (5) facilitate efforts to improve diabetes-related health care and education, as well as systems for delivering care; (6) reduce health disparities in populations disproportionately burdened by diabetes; and (7) facilitate the incorporation of evidence-based research findings into health care practices.

Multiple strategies have been devised to address the NDEP objectives. These have been described in the NDEP Strategic Plan and include: (1) Promoting and implementing culturally and linguistically-appropriate diabetes awareness and education campaigns for a wide variety of audiences; (2) identifying, disseminating, and supporting the adoption of evidence-based, culturally and linguistically-appropriate tools and resources that support behavior change, improved quality of life, and better diabetes outcomes; (3) expanding NDEP reach and visibility through collaborations with public, private, and nontraditional partners, and use of national, state, and local media, traditional and social media, and other relevant channels; and (4) conducting and supporting the evaluation of NDEP resources, promotions, and other activities to improve future NDEP initiatives.

The NDEP evaluation will document the extent to which the NDEP program has been implemented, and how successful it has been in meeting program objectives. The evaluation relies heavily on data gathered from existing national surveys such as National Health and Nutrition Examination Survey (NHANES), the National Health Interview Survey (NHIS), and the Behavioral Risk Factor Surveillance System (BRFSS), among others for this information. This generic clearance request is for the collection of additional primary data from NDEP target audiences on key impact measures that are necessary to effectively evaluate the program. Approval is requested for a survey of audiences targeted by the National Diabetes Education Program including people at risk for diabetes and people with diabetes and their families and the public.

Frequency of Response: One occasion. *Affected Public:* Individuals or households. *Type of Respondents:* Adults. The annual reporting burden is as follows: *Estimated Number of Respondents:* 3759; *Estimated Number of Responses per Respondent:* 1; *Average Burden Hours per Response:* .153; and *Estimated Total Annual Burden Hours Requested:* 575. There are no Capital Costs, Operating or Maintenance Costs to report.

ESTIMATES OF HOUR BURDEN

Type of respondents	Number of respondents	Frequency of response	Average time per response	Total hour burden
Screening interview with ineligible persons	1,659	1	.03	50
Eligible respondents	2,100	1	.25	525
Totals	3,759			575

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) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Evaluate the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

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 the Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention, Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Joanne Gallivan, M.S., R.D., Director, National Diabetes Education Program, NIDDK, NIH, Building 31, Room 9A06, 31 Center Drive, Bethesda, MD 20892, or call non-toll-free number (301) 494–6110 or Email your request, including your address to: *Joanne_Gallivan@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: April 20, 2012.

Camille Hoover,

Executive Officer, NIDDK.

[FR Doc. 2012–15594 Filed 6–25–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Laboratory Animal Welfare: Clarification of Position Statements on Implementation of the Eighth Edition of the Guide for the Care and Use of Laboratory Animals

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Institutes of Health (NIH) is providing clarification after analyzing public comments received regarding the 10 Position Statements that were developed to aid research institutions in their implementation of the 8th Edition of the *Guide for the Care and Use of Laboratory Animals* (*Guide*). In response to those comments, NIH has clarified Position Statements (1) Cost, (2) Housing, (2a) Nonhuman Primate Housing, (2c) Rodent Housing, and (3) Non-Pharmaceutical-Grade Substances.

FOR FURTHER INFORMATION CONTACT: Office of Laboratory Animal Welfare, Office of Extramural Research, NIH, RKL1, Suite 360, 6705 Rockledge Drive, Bethesda, MD 20892–7982; phone 301–496–7163.

SUPPLEMENTARY INFORMATION:

I. Background

Since 1985, the Public Health Service (PHS) Policy on Humane Care and Use of Laboratory Animals, authorized by Public Law 99–158, 42 U.S.C. 289d, and incorporated by reference at 42 CFR 52.8 and 42 CFR 52a.8, has required that institutions receiving PHS support for animal activities base their animal care and use programs on the current edition of the *Guide.* The 8th Edition of the *Guide* was published in January 2011 by the National Research Council of the National Academy of Sciences. (See *http://www.nap.edu/catalog.php?record_id=12910.*) Following a public comment period, NIH adopted the 8th Edition of the *Guide* in December 2011 and released 10 Position Statements to aid PHS-Assured institutions—those with an approved Animal Welfare Assurance—in their implementation of the *Guide* (76 FR 74803). The public was invited to submit comments on their understanding of the Position Statements until February 3, 2012 (76 FR 74804, *http://grants.nih.gov/grants/guide/notice-files/NOT-OD-12-042.html*). NIH received a total of 44 comments: 26 responses from those who identified themselves as individuals, 6 from PHS-Assured institutions, 2 from animal advocacy organizations, and 9 from professional organizations. The comments may be viewed at *http://grants.nih.gov/grants/olaw/2011positionstatement_comments/web_listing.htm.*

In response to those comments, NIH has clarified the following Position Statements: (1) Cost, (2) Housing, (2a) Nonhuman Primate Housing, (2c) Rodent Housing, and (3) Non-Pharmaceutical-Grade Substances. (See *http://grants.nih.gov/grants/olaw/positionstatement_guide.htm.*) For a summary of the changes in the Position Statements, see *http://grants.nih.gov/grants/olaw/2011positionstatement_maysummary.pdf* (PDF). For an archive of the original version, see *http://grants.nih.gov/grants/olaw/2011positionstatement_decarchive.pdf* (PDF).

II. Electronic Access

The 8th Edition of the *Guide* is available on the NIH Office of Laboratory Animal Welfare Web site at *http://olaw.nih.gov.*

Dated: June 19, 2012.

Francis S. Collins,

Director, National Institutes of Health.

[FR Doc. 2012–15596 Filed 6–25–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Hematology.

Date: July 16, 2012.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Bukhtiar H. Shah, DVM, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4120, MSC 7802, Bethesda, MD 20892, 301–806–7314, *shahb@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Hematology.

Date: July 16, 2012.

Time: 5:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Anshumali Chaudhari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4124, MSC 7802, Bethesda, MD 20892, (301) 435–1210, *chaudhaa@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Biobehavioral Mechanisms of Emotion, Stress and Health.

Date: July 18, 2012.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Mark Lindner, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7770, Bethesda, MD 20892, 301–435–0913, *mark.lindner@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Digestive Sciences.

Date: July 23, 2012.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Bonnie L. Burgess-Beusse, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, 301–435–1783, *beusseb@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Program Project: MacCHESS.

Date: July 23–25, 2012.

Time: 7:00 p.m. to 11:00 a.m.

Agenda: To review and evaluate grant applications.

Place: Cornell University, Campus Information and Visitor Relations, Day Hall Lobby, Ithaca, NY 14853.

Contact Person: Nitsa Rosenzweig, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1102, MSC 7760, Bethesda, MD 20892, (301) 435–1747, *rosenzweign@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 20, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–15593 Filed 6–25–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowship: Immunology.

Date: July 12–13, 2012.

Time: 8 a.m. to 10 a.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Long Beach Hotel, 111 East Ocean Boulevard, Long Beach, CA 90802.

Contact Person: Jin Huang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4199, MSC 7812, Bethesda, MD 20892, 301–435–1230, *jh377p@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Review of Immunology AREA Grant Applications.

Date: July 13, 2012.

Time: 10 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Long Beach Hotel, 111 East Ocean Boulevard, Long Beach, CA 90802.

Contact Person: Jin Huang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4095G, MSC 7812, Bethesda, MD 20892, 301–435–1230, *jh377p@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 20, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–15591 Filed 6–25–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; ''Limited Competition-Women's Interagency HIV Study (WIHS–V)''.

Date: July 16–17, 2012.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Roberta Binder, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, NIAID/NIH/DHHS, 6700B Rockledge Drive, Room 3130, Bethesda, MD 20892–7616, 301–496–7966, *rbinder@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: June 20, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–15590 Filed 6–25–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Type 1 Diabetes Mouse Resource.

Date: July 23, 2012.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Robert Wellner, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 706,, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, 301–594–4721, *rw175w@nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; IBD Genetics Consortium Data Coordinating Center.

Date: July 24, 2012.

Time: 3 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Lakshmanan Sankaran, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 755, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7799, *ls38z@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: June 20, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–15588 Filed 6–25–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of SGS North America, Inc., as a Commercial Gauger and Laboratory

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

ACTION: Notice of accreditation and approval of SGS North America, Inc., as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, SGS North America, Inc., 3735 W. Airline Hwy., Reserve, LA 70084, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquires regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://cbp.gov/linkhandler/cgov/trade/automated/labs_scientific_svcs/commercial_gaugers/gaulist.ctt/gaulist.pdf.*

DATES: The accreditation and approval of SGS North America, Inc., as commercial gauger and laboratory became effective on September 29, 2011. The next triennial inspection date will be scheduled for September 2014.

FOR FURTHER INFORMATION CONTACT: Stephen Cassata, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, 202–344–1060.

Dated: June 18, 2012.

Ira S. Reese,

Executive Director.

[FR Doc. 2012–15514 Filed 6–25–12; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Quarterly IRS Interest Rates Used in Calculating Interest on Overdue Accounts and Refunds on Customs Duties

AGENCY: Customs and Border Protection, Department of Homeland Security.

ACTION: General notice.

SUMMARY: This notice advises the public of the quarterly Internal Revenue Service interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of customs duties. For the calendar quarter beginning July 1, 2012, the interest rates for overpayments will be 2 percent for corporations and 3 percent for non-corporations, and the interest rate for underpayments will be 3 percent for both corporations and non-corporations. This notice is published for the convenience of the importing public and Customs and Border Protection personnel.

DATES: *Effective Date:* July 1, 2012.

FOR FURTHER INFORMATION CONTACT: Ron Wyman, Revenue Division, Collection and Refunds Branch, 6650 Telecom Drive, Suite #100, Indianapolis, Indiana 46278; telephone (317) 614–4516.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 19 U.S.C. 1505 and Treasury Decision 85–93, published in the **Federal Register** on May 29, 1985 (50 FR 21832), the interest rate paid on applicable overpayments or underpayments of customs duties must be in accordance with the Internal Revenue Code rate established under 26 U.S.C. 6621 and 6622. Section 6621 was amended (at paragraph (a)(1)(B) by the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105–206, 112 Stat. 685) to provide different interest rates applicable to overpayments: one for corporations and one for non-corporations.

The interest rates are based on the Federal short-term rate and determined by the Internal Revenue Service (IRS) on behalf of the Secretary of the Treasury on a quarterly basis. The rates effective for a quarter are determined during the first-month period of the previous quarter.

In Revenue Ruling 2012–16, the IRS determined the rates of interest for the calendar quarter beginning July 1, 2012, and ending on September 30, 2012. The interest rate paid to the Treasury for underpayments will be the Federal short-term rate (1%) plus two percentage points (2%) for a total of three percent (3%) for both corporations and non-corporations. For corporate overpayments, the rate is the Federal short-term rate (1%) plus one percentage point (1%) for a total of two percent (2%). For overpayments made by non-corporations, the rate is the Federal short-term rate (1%) plus two percentage points (2%) for a total of three percent (3%). These interest rates are subject to change for the calendar quarter beginning October 1, 2012, and ending December 31, 2012.

For the convenience of the importing public and Customs and Border Protection personnel the following list of IRS interest rates used, covering the period from before July of 1974 to date, to calculate interest on overdue accounts and refunds of customs duties, is published in summary format.

Beginning date	Ending date	Under-payments (percent)	Over-payments (percent)	Corporate overpayments (Eff. 1–1–99) (percent)
070174	063075	6	6	
070175	013176	9	9	
020176	013178	7	7	
020178	013180	6	6	
020180	013182	12	12	
020182	123182	20	20	
010183	063083	16	16	
070183	123184	11	11	

Beginning date	Ending date	Under-payments (percent)	Over-payments (percent)	Corporate overpayments (Eff. 1–1–99) (percent)
010185	063085	13	13	
070185	123185	11	11	
010186	063086	10	10	
070186	123186	9	9	
010187	093087	9	8	
100187	123187	10	9	
010188	033188	11	10	
040188	093088	10	9	
100188	033189	11	10	
040189	093089	12	11	
100189	033191	11	10	
040191	123191	10	9	
010192	033192	9	8	
040192	093092	8	7	
100192	063094	7	6	
070194	093094	8	7	
100194	033195	9	8	
040195	063095	10	9	
070195	033196	9	8	
040196	063096	8	7	
070196	033198	9	8	
040198	123198	8	7	
010199	033199	7	7	6
040199	033100	8	8	7
040100	033101	9	9	8
040101	063001	8	8	7
070101	123101	7	7	6
010102	123102	6	6	5
010103	093003	5	5	4
100103	033104	4	4	3
040104	063004	5	5	4
070104	093004	4	4	3
100104	033105	5	5	4
040105	093005	6	6	5
100105	063006	7	7	6
070106	123107	8	8	7
010108	033108	7	7	6
040108	063008	6	6	5
070108	093008	5	5	4
100108	123108	6	6	5
010109	033109	5	5	4
040109	123110	4	4	3
010111	033111	3	3	2
040111	093011	4	4	3
100111	093012	3	3	2

Dated: June 21, 2012.

David V. Aguilar,

Acting Commissioner, U.S. Customs and Border Protection.

[FR Doc. 2012–15531 Filed 6–25–12; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NCR–GWMP–1202–9483: 3310–0250–471]

Notice of Intent To Prepare an Environmental Impact Statement on a Proposed Boat-House Facility for Non-Motorized Boats, George Washington Memorial Parkway

AGENCY: National Park Service, Interior.

ACTION: Notice of intent.

SUMMARY: Pursuant to § 102(2)(c) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), the National Park Service (NPS) is preparing an Environmental Impact Statement (EIS) to assess the impacts of constructing a boathouse facility and floating docks for non-motorized boats at possible locations along the Virginia shoreline of the Potomac River in the vicinity of Arlington County. This announcement updates the Notice of Intent (NOI) on the same project published in the **Federal Register** on May 21, 2004.

DATES: The NPS will conduct scoping during the coming months which will include a public scoping meeting. The NPS will announce details about the scoping period and the public meeting on the NPS's Planning, Environment and Public Comment (PEPC) Web site: *http://www.parkplanning.nps.gov/gwmp,* as well as through announcements in the local media. NPS is seeking public comment about the proposal and comments will be accepted through August 27, 2012.

ADDRESSES: The NPS will conduct a public scoping meeting at a public site in Arlington County. When the public scoping meeting has been scheduled, its location, date, and time will be announced through local media and published on the PEPC Web site: *http://www.parkplanning.nps.gov/gwmp* at least 15 days in advance of the meeting.

FOR FURTHER INFORMATION CONTACT: Superintendent, George Washington

Memorial Parkway, Turkey Run Park, McLean, Virginia 22101, at (703) 289–2500.

SUPPLEMENTARY INFORMATION: The NPS is preparing an EIS to identify a preferred site for construction of an environmentally sustainable facility for non-motorized boats on the Virginia shoreline of the Potomac River.

Scoping for the EIS will consider four possible site locations within George Washington Memorial Parkway. Two proposed sites are downstream of the Key Bridge, one proposed site is near Gravelly Point and the 14th Street Bridge, and one proposed site is on Daingerfield Island. The boathouse facility and its amenities would enhance public waterfront access in the vicinity of Arlington County for non-motorized recreational activities.

This project was initiated when, at the direction of Congress, the NPS prepared a site analysis (feasibility study) for a boathouse facility in 2002. The purpose of the study was to eliminate any sites that were not feasible due to engineering or financial constraints and to use that information for the preparation of an EIS. On May 21, 2004, an NOI to prepare that EIS was published in the **Federal Register**. In 2004, the NPS held a public scoping meeting and preliminary surveys which were completed.

With the participation of Arlington County as a cooperating agency, internal scoping was reinitiated in 2011, and the NPS has determined that an EIS remains the most appropriate level of environmental documentation for the proposed project. NPS is issuing this NOI so that the public has a clear understanding of the agency's intention to complete preparation of this EIS.

Public Involvement: Public involvement will be a key component in preparation of the EIS. Interested individuals, organizations, and agencies are encouraged to provide written comments or suggestions to assist the NPS in determining the scope of issues to be addressed in the EIS, to identify significant issues related to the project, and to identify other reasonable alternatives.

The NPS will conduct a public scoping meeting at a public site in Arlington County. When the public scoping meeting has been scheduled, its location, date and time will be announced through local media and published on the NPS's PEPC Web site: *http://www.parkplanning.nps.gov/gwmp* no later than 15 days in advance of the date of the meeting.

If you wish to submit issues or provide input on this initial phase of developing the EIS, you may submit comments by [INSERT DATE 60 DAYS FROM THE DATE OF THIS NOTICE] through the PEPC Web site at *http://www.parkplanning.nps.gov/gwmp,* by hand-delivery or mail to: Superintendent, George Washington Memorial Parkway, Turkey Run Park, McLean, Virginia 22101, or by providing comments to NPS staff at the scoping meeting.

We will make all submissions from organizations or business, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Before including your address, phone number, email address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask in your comments to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

Dated: March 5, 2012.

Stephen E. Whitesell,

Regional Director, National Capital Region.

[FR Doc. 2012–15581 Filed 6–25–12; 8:45 am]

BILLING CODE 4310–DL–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–CONC–10245; 2410–OYC]

Notice of Extension of Concession Contract

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: Pursuant to the terms of the listed concession contract, the National Park Service hereby gives public notice that it intends to extend the concession contract listed below for a period not-to-exceed 14 months from the date of contract expiration.

DATES: Effective Date: November 1, 2013.

SUPPLEMENTARY INFORMATION: The contract listed below will expire by its terms on October 31, 2013. Pursuant to 36 CFR 51.23, the National Park Service has determined that the proposed short-term extension is necessary to avoid interruption of visitor services and has taken all reasonable and appropriate steps to consider alternatives to avoid such interruption.

Conc ID No.	Concessioner name	Park
SEKI004–98	Delaware North Companies Parks and Resorts at Sequoia, Inc	Sequoia National Park.

FOR FURTHER INFORMATION CONTACT: Jo A. Pendry, Chief, Commercial Services Program, National Park Service, 1201 Eye Street NW., 11th Floor, Washington, DC 20005, Telephone (202) 513–7156.

Dated: May 1, 2012.

Lena McDowall,

Associate Director, Business Services.

[FR Doc. 2012–15534 Filed 6–25–12; 8:45 am]

BILLING CODE 4310–53–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–OIA–WASO–10326:0050–673]

U.S. Nominations to the World Heritage List: San Antonio Franciscan Missions

AGENCY: National Park Service, Interior.

ACTION: Second Notice.

SUMMARY: This notice announces the decision to request that a draft nomination of the San Antonio Franciscan Missions for inclusion on the World Heritage List be prepared. The decision is the result of review of public comments submitted in response to an earlier notice and of consultation with the Federal Interagency Panel for World Heritage. The notice also summarizes the National Park Service's evaluation of public comments on other candidates for nomination to the World Heritage List.

FOR FURTHER INFORMATION CONTACT: Jonathan Putnam, 202–354–1809 or April Brooks, 202–354–1808. To request paper copies of documents discussed in this notice, contact April Brooks, Office of International Affairs, NPS, 1201 Eye Street NW., (0050) Washington, DC 20005. Email: *april_brooks@nps.gov.*

SUPPLEMENTARY INFORMATION:

What is the World Heritage List?

The World Heritage List is an international list of cultural and natural properties nominated by the signatories to the World Heritage Convention (1972). The United States was the prime architect of the Convention, an international treaty for preservation of natural and cultural heritage sites of global significance proposed by President Richard M. Nixon in 1971, and the U.S. was the first nation to ratify it. The United States served its fourth term on the World Heritage Committee from 2005–2009. The Committee, composed of representatives of 21 nations periodically elected as the governing body of the World Heritage Convention, makes the final decisions on which nominations to accept on the World Heritage List at its annual meeting each summer.

There are 936 sites in 153 of the 189 signatory countries. Currently there are 21 World Heritage Sites in the United States. U.S. participation and the roles of the Department and the National Park Service (NPS) are authorized by Title IV of the Historic Preservation Act Amendments of 1980 and conducted in accordance with 36 CFR 73—World Heritage Convention. NPS serves as the principal technical agency for World Heritage in the Department, which has the lead role for the U.S. Government in the implementation of the Convention and manages all or parts of 17 of the 21 U.S. World Heritage Sites, including Yellowstone National Park, the Everglades, and the Statue of Liberty.

What is the tentative list?

A tentative list is a national list of natural and cultural properties appearing to meet the World Heritage Committee eligibility criteria for nomination to the World Heritage List. A country cannot nominate a property unless it has been on its tentative list for a minimum of a year. Countries are limited to nominating no more than two sites in any given year. If two sites are nominated, at least one must be a natural site or a cultural landscape.

Neither inclusion in the tentative list nor inscription as a World Heritage Site imposes legal restrictions on owners or neighbors of sites, nor does it give the United Nations any management authority or ownership rights in U.S. World Heritage Sites, which continue to be subject only to U.S. law. Inclusion in the tentative list merely indicates that the property may be further examined for possible World Heritage nomination in the future.

The World Heritage Committee's *Operational Guidelines* ask participating nations to provide tentative lists, which aid in evaluating properties for the World Heritage List on a comparative international basis and help the Committee to schedule its work over the long term. The Guidelines recommend that a nation review its tentative list at least once every decade.

How the Nomination Process Works

NPS regulations at 36 CFR part 73 establish the process for making nominations to the World Heritage List. This process ensures that the Congress, property owners, and the public are notified of and can comment on proposed nominations. Under the process, the Department notifies the public as follows:

- The Department publishes a first notice in the **Federal Register** containing the tentative list and asks for recommendations regarding which properties on it should be nominated.
- The Department reviews comments received as a result of the notice, consults with the Federal Interagency Panel on World Heritage and decides which properties should be nominated next.
- The Department publishes a second notice containing the list of proposed nominations.

This is the second notice as required by 36 CFR 73.7(f) on the proposed nomination of the San Antonio Franciscan Missions.

NPS prepared and submitted (through the Secretary of the Interior and the Secretary of State) to the World Heritage Centre of UNESCO on January 24, 2008, an updated tentative list. The tentative list was published in the **Federal Register** on March 19, 2008. The process for developing the U.S. tentative list is detailed on the NPS Office of International Affairs Web site at: *http://www.nps.gov/oia/topics/worldheritage/worldheritage.htm.*

First Notice Published on March 5, 2012

On March 5, 2012, the Department requested public comment on which property or properties on the U.S. World Heritage tentative list should be nominated next by the United States to the World Heritage List. This was the First Notice in the **Federal Register**, as required by 36 CFR 73.7(c). The tentative list consists of properties that appear to qualify for World Heritage status and that may be considered for nomination by the United States to the World Heritage List. The current tentative list was transmitted to the UNESCO World Heritage Centre on January 24, 2008.

In the notice published on March 5, 2012, the Department requested comment on which properties on the U.S. World Heritage tentative list should be nominated to the World Heritage List. After reviewing public comments and consulting with the Federal Interagency Panel for World Heritage, the Department has selected the San Antonio Franciscan Missions as a proposed nomination to the World Heritage List. With the assistance of the Department, the owners of this group of sites are encouraged to prepare a complete nomination document in accordance with 36 CFR Part 73 and the nomination format required by the World Heritage Committee.

Two other properties, ''Frank Lloyd Wright Buildings'' and ''Poverty Point State Historic Site and National Monument,'' were selected to prepare nominations in 2011, and these documents are currently being drafted.

The Panel also considered comments on possible additions to the tentative list. The Department, on advice of the Panel, will work with the U.S. National Commission for UNESCO (the United Nations Educational, Scientific and Cultural Organization) to develop a process to revise the tentative list by 2016.

A discussion of the decisions, the nomination process and schedule, a summary of the comments received, and a description of the properties comprising the Missions group follows.

Recommendations of the Federal Interagency Panel for World Heritage

The Federal Interagency Panel for World Heritage assists the Department in implementing the Convention by making recommendations on U.S. World Heritage policy, procedures, and nominations. The Panel is chaired by the Assistant Secretary for Fish and Wildlife and Parks and includes representatives from various Federal Departments and agencies with Federal land management and policy-making responsibilities. The Panel made its recommendations to the Department on the next U.S. World Heritage nomination at a meeting on May 1, 2012.

The Panel agreed by consensus to support the preparation of a nomination at this time for the San Antonio Franciscan Missions. The Panel reviewed the progress of the two nominations already under preparation and the public suggestions for nominations for other properties at this time from the U.S. World Heritage tentative list. They did not recommend the preparation of nominations for any additional or alternate properties,

although they acknowledged the substantial effort underway to prepare for a nomination of the ''Hopewell Ceremonial Earthworks'' in Ohio. Panel members emphasized the considerable work and cost involved in developing nomination documents, and wanted to ensure that the number of nominations under development will not exceed the Department's capacity to ensure the high quality that will give them the best possible chance of success when considered by the World Heritage Committee.

Decision To Request the Preparation of a New U.S. World Heritage Nomination

The Department considered all comments received during the comment period as well as the advice of the Federal Interagency Panel for World Heritage in making the decisions to request drafts for a new U.S. World Heritage nomination.

A brief description is provided for this potential nomination along with a summary of the comments that were received and considered as part of this process. The Department will decide whether to nominate this group of sites to the World Heritage List based on a complete draft World Heritage nomination, when it is available. A draft World Heritage nomination is requested of the owners for the following sites:

San Antonio Franciscan Missions:

- Mission San Antonio (The Alamo)
- Mission Concepción
- Mission San José
- Mission San Juan
- Mission Espada

The modern city of San Antonio, Texas, has grown up around this group of five Spanish Roman Catholic mission complexes that were built in stages from 1724 to 1782 as open villages within walled compounds. This unusual grouping of missions is a uniquely complete illustration of the experience of the Franciscan missionaries and their interaction with the indigenous peoples on the northern frontier of the Spanish American empire in the 18th century. The religious, economic, and technological systems of the missionaries created settled communities that became the basis of the U.S. Southwest's distinctive ethnic mixture. The churches in the mission complexes, except for Mission San Antonio, are still in active use.

The Department received a large number of comments on this proposal, including over 15,000 expressions of support in response to an appeal by the National Parks Conservation Association. Specific comments by organizations and individuals involved in the nomination effort cited a broad range of civic support, including funding and other resources from both governmental and private sources. One comment recommended that the group should be considered as an extension to the Mexican missions of the Sierra Gorda already on the World Heritage List, and another said that the justification for World Heritage listing needs to address the context of Spanish missions in the Americas, and that it will be important to define the boundary carefully to support the group's integrity; also that the system of acequias may merit nomination on their own. The Panel also discussed concerns and questions about the nature and appropriateness of reconstruction work that was done at the missions in the 1930s.

The Department notes that a recent meeting of experts in the topic in San Antonio, including Mexican World Heritage officials, concluded that the justification for the San Antonio missions would be sufficiently different from that of the Mexican listing that they should be nominated separately. Regarding the justification and other related issues, the Department is committed to working closely with those preparing the nomination to ensure that these issues, as well as the questions regarding the 1930s reconstruction work, will be appropriately addressed.

Decision To Study Revisions to the U.S. World Heritage Tentative List

Over the past two years, both during official public comment periods and otherwise, approximately 100 suggestions for potential additions to the tentative list have been made to the Department. A number of suggestions have also been made regarding the methodology of selecting properties for the tentative list. The Operational Guidelines of the World Heritage Committee recommend that countries update their tentative lists approximately once every 10 years. The current U.S. tentative list was established in 2008.

The Department, on advice of the Panel, will initiate a process in cooperation with the U.S. National Commission for UNESCO, a commission of the U.S. Department of State, to develop an appropriate method to update the U.S. tentative list with a target of completing the update in 2016, the year of the centennial of the National Park Service.

Next Steps in the Nomination of the Franciscan Missions

A draft World Heritage nomination for the ''San Antonio Franciscan Missions'' may now be prepared. If it is submitted in substantially complete draft form to the NPS by May 1, 2013, a nomination may potentially be submitted to the UNESCO World Heritage Centre by the United States by February 1, 2014, if the Department deems the nomination ready. The World Heritage nomination format may be found at the World Heritage Centre Web site at *http://whc.unesco.org/en/guidelines.* NPS will coordinate the review and evaluation of the draft nomination. Preliminary drafts should be submitted to the NPS for review prior to the complete draft referred to above.

Following NPS review of the draft, the Department may submit complete draft nominations to the World Heritage Centre for technical review by September 30 of any year. The Centre will then provide comments by November 15 of that year. The Federal Interagency Panel for World Heritage will review draft nominations following receipt of the Centre's comments. The Interagency Panel will evaluate the adequacy of the nominations, the significance of the properties and whether the nominations should be forwarded to the World Heritage Centre for formal consideration for listing. Final submittal to the World Heritage Centre by the Department through the Department of State is required by February 1 of any year in order for the properties to be considered in the next cycle of nominations to the World Heritage List. Submittal of final nominations must be made no later than that date for the World Heritage Committee to be able to consider them at its annual meeting in the summer of the following year.

Protective measures must be in place before a property may be nominated as provided for in 36 CFR 73.13. If a nomination cannot be completed in accordance with this timeline, work may continue into the following year(s) for subsequent submission to UNESCO.

Comments on Other Sites Included in the Notice of March 5, 2012

In the notice published on March 5, 2012 (77 FR 13147–13149), the Department requested comments on which of the sites on the tentative list should be nominated next by the United States. Comments were accepted through March 19, 2012, fifteen days from the date of publication of the notice in the **Federal Register**. Respondents were asked to address the

qualifications of the tentative list properties for nomination by the United States to the World Heritage List.

A summary of the comments received appears below organized by site, along with the Department's responses as appropriate. Comments on the site that is now authorized to prepare a nomination appear in the discussion of the decision above. The Department received 37 comments in addition to over 15,000 responses to an appeal from the National Parks Conservation Association to support the San Antonio Franciscan Missions. The comments were also available to the Federal Interagency Panel for World Heritage and to the Department of the Interior officials who have selected the properties that are asked to prepare nominations. The full texts of all the comments are available upon request.

Comments were also sought on potential additions to the tentative list. These comments are on file to be considered by the Federal Interagency Panel and the Department in due course.

Comments on Cultural Sites Included in the March 5 Notice

Civil Rights Movement Sites, Alabama. Dexter Ave. King Memorial Baptist Church, Montgomery; Bethel Baptist Church, Birmingham; 16th St. Baptist Church, Birmingham:

The Department received two comments. Both recommended that a variety of additional sites be added to the grouping to more comprehensively represent the topic, and one of them recommended that the Department undertake this work and nominate the sites in 2013.

The Department agrees that additional sites will need to be added before this proposal could be considered for nomination, and plans to explore such an effort with the assistance of the U.S. National Commission for UNESCO. The Panel also noted that it would be necessary to justify another World Heritage criterion in addition to the tentatively identified criterion (vi), for association with ideas and events, which the World Heritage Committee no longer accepts as a sole criterion.

Dayton Aviation Sites, Ohio: Wright Cycle Company and Wright & Wright Printing; Huffman Prairie Flying Field; Wright Hall; Hawthorn Hill. The Department received three comments: one expressed general support. The others recommended that the Wright Brothers National Memorial at Kitty Hawk, North Carolina be added. One also suggested inclusion of the original Wright Flyer also be included and that Hawthorne Hill's inclusion should be reconsidered; the other suggested consideration of a transnational serial nomination with other countries of early flight resources.

The Department acknowledges that some of the components of this proposal may have difficulties in meeting the technical requirements of the World Heritage Committee, and that such issues would have to be resolved before a nomination could be made. The Wright Brothers National Memorial was nominated unsuccessfully in 1981 by the United States, and the Department believes that the issues raised at that time may still affect a potential nomination.

Hopewell Ceremonial Earthworks, Ohio: Fort Ancient State Memorial; Hopewell Culture National Historical Park; Newark Earthworks State Memorial. The Department received 10 comments: three expressed general support, and five, including from the organizations that own the sites, provided more specific information on the ability of the sites to satisfy the World Heritage criteria and of the proponents to prepare a nomination. These include a workshop held at the sites in November 2011, which discussed how to address the criteria and issues of integrity and authenticity, and concluded that they would not attempt to include Serpent Mound in the proposal.

Follow-up actions from the workshop have included establishment of a ''Friends of the Ohio Earthworks'' organization, which is raising funds and hiring a consultant to work on the nomination. Tribal government support was also cited. The other two comments recommended that this type of site is adequately represented already, and should not be nominated at this time, or should be proposed as an extension to Cahokia Mounds, along with Serpent Mound and Poverty Point.

The Department acknowledges the substantial work being done by the committee in Ohio, and believes that this group of sites has good prospects for nomination. Regarding the other comments, the Department notes that Poverty Point has already been authorized to prepare a separate nomination, and has determined that the archeological sites in Louisiana, Illinois and Ohio are sufficiently culturally distinct to merit separate World Heritage listing.

Thomas Jefferson Buildings, Virginia: Poplar Forest, Bedford County; State Capitol, Richmond: The Department received two comments. One stated that this would be the most straightforward nomination from the properties now on the tentative list, and would complete the Jefferson theme. The other recommended against the extension of a property already listed as a priority for nomination, and noted that Poplar Forest may not add greatly to the listing. The Department acknowledges that the issue raised in the latter comment will need to be considered.

Mount Vernon, Virginia. The Department received two comments with various suggestions for how this site, which was unsuccessfully nominated in 2009, might be reformulated for possible nomination again in the future.

Serpent Mound State Memorial, Ohio. The Department received three comments: one expressed general support. The other two recommended that this type of site is adequately represented already, and should not be nominated at this time, or should be proposed as an extension to Cahokia Mounds, along with Hopewell Ceremonial Culture and Poverty Point. The Department notes that Poverty Point has already been authorized to prepare a separate nomination; and has determined that the archeological sites in Louisiana, Illinois and Ohio are sufficiently culturally distinct to merit separate World Heritage listing.

Natural Sites

No comments were received on these four sites:

- Fagatele Bay National Marine Sanctuary
- Okefenokee National Wildlife Refuge
- Petrified Forest National Park
- White Sands National Monument

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 16 U.S.C. 470 a–1, a–2, d; 36 CFR 73.

Dated: June 4, 2012.

Rachel Jacobson,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2012–15586 Filed 6–25–12; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1103 (Review)]

Certain Activated Carbon from China; Notice of Commission Determination To Conduct a Full Five-year Review and Scheduling of a Full Five-Year Review Concerning the Antidumping Duty Order on Certain Activated Carbon From China

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of its determination to conduct, and scheduling of, a full review pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) (the Act) to determine whether revocation of the antidumping duty order on certain activated carbon from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* June 4, 2012.

FOR FURTHER INFORMATION CONTACT: Cynthia Trainor (202–205–3354), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On June 4, 2012, the Commission found that both the domestic and respondent interested party group responses to its notice of institution were adequate and determined that it should proceed to a full review in the subject five-year review pursuant to section 751(c)(5) of the Act. A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements are available from the Office of the Secretary and at the Commission's Web site.

Participation in the review and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in this review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the review need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this review available to authorized applicants under the APO issued in the review, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the review. A party granted access to BPI following publication of the Commission's notice of institution of the review need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the review will be placed in the nonpublic record on November 28, 2012, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the review beginning at 9:30 a.m. on December 18, 2012, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before December 10, 2012. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on December 12, 2012, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party to the review may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is December 7, 2012. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is January 4, 2013; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the review may submit a written statement of information pertinent to the subject of the review on or before January 4, 2013. On January 31, 2013, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before February 4, 2013, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. Please be aware that the Commission's rules with respect to electronic filing have been amended. The amendments took effect on November 7, 2011. See 76 Fed. Reg. 61937 (Oct. 6, 2011) and the newly revised Commission's Handbook on E–Filing, available on the Commission's Web site at *http://edis.usitc.gov.*

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other

parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: June 21, 2012.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2012–15523 Filed 6–25–12; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–849]

Certain Rubber Resins and Processes for Manufacturing Same Institution of Investigation Pursuant to 19 U.S.C. 1337

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on May 21, 2012, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of SI Group, Inc. of Schenectady, New York. A letter supplementing the complaint was filed on June 12, 2012. The complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain rubber resins and processes for manufacturing same by reason of misappropriation of trade secrets, the threat or effect of which is to destroy or substantially injure an industry in the United States.

The complainant requests that the Commission institute an investigation and, after the investigation, issue an exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2012).

Scope of investigation: Having considered the complaint, the U.S. International Trade Commission, on June 20, 2012, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(A) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain rubber resins and processes for manufacturing same by reason of misappropriation of trade secrets, the threat or effect of which is to destroy or substantially injure an industry in the United States;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is:

SI Group, Inc., 2750 Balltown Road, Schenectady, NY 12309.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

RedAvenue Chemical Corp. of America, 95 Mount Read Boulevard #149, Rochester, NY 14611–1923;

Thomas R. Crumlish, Jr., 2728 Edgemere Drive, Rochester, NY 14612–1151;

Precision Measurement International LLC, 8182 Pickering Place, Westland, MI 48185;

Sino Legend (Zhangjiagang) Chemical Co., Ltd., No. 99, Tianba Road, Yangtze International Chemical Industrial Park, Zhangjiagang City, JiangSu Province, China;

Sino Legend Holding Group, Inc., c/o Mr. Richard A. Peters, Harney Westwood & Riegels, 7502 International Commerce Centre, One Austin Road West, Kowloon, Hong Kong;

Sino Legend Holding Group Limited, C1, Rm. 1708 Nan Fung Tower, 173 Des Voeux Road Central, Hong Kong;

HongKong Sino Legend Group, Ltd., Flat 01B3 101F, Carnival Commercial Building, 18 Java Road, North Point, Hong Kong;

Red Avenue Chemical Co. Ltd., Red Avenue Group, 9/F, Citigroup Tower, 33 Hua Yuan Shi Qiao Rd., Pudong New Area, Shanghai 200120, China;

Ning Zhang, 668 Beachview Drive, North Vancouver, BC, V7G 1R1 Canada;

Quanhai Yang, Door 1, Unit 08c, Building 2, No. 9 Guanghua Road, Chaoyang District, Beijing, China;

Shanghai Lunsai International Trading Company, Building 7, Unit 102, No. 2899, Chuan Nan Feng Gong Road, Pudong New District, Shanghai City, China.

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d)–(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: June 20, 2012.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2012–15490 Filed 6–25–12; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA'')

Notice is hereby given that on June 18, 2012 a proposed consent decree (''proposed Decree'') in *United States* v. *Enstar LLC,* Civil Action No. 1:12–cv–01563–MSK was lodged with the United States District Court for the District of Colorado.

In this action under Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9607(a) (''CERCLA''), the United States sought reimbursement of response costs incurred or to be incurred for response actions taken at or in connection with the release or threatened release of hazardous substances at the Butterfly and Burrell Mine Site, (the ''Site'') located in the White River National Forest in Rio Blanco County, approximately fourteen miles from the Town of Meeker, Colorado. The proposed Decree requires the settling defendant to pay $2,486,440 to the United States and the State in reimbursement of past response and future response costs.

The proposed Decree provides the settling defendants with a covenant not to sue under Sections 106 and 107(a) of CERCLA, 42 U.S.C. 9606 and 9607(a).

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Decree. 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 *United States* v. *the Enstar LLC,* D.J. Ref. DJ # 90–11–3–10348.

During the public comment period, the proposed Decree may be examined on the following Department of Justice Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Consent Decree 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 number 202–514–0097, phone confirmation number: 202–514–5271. If requesting a copy from the Consent Decree Library by mail, please enclose a check in the amount of $8.50 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by email or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Robert Brook,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2012–15438 Filed 6–25–12; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of a Consent Decree Under the Clean Water Act

Notice is hereby given that on June 20, 2012, a proposed Consent Decree (''CD'') in *United States et al.* v. *Toll Brothers, Inc., et al.,* Civil Action No. 12–3489, was lodged with the United States District Court for the Eastern District of Pennsylvania.

In this action the United States brought claims against Toll Brothers, Inc. and seven of its wholly-owned subsidiaries (''Toll'') for violations of National Pollutant Discharge Elimination System (''NPDES'') permits which are federally-enforceable under Section 309 of the Clean Water Act (''CWA''), 33 U.S.C. 1319. The State of Maryland and the Commonwealth of Virginia joined this case as co-plaintiffs (''State Plaintiffs''). The CD addresses Toll's violations of the CWA as well as violations of state and Federal NPDES permits governing the discharge of storm water from Toll's home construction sites. The CD resolves the claims of the United States and State Plaintiffs for past violations at 370 construction sites by requiring the payment of a civil penalty of $741,000 and the institution of injunctive relief in the form of a nation-wide management, reporting, and training program to improve Toll's compliance with storm water requirements at Toll's current and future construction sites.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the CD. 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 *United States et al.* v. *Toll Brothers, Inc., et al.,* D.J. Ref. No. 90–5–1–1–09301.

During the public comment period, the CD may also be examined on the following Department of Justice Web site, to *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the CD 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 number (202) 514–5271. If requesting a copy from the Consent Decree Library by mail, please enclose a check in the amount of $ 37.75 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if requesting by email or fax, forward a check in that amount to the Consent Decree Library at the address given above. In requesting a copy exclusive of exhibits, please enclose a check in the amount of $ 20.25 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Robert D. Brook,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2012–15478 Filed 6–25–12; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration; Clinical Supplies Management, Inc.

By Notice dated April 17, 2012, and published in the **Federal Register** on April 26, 2012, 77 FR 24984, Clinical Supplies Management, Inc., 342 42nd Street South, Fargo, North Dakota 58103, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of Sufentanil (9740), a basic class of controlled substance listed in schedule II.

The company plans to import the listed controlled substance with the sole purpose of packaging, labeling, and distributing to customers which are qualified clinical sites conducting clinical trials under the auspices of an FDA-approved clinical study.

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 Clinical Supplies Management, Inc., to import the basic class of controlled substance is consistent with the public

interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. DEA has investigated Clinical Supplies Management, 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 class of controlled substance listed.

Dated: June 18, 2012.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2012–15620 Filed 6–25–12; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Application; Cambrex Charles City, Inc.

Pursuant to Title 21 Code of Federal Regulations 1301.34 (a), this is notice that on May 4, 2011, Cambrex Charles City, Inc., 1205 11th Street, Charles City, Iowa 50616–3466, made application by renewal to the Drug Enforcement Administration (DEA) for registration as an importer of the following basic classes of controlled substances:

Drug	Schedule
4–Anilino-N-phenethyl-4-piperidine (8333).	II
Phenylacetone (8501)	II
Opium, raw (9600)	II
Poppy Straw Concentrate (9670)	II

The company plans to import the listed controlled substances for internal use, and to manufacture bulk intermediates for sale to its customers.

Comments and requests for hearings on applications to import narcotic raw material are not appropriate. 72 FR 3417 (2007).

Any bulk manufacturer who is presently, or is applying to be, registered with DEA to manufacture such basic classes of controlled substances listed in schedules I or II, which fall under the authority of section 1002(a)(2)(B) of the Act [21 U.S.C. 952 (a)(2)(B)] may, in the circumstances set forth in 21 USC 958(i), file comments or objections to the issuance of the proposed registration and may, at the same time, file a written request for a hearing on such application pursuant to 21 CFR 1301.43 and in such form as prescribed by 21 CFR 1316.47.

Any such 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 26, 2012.

This procedure is to be conducted simultaneously with, and independent of, the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice published in the **Federal Register** on September 23, 1975, 40 FR 43745, all applicants for registration to import a basic class of any controlled substance in schedules I or II are, and will continue to be, required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, that the requirements for such registration pursuant to 21 U.S.C. 958(a); 21 U.S.C. 823(a); and 21 CFR 1301.34(b), (c), (d), (e), and (f) are satisfied.

Dated: June 18, 2012.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2012–15622 Filed 6–25–12; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration; Stepan Company

By Notice dated May 11, 2012, and published in the **Federal Register** on May 21, 2012, 77 FR 30025, Stepan Company, Natural Products Department, 100 W. Hunter Avenue, Maywood, New Jersey 07607, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of Coca Leaves (9040) a basic class of controlled substance in schedule II.

The company plans to import the listed controlled substance to manufacture bulk controlled substance for distribution to its customer.

Comments and requests for hearings on applications to import narcotic raw material are not appropriate. 72 FR 3417 (2007).

DEA has considered the factors in 21 U.S.C. 823(a) and 952(a) and determined that the registration of Stepan Company to import the basic class of controlled substance is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. DEA has investigated Stepan Company to ensure that the company's registration is consistent with the public interest.

The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history.

Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic class of controlled substance listed.

Dated: June 18, 2012.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2012–15621 Filed 6–25–12; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration; Cayman Chemical Company

By Notice dated March 8, 2012, and published in the **Federal Register** on March 20, 2012, 77 FR 16263, Cayman Chemical Company, 1180 East Ellsworth Road, Ann Arbor, Michigan 48108, made application to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Drug	Schedule
4-Methyl-N-methylcathinone (1248).	I
Gamma Hydroxybutyric Acid (2010).	I
Mescaline (7381)	I
N-Benzylpiperazine (7493)	I
3,4-Methylenedioxyprovalerone (7535).	I
3,4-Methylenedioxy-N-methylcathinone (7540).	I

The company plans to manufacture the above listed controlled substances to supply these materials to the research and forensics community for drug testing and analysis.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Cayman Chemical Company to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated Cayman Chemical Company to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history.

Therefore, pursuant to 21 U.S.C. 823, and in accordance with 21 CFR § 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: June 18, 2012.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2012–15607 Filed 6–25–12; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances, Notice of Application, Cambridge Isotope Lab

Pursuant to § 1301.33(a), Title 21 of the Code of Federal Regulations (CFR), this is notice that on May 7, 2012, Cambridge Isotope Lab, 50 Frontage Road, Andover, Massachusetts 01810, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of Morphine (9300), a basic class of controlled substance listed in schedule II.

The company plans to utilize small quantities of the listed controlled substance in the preparation of analytical standards.

Any other such applicant, and any person who is presently registered with DEA to manufacture such a substance, 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 August 27, 2012.

Dated: June 18, 2012.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2012–15613 Filed 6–25–12; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application; Chattem Chemicals Inc.

Pursuant to § 1301.33(a), Title 21 of the Code of Federal Regulations (CFR), this is notice that on May 16, 2012, Chattem Chemicals Inc., 3801 St. Elmo Avenue, Chattanooga, Tennessee 37409, 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
Gamma Hydroxybutyric Acid (2010).	I
4-Methoxyamphetamine (7411)	I
Dihydromorphine (9145)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Lisdexamfetamine (1205)	II
Methylphenidate (1724)	II
Pentobarbital (2270)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Hydrocodone (9193)	II
Meperidine (9230)	II
Methadone (9250)	II
Methadone intermediate (9254)	II
Morphine (9300)	II
Oripavine (9330)	II
Thebaine (9333)	II
Opium tincture (9630)	II
Opium, powdered (9639)	II
Opium, granulated (9640)	II
Oxymorphone (9652)	II
Noroxymorphone (9668)	II
Alfentanil (9737)	II
Remifentanil (9739)	II
Sufentanil (9740)	II
Tapentadol (9780)	II
Fentanyl (9801)	II

The company plans to manufacture the listed controlled substances in bulk for distribution and sale to its customers. Regarding (9640) the company plans to manufacture another controlled substance for sale to its customers.

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 August 27, 2012.

Dated: June 18, 2012.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2012–15618 Filed 6–25–12; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application; Chemica

Pursuant to § 1301.33(a), Title 21 of the Code of Federal Regulations (CFR), this is notice that on May 4, 2012, Chemica, 316 West 130th Street, Los Angeles, California 90061, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of Methamphetamine (1105), a basic class of controlled substance listed in schedule II.

The above listed controlled substance is an intermediate in the manufacture of Benzphetamine, a schedule III non-narcotic controlled substance. The methamphetamine will not be sold as a commercial product. The company plans to utilize a bulk active pharmaceutical ingredient (API), as an intermediate for the development of another controlled substance, and further distribution to its customers.

Any other such applicant, and any person who is presently registered with DEA to manufacture such substance, 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 August 27, 2012.

Dated: June 18, 2012.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2012–15619 Filed 6–25–12; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application; ISP Inc.

Pursuant to § 1301.33(a), Title 21 of the Code of Federal Regulations (CFR), this is notice that on April 30, 2012, ISP Inc., 238 South Main Street, Assonet, Massachusetts 02702, made application by renewal to the Drug Enforcement Administration (DEA) as a bulk manufacturer of the basic classes of controlled substances:

Drug	Schedule
2,5-Dimethoxyamphetamine (7396).	I
Amphetamine (1100)	II
Phenylacetone (8501)	II

The company plans to manufacture bulk API, for distribution to its customers. The bulk 2,5-Dimethoxyamphetamine will be used for conversion into non-controlled substances.

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 August 27, 2012.

Dated: June 18, 2012.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2012–15617 Filed 6–25–12; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Occupational Noise Exposure

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Mine Safety and Health Administration (MSHA) sponsored Information Collection Request (ICR) titled, ''Occupational Noise Exposure,'' to the Office of Management and Budget (OMB) for review and approval for continued use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*).

DATES: Submit comments on or before July 26, 2012.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site, *http://www.reginfo.gov/public/do/PRAMain,* on the day following publication of this notice or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–MSHA, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Telephone: 202–395–6929/Fax: 202–395–6881 (these are not toll-free numbers), email: *OIRA_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: Noise is a harmful physical agent and one of the most pervasive health hazards in mining. Repeated exposure to high levels of sound over time causes occupational noise-induced hearing loss (NIHL), a serious, often profound physical impairment in mining, with far-reaching psychological and social effects. NIHL can be distinguished from aging and other factors that can contribute to hearing loss and it can be prevented. According to the National Institute for Occupational Safety and Health, NIHL is among the top ten leading occupational illnesses and injuries.

For many years, NIHL was regarded as an inevitable consequence of working in a mine. Mining, an intensely mechanized industry, relies on drills, crushers, compressors, conveyors, trucks, loaders, and other heavy-duty equipment for the excavation, haulage, and processing of material. This equipment creates high sound levels, exposing machine operators as well as miners working nearby. The MSHA, Occupational Safety and Health Administration, military, and other organizations around the world have established and enforced standards to reduce the loss of hearing. Quieter equipment, isolation of workers from noise sources, and limiting the time workers are exposed to noise are among the many well-accepted methods that will prevent the costly incidence of NIHL.

Records of miner exposures to noise are necessary so that mine operators and the MSHA can evaluate the need for and effectiveness of engineering controls, administrative controls, and personal protective equipment to protect miners from harmful levels of noise that can result in hearing loss. However, the Agency believes that extensive records for this purpose are not needed. These requirements are a performance-oriented approach to monitoring. Records of miner hearing examinations enable mine operators and the MSHA to ensure that the controls are effective in preventing NIHL for individual miners. Records of training are needed to confirm that miners receive the information they need to become active participants in hearing conservation efforts.

These information collections are subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under OMB Control Number 1219–0120. The current OMB approval is scheduled to expire on June 30, 2012; however, it should be noted that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the

related notice published in the **Federal Register** on March 22, 2012 (77 FR 16865).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1219–0120. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–MSHA.

Title of Collection: Occupational Noise Exposure.

OMB Control Number: 1219–0120.

Affected Public: Private Sector—Businesses or other for-profits.

Total Estimated Number of Respondents: 13,245.

Total Estimated Number of Responses: 207,633.

Total Estimated Annual Burden Hours: 14,289.

Total Estimated Annual Other Costs Burden: $34,327.

Dated: June 20, 2012.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2012–15503 Filed 6–25–12; 8:45 a.m.]

BILLING CODE 4510–43–P

OFFICE OF MANAGEMENT AND BUDGET

Development of the Joint Strategic Plan on Intellectual Property Enforcement; Request of the U.S. Intellectual Property Enforcement Coordinator for Public Comments

AGENCY: Office of the U.S. Intellectual Property Enforcement Coordinator, Executive Office of the President.

ACTION: Request for written submissions from the public.

SUMMARY: The Federal Government is starting the process of developing a new Joint Strategic Plan on Intellectual Property Enforcement. By committing to common goals, the U.S. Government will more effectively and efficiently combat intellectual property infringement. In this request for comments, the U.S. Government, through the Office of the U.S. Intellectual Property Enforcement Coordinator (''IPEC''), invites public input and participation in shaping the Administration's intellectual property enforcement strategy.

The Office of the U.S. Intellectual Property Enforcement Coordinator was established within the Executive Office of the President pursuant to the Prioritizing Resources and Organization for Intellectual Property Act of 2008, Public Law 110–403 (Oct. 13, 2008) (the ''PRO IP Act''). Pursuant to the PRO IP Act, IPEC is charged with developing the Administration's Joint Strategic Plan on Intellectual Property Enforcement for submission to Congress every three years. In carrying out this mandate, IPEC chairs an interagency intellectual property enforcement advisory committee comprised of Federal departmental and agency heads whose respective departments and agencies are involved in intellectual property enforcement.

This request for comments and recommendations as IPEC develops a new enforcement strategy is divided into three parts. In the first section titled ''Strategy Recommendations,'' IPEC requests detailed recommendations from the public regarding specific recommendations for improving the U.S. Government's intellectual property enforcement efforts. In the second section titled ''Threat Assessment,'' IPEC seeks written submissions from the public regarding existing and emerging threats to the protection of intellectual property rights and the identification of threats to public health and safety and the U.S. economy resulting from intellectual property infringement. In the third section titled ''Optional Questions,'' IPEC seeks written submissions from the public to assist IPEC and agencies in the development of specific action items. Responses to this request for comments may be directed to either, or both, of the two sections described above.

DATES: Submissions must be received on or before July 25, 2012, at 5 p.m.

ADDRESSES: All submissions should be electronically submitted to *http://www.regulations.gov.* If you are unable to provide submissions to regulations.gov, you may contact the Office of the U.S. Intellectual Property Enforcement Coordinator at *intellectualproperty@omb.eop.gov* using the subject line ''Development of the Joint Strategic Plan on Intellectual Property Enforcement'' or (202) 395–1808 to arrange for an alternate method of transmission. The regulations.gov Web site is a Federal E-Government Web site that allows the public to find, review and submit comments on documents that have published in the **Federal Register** and that are open for comment. Submissions filed via the regulations.gov Web site will be available to the public for review and inspection. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary business information.

FOR FURTHER INFORMATION CONTACT: Office of the U.S. Intellectual Property Enforcement Coordinator, at *intellectualproperty@omb.eop.gov* or (202) 395–1808.

SUPPLEMENTARY INFORMATION: Through the PRO IP Act, Congress established the IPEC, to serve as the lead office within the Executive Office of the President responsible for formulating and implementing a Joint Strategic Plan to improve the effectiveness of the U.S. Government's efforts to protect the rights of intellectual property owners and to reduce the costs of and threats posed by intellectual property infringement, in the U.S. and in other countries. IPEC seeks public input, in the form of written comments, on the formulation of a Joint Strategic Plan and on the U.S. Government's intellectual property enforcement efforts.

I. Strategy Recommendations

IPEC requests written submissions from the public that provide specific recommendations for significantly improving the U.S. Government's intellectual property enforcement efforts. Important to the development of an effective enforcement strategy, is ensuring that any approaches that are considered to be particularly effective as

well as any concerns with the present approach to intellectual property enforcement are understood by policymakers. Recommendations may include, but need not be limited to: Legislation, regulation, guidance, executive order, Presidential memoranda, or other executive action, including, but not limited to, changes to agency policies, practices or methods. Recommendations should include a detailed description that addresses the following points: Issue, agencies necessary to address the issue, and recommendation for addressing the issue identified. If a submission includes multiple recommendations, IPEC requests that the submission rank the recommendations in order of priority.

In addition to the foregoing general request, IPEC is seeking information and/or recommendations in response to the questions set out in section III below to assist IPEC in developing new enforcement strategy action items that further the priorities identified in the Joint Strategic Plan. The submission of responses to one or more of the questions in section III is entirely optional.

II. Threat Assessment

Emerging and Future Threats

The issues, threats and challenges that pertain to ensuring adequate and appropriate enforcement of intellectual property are changing rapidly. Since the inaugural Joint Strategic Plan was released in June 2010, new threats have emerged that warrant inclusion among the priorities identified in the forthcoming Joint Strategic Plan. Therefore, IPEC welcomes information pertaining to and, to the extent practicable, recommendations for combating emerging or future threats to American innovation and economic competitiveness posed by violations of intellectual property rights over the next five to ten years.

Threats to Health and Safety and the U.S. Economy

IPEC seeks written submissions from the public identifying the costs to the U.S. economy resulting from infringement of intellectual property rights, both direct and indirect, including any impact on the creation or maintenance of jobs. In addition, IPEC seeks written submissions identifying threats to public health and safety posed by intellectual property infringement, in the U.S. and internationally. IPEC also welcomes submissions on the economic costs of enforcing intellectual property rights.

Submissions directed at the economic costs resulting from *violations* of intellectual property rights must clearly identify: (1) The type of intellectual property protection at issue, *e.g.,* trademark, copyright, patent, trade secret or other (2) the methodology used in calculating the estimated costs and any critical assumptions relied upon, (3) identify the source of the data on which the cost estimates are based, and (4) provide a copy of, or a citation to, each such source of information.

Submissions directed at the economic costs resulting from *enforcement* of intellectual property rights must clearly identify: (1) The type of intellectual property protection at issue, *e.g.,* trademark, copyright, patent, trade secret or other (2) the methodology used in calculating the estimated costs and any critical assumptions relied upon, (3) identify the source of the data on which the cost estimates are based, and (4) provide a copy of, or a citation to, each such source of information.

Submissions directed at threats to public health or safety must: (1) Include a detailed description of the threat, (2) identify the source of the information demonstrating the existence of the threat, and (3) provide a copy of, or a citation to, each such source of information.

III. Optional Questions

1. How can international regulatory and law enforcement collaboration and information sharing be enhanced to address cross-border intellectual property infringement?

2. What legal or operational changes might be made, or collaborative steps undertaken between federal agencies and the private sector, to streamline or improve the efficacy of enforcement efforts directed at protecting intellectual property rights?

3. What measures can be taken by the private sector to share actionable information on entities engaging in or supporting infringement of intellectual property rights?

a. To the extent necessary, what government safeguards and conditions would be useful to facilitate sharing of such information?

4. What information developed from law enforcement and intelligence community threat assessments would be beneficial to the private sector in order to mitigate the risk of trade secret theft and economic espionage?

5. What additional measures by the U.S. Government would most significantly enhance efforts to combat trade secret theft and economic espionage?

6. When goods are imported into the United States, U.S. Customs and Border Protection (''CBP'') and other federal agencies charged with enforcing intellectual property rights and ensuring the safety of products entering the stream commerce, *e.g.,* U.S. Food and Drug Administration and the Consumer Product Safety Commission, engage in a risk-based assessment of the level of risk that a shipment contains violative goods., and decides whether to inspect the shipment based on this risk determination. What steps can federal agencies and the private sector take to improve the risk assessment process so that high risk shipments may be quickly identified and segmented from lower risk shipments?

7. What authentication tools and track and trace technologies would significantly enhance federal efforts to identify suspect counterfeit or pirated goods?

8. In a global economy that increasingly utilizes Internet based e-commerce and mobile platforms for transactions, the number of shipments sent through international mail and express carrier services has dramatically grown in recent years. Accordingly, law enforcement efforts directed at interdicting infringing goods shipped in the express and international mail environments have resulted in significant increases to seizure levels of infringing goods shipped through these modes of transit. What steps could be undertaken by CBP, its partner U.S. Government agencies, and the private sector to further improve detection of express carrier and international mail shipments containing infringing goods?

9. Are there ways in which CBP could improve its intellectual property rights e-recordation system to enhance ease of use and make it a more useful tool for intellectual property rights enforcement?

10. As laid out in IPEC's 2011 Annual Report on Intellectual Property Enforcement, using our resources as efficiently as possible is a priority. Are there additional ways in which the U.S. Government could make more efficient use of its resources in protecting intellectual property?

Background

The 2010 Joint Strategic Plan as well as information describing a number of intellectual property enforcement initiatives led by the Office of the U.S. Intellectual Property Enforcement Coordinator can be found at *http://www.whitehouse.gov/omb/intellectualproperty.*

As set forth by the PRO IP Act, the objectives of the Joint Strategic Plan include:

- Reducing the supply of infringing goods, domestically and internationally;
- Identifying weaknesses, duplication of efforts, waste, and other unjustified impediments to effective enforcement actions;
- Promoting information sharing between participating agencies to the extent permissible by law;
- Disrupting and eliminating infringement networks in the U.S. and in other countries;
- Strengthening the capacity of other countries to protect and enforce intellectual property rights;
- Reducing the number of countries that fail to enforce intellectual property rights;
- Assisting other countries to more effectively enforce intellectual property rights;
- Protecting intellectual property rights in other countries by:
  - ○ Working with other countries to reduce intellectual property crimes in other countries;
  - ○ Improving information sharing between law enforcement agencies in the U.S. and in other countries; and
  - ○ Establishing procedures for consulting with interested groups within other countries;
- Establishing programs to enhance the enforcement efforts of foreign governments by providing training and technical assistance designed to:
  - ○ Enhance the efficiencies and minimize the duplication of U.S. Government training and assistance efforts;
  - ○ Prioritize deployment of U.S. Government resources to those countries in which programs can be carried out most effectively and will have the greatest impact on reducing the number of infringing products in the relevant U.S. market, protecting the intellectual property rights of U.S. rights holders, and protecting the interests of U.S. persons otherwise harmed by infringements in other countries.

Victoria A. Espinel,

United States Intellectual Property Enforcement Coordinator, Executive Office of the President.

[FR Doc. 2012–15477 Filed 6–25–12; 8:45 am]

BILLING CODE P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 12–044]

Aerospace Safety Advisory Panel; Meeting.

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the Aerospace Safety Advisory Panel.

DATES: Friday, July 20, 2012, 11:30 a.m. to 12:30 p.m. EDT.

ADDRESSES: Kennedy Space Center Visitor Complex, Debus Center, SR 405, Kennedy Space Center, FL 32899.

FOR FURTHER INFORMATION CONTACT: Ms. Harmony Myers, Aerospace Safety Advisory Panel Executive Director, National Aeronautics and Space Administration, Washington, DC 20546, (202) 358–1857.

SUPPLEMENTARY INFORMATION: The Aerospace Safety Advisory Panel (ASAP) will hold its 3rd Quarterly Meeting for 2012. This discussion is pursuant to carrying out its statutory duties for which the Panel reviews, identifies, evaluates, and advises on those program activities, systems, procedures, and management activities that can contribute to program risk. Priority is given to those programs that involve the safety of human flight. The agenda will include:

- Updates on the Space Launch System
- Updates on the Multi-Purpose Crew Vehicle
- Updates on the Commercial Crew Program
- Kennedy Space Center Safety Program Overview
- NASA Responses to ASAP Recommendations

The meeting will be open to the public up to the seating capacity of the room. Seating will be on a first-come basis. Visitors will be requested to sign a visitor's register. Photographs will only be permitted during the first 10 minutes of the meeting. During the first 30 minutes of the meeting, members of the public may make a 5-minute verbal presentation to the Panel on the subject of safety in NASA. To do so, please contact Ms. Susan Burch at *susan.burch@nasa.gov* at least 48 hours in advance. Any member of the public is permitted to file a written statement with the Panel at the time of the meeting. Verbal presentations and written comments should be limited to the subject of safety in NASA. Any member of the public desiring to attend the ASAP 2012 3rd Quarterly Meeting at the Kennedy Space Center Visitor Complex must provide their full name and company affiliation (if applicable) to Susan Burch at *susan.burch@nasa.gov* by July 13, 2012. Upon arrival at the Kennedy Space Center Visitor Complex, pre-registered public attendees will be given a ticket permitting access to the public meeting. Please arrive at least 15 minutes in advance to process through security. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2012–15546 Filed 6–25–12; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 12–045]

NASA Advisory Council; Science Committee; Astrophysics Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Astrophysics Subcommittee (APS) of the NASA Advisory Council (NAC). This Subcommittee reports to the Science Committee of the NAC. The meeting will be held for the purpose of soliciting from the scientific community and other persons, scientific and technical information relevant to program planning.

DATES: Monday, July 30, 2012, 9 a.m. to 5 p.m., and Tuesday, July 31, 2012, 9 a.m. to 4 p.m., local time.

ADDRESSES: NASA Headquarters, 300 E Street SW., Room 7H45, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Marian Norris, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–4452, fax (202) 358–4118, or *mnorris@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up

to the capacity of the room. This meeting will also be available telephonically and by WebEx. Any interested person may call the USA toll free conference call number 888–889–2033, pass code APS, to participate in this meeting by telephone. The WebEx link is *https://nasa.webex.com,* meeting number on July 30 is 996 295 414, and password APS@30July2012; the meeting number on July 31 is 995 710 978, and password APS@31July2012. The agenda for the meeting includes the following topics:

—Astrophysics Division Update

—James Webb Space Telescope Update

—Wide-Field Infrared Survey Telescope Report

—X-ray and Gravitational Waves Studies Reports

—Nuclear Spectroscopic Telescope Array Launch Update

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID, before receiving an access badge. Foreign nationals attending this meeting will be required to provide a copy of their passport, visa, or green card in addition to providing the following information no less than 10 working days prior to the meeting: full name; gender; date/place of birth; citizenship; visa information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee, and an electronically scanned or faxed copy of their passport and visa. To expedite admittance, attendees with U.S. citizenship or a green card may provide their full name, company affiliation (if applicable), and citizenship 3 working days in advance by contacting Marian Norris via email at *mnorris@nasa.gov* or by telephone at (202) 358–4452.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2012–15547 Filed 6–25–12; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 12–047]

NASA Advisory Council; Aeronautics Committee; Meeting.

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a meeting of the Aeronautics Committee of the NASA Advisory Council (NAC). The meeting will be held for the purpose of soliciting, from the aeronautics community and other persons, research and technical information relevant to program planning.

DATE: Tuesday, July 24, 2012, 8 a.m. to 3 p.m. local time.

ADDRESSES: NASA Goddard Space Flight Center (GSFC), Building 34, Room 120B, 8800 Greenbelt Road, Greenbelt, MD 20771–0001. (Note that visitors will first need to go to the GSFC Main Gate to gain access.)

FOR FURTHER INFORMATION CONTACT: Ms. Susan L. Minor, Executive Secretary for the Aeronautics Committee, National Aeronautics and Space Administration Headquarters, Washington, DC 20546, (202) 358–0566, or *susan.l.minor@nasa.gov.*

SUPPLEMENTARY INFORMATION: The agenda for the meeting includes the following topics:

- Unmanned Aircraft Systems (UAS) Subcommittee Outbrief
- National Aeronautics Research Agenda
- Next-Generation Air Transportation System Research and Development Activities
- Non-traditional International Partner engagement/International Forum for Aviation Research update
- NASA Aeronautics Research Mission Directorate Education and Public Outreach activities

The meeting will be open to the public up to the capacity of the room. Any person interested in participating in the meeting by Webex and telephone should contact Ms. Susan L. Minor at (202) 358–0566 for the web link, toll-free number and passcode. It is imperative that these meetings be held on this date to accommodate the scheduling priorities of the key participants.

Visitors will need to show valid picture identification such as a driver's license to enter into GSFC and must state that they are attending the NAC Aeronautics Committee meeting in Building 34. All U.S. citizens desiring to attend the committee meeting at NASA GSFC must provide their full name, company affiliation (if applicable), to the GSFC Protective Services Division no later than the close of business on July 16, 2012. Public attendees with U.S. citizenship must provide to NASA the following information: Full name; gender; date/place of birth; social security number employer/affiliation information (name of institution, title/position, address, telephone, email address); and the title/position of attendee at least 4 working days in advance of the meeting to Deborah Brasel via email at *Deborah.A.Brasel@nasa.gov* or by telephone at 301–286–6876. Public attendees that are Foreign Nationals must provide to NASA the following information: Full name; gender; date/place of birth; citizenship; social security number; green card information (resident alien number, expiration date); visa information (number, type, expiration date); passport information (number, country of issue, expiration date); employer/affiliation information (name of institution, title/position, address, country of employer, telephone, email address); and the title/position of attendee no less than 8 working days (July 11, 2012) prior to the meeting to Deborah Brasel via email at *Deborah.A.Brasel@nasa.gov* or by telephone at 301–286–6876. If the above information is not received by the noted dates, attendees should expect a minimum delay of two (2) hours. All visitors to this meeting will report to the GSFC Main Gate where they will be processed through security prior to entering GSFC. Public attendees will be required to sign a register and to comply with NASA security requirements, including the presentation of a valid State or Federal issued picture ID or passport, before receiving an access badge. For security questions on the day of the meeting, please call Debbie Brasel at 301–286–6876 or email *Deborah.A.Brasel@nasa.gov.*

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2012–15549 Filed 6–25–12; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 12–049]

NASA Advisory Council; Education and Public Outreach Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the Education and Public Outreach Committee of the NASA Advisory Council (NAC).

DATES: Tuesday, July 24, 2012, 8:30 a.m.–2:45 p.m., local time.

ADDRESSES: NASA Goddard Space Flight Center (GSFC), Building 34, Room 120A, 8800 Greenbelt Road, Greenbelt, MD 20771.

FOR FURTHER INFORMATION CONTACT: This meeting will also take place telephonically and via WebEx. Any interested person should contact Ms. Erika G. Vick, Executive Secretary for the Education and Public Outreach Committee, National Aeronautics and Space Administration, Washington, DC 20546, at *Erika.vick-1@nasa.gov,* no later than 4 p.m., local time, July 20, 2012, to get further information about participating via teleconference and/or WebEx.

SUPPLEMENTARY INFORMATION: The agenda for the meeting includes the following topics:

—NASA Goddard Space Flight Center Education/Public Outreach Presentations

—Joint Aeronautics-Education/Public Outreach Committee Meeting

The meeting will be open to the public up to the seating capacity of the room. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. All attendees will be requested to sign a register and to comply with NASA security requirements. Visitors must show a valid State or Federal issued picture ID, green card, or passport, before receiving an access badge to enter into GSFC and must state that they are attending the NAC's Education and Public Outreach Committee meeting in Building 34. All U.S. citizens and green card holders desiring to attend must provide their full name, company affiliation (if applicable), and citizenship to Debbie Brasel at (301) 286–6876 or email *Deborah.A.Brasel@nasa.gov,* no later than the close of business July 16, 2012. Foreign Nationals must provide the following information: full name, gender, date/place of birth, citizenship, home address, visa information (number, type, expiration date), passport information (number, country of issue, expiration date), employer/affiliation information (name of institution, title/position, address, country of employer, telephone, email address), and an electronically scanned or faxed copy of their passport and visa to Debbie Brasel via email at *Deborah.A.Brasel@nasa.gov,* no later than close of business July 11, 2012. If the above information is not received by the noted dates, attendees should expect a minimum delay of two (2) hours. All visitors to this meeting will report to the GSFC Main Gate where they will be processed through security prior to entering GSFC. For security questions on the day of the meeting, please call Debbie Brasel at (301) 286–6876 or email *Deborah.A.Brasel@nasa.gov*.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2012–15572 Filed 6–25–12; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 12–048]

NASA Advisory Council; Information Technology Infrastructure Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–462, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Information Technology Infrastructure Committee of the NASA Advisory Council (NAC). This Committee reports to the NAC. The meeting will be held for the purpose of soliciting from the information technology community and other persons, IT-related information relevant to program planning.

DATES: Tuesday, July 24, 2012, 8:30 a.m. to 12 p.m., local time.

ADDRESSES: NASA Goddard Space Flight Center (GSFC), Building 28, Room E210, 8800 Greenbelt Road, Greenbelt, MD 20771.

FOR FURTHER INFORMATION CONTACT: Ms. Karen Harper, Office of the Chief Information Officer, NASA Headquarters, Washington, DC 20546, (202) 358–1807, fax (202) 358–3017, or *karen.l.harper@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. This meeting is also available telephonically. Any interested person may call the USA toll free conference call number (866) 818–0788, participant pass code 9453583, to participate in this meeting by telephone. The agenda for the meeting includes the following topics:

- NASA's role in the Cross-Agency Big Data Federal Initiative.
- Discussion on report to the NASA Advisory Council.

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. All attendees will be requested to sign a register and to comply with NASA security requirements. Visitors must show a valid State or Federal issued picture ID, green card, or passport, before receiving an access badge to enter into GFSC and must state that they are attending the NAC Information Technology Infrastructure Committee meeting in Building 28. All U.S. citizens and green card holders desiring to attend must provide their full name, company affiliation (if applicable), and citizenship to Karen Harper via email at *karen.l.harper@nasa.gov* or by telephone at (202) 358–1807 no later than the close of business July 16, 2012. Foreign Nationals must provide the following information: full name, gender, date/place of birth, citizenship, home address, visa information (number, type, expiration date), passport information (number, country of issue, expiration date), employer/affiliation information (name of institution, title/position, address, country of employer, telephone, email address), and an electronically scanned or faxed copy of their passport and visa to Karen Harper via email at *karen.l.harper@nasa.gov* or by fax at (202) 358–3017 no later than close of business July 11, 2012. If the above information is not received by the noted dates, attendees should expect a minimum delay of two (2) hours. All visitors to this meeting will report to the GSFC Main Gate where they will be processed through security prior to entering GSFC. For security questions on the day of the meeting, please call

Debbie Brasel at (301) 286–6876 or email *Deborah.A.Brasel@nasa.gov.*

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2012–15571 Filed 6–25–12; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 12–046]

NASA Advisory Council; Science Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–462, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Science Committee of the NASA Advisory Council (NAC). This Committee reports to the NAC. The meeting will be held for the purpose of soliciting, from the scientific community and other persons, scientific and technical information relevant to program planning.

DATES: Monday, July 23, 2012, 8:30 a.m. to 5 p.m., and Tuesday, July 24, 2012, 8:30 a.m. to 2:30 p.m., local time.

ADDRESSES: NASA Goddard Space Flight Center (GSFC), Building 1, Room E100E, 8800 Greenbelt Road, Greenbelt, MD 20771.

FOR FURTHER INFORMATION CONTACT: Ms. Marian Norris, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–4452, fax (202) 358–4118, or *mnorris@nasa.gov*.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. This meeting is also available telephonically and by WebEx. Any interested person may call the USA toll free conference call number (800) 369–1786, pass code Science Committee, to participate in this meeting by telephone. The WebEx link is *https://nasa.webex.com/,* the meeting number on July 23 is 990 388 822, and the password is SC@July23; the meeting number on July 24 is 992 625 699, and the password is SC@July24. The agenda for the meeting includes the following topics:

—Science Mission Directorate Overview and Program Status
—Subcommittee Reports
—Joint Session with the NAC's Human Exploration and Operations Committee on the Mars Program Planning Group and Joint Robotics Precursor Activities

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. All attendees will be requested to sign a register and to comply with NASA security requirements. Visitors must show a valid State or Federal issued picture ID, green card, or passport, before receiving an access badge to enter into GSFC and must state that they are attending the NAC's Science Committee meeting in Building 1. All U.S. citizens and green card holders desiring to attend must provide their full name, company affiliation (if applicable), and citizenship to Marian Norris via email at *mnorris@nasa.gov* or by telephone at (202) 358–4452 no later than the close of business July 16, 2012. Foreign Nationals must provide the following information: full name, gender, date/place of birth, citizenship, home address, visa information (number, type, expiration date), passport information (number, country of issue, expiration date), employer/affiliation information (name of institution, title/position, address, country of employer, telephone, email address), and an electronically scanned or faxed copy of their passport and visa to Marian Norris via email at *mnorris@nasa.gov* or by fax at (202) 358–4118 no later than close of business July 11, 2012. If the above information is not received by the noted dates, attendees should expect a minimum delay of two (2) hours. All visitors to this meeting will report to the GSFC Main Gate where they will be processed through security prior to entering GSFC. For security questions on the day of the meeting, please call Debbie Brasel at (301) 286–6876 or email *Deborah.A.Brasel@nasa.gov*.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2012–15548 Filed 6–25–12; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meeting of National Council on the Humanities

AGENCY: National Endowment for the Humanities, National Foundation on the Arts and the Humanities.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that the National Council on the Humanities will meet for the following purposes: to advise the Chairman of the National Endowment for the Humanities (NEH) with respect to policies, programs and procedures for carrying out his functions; to review applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965 (20 U.S.C. 951–960, as amended) and make recommendations thereon to the Chairman; and to consider gifts offered to NEH and make recommendations thereon to the Chairman.

DATES: The meeting will be held on Thursday and Friday, July 12–13, 2012, each day from 9 a.m. until adjourned.

ADDRESSES: The meeting will be held at the Old Post Office Building, 1100 Pennsylvania Ave. NW., Washington, DC 20506. See **SUPPLEMENTARY INFORMATION** section for room numbers.

FOR FURTHER INFORMATION CONTACT: Lisette Voyatzis, Committee Management Officer, 1100 Pennsylvania Ave. NW., Room 529, Washington, DC 20506, or call (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the National Endowment for the Humanities' TDD terminal at (202) 606–8282. Advance notice of any special needs or accommodations is appreciated.

SUPPLEMENTARY INFORMATION: The Committee meetings of the National Council for the Humanities will be held on July 12, 2012, as follows: the policy discussion session (open to the public) will convene at 9 a.m. until approximately 10:30 a.m., followed by the discussion of specific grant applications and programs before the Council (closed to the public) from 10:30 a.m. until adjourned.

Challenge Grants & Federal/State Partnership: Room 507.
Digital Humanities: Room 402.
Education Programs: Room M–07.
Preservation and Access: Room 415.
Public Programs: Room 421.
Research Programs: Room 315.

In addition, the Jefferson Lecture/National Humanities Medal Committee (closed to the public) will meet from 2 p.m. until 3:30 p.m. in Room 527.

The Plenary Session of the National Council for the Humanities will convene on July 13, 2012 at 9 a.m. in Room M–09. The agenda for the morning session (open to the public) will be as follows:

A. Minutes of the Previous Meeting.

B. Reports.

1. Introductory Remarks.

2. Panel Presentation with Dr. Jeffrey Bolster, Associate Professor at the University of New Hampshire, and Gregory White, Qualified Member of the Engine Department—Oiler, on ''The Story of *Black Jacks: African American Seamen in the Age of Sail* and a Washington Prisoner.''

3. Presentation by Judith Havemann, Director of the NEH Office of Communications, on ''Nine Things You Need to Know about the New NEH Web site.''

4. Staff Report.

5. Congressional Report.

6. Reports on Policy and General Matters.

a. Challenge Grants & Federal/State Partnership.

b. Digital Humanities.

c. Education Programs.

d. Preservation and Access.

e. Public Programs.

f. Research Programs.

g. Jefferson Lecture/National Humanities Medals.

The remainder of the Plenary Session will be for consideration of specific applications and Jefferson Lecture and National Humanities Medal candidates, and therefore will be closed to the public.

As identified above, portions of the meeting of the National Council on the Humanities will be closed to the public pursuant to sections 552b(c)(4), 552b(c)(6) and 552b(c)(9)(b) of Title 5, U.S.C., as amended. The closed sessions will include review of personal and/or proprietary financial and commercial information given in confidence to the agency by grant applicants, and discussion of certain information, the premature disclosure of which could significantly frustrate implementation of proposed agency action. I have made this determination pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings dated July 19, 1993.

Dated: June 21, 2012.

Lisette Voyatzis,

Committee Management Officer.

[FR Doc. 2012–15533 Filed 6–25–12; 8:45 am]

BILLING CODE 7536–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2012–0143]

Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

Background

Pursuant to Section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (the Commission or NRC) is publishing this regular biweekly notice. The Act requires the Commission publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from May 31, 2012 to June 27, 2012. The last biweekly notice was published on June 12, 2012 (77 FR 35069).

ADDRESSES: You may access information and comment submissions related to this document, which the NRC possesses and are publicly available, by searching on *http://www.regulations.gov* under Docket ID NRC–2012–0143. You may submit comments by the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0143. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov*.
- *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.
- *Fax comments to:* RADB at 301–492–3446.

For additional direction on accessing information and submitting comments, see ''Accessing Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2012–0143 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and is publicly available, by the following methods:

- *Federal Rulemaking Web Site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0143.
- *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*. Documents may be viewed in ADAMS by performing a search on the document date and docket number.
- *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–2012–0143 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS, and the NRC does not edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information in their comment submissions that they do not want to be publicly disclosed. Your request should state that the NRC will not edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in Title 10 of the *Code of Federal Regulations* (10 CFR) 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license or combined license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The NRC regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and 4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment.

All documents filed in the NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov*, or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign

documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html*. System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html*. Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html*.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with the NRC guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html*. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's Web site at *http://www.nrc.gov/site-help/e-submittals.html*, by email at MSHD.Resource@nrc.gov, or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/*, unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Non-timely filings will not be entertained absent a determination by the presiding officer that the petition or request should be granted or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

For further details with respect to this license amendment application, see the application for amendment which is available for public inspection at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available documents created or received at the NRC are accessible online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC's PDR Reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*.

Northern States Power Company—Minnesota, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: May 25, 2012.

Description of amendment request: The licensee proposed to revise the licensing basis regarding the time delay assumed in the safety analyses for the degraded voltage transfer logic associated with the 1AR Transformer, which is governed by Technical Specifications 3.3.8.1, ''Loss of Power (LOP) Instrumentation.'' Specifically, the revision will remove the capability to automatically transfer to the 1AR Transformer as a source of power to the essential buses on degraded voltage and instead directly transfer to the Emergency Diesel Generators (EDGs). This transfer will ensure that Class 1E

equipment is capable of performing its function to meet the requirements of the current licensing basis.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration (NSHC) analysis. The NRC staff reviewed the licensee's NSHC analysis and has prepared its own as follows:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed amendment does not affect any previously used accident initiators or precursors, and does not change the initial conditions contributing to the severity or consequences of previously analyzed accidents or malfunctions. The power transfer scheme was not a precursor of previously analyzed accidents, and took no part in determining the consequences of previously analyzed accidents. As a result, all previous safety analyses will continue to meet all applicable acceptance criteria since the proposed amendment will not degrade the performance of structures, systems, and components (SSCs) important to safety.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

No new accident scenarios, precursors, failure mechanisms, or limiting single failures will be introduced as a result of the proposed amendment. The proposed revision of the degraded voltage transfer logic scheme (i.e., to transfer directly to the EDG instead of first attempting to transfer to the IAR Transformer) was previously licensed for Monticello, and is typical for the industry. The delay time associated with the degraded voltage transfer logic was not postulated as an initiator of any previously analyzed accident, and is not expected to create any new system interactions or failure modes of any SSCs. Thus, equipment important to safety will continue to operate as designed, and the proposed change will not result in any adverse conditions or any increase in challenges to safety systems.

Therefore, operation of the plant in accordance with the proposed amendment will not create the possibility of a new or different type of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed amendment aims to correct non-conservative values assumed in the analyses for the degraded voltage protection function. The proposed amendment assures that the design requirements of the emergency electrical power system will continue to be met. The proposed amendment does not affect previously used safety acceptance criteria, assumptions, scenarios, and analysis methodology.

Therefore, the proposed amendment does not involve any reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on its own analysis, concludes that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the proposed amendment involves no significant hazards consideration.

Attorney for the licensee: Peter M. Glass, Assistant General Counsel, Xcel Energy Services, Inc., 414 Nicollet Mall, Minneapolis, MN 55401.

NRC Branch Chief: Istvan Frankl, Acting.

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of amendment request: September 22, 2011.

Description of amendment request: The amendment would revise Required Action B.1 of Technical Specification (TS) 3.3.6, ''Containment Purge Isolation Instrumentation,'' such that a Note would be added to the Required Action to conditionally allow containment mini-purge supply and exhaust valves that have been closed in accordance with the Action to be opened under administrative controls as required for certain operational needs. The proposed change is similar to allowances already in place in TS 3.6.3, ''Containment Isolation Valves,'' and TS 3.9.4, ''Containment Penetrations.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

Overall protection system performance will remain within the bounds of the previously performed accident analyses since there are no design changes. All design, material, and construction standards that were applicable prior to this amendment request will be maintained. There will be no changes to any design or operating limits.

The proposed change does not involve or result in any changes to accident initiators or precursors, nor does it alter the design assumptions or conditions of the plant. The proposed change for the mini-purge valves which support the mitigation of certain accidents would not affect the initiation of those accidents and therefore does not affect the probability of occurrence of an accident.

Per the provisions of the proposed Note for Required Action B.1 of TS 3.3.6, the automatic containment isolation function(s) associated with a Phase A containment isolation signal (which is the trip function/signal credited in the accident analysis) would continue to be required Operable. At the same time, the proposed change helps to support venting of containment to ensure the initial condition assumptions for containment pressure in the accident analyses are met during a TS-allowed period of radiation monitor inoperability. There are no design changes to the containment mini-purge isolation valves or the associated actuation circuitry. There will be no changes to the operation of these valves other than the limited durations during which they may be open under administrative controls with inoperable actuation instrumentation (i.e. while a TS Required Action is in effect). Exceptions to Technical Specification requirements are allowed in situations where plant operation would otherwise be restricted in a manner that is not commensurate with the desired safety objective, especially when those exceptions are of short duration and are accompanied by compensatory measures. Therefore, the proposed change will not alter or prevent the capability of structures, systems, and components (SSCs) to perform their intended functions for mitigating the consequences of an accident as assumed in the accident analysis.

The proposed change does not physically alter the design of any safety-related systems, nor does it affect the way in which safety-related systems are assumed to perform their functions.

The proposed change will not affect the source term, containment isolation, or radiological release assumptions used in evaluating the radiological consequences of an accident previously evaluated. The applicable radiological dose criteria will continue to be met.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

There are no proposed design changes, nor are there any changes in the method by which any safety-related plant structure, system, or component (SSC) is assumed to perform its specified safety function. The proposed change will not affect the normal method of plant operation or change any operating parameters. Equipment performance necessary to fulfill safety analysis missions will be unaffected. The proposed change will not alter any assumptions required to meet the safety analysis acceptance criteria. No new accident scenarios, transient precursors, failure mechanisms, or limiting single failures will be introduced as a result of this amendment. There will be no adverse effect or challenges imposed on any safety-related system as a result of this amendment.

The proposed amendment will not alter the design or performance of the 7300 Process Protection System, Nuclear Instrumentation System, or Solid State Protection System used in the plant protection systems.

The proposed change does not, therefore, create the possibility of a new or different accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

There will be no effect on those plant systems necessary to assure the accomplishment of protection functions. There will be no impact on the overpower limit, departure from nucleate boiling ratio (DNBR) limits, heat flux hot channel factor (F_Q), nuclear enthalpy rise hot channel factor (FΔH), loss of coolant accident peak cladding temperature (LOCA PCT), peak local power density, or any other margin of safety. Mode-specific required shutdown margins in the COLR [Core Operating Limits Report] will not be changed. The applicable radiological dose consequence acceptance criteria will continue to be met. The proposed changes do not alter the design of the containment mini-purge system or the supporting instrumentation. As containment is a principal safety barrier to the release of radioactivity to the environment for postulated design basis accidents, there will be continued assurance that the containment mini-purge isolation system will perform its intended function of supporting containment such that the assumptions in the accident analyses remain valid.

The proposed change does not eliminate any surveillances or alter the frequency of surveillances required by the Technical Specifications. None of the acceptance criteria for any accident analysis will be changed.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: John O'Neill, Esq., Pillsbury Winthrop Shaw Pittman LLP, 2300 N Street NW., Washington, DC 20037.

NRC Branch Chief: Michael T. Markley.

Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the NRC's Public Document Room (PDR), located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available documents created or received at the NRC are accessible electronically online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR's Reference staff at 1–800–397–4209, 301–415–4737 or by email to *pdr.resource@nrc.gov*.

Carolina Power and Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: August 22, 2011, as supplemented by letter dated February 23, March 20, and April 2, 2012.

Description of amendment request: The amendment revised Technical Specification (TS) 6.9.1.6, ''Core Operating Limits Report,'' to add plant-specific methodology, ANP–3011 (P), ''Harris Nuclear Plant Unit 1 Realistic Large Break LOCA [loss-of-coolant accident] Analysis,'' Revision 1, that implements AREVA's NRC-approved topical report, EMF–2103(P)(A), ''Realistic Large Break LOCA Methodology for Pressurized Water Reactors'' Revision 0.

Date of issuance: May 30, 2012.

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment No.: 138.

Renewed Facility Operating License No. NPF–63: The amendment revised the TSs and the Facility Operating License.

*Date of initial notice in **Federal Register***: January 10, 2012 (77 FR 1516). The February 23, March 20, and April 2, 2012, supplements provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 30, 2012.

No significant hazards consideration comments received: No.

NRC Branch Chief: Douglas A. Broaddus.

Carolina Power and Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of application for amendment: April 28, 2011, as supplemented by letters dated June 23,August 3, August 15, August 25, August 30, August 31, September 6, September 7, October 20,October 21, October 28, November 28, December 20, 2011, February 9, and March 26, 2012.

Brief description of amendment: The amendment increases the rated thermal power (RTP)level from 2900 megawatts thermal (MWt) to 2948 MWt, and makes technical specification changes as necessary to support operation at the uprated power level. The change is an increase in RTP of approximately 1.66 percent. The power uprate is characterized as a measurement uncertainty recapture using the Cameron Leading Edge Flow Meter CheckPlusSystem to improve plant calorimetric heat balance measurement accuracy.

Date of issuance: May 30, 2012.

Effective date: As of the date of issuance and shall be implemented within 120 days of issuance.

Amendment No.: 139.

Renewed Facility Operating License No. NPF–63: Amendment revises the Technical Specifications.

*Date of initial notice in **Federal Register***: September 13, 2011 (76 FR 56486). The June 23, August 3, August

15, August 25, August 30, August 31, September 6, September 7, October 20, October 21, October 28, November 28, December 20, 2011, February 9, and March 26, 2012, supplements provided additional information that clarified the application, did not expand the scope of the application as originally noticed and did not change the NRC staff's initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a safety evaluation dated May 30, 2012.

No significant hazards consideration comments received: No.

NextEra Energy Duane Arnold, LLC, Docket No. 50–331, Duane Arnold Energy Center (DAEC), Linn County, Iowa

Date of application for amendment: May 31, 2011, as supplemented by letters dated March 16, 2012, and April 5, 2012.

Brief description of amendment: The amendment upgrades DAEC Emergency Action Levels based on Nuclear Energy Institute (NEI) 99–01, Revision 5, ''Methodology for Development of Emergency Action Levels,'' using the guidance of NRC Regulatory Issue Summary 2003–18, Supplement 2, ''Use of Nuclear Energy Institute (NEI) 99–01, ''Methodology for Development of Emergency Action Levels.''

Date of issuance: June 1, 2012.

Effective date: As of the date of issuance and shall be implemented within 120 days.

Amendment No.: 281.

Renewed Facility Operating License No. DPR–49: The amendment revised the Duane Arnold Energy Center Emergency Plan.

Date of initial notice in ***Federal Register***: November 15, 2011 (76 FR 70774).

The supplemental information dated March 16, 2012, and April 5, 2012 contained clarifying information, did not change the scope of the May 31, 2011, application on the initial no significant hazards consideration determination, and did not expand the scope of the original **Federal Register** notice.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 1, 2012.

No significant hazards consideration comments received: No.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 14th day of June 2012.

A. Louise Lund,

Deputy Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2012–15176 Filed 6–25–12; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS) Meeting of the ACRS Subcommittee on Radiation Protection and Nuclear Materials; Notice of Meeting

The ACRS Subcommittee on Radiation Protection and Nuclear Materials will hold a meeting on July 10, 2012, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, July 10, 2012—8:30 a.m. Until 12 p.m.

The Subcommittee will review Revision 3 of ISG–8, ''Burnup Credit in the Criticality Safety Analyses of PWR Spent Fuel in Transport and Storage Casks.'' The Subcommittee will hear presentations by and hold discussions with the NRC staff and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Christopher Brown (Telephone 301–415–7111 or Email: *Christopher.Brown@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 17, 2011, (76 FR 64126–64127).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, MD. After registering with security, please contact Mr. Theron Brown (240–888–9835) to be escorted to the meeting room.

Dated: June 18, 2012.

Antonio Dias,

Technical Advisor, Advisory Committee on Reactor Safeguards.

[FR Doc. 2012–15524 Filed 6–25–12; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee on U.S. Advanced Pressurized Power Reactor

Revision to the June 19, 2012, ACRS Meeting Federal Register Notice

The **Federal Register** Notice for the ACRS Subcommittee Meeting on US–APWR scheduled to be held on July 9, 2012, is being revised to notify the following:

The entire meeting will be open to public attendance, with the exception of a portion that may be closed to protect information that is proprietary pursuant to 5 U.S.C. 552b(c)(4).

The notice of this meeting was previously published in the **Federal Register** on Tuesday, June 19, 2012 [77 FR 36581–36582].

Further information regarding this meeting can be obtained by contacting Mr. Girija Shukla, Designated Federal Official (Telephone: 301–415–6855, Email: *Girija.Shukla@nrc.gov*) between 8:15 a.m. and 5 p.m. (ET).

Dated: *June 19, 2012.*

Antonio Dias,

Technical Advisor, Advisory Committee on Reactor Safeguards.

[FR Doc. 2012–15526 Filed 6–25–12; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission, [NRC–2012–0002].

DATES: Weeks of June 25, July 2, 9, 16, 23, 30, 2012.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of June 25, 2012

There are no meetings scheduled for the week of June 25, 2012.

Week of July 2, 2012—Tentative

There are no meetings scheduled for the week of July 2, 2012.

Week of July 9, 2012—Tentative

Tuesday, July 10, 2012

9:30 a.m. Strategic Programmatic Overview of the Operating Reactors, Business Line (Public Meeting), (Contact: Trent Wertz, 301–415–1568).

This meeting will be webcast live at the Web address—*www.nrc.gov*.

Week of July 16, 2012—Tentative

There are no meetings scheduled for the week of July 16, 2012.

Week of July 23, 2012—Tentative

There are no meetings scheduled for the week of July 23, 2012.

Week of July 30, 2012—Tentative

There are no meetings scheduled for the week of July 30, 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*.

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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: June 21, 2012.

Rochelle C. Bavol,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2012–15675 Filed 6–22–12; 4:15 pm]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, June 28, 2012 at 1 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Aguilar, as duty officer, voted to consider the items listed for the Closed Meeting in a closed session.

The subject matter of the Closed Meeting scheduled for Thursday, June 28, 2012 will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Other matters relating to enforcement proceedings; and

Adjudicatory matters.

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: June 21, 2012.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2012–15673 Filed 6–22–12; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67225; File No. SR–ISE–2012–22]

Self-Regulatory Organizations; International Securities Exchange, LLC; Order Instituting Proceedings To Determine Whether To Approve or Disapprove Proposed Rule Change, as Modified by Amendment No. 1, To Add an Index Option Product for Trading on the Exchange

June 20, 2012.

I. Introduction

On March 9, 2012, the International Securities Exchange, LLC (''Exchange'' or ''ISE'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade options on the ISE Max SPY Index (''ISE Max SPY''). The proposed rule change was published for comment in the **Federal Register** on March 22, 2012.[3] The Commission received three comment letters on the proposed rule change.[4] On May 1, 2012, the Commission extended the time period for Commission action to June 20, 2012.[5] On May 4, 2012, ISE submitted a response to the comment letters [6] and filed Amendment No. 1 to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 66614 (March 16, 2012), 77 FR 16883 (''Notice'').

[4] *See* letters to Elizabeth M. Murphy, Secretary, Commission, from Janet McGinness, EVP & Corporate Secretary, NYSE Euronext, dated April 2, 2012 (''NYSE Letter''); Kenneth M. Vittor, Executive Vice President and General Counsel, McGraw-Hill Companies, Inc., dated April 11, 2012 (''McGraw-Hill Letter I''); and Edward T. Tilly, President and Chief Operating Officer, Chicago Board Options Exchange, Incorporated (''CBOE''), dated April 13, 2012 (''CBOE Letter I'').

[5] *See* Securities Exchange Act Release No. 66889 (May 1, 2012), 77 FR 26812 (May 7, 2012).

[6] *See* letter to Elizabeth M. Murphy, Secretary, Commission, from Michael J. Simon, Secretary and

the proposed rule change.[7] The Commission subsequently received three additional comment letters[8] and a second response letter from ISE.[9] All the comment letters received, including ISE's response letters, are available on the Commission's Web site.[10]

This order institutes proceedings to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 1. Institution of these proceedings, however, does not indicate that the Commission has reached any conclusions with respect to the proposed rule change, nor does it mean that the Commission will ultimately disapprove the proposed rule change. Rather, as addressed below, the Commission desires to solicit additional input from interested parties on the issues presented by the proposed rule change.

II. Description of the Proposal

As set forth in more detail in the Notice, ISE proposes to list and trade options, including long-term options, on the ISE Max SPY Index, which is ''designed to represent 10 times the value of the published share prices in the SPDR S&P 500 ETF [(''SPY'')] Trust.''[11] Options on the ISE Max SPY Index would be European-style and p.m. cash-settled, and they would be quoted and traded in U.S. dollars.

According to ISE, the real-time value of the ISE Max SPY Index is calculated by multiplying the share prices of SPY by a factor of ten and rounding to the tenth place. This value would be calculated by ISE or its agent, and would be disseminated by ISE every 15 seconds during its regular trading hours to market information vendors via the Options Price Reporting Authority.[12]

ISE proposes to calculate the settlement value for options on the ISE Max SPY Index using the net asset value (''NAV'') of the fund, as calculated by ISE, on a per share basis, times ten. ISE states that the method it will use for calculating the NAV of SPY is the same method that is used industry-wide for calculating the NAV of an exchange traded fund (''ETF'') with equity-only holdings, and is the per-share dollar amount of the fund, which is calculated by dividing the total value of all the securities in its portfolio, less any liabilities, by the number of fund shares outstanding.[13] ISE also states that the settlement value that it calculates may be different from the NAV published by the trustee of the SPY trust.[14] In calculating the settlement value for options on the ISE Max SPY Index, ISE states that it would use the published closing prices from the primary market of the SPY trust's portfolio securities.[15]

As proposed, Exchange rules that are applicable to the trading of options on broad-based indexes would apply to the trading of options on the ISE Max SPY Index.[16] Specifically, the trading of options on the ISE Max SPY Index would be subject to, among others, Exchange rules governing margin requirements and trading halt procedures for index options. The trading of options on the ISE Max SPY Index also would be subject to the Exchange's customer protection rules.[17]

ISE proposes that options on the ISE Max SPY Index be approved on a pilot basis for an initial period of 14 months. ISE states that if it were to propose an extension of the program or propose to make the program permanent, then it would submit a filing proposing such amendments to the program. ISE notes that any positions established under the pilot would not be impacted by the expiration of the pilot.[18] As part of the pilot program, ISE would submit a pilot program report to the Commission at least two months prior to the expiration date of the program (''annual report''). The annual report would contain an analysis of volume, open interest and trading patterns. The analysis would examine trading in the proposed option product as well as trading in the securities that comprise the S&P 500 index. In addition, for series that exceed certain minimum open interest parameters, the annual report would provide analysis of index price volatility and share trading activity. In addition to the annual report, ISE committed to provide the Commission with periodic interim reports while the pilot is in effect that would contain some, but not all, of the information contained in the annual report. In its filing, ISE notes that it would provide the annual and interim reports to the Commission on a confidential basis.

Comment Letters

As noted above, the Commission received six comment letters and two

General Counsel, ISE, dated May 4, 2012 (''ISE Response Letter I'').

[7] Amendment No. 1 replaced the sentence: ''Additionally, the proposed rule change would provide Members and investors with additional opportunities to trade S&P 500® options with a p.m.-settlement feature in an exchange environment and subject to transparent exchange-based rules, and that investors would also benefit from the opportunity to trade in association with this product on Expiration Fridays thereby removing impediments to a free and open market consistent with the Act.'' with the sentence: ''Additionally, the proposed rule change would provide Members and investors with additional opportunities to trade options on a product that provides exposure to the share prices of SPY with a p.m.-settlement feature in an exchange environment and subject to transparent exchange-based rules, and that investors would also benefit from the opportunity to trade in association with this product on expiration Fridays thereby removing impediments to a free and open market consistent with the Act.'' According to ISE, the purpose of the amendment is to correct an erroneous sentence in the Statutory Basis section that could be misinterpreted. *See* Amendment No. 1.

[8] *See* letters to Elizabeth M. Murphy, Secretary, Commission, from Edward T. Tilly, President and Chief Operating Officer, CBOE, dated June 7, 2012 (''CBOE Letter II''); Kenneth M. Vittor, Executive Vice President and General Counsel, McGraw-Hill Companies, Inc., dated June 18, 2012 (''McGraw-Hill Letter II''); and from Edward T. Tilly, President and Chief Operating Officer, CBOE, dated June 19, 2012 (''CBOE Letter III'').

[9] *See* letter to Elizabeth M. Murphy, Secretary, Commission, from Michael J. Simon, Secretary and General Counsel, ISE, dated June 15, 2012 (''ISE Response Letter II'').

[10] The comment letters are available at *http://sec.gov/comments/sr-ise-2012-22/ise201222.shtml.*

[11] ISE states that SPY is based on the S&P 500, which is a capitalization-weighted index of 500 stocks from a broad range of industries.

[12] ISE states that it also would disseminate these values to its members.

[13] *See* Notice, *supra* note 3 and ISE Response Letter II, *supra* note 9, at 3. In its second response letter, ISE sets forth its formula for calculating the index settlement value: $I_{sett(t)} = NAV_{SPY(t)} \times M$. *See* ISE Response Letter II, *supra* note 9, at 2–3. In this formula, ''$I_{sett(t)}$'' is the ISE Max SPY settlement value at time (t), ''$NAV_{SPY(t)}$'' is the NAV per share of the SPY trust at time (t) as calculated by ISE, and ''M'' is the constant multiplier of 10. *See id.* ISE also provides the formula for calculating $NAV_{SPY(t)}$:

$$NAV_{SPY(t)} = [\Sigma^{n}_{i=1}[P_{(i)} \times S_{(i)} + Cash] \times [1 - \text{Fee}/365]/Shares\ Outstanding$$

See id. In this formula, ''n'' is the number of stocks held by the trust, ''$P_{(i)}$'' is the closing price of each stock held by the trust, ''$S_{(i)}$'' is the number of shares of each stock held by the trust, ''Cash'' is the cash held in the trust, ''Fee'' is the stated fee for the trust, and ''Shares Outstanding'' is the number of trust shares outstanding. *See id.* ISE also states that ''the net cash amount is determined by adding the accrued dividends of the portfolio securities since the fund's last distribution minus the accrued fees, which are essentially the annual management fees prorated per day.'' *See id.* at 3.

[14] ISE explains in its response letters that this difference may result because the trust may independently decide which exchange it deems to be the ''primary market'' as a source of closing prices, and the trustee reserves the right to evaluate portfolio securities independently of closing sale prices if it deems such prices to be ''inappropriate.'' *See* ISE Response Letter I, *supra* note 6, at 6–7 and ISE Response Letter II, *supra* note 9, at 3. *See also infra* Section III.B.2.ii.

[15] In its response letters, ISE provides additional clarification regarding its calculation of the NAV of SPY, and its rationale for the difference between the calculation of the settlement value for the proposed options and the value for the ISE Max SPY Index itself. *See infra* Section III.B.2.

[16] *See* ISE Rules 2000 through 2013.

[17] *See* ISE Rules 608–612 and 616.

[18] As an example, ISE states in the Notice that a position in a series that expires beyond the conclusion of the pilot period could be established during the 14-month pilot. If the pilot program were not extended, then the position could continue to exist. However, any further trading in the series would be restricted to transactions where at least one side of the trade is a closing transaction. *See* Notice, *supra* note 3.

ISE response letters on the proposed rule change.[19]

One commenter expresses support for the proposed rule change and states that it ''generally applaud[s] efforts to provide investors with additional opportunities to invest using listed options.'' [20] In particular, this commenter supports ISE's proposal to allow p.m. settlement for options on the ISE Max SPY Index.[21] This commenter also supports the proposal to impose no position limits for options on the ISE Max SPY Index.[22] This commenter states that a key part of its basis for agreeing with the proposed position limits is the fact that ''there is a very large degree of economic equivalence between options on [ISE's] proposed index and the existing C2 SPXPM product.'' [23]

Two commenters oppose the proposed rule change for the reasons discussed below.

A. Pending Litigation; Potential for Market Disruption and Harm to Investors

Two commenters argue that the proposed options are, in fact, options on the S&P 500 index and therefore would violate a permanent injunction entered by the Illinois state court in 2010 (''Injunction'').[24] These two commenters have filed a motion to enforce this Injunction against ISE in Illinois Circuit Court,[25] and request that the Commission disapprove the proposed rule change [26] or not take action to approve the proposed rule change until the litigation is resolved.[27] In a second comment letter, CBOE argues that the Commission should disapprove the proposed options because they could not legally be traded.[28] In addition, CBOE requests that if the Commission considers the proposed rule change prior to judicial action on the motion, the Commission should make clear that any approval is solely concerned with whether the proposed rule change is consistent with the Act, and that the Illinois state court has full and independent authority to resolve the issues that arise under state law.[29]

In its response letter, ISE states that it is opposing the motion to enforce the Injunction.[30] ISE objects to the commenters' request that the Commission delay approval of the proposed rule change until the Illinois court decides on the motion, referring to prior Commission action where the Commission indicated that its decision to approve a rule filing should be based solely on whether it complies with the Act, without regard to any state law issues.[31] ISE states that because the current Illinois proceedings involve issues of intellectual property law and state procedure, the Commission should approve this proposed rule change without regard to the Illinois proceedings.[32]

According to the two commenters, significant market disruption and harm to investors could occur if the Commission were to approve the proposed rule change prior to the Illinois court ruling on whether the proposed options violate the existing Injunction or are otherwise unlawful.[33] Specifically, these commenters express the concern that if ISE commences trading in the proposed options before a decision by the Illinois court where the court finds that such trading is unlawful, investors would have no readily available means to trade out of or exercise their positions in the proposed options.[34]

In its first response letter, ISE disagrees with the comment that the Commission's approval of the proposed rule change before the Illinois court's ruling on the motion could result in significant market disruption or harm to investors.[35] Nevertheless, ISE represents that, absent returning to the Commission and seeking explicit approval to do so, it will not commence trading options on the ISE Max SPY Index until the Illinois Circuit Court has ruled on the motion.[36]

In a second comment letter, CBOE reiterates its concerns regarding potential market disruption and harm to investors.[37] In response to ISE's letter, CBOE states that the Illinois lower court's ruling on the motion to enforce the Injunction may not be the end of the litigation over whether the proposed options may be validly traded under state law, and that the Commission should condition any approval on ISE's undertaking not to commence trading until all judicial challenges to the lawfulness of the proposed options under state law have been resolved.[38]

In its second response letter, ISE again represents that it will not launch the proposed options for trading unless and until the Illinois Circuit Court denies the motion to enforce the Injunction.[39] In addition, in the event that the Illinois Circuit Court were to deny the motion to enforce the Injunction, and such a decision was to be subsequently reversed and ISE were to be enjoined from offering the proposed options after it had commenced trading and there is open interest, ISE represents that it would seek to have the state court permit it to continue to offer a market for closing-only transactions for so long as it takes all open interest to wind down in an orderly manner.[40] ISE states that it has systems, rules, and procedures in place that would permit such a closing-only orderly wind down, and that it is ''inconceivable that the Court would refuse to permit such a closing-only market.'' [41] ISE further states that even if the court were to deny a closing-only market, there are adequate rules and procedures in place, at the exchange and the clearing level, to allow for an orderly wind down of

[19] *See supra* notes 4, 6, 8, and 9.

[20] *See* NYSE Letter, *supra* note 4, at 1.

[21] *See id.* at 1–2.

[22] *See id.* at 2.

[23] *See id.*

[24] *See* CBOE Letter I and McGraw-Hill Letter I, *supra* note 4. According to one commenter, ''the ISE rule filing itself violates the Injunction because the Injunction prohibits ISE from listing options on the S&P 500 Index and the submission and notification of the rule filing commences the process of listing such options.'' *See* CBOE Letter I, *supra* note 4, at 2. Another commenter states that ISE's planned unauthorized use of the S&P 500 index constitutes an unlawful violation of Standard & Poor's Financial Services LLC's (''S&P'') intellectual property rights. *See* McGraw-Hill Letter I, *supra* note 4, at 1 and 4. This commenter urges the Commission to not approve the listing and trading of products that have previously been determined to be unlawful. *See id.* at 4. In subsequent comment letters, commenters note that the Illinois Appellate Court recently affirmed the lower court's Injunction. *See* CBOE Letter II, *supra* note 8, at 6 and McGraw-Hill Letter II, *supra* note 8, at 1.

[25] *See* Attachment 1 to CBOE Letter I and Attachment to McGraw-Hill Letter I, *supra* note 4.

[26] *See* CBOE Letter I, *supra* note 4, at 2 and McGraw-Hill Letter I, *supra* note 4, at 1.

[27] *See* CBOE Letter I, *supra* note 4, at 2.

[28] *See* CBOE Letter II, *supra* note 8, at 7.

[29] *See* CBOE Letter I, *supra* note 4, at 2. *See also* CBOE Letter II, *supra* note 8, at 8.

[30] *See* ISE Response Letter I, *supra* note 6, at 2. ISE states that the commenters' primary basis for claiming that the proposed options are options on the S&P 500 index is ''a single, erroneous sentence contained in ISE's 50 page rule filing'' and that this sentence ''is contained in the basis section of ISE's rule filing, which section is not controlling in terms of the description of the product.'' *See id.* at 3. ISE subsequently amended this sentence in Amendment No. 1. *See supra* note 7.

[31] *See* ISE Response Letter I, *supra* note 6, at 2–3.

[32] *See id.* at 3.

[33] *See* CBOE Letter I, *supra* note 4, at 2 and McGraw-Hill Letter I, *supra* note 4, at 1 and 4.

[34] *See* CBOE Letter I, *supra* note 4, at 2 and McGraw-Hill Letter I, *supra* note 4, at 1 and 4.

[35] *See* ISE Response Letter I, *supra* note 6, at 4.

[36] *See id.*

[37] *See* CBOE Letter II, *supra* note 8, at 7. The commenter states that by exposing investors to these undisclosed risks, the proposal fails to protect investors and the public interest. *See id. See also* McGraw-Hill Letter II, *supra* note 8, at 2–3 (stating that it would be inappropriate and contrary to the public interest for the Commission to approve a product that has been enjoined and is the subject of ongoing litigation to enforce the Injunction).

[38] *See* CBOE Letter II, *supra* note 8, at 8.

[39] *See* ISE Response Letter II, *supra* note 9, at 4.

[40] *See id.*

[41] *See id.*

any open interest.[42] In addition, ISE represents that it will insert a litigation risk discussion into the Options Disclosure Document (''ODD''),[43] which will be substantially similar to the litigation risk language included in prior versions of the ODD with respect to index participation products.[44] Finally, ISE states that these investor protection risks are not unique to the proposed product, and that there have been multiple cases where a market becomes unavailable for the continued trading of a product in which there is open interest.[45]

B. Potential for Investor Confusion

1. Characterization of the Product as Options on the ISE Max SPY Index

One commenter asserts that ISE's description of the proposed options is inaccurate and misleading.[46] This commenter understands from the filing that the settlement value for options on the ISE Max SPY Index would be calculated differently from all other values of the ISE Max SPY Index, stating that ''the settlement value will be calculated by reference to the stocks in the S&P 500 Index as weighted by S&P in its S&P 500 Index.'' [47] This commenter argues that the benchmark for the proposed option is not SPY, because the proposed options are not actually settled by reference to SPY.[48] This commenter subsequently asserts that the proposed rule change ''misleads investors by falsely characterizing the Proposed Options as options on the ISE Max SPY Index.'' [49] Specifically, this commenter states that ISE has admitted that the proposed options would not be settled based on the value of SPY and has failed to set forth any way in which the settlement value for the proposed options would have any relation to the ISE Max SPY Index.[50] This commenter also asserts that the proposed rule change misleads investors by characterizing the proposed option as a broad-based index option, when the ISE Max SPY Index actually consists of only a single component security.[51]

In response, ISE states that the rule filing makes clear that the ISE Max SPY Index is calculated based on the traded prices of SPY shares, and that the options on the ISE Max SPY Index are settled on the basis of a calculation of the NAV of the SPY trust's assets.[52] Further, to ensure that investors have an ongoing means to access information about options on the ISE Max SPY Index, ISE represents, in its second response letter, that it will: (i) Work with the OCC to amend the ODD to provide a clear and unambiguous description of the product and any unique risks associated with it; (ii) display the contract specifications on its Web site; (iii) create a special web page devoted exclusively to the proposed options, which will describe in plain English all the terms of this product, including index calculation and settlement; and (iv) follow the same marketing process it follows for all of its other new products, which is designed to promote awareness and a clear understanding of the product.[53]

Further, according to one commenter, to the extent that the ''ISE Max SPY Index'' is ''index-like,'' it is only because the SPY trust holds all of the stocks in the S&P 500 index, weighted as the stocks in the S&P 500 index are weighted.[54] This commenter argues that even if the benchmark could be said to have reference to SPY, the benchmark would have only one component security and therefore would not be an index.[55] ISE states in response that an index with one component is still an index and refers to CBOE's micro narrow-based index options and CBOE's indexes that measure the spot yield of individual U.S. Treasury Securities by simply multiplying them by ten (*i.e.,* TNX).[56] In its second letter, CBOE states that, consistent with Section 3 of the Act [57] and the principles set forth in Commission's staff legal bulletin, micro narrow-based indexes may consist of no fewer than two securities and no more than nine securities.[58] CBOE also states that its micro narrow-based index option rule applies only to an underlying benchmark that is itself a security index.[59] With respect to ISE's reference to CBOE's indexes that measure the spot yield of individual U.S. Treasury Securities, CBOE states that ''TNX options were not security index options, but instead were interest rate options based on interest rate values that were 'indexed' to make the options contracts a suitable size.'' [60] CBOE further states that TNX options were regulated as interest rate options and were described for all purposes as interest rate options.[61]

In response, ISE states that there is no legal requirement that an index consists of more than one component.[62] ISE disagrees with the commenter's rationale that indexes must contain at least two components, and states that the commenter is ''backpedaling on its

[42] *See id.* As an example, ISE points out that the Options Clearing Corporation (''OCC'') has by-laws and rules that, in the case of index options, permit it to create and use a replacement index to close out the open interest. *See id.*

[43] The ODD explains the characteristics and risks of exchange-traded options. Rule 9b–1 under the Act requires, among other things, that broker-dealers furnish the ODD to a customer before accepting an order from the customer to purchase or sell an option contract relating to an options class that is the subject of the ODD, or approve the customer's account for the trading of such option. *See* 17 CFR 240.9b–1(d).

[44] *See* ISE Response Letter II, *supra* note 9, at 4–5.

[45] *See id.* at 5. ISE gives an example of a listed company declaring bankruptcy, where all options markets have delisted options on the stock and there was no available market to close existing open interest. *See id.* ISE states that in these instances, investors with open positions waited until expiration and were either assigned or not, according to OCC rules and procedures. *See id.*

[46] *See* CBOE Letter I, *supra* note 4, at 4.

[47] *See id. See also* McGraw-Hill Letter I, *supra* note 4, at 3.

[48] *See* CBOE Letter I, *supra* note 4, at 4. According to the commenter, this point is further illustrated by ISE's proposal with respect to position limits for the options on the ISE Max SPY Index. *See id.* at 5. The commenter points out that ISE proposed no position limits for these options by reference to the position limits for the p.m.-settled S&P 500 index (''SPXPM'') options, rather than the position limits for other SPY-based products. *See id.* Another commenter states that the Commission should be concerned by the misleading disconnect between the name of the proposed options and the manner in which the options would be settled. *See also* McGraw-Hill Letter I, *supra* note 4, at 2–3 and note 5.

[49] *See* CBOE Letter II, *supra* note 8, at 2.

[50] *See id.* Another commenter also reiterates, in its second comment letter, that the proposed options would not be settled based on any value of the ISE Max SPY Index, but rather based on ISE's recalculation of the S&P 500 index, using the same stocks selected by S&P and the same weighting methodology. *See* McGraw-Hill Letter II, *supra* note 8, at 2.

[51] *See* CBOE Letter II, *supra* note 8, at 4.

[52] *See* ISE Response Letter I, *supra* note 6, at 3.

[53] *See* ISE Response Letter II, *supra* note 9, at 2.

[54] *See* CBOE Letter I, *supra* note 4, at 5.

[55] *See id.* at 4 and CBOE Letter II, *supra* note 8, at 4–6. CBOE states that ''allowing options to trade on a security index comprised of a single component would implicate potentially far-reaching regulatory considerations under the Exchange Act. If the concept of a 'security index option' is that elastic, then options on a single equity stock could just as easily be traded as a security index option, through the fiction of creating a reference point to that single stock's prices. That has never before been contemplated, and should not be permitted—at least without deep regulatory examination of the implications of that development.'' *See* CBOE Letter II, *supra* note 8, at 6. *See also* McGraw-Hill Letter I, *supra* note 4, at note 3.

[56] *See* ISE Response Letter I, *supra* note 6, at 7–8.

[57] In this regard, CBOE points out that the definition of ''security future'' in Section 3 of the Act makes a distinction between a ''narrow-based security index'' and a ''single security.'' *See* CBOE Letter II, *supra* note 8, at 5.

[58] *See id.* at 4–5.

[59] *See id.* at 5.

[60] *See id.* at 6. CBOE states that ''[t]he term 'index' was used in referring to the reference value for the TNX in a manner distinct from the meaning of a 'security index' '' and that the term ''meant a number or a reference point, in the same sense that the word 'index' is used in the term 'consumer price index.' '' *See id.*

[61] *See id.*

[62] *See* ISE Response Letter II, *supra* note 9, at 5.

own past history of creating one-component indexes.'' [63]

2. Clarity and Completeness of the Description of the Options on the ISE Max SPY Index

i. Method for Calculating Settlement Values

One commenter states that ISE is unclear in describing the assets that it would take into account in calculating the settlement value of the proposed options, and points out the differences between ISE's calculation of the NAV of SPY, as described in the Notice, and the trust's calculation of the NAV of SPY.[64] In particular, this commenter points out that ISE omitted the reference to ''other assets'' of the trust in the description of its calculation methodology.[65] The commenter states that if ISE does not take the ''other assets'' held in the trust into account in calculating settlement values for the proposed options, its settlement value calculation methodology will ''clearly diverge from the method used by the Trustee for the Trust to calculate NAVs for the Trust.'' [66] The commenter states that if this is ISE's intent, it needs to be clearly stated in the filing.[67]

In its response letter, ISE states that the ISE Max SPY Index ''is settled by reference to the value of the SPY ETF'' and that it is independently calculating the NAV of the SPY ETF using a methodology that closely tracks the methodology that State Street Global Advisors (''SSgA'') uses to calculate the NAV of the SPY ETF.[68] ISE states that generally, the NAV for equity-based ETFs is calculated in the same manner, regardless of who the calculation agent is.[69] ISE further explains that NAV is determined by adding the value of the portfolio securities to the trust's net cash (accrued dividends minus accrued fees and expenses), and dividing the result by the total number of outstanding shares of the fund.[70] ISE states that the net cash amount is usually determined by the fund's administrator, who provides that information to the National Securities Clearing Corporation (''NSCC'').[71]

In a second comment letter, CBOE reiterates that ISE fails to explain the differences between its calculation of the NAV and the NAV published by the trustee of the trust.[72] CBOE states that ISE's proposal did not make clear that the settlement of the proposed options is based on a calculation of the NAV of the SPY ETF, and that the proposal misleads investors about how ISE would calculate the settlement value.[73] CBOE notes that ''ISE states that the NAV calculation of an ETF 'generally' is determined by 'adding the trust's net cash (accrued dividends minus accrued fees and expenses)' to the value of the portfolio securities,'' thereby implying that it would do so as well when computing the settlement value of the proposed options.[74] CBOE states, however, that ''ISE is careful never to actually state—either in the ISE Proposal or [ISE Response Letter I]—that it *would* use dividends and Trust expenses when calculating the settlement value of the Proposed Options.'' [75] CBOE further points out that ISE may not be able to include those factors in its calculation because the trust disseminates information about the SPY ETF's net cash at the same time as the information about the value of its stock holdings.[76]

In a second response letter, ISE specifically sets forth the formula for settlement value calculation, including the formula for calculating the NAV of SPY.[77] ISE states that its NAV calculating method is the same standard method that is used industry-wide for ETFs with equity-only holdings.[78] Specifically, ISE explains that after the close of each trading day, the fund's administrator provides to the NSCC the portfolio securities of the fund, the number of shares of each security, the net cash of the fund, and the shares outstanding of the fund.[79] The NSCC makes this information available to market participants on a daily basis after the close of each trading day.[80] ISE states that, by way of its market data vendor, it will calculate the settlement value using the data received from the NSCC.[81]

ii. Source of Prices Used in Calculating Settlement Values

One commenter states that ISE is unclear in describing the sources of the prices that it would use in calculating settlement values for the proposed options and that ISE's representation of the trust's NAV calculation is inconsistent with the prospectus.[82] In its response letter, ISE states that the filing clearly identifies the source of the prices—the published closing prices from the primary market of the securities.[83] ISE also disagrees with the comment that its representation is inconsistent with the SPDR prospectus because the trust may independently decide which exchange it deems to be the ''primary market'' as a source for closing prices.[84] In a second response letter, ISE again states that its calculation of the NAV would be based upon the closing prices from the primary markets of each portfolio security, and that it recognizes that the SPY trust may use different prices because the trustee reserves the right to evaluate portfolio securities independently of closing sale prices if it deems such prices to be ''inappropriate.'' [85]

iii. Differences between Settlement Value and All Other Values

One commenter states that ISE's filing ''does not contain any explanation of why it proposes to calculate settlement values of the Proposed Benchmark differently from all other values of the Proposed Benchmark.'' [86] In its response

[63] *See id.*

[64] *See* CBOE Letter I, *supra* note 4, at 5–6.

[65] *See id.* The commenter also states that the calculation of the values of the S&P 500 index, unlike the calculation of the NAV of SPY, does not take into account other assets such as dividends. *See id.* at 6.

[66] *See id.*

[67] *See id.*

[68] *See* ISE Response Letter I, *supra* note 6, at 4.

[69] *See id.* at 6.

[70] *See id.*

[71] *See id.*

[72] *See* CBOE Letter II, *supra* note 8, at 4.

[73] *See id.* at 3–4.

[74] *See id.* at 3.

[75] *See id.* Another commenter states, in a second comment letter, that ''the Commission should not be misled by ISE's oblique reference to the use of a 'well known methodology that is intended to track, as closely as possible SSGA's methodology for its calculation of the NAV for the SPY ETF' '' because ''[t]he 'well-known methodology' that ISE proposes to employ is to use S&P's selection of stocks for inclusion in the S&P 500 and the manner in which those stocks are weighted by S&P for purposes of calculating the S&P 500, both of which are proprietary to S&P.'' *See* McGraw-Hill Letter II, *supra* note 8, at 2.

[76] *See* CBOE Letter II, *supra* note 8, at 3–4. CBOE reiterates this comment in its third comment letter. *See* CBOE Letter III, *supra* note 8, at 1–2. In particular, CBOE questions the timing that the information necessary for ISE to make the settlement calculation would be made available. *See id.* In this regard, CBOE states that ''the information on which ISE purportedly would rely to compute the NAV of the SPY ETF would not be available until hours after ISE's admitted deadline.'' *See id.* at 2. Accordingly, CBOE concludes that ISE's proposal ''continues to mislead investors about how the Proposed Options would settle.'' *See id. See also infra* Section III.B.2.i (describing the calculating methodology for the settlement value of options on the ISE Max SPY Index).

[77] *See* ISE Response Letter II, *supra* note 9, at 2–3.

[78] *See id.* at 3.

[79] *See id.*

[80] *See id.*

[81] *See id.* ISE states that, unlike the trust's NAV calculation, investors will have certainty in knowing how the settlement value of ISE Max SPY options was calculated by ISE. *See id.*

[82] *See* CBOE Letter I, *supra* note 4, at 6–7.

[83] *See* ISE Response Letter I, *supra* note 6, at 6–7.

[84] *See id.* at 7.

[85] *See* ISE Response Letter II, *supra* note 9, at 3.

[86] *See* CBOE Letter I, *supra* note 4, at 7. The ''Proposed Benchmark'' refers to the ISE Max SPY

letter, ISE explains that it is doing so to decrease the opportunity for manipulation and other abusive trading practices.[87] Specifically, ISE states that a would-be manipulator would need to manipulate the closing price of 500 individual stocks, as opposed to the closing price of one ETF.[88] ISE also states that its calculation of the NAV would allow for a timely settlement of the proposed options.[89] Specifically, ISE states that the obligation of SSgA is to establish a NAV of the SPY ETF before the next day's opening.[90] However, since the OCC requires settlement values to be sent to it the same day as the settlement of an option, ISE cannot rely on the SSgA-published NAV.[91]

Further, ISE points out that ''the concept of utilizing a reference price to settle an index option product that differs from the values of the proposed benchmark is not novel, and is best illustrated in CBOE's AM-settled S&P 500 index [(''SPX'')] options.'' [92] In response, CBOE differentiates the settlement of SPX options from the settlement of ISE Max SPY options.[93] Specifically, CBOE states that SOQ[94] represents a modified calculation of the same interest that underlies SPX options during their life—the S&P 500 index.[95] Conversely, CBOE states that ISE would use a different underlying benchmark to calculate the settlement value of the proposed options—the benchmark during the life of the proposed options would be the ISE Max SPY Index (based on the traded prices of SPY), whereas the benchmark at settlement would be a recalculated S&P 500 index.[96]

iv. Special Dividends and Special Distributions

One commenter states that companies in the S&P 500 index from time to time pay special dividends and make special distributions to their shareholders, and ISE did not explain whether or how the relationship between settlement value and other values would be preserved in such a circumstance.[97]

In its response letter, ISE states that it has never been a practice of the exchanges to describe the details on dividend processing for components of indexes in rule filings seeking approval of index options.[98] Further, ISE states that because the proposed product is an index option, it does not anticipate adjustments being made to the options as a result of any component dividends, and that this is customary practice for index options.[99]

3. ODD Amendments

One commenter suggests that the ODD would require supplementation before the proposed options could be listed and traded.[100] First, this commenter states that an investor looking for disclosure with respect to the proposed product might be uncertain as to whether they are described in Chapter III (Options on Equity Securities) or Chapter IV (Index Options) of the ODD.[101] Second, this commenter states that the ODD would need to be supplemented to provide disclosure with respect to the difference between the calculation of the settlement value and all other values of the proposed options.[102]

In its response letter, ISE states that it will follow the well-settled process for supplementing the ODD to devise disclosure of any risks associated with the proposed options that are determined by the Listed Options Disclosure Committee (''LODC'') [103] to be necessary for disclosure.[104] Further, as discussed above, in its second response letter, ISE represents that it will work with the OCC to amend the ODD to provide a clear and unambiguous description of the proposed options and any unique risks associated with it.[105]

IV. Proceedings To Determine Whether To Approve or Disapprove SR–ISE–2012–22, as Modified by Amendment No. 1, and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2) of the Act to determine whether the proposed rule change should be approved or disapproved.[106] Institution of such proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. Institution of disapproval proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described in greater detail below, the Commission seeks and encourages interested persons to provide additional comment on the proposed rule change to inform the Commission's analysis of whether to approve or disapprove the proposed rule change.

As discussed above, the proposed rule change would allow ISE to list and trade European-style, p.m. and cash settled options on the ISE Max SPY Index. The proposed options would not be subject to position limits. The real-time value of the ISE Max SPY Index would be calculated by multiplying the share prices of SPY by a factor of ten and rounding to the tenth place, whereas the settlement value of the option would be

Index. *See id.* at note 2. This commenter further states that ''ISE's plan to use the same prices to calculate settlement values that S&P uses to calculate the S&P 500 demonstrates that ISE's true purpose is to replicate the value of the S&P 500 as closely as possible, even though doing so creates the possibility of discontinuities between the settlement values of the Proposed Benchmark and all other values of that benchmark.'' *See id.* at 7. *See also* CBOE Letter II, *supra* note 8, at 3 (stating that ISE intends ''to replicate European-style, p.m. settled S&P 500 index options'' by ''divorcing its Proposed Options from all connection to the ISE Max SPY Index value at the most important time—*i.e.,* settlement—and by instead calculating the settlement value on the 'closing prices of [the] 500 individual stocks' in the S&P 500 index.'')

[87] *See* ISE Response Letter I, *supra* note 6, at 4. CBOE disagrees with ISE's argument that its calculation methodology for the settlement of options on the ISE Max SPY Index would decrease manipulation because ''the SPY ETF is one of the most actively traded securities in the investing world.'' *See* CBOE Letter II, *supra* note 8, at 3.

[88] *See* ISE Response Letter I, *supra* note 6, at 5.

[89] *See id.* at 4. *See also supra* note 76 (discussing CBOE's response to this comment in its third comment letter).

[90] *See id.* at 5.

[91] *See id.* at 5–6. In its second response letter, ISE reiterates that because the trustee is under no obligation to distribute the NAV before the next day's open, ISE will perform its own calculation of the NAV to ensure that the settlement value is transmitted to OCC in time for regular processing of expiring contracts (generally before 6 p.m. ET). *See* ISE Response Letter II, *supra* note 9, at 3–4.

[92] *See* ISE Response Letter I, *supra* note 6, at 4–5. Specifically, ISE states that SPX options use a settlement value calculation called the Special Opening Quotation (''SOQ''), and SOQ is a special calculation of the underlying index where the opening prices of the index components are used to determine the settlement value of options contracts. *See id.* at 5. According to ISE, because component stocks may open after the primary markets have opened, or not at all, this can result in a settlement value that has a significant discrepancy from the initial index quote. *See id.* ISE reiterates this point in its second response letter. *See* ISE Response Letter II, *supra* note 9, at 4.

[93] *See* CBOE Letter II, *supra* note 8, at 2.

[94] *See supra* note 92.

[95] *See* CBOE Letter II, *supra* note 8, at 2.

[96] *See id.*

[97] *See* CBOE Letter I, *supra* note 4, at 7.

[98] *See* ISE Response Letter I, *supra* note 6, at 7.

[99] *See id.*

[100] *See* CBOE Letter I, *supra* note 4.

[101] *See id.* at 7–8.

[102] *See id.* at 8–9.

[103] ISE states that the LODC is comprised of representatives of the OCC and each of the participant exchanges, and has the responsibility for determining and performing the necessary disclosure. *See* ISE Response Letter I, *supra* note 6, at 8.

[104] *See id.*

[105] *See* ISE Response Letter II, *supra* note 9, at 2.

[106] 15 U.S.C. 78s(b)(2). Section 19(b)(2)(B) of the Act provides that proceedings to determine whether to approve or disapprove a proposed rule change must be concluded within 180 days of the date of publication of notice of the filing of the proposed rule change. The time for conclusion of the proceedings may be extended for up to an additional 60 days if the Commission finds good cause for such extension and publishes its reasons for so finding or if the self-regulatory organization consents to the extension.

based on the NAV of SPY, as calculated by ISE,[107] on a per share basis, times ten.

The section of the Act applicable to the proposed rule change that provides the grounds for the disapproval (or approval) under consideration is Section 6(b)(5),[108] which requires that the rules of an exchange be designed, among other things, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

As discussed above, one commenter supports the proposed rule change,[109] while two commenters oppose the proposed rule change.[110] Commenters raise the concern that the proposed rule change could lead to significant market disruption and harm to investors if ISE commences trading in the proposed options before all judicial challenges to the lawfulness of the proposed options under state law have been resolved.[111] In addition, commenters raise concerns regarding whether the proposed new product could be misleading to investors and questioned the accuracy and clarity of ISE's description of the proposed options, including the calculation of the settlement value,[112] the differences between the calculation of the settlement value and all other values of the ISE Max SPY Index,[113] and the characterization of the proposed options as options on the ''ISE Max SPY Index.'' [114]

In light of the concerns raised by commenters, the Commission believes that questions remain as to whether the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act, including whether the proposed options are designed to protect investors and the public interest.

V. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data and arguments with respect to the issues identified above, as well as any others they may have identified with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposed rule change is consistent with Section 6(b)(5) or any other provision of the Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval which would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b-4, any request for an opportunity to make an oral presentation.[115]

Interested persons are invited to submit written data, views and arguments regarding whether the proposed rule change should be approved or disapproved by August 10, 2012. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by August 27, 2012.

The Commission is asking that commenters address the merit of ISE's statements in support of the proposal, in addition to any other comments they may wish to submit about the proposed rule change. Specifically, the Commission is requesting comment on the following:

- What are commenters' views as to whether market disruption and harm to investors would occur if the Commission were to approve the proposed rule change before all judicial challenges to the lawfulness of the proposed options under state law have been resolved? In light of the Exchange's representation that it would not start trading the proposed options until the Illinois Circuit Court rules on the motion to enforce the Injunction, and its representation regarding the potential mechanisms to ensure an orderly wind down of trading in the event that ISE is enjoined from offering the product after trading has already begun, do commenters believe any harm would result if the Exchange started trading the proposed options before all judicial challenges to the lawfulness of the proposed options under state law have been resolved? Why or why not?
- As outlined above, the Exchange has provided additional detail about how it intends to calculate the settlement value for options on the ISE Max SPY Index.[116] What are commenters' views as to whether the Exchange should provide additional clarity in the filing regarding the calculation methodology for the settlement value of options on the ISE Max SPY Index to mitigate concerns regarding the potential for investor confusion? Please be specific in your response.
- As noted above, the Exchange would calculate the value of the ISE Max SPY Index by reference to the traded prices of SPY, times ten, at all times. However, the settlement value of the options on the ISE Max SPY Index would be calculated by reference to the NAV of SPY, as calculated by the Exchange, on a per share basis, times ten.[117] What are commenters' views of the impact, if any, of the differences between the calculation of the settlement value of the proposed options and the value of the ISE Max SPY Index itself on investor understanding of the options on the ISE Max SPY Index? Do commenters believe that the differences between the calculation of the settlement value of the proposed options and the value of the ISE Max SPY Index itself could cause investor confusion? Please explain why or why not.
- If commenters believe that the differences between the calculation of the settlement value of the proposed options and the value of the ISE Max SPY Index itself could cause investor confusion, what are commenters' views as to whether the steps that ISE has proposed to take to provide investors with information about the product [118]

[107] *See supra* note 13.

[108] 15 U.S.C. 78f(b)(5).

[109] *See* NYSE Letter, *supra* note 4.

[110] *See* CBOE Letter I, *supra* note 4; McGraw-Hill Letter I, *supra* note 4; CBOE Letter II, *supra* note 8; McGraw-Hill Letter II, *supra* note 8; and CBOE Letter III, *supra* note 8.

[111] *See* CBOE Letter I, *supra* note 4, at 2; McGraw-Hill Letter I, *supra* note 4, at 1 and 4; CBOE Letter II, *supra* note 8, at 6–8; and McGraw-Hill Letter II, *supra* note 8, at 2–3.

[112] *See* CBOE Letter I, *supra* note 4, at 5–7; CBOE Letter II, *supra* note 8, at 3–4; McGraw-Hill Letter II, *supra* note 8, at 2; and CBOE Letter III, *supra* note 8, at 1–2.

[113] *See* CBOE Letter I, *supra* note 4, at 7; McGraw-Hill Letter I, *supra* note 4, at 3; and CBOE Letter II, *supra* note 8, at 2–3.

[114] *See* CBOE Letter I, *supra* note 4, at 4–5; McGraw-Hill Letter I, *supra* note 4, at 2–4; CBOE Letter II, *supra* note 8, at 2–7; and McGraw-Hill Letter II, *supra* note 8, at 2.

[115] Section 19(b)(2) of the Act, as amended by the Securities Acts Amendments of 1975, Pub. L. 94–29, 89 Stat. 97 (1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Acts Amendments of 1975, Report of the Senate Committee on Banking, Housing and Urban Affairs to Accompany S. 249, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[116] *See supra* Section III.B.2.i. and note 13.

[117] *See supra* Section III.B.2.i. and note 13.

[118] As stated above, in its second response letter, ISE represents that it will: (i) Work with the OCC to amend the ODD to provide a clear and unambiguous description of the product and any unique risks associated with it; (ii) display the contract specifications on its Web site; (iii) create a special Web page devoted exclusively to the proposed options, which will describe in plain English all the terms of this product, including index calculation and settlement; and (iv) follow the same marketing process it follows for all of its other new products, which is designed to promote awareness and a clear understanding of the product. *See* ISE Response Letter II, *supra* note 9, at 2.

would be sufficient to mitigate such concerns?

• Do commenters believe that the characterization of the proposed options as options on the ''ISE Max SPY Index'' would have the potential to cause investor confusion? If so, why? If not, why not? If so, what are commenters' views on whether any potential confusion would be sufficiently mitigated by the steps that ISE has proposed to take to provide investors with information about the product? [119] Please be specific in your response.

Comments may be submitted by any of the following methods:

Electronic Comments

• Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

• Send an email to rule-comments@sec.gov. *Please include File Number SR–ISE–2012–22 on the subject line.*

Paper Comments

• Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number *SR–ISE–2012–22.* This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number *SR–ISE–2012–22* and should be submitted on or before August 10, 2012. Rebuttal comments should be submitted by August 27, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[120]

Kevin M. O'Neill,

Deputy Secretary.

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[119] *See id.*

[120] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67224; File No. SR–BX–2012–040]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Making a Clerical Correction to the Grandfathered Rules

June 20, 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 June 7, 2012, NASDAQ OMX BX, Inc. (''BX'' 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 the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Grandfathered Rules. The text of the proposed rule change is available at *http://nasdaq.cchwallstreet.com,* at the Exchange's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to make administrative changes and correct inadvertent typographical errors to the Exhibit 5 to SR–BX–2012–036 [3] (''2012–036 Exhibit 5'') so that the text properly reflects the changes as intended in the purpose section of SR–BX–2012–036. SR–BX–2012–036 was filed for immediate effectiveness on May 14, 2012. The administrative changes and typographical errors to 2012–036 Exhibit 5 are explained below:

The Grandfathered BSE Rules

Chapter I–B ends in a comma. The comma is being deleted and a period is being added. In Chapter XVIII—Conduct, Section 4, the language ''provided in'' was added to the 2012–036 Exhibit 5, but it should have been underlined to denote that it was new text. In addition, a reference to BX Rules 9126, should read BX Rule 9126. As proposed an ''s'' in the word Rules, is being deleted from the rule text.

Chapter XXXIII, Section 7 had a single bracket (''[''') denoting that text was going to be removed before the word Article that should not have been placed in the 2012–036 Exhibit 5. It was intended that that word remain in the rule text. In Chapter XXXIV, Section 4, a reference to BX Rule 9000 and a reference to BX Rule 9216 was added to the rule text. However, in both places, BX should have been underlined to denote that it was new text.

Grandfathered Boston Options Exchange Group LLC Rules

In Chapter 1, Section 1 (9), the word ''a'' was added as new text, which as proposed will be deleted. In Chapter II, Section 1(c), the language ''of the Boston Stock Exchange, Inc. (''Constitution'')'', should have been removed, the opening bracket was added, to the 2012–036 Exhibit 5, but the closing bracket was not added. The Exchange is proposing to add the closing bracket to properly note what language should have been deleted. Section 6 added the word Reserved to the Rule text; however, it should have been underlined to denote that it was new text.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 67009 (May 17, 2012), 77 FR 30566 (May 23, 2012) (SR–BX–2012–036).

In Chapter V, an extra closing bracket was added to the deletions to 2012–036 Exhibit 5. The extra bracket will be removed to clarify that the entire section will be deleted. In Chapter VI, Section 4, BX Rules 9000 Series should have been underlined to denote new text. In Chapter X, the Exchange added ''See also BX Rule 9216'' to the 2012–036 Exhibit 5. The Exchange now proposes to add that section reference to the end of the sentence rather than in the middle of the sentence. In addition, the following sentence, which follows that reference, should begin with a capital ''T.'' Finally, where ''BX Rules 9000 Series'' was added to the 2012–036 Exhibit 5, the word Series was not underlined to denote that it was new text.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[4] in general, and with Section 6(b)(5) of the Act,[5] in particular, in that the proposal is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposed rule change is consistent with these provisions in that it will allow the Exchange to make administrative changes and correct inadvertent typographical errors.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

This proposed rule change is filed pursuant to paragraph (A) of section 19(b)(3) of the Exchange Act[6] and Rule 19b–4(f)(6) thereunder.[7] This proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BX–2012–040 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2012–040. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2012–040, and should be submitted on or before July 17, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Kevin M. O'Neill,

Deputy Secretary.

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[4] 15 U.S.C. 78f.

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(6).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67227; File No. SR–FICC–2012–05]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of Proposed Rule Change To Amend the Rules Regarding the GCF Repo Service To Adopt Changes Recommended by the Tri-Party Repo Infrastructure Reform Task Force

June 20, 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 June 8, 2012, the Fixed Income Clearing Corporation (''FICC'') 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 primarily by FICC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to seek the Commission's approval to extend the pilot program (the ''Pilot Program'') that is currently in effect for certain aspects of the GCF Repo service®.[3] FICC is requesting that the Pilot Program be extended for one year following the date of the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] GCF Repo is a registered trademark of FICC/DTCC.

Commission's approval of this proposed rule change filing.[4]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FICC 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. FICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[5]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(i) On July 12, 2011, FICC submitted a proposed rule change filing to the Commission (SR–FICC–2011–05) proposing to make certain changes to its GCF Repo service in order to comply with the recommendations that had been made by the Tri-Party Repo Infrastructure Reform Task Force (''TPR''), an industry group formed and sponsored by the Federal Reserve Bank of New York.[6] Because the GCF Repo service operates as a tri-party mechanism, FICC was requested to incorporate changes to the GCF Repo service to align the service with the other TPR recommended changes for the overall tri-party repo market.

The rule change described in SR–FICC–2011–05 was proposed to be run as a Pilot Program for one year starting from the date on which the Commission approved the filing.[7] During this past year, FICC implemented a portion of the rule changes that were included in SR–FICC–2011–05 and wishes to continue to have these aspects of the GCF Repo service continue as part of the renewed Pilot Program. FICC also wishes to make certain modifications to the Pilot Program as noted below.

Background: Description of the GCF Repo Service and History

(1) Creation of the GCF Repo Service

The GCF Repo service allows Government Securities Division (''GSD'') dealer members to trade general collateral repos[8] throughout the day without requiring intra-day, trade-for-trade settlement on a delivery-versus-payment (DVP) basis. The service allows the dealers to trade such general collateral repos, based on rate and term, throughout the day with inter-dealer broker netting members on a blind basis. Standardized, generic CUSIP numbers have been established exclusively for GCF Repo processing and are used to specify the acceptable type of underlying Fedwire book-entry eligible collateral, which includes Treasuries, Agencies, and certain mortgage-backed securities.[9]

The GCF Repo service was developed as part of a collaborative effort among the Government Securities Clearing Corporation (''GSCC'') (GSD's predecessor), its two clearing banks (The Bank of New York Mellon (''BNY'') and JPMorgan Chase Bank, National Association (''Chase'')), and industry representatives. GSCC introduced the GCF Repo service on an intra-clearing bank basis in 1998.[10] Under the intrabank service, dealers could only engage in GCF Repo transactions with other dealers that cleared at the same clearing bank.

(2) Creation of the Interbank Version of the GCF Repo Service

In 1999, GSCC expanded the GCF Repo service to permit dealer participants to engage in GCF Repo trading on an interbank basis, meaning that dealers using different clearing banks could enter into GCF Repo transactions (on a blind brokered basis).[11] Because dealer members that participate in the GCF Repo service do not all clear at the same clearing bank, introducing the service as an interbank service necessitated the establishment of a mechanism to permit after-hours movements of securities between the two clearing banks to deal with the fact that GSCC would likely have unbalanced net GCF securities and cash positions within each clearing bank (that is, it is likely that at the end of GCF Repo processing each business day, the dealers in one clearing bank will be net funds borrowers, while the dealers at the other clearing bank will be net funds lenders). To address this issue, GSCC and its clearing banks established, and the Commission approved, a legal mechanism by which securities would ''move'' across the clearing banks without the use of the Fedwire Securities Service (''Fedwire Securities'').[12] (Movements of cash do not present the same issue because the Fedwire Funds Service (''Fedwire Funds'') is open later than Fedwire Securities). Therefore, at the end of the day, after the GCF net results are produced, securities are pledged via a tri-party-like mechanism and the interbank cash component is moved via Fedwire Funds. In the morning, the pledges are unwound, that is, funds are returned to the net funds lenders and securities are returned to the net funds borrowers.

The following simplified example illustrates the manner in which the GCF Repo service works on an interbank basis:

Assume that Dealer B clears at BNY and Dealer C clears at Chase. Further assume that: (i) outside of FICC, Dealer B engages in a tri-party repo transaction with Party X to obtain funds and seeks to invest such funds via a GCF Repo transaction; (ii) outside of FICC, Dealer C engages in a DVP repo transaction with Party Y to buy securities and seeks to finance these securities via a GCF Repo transaction; and (iii) Dealer B and Dealer C enter into a GCF Repo transaction (on a blind basis via a GCF Repo broker) and submit the trade details to FICC.

At the end of ''Day 1,'' GCF Repo collateral must be allocated, i.e., Dealer B must receive the securities. However, the securities that Dealer B is to receive are at Chase and Fedwire Securities is closed. The after-hours movement

[4] If FICC determines to change the parameters of the service during the one-year Pilot Program extension period, it will submit a proposed rule change filing to the Commission. If FICC seeks to extend the Pilot Program beyond the one-year period or proposes to make the Pilot Program permanent, it will also submit a proposed rule change filing to the Commission.

[5] The Commission has modified the text of the summaries prepared by FICC.

[6] The main purpose of the TPR was to develop recommendations to address the risk presented by tri-party repo transactions due to the current morning reversal or ''unwind'' process and to move to a process by which tri-party repo transactions are collateralized all day.

[7] Securities Exchange Act Release No. 34–65213 (August 29, 2011), 76 FR 54824 (September 2, 2011).

[8] A general collateral repo is a repo in which the underlying securities collateral is nonspecific, general collateral whose identification is at the option of the seller. This is in contrast to a specific collateral repo.

[9] In 2009, the Commission approved FICC rule filing 2009–04 to add debt securities issued under the Debt Guaranty Program component of the Federal Deposit Insurance Corporation's (''FDIC'') Temporary Liquidity Guarantee Program (''TLGP'') to the GCF Repo Service. *See* Securities Exchange Act Release No. 34–59558 (March 11, 2009), 74 FR 11385 (March 17, 2009). The TLGP, one of the steps taken by the U.S. Government to stabilize the credit markets and stimulate lending, was designed to allow banks to issue FDIC-insured debt, ensuring that the banks would be able to roll over any debt coming due in the coming months. The guarantee consists of timely payment of principal and interest. The expiration of the FDIC's guarantee is the earlier of either the maturity date of the issued debt or June 2012.

[10] *See* Securities Exchange Act Release No. 34–40623 (October 30, 1998), 63 FR 59831 (November 5, 1998).

[11] *See* Securities Exchange Act Release No. 34–41303 (April 16, 1999), 64 FR 20346 (April 26, 1999).

[12] *See id.* for a detailed description of the clearing bank and FICC accounts needed to effect the after-hour movement of securities.

mechanism permits the securities to be ''sent'' to Dealer B as follows: FICC will instruct Chase to allocate to a special FICC clearance account at Chase securities in an amount equal to the net short securities position.

FICC has established on its own books and records two ''securities accounts'' as defined in Article 8 of the New York Uniform Commercial Code, one in the name of Chase (''FICC Account for Chase'') and one in the name of BNY (''FICC Account for BNY''). The FICC Account for Chase is comprised of the securities in FICC's special clearance account maintained by BNY (''FICC Special Clearance Account at BNY for Chase''), and the FICC Account for BNY is comprised of the securities in FICC's special clearance account maintained by Chase (''FICC Special Clearance Account at Chase for BNY'').[13] The establishment of these securities accounts by FICC in the name of the clearing banks enables the clearing bank that is in the net long securities position to ''receive'' securities by pledge after the close of Fedwire Securities. Once the clearing bank has ''received'' the securities by pledge, it can credit them by book-entry to a FICC GCF Repo account at that clearing bank and then to the dealers that clear at that bank that are net long the securities in connection with GCF Repo trades.

In the example, Chase, as agent for FICC, will transmit to BNY a description of the securities in the FICC Special Clearance Account at Chase for BNY. Based on this description, BNY will transfer funds equal to the funds borrowed position to the FICC GCF Repo account at Chase. Upon receipt of the funds by Chase, Chase will release any liens it may have on the FICC Special Clearance Account at Chase for BNY, and FICC will release any liens it may have on the FICC Account for BNY (both of these accounts being comprised of the same securities). BNY will credit the securities in the FICC Account for BNY to FICC's GCF Repo account at BNY, and BNY will further credit these securities to Dealer B, who, as noted, is in a net long securities position. In the morning of ''Day 2,'' all securities and funds movements occurring on Day 1 are reversed (''unwind'').

[13] FICC has appointed Chase as its agent to maintain FICC's books and records with respect to the BNY securities account, and FICC has appointed BNY as its agent to maintain FICC's books and records with respect to the Chase securities account.

(3) Issues With Morning Unwind Process

In 2003, FICC shifted the GCF Repo service back to intrabank status only.[14] By that time, the service had grown significantly in participation and volume. However, with the increase in use of the interbank service, certain payments systems risk issues arose from the inter-bank funds settlements related to the service, namely, the large interbank funds movement in the morning. FICC shifted the service back to intrabank status to enable management to study the issues presented and identify a satisfactory solution for bringing the service back to interbank status.

(4) The NFE Filing and Restoration of Service to Interbank Status

In 2007, FICC submitted to the Commission a proposed rule change to address the issues raised by the interbank morning funds movement and return the GCF Repo service to interbank status (''2007 NFE Filing'').[15] The 2007 NFE Filing addressed these issues by using a hold against a dealer's ''net free equity'' (''NFE'') at the clearing bank to collateralize its GCF Repo cash obligation to FICC on an intraday basis.[16]

The 2007 NFE Filing replaced the Day 2 morning unwind process with an alternate process, which is currently in effect. Specifically, in lieu of making funds payments, the interbank dealers grant to FICC a security interest in their NFE-related collateral equal to their prorated share of the total interbank funds amount. FICC, in turn, grants to the other clearing bank (that was due to receive the funds) a security interest in the NFE-related collateral to support the debit in the FICC account at the clearing bank. The debit in the FICC account (''Interbank Cash Amount Debit'') occurs because the dealers who are due to receive funds in the morning must receive those funds at that time in return for their release of collateral. The debit in the FICC account at the clearing bank gets satisfied during the end of day GCF Repo settlement process. Specifically, that day's new activity yields a new interbank funds amount that will move at end of day—however, this amount gets netted with the amount that would have been due in the morning, thus further reducing the interbank funds movement. The NFE holds are released when the interbank funds movement is made at end of day. The 2007 NFE Filing did not involve any changes to the after-hours movement of securities occurring at the end of the day on Day 1.

Using the example above:

On the morning of Day 2, Dealer C who needs to return funds in the unwind, instead of returning the funds in the morning, grants to FICC a security interest in Dealer C's NFE-related collateral equal to its funds movement (it is assumed only one GCF Repo transaction took place in this simplified example). FICC, in turn, grants BNY (that was due to receive the funds) a security interest in the NFE-related collateral to support the debit in the FICC account at BNY. As noted above, the debit in FICC's account at BNY arises because, under the current processing, Dealer B must receive its funds during the morning unwind. The FICC debit is then satisfied during the end of day GCF Repo settlement process.

As part of the 2007 NFE Filing, FICC imposed certain additional risk management measures with respect to the GCF Repo service. First, FICC imposed a collateral premium (''GCF Premium Charge'') on the GCF Repo portion of the Clearing Fund deposits of all GCF participants to further protect FICC in the event of an intra-day default of a GCF Repo participant. FICC requires GCF Repo participants to submit a quarterly ''snapshot'' of their holdings by asset type to enable risk management staff to determine the appropriate Clearing Fund premium. As with all other instances of late submissions of required information, members who do not submit this required information by the deadlines established by FICC are subject to a fine and an increased Clearing Fund premium.

Second, the 2007 NFE Filing addressed the situation where FICC becomes concerned about the volume of interbank GCF Repo activity. Such a concern might arise, for example, if market events were to cause dealers to turn to the GCF Repo service for increased funding at levels beyond normal processing. The 2007 NFE Filing provides FICC with the discretion to institute risk mitigation and appropriate disincentive measures in order to bring GCF Repo levels to a comfortable level from a risk management perspective.[17]

[14] *See* Securities Exchange Act Release No. 34–48006 (June 10, 2003), 68 FR 35745 (June 16, 2003).

[15] See Securities Exchange Act Release No. 34–57652 (April 11, 2008), 73 FR 20999 (April 17, 2008).

[16] NFE is a methodology that clearing banks use to determine whether an account holder (such as a dealer) has sufficient collateral to enter into a specific transaction. NFE allows the clearing bank to place a limit on its customer's activity by calculating a value on the customer's balances at the bank. Bank customers have the ability to monitor their NFE balance throughout the day.

[17] Specifically, the 2007 NFE Filing introduced the term ''GCF Repo Event,'' which will be declared by FICC if either of the following occurs: (i) The GCF interbank funds amount exceeds five times the

Proposed Changes to the GCF Repo Service To Implement the TPR's Recommendations

In SR–FICC–2011–05, FICC proposed the following rule changes with respect to the GCF Repo service to address the TPR's Recommendations:

(1) (a) To move the Day 2 unwind from 7:30 a.m. to 3:30 p.m.; (b) to move the NFE process [18] from morning to a time established by FICC as announced by notice to all members; [19] (c) to move the cut-off time of GCF Repo submissions from 3:35 p.m. to 3:00 p.m.; and (d) to move the cut-off time for dealer affirmation or disaffirmation from 3:45 p.m. to 3:00 p.m.; and

(2) To establish rules for intraday GCF Repo collateral substitutions (i.e., SR–FICC–2011–05 stated that with respect to interbank GCF Repo transactions, the substitution process would only permit cash as an initial matter to accommodate current processing systems, however, as noted below, following the approval of this proposed rule change filing, the substitution process will permit cash and/or securities).

FICC has implemented the proposed changes referred to in subsections 1(c) and 1(d) above. FICC has not yet implemented the proposed changes referred to in subsections 1(a), 1(b) and 2 above. FICC is seeking the Commission's approval to extend the Pilot Program for all of these changes for an additional year as noted above. FICC is working with its clearing banks with respect to the implementation of the changes that have not yet been implemented.

(1) Proposed Change Regarding the Morning Unwind and Related Rule Changes

The TPR has recommended that the Day 2 unwind for all tri-party transactions be moved from the morning to 3:30 p.m. The TPR has made this recommendation in order to reduce the clearing banks' intraday credit exposure to the dealers. As previously stated, because the GCF Repo service is essentially a tri-party repo mechanism, FICC has also been requested by the TPR to accommodate this time change. For the GSD rules, this necessitates a change to the GSD's ''Schedule of GCF Timeframes'' (''Schedule''). Specifically, the 7:30 a.m. time in the Schedule will be deleted and the language therein proposed to be moved to a new time of 3:30 p.m. on the Schedule.

The change to the time of the intrabank unwind also necessitates a change to the cut-off time for GCF Repo trade submissions, which is currently 3:35 p.m. in the Schedule. FICC is proposing to amend the Schedule to change the cut-off time to 3 p.m. to allow FICC to submit files to the clearing banks which, in turn, will provide files to the dealers by 3:30 p.m.; this will permit the dealers to have a complete picture of their positions as the unwind occurs at 3:30 p.m. The 3:45 p.m. cutoff for dealer affirmation or disaffirmation that is in the current Schedule will move to 3 p.m. so that the new 3 p.m. cutoff for submissions will also now be the cutoff for dealer affirmations and disaffirmations.[20]

Because the Day 2 unwind is proposed to move from the morning to 3:30 p.m. and because the NFE process established by the 2007 NFE Filing is tied to the moment of the interbank unwind, the NFE process will also move to the time established by FICC as announced by notice to all members.[21] Because the NFE process is a legal process and not an operational process, it is not reflected on the Schedule. A change is needed in Section 3 of Rule 20 to delete the reference to the ''morning'' timeframe on Day 2 with respect to the NFE process and to add language referencing ''at the time established by the Corporation.''

(2) Proposed Change Regarding Intraday GCF Repo Securities Collateral Substitutions

As a result of the time change of the unwind (*i.e.,* the reversal on Day 2 of collateral allocations established by FICC for each netting member's GCF net funds borrower positions and GCF net funds lender positions on Day 1) to 3:30 p.m., the provider of GCF Repo securities collateral in a GCF Repo transaction on Day 1 will no longer have access to such securities at the beginning of Day 2. Therefore, during Day 2 prior to the unwind of the Day 1 collateral allocations, the provider of GCF Repo securities collateral (Dealer C, in the example) needs a substitution mechanism for the return of its posted GCF Repo securities collateral in order to make securities deliveries for utilization of such securities in its business activities. (In the example, Dealer C may need to return the securities to Party Y depending upon the terms of their transaction). FICC is proposing to establish a substitution process for this purpose in conjunction with its clearing banks. The language for the substitution mechanism is proposed to be added to Section 3 of GSD Rule 20. The proposed rule change provides that all requests for substitution for the GCF Repo securities collateral must be submitted by the provider of the GCF Repo securities collateral (*i.e.,* Dealer C) by the applicable deadline on Day 2 (the ''substitution deadline'').[22]

Substitutions on Intrabank GCF Repos

If the GCF Repo transaction is between dealer counterparties effecting the transaction through the same clearing bank (*i.e.,* on an intra-clearing bank basis and in our example Dealer C and other dealers clearing at Chase), on Day 2 such clearing bank will process each substitution request of the provider of GCF Repo securities collateral (*i.e.,* Dealer C) submitted prior to the substitution deadline promptly upon receipt of such request. The return of

average interbank funds amount over the previous ninety days for three consecutive days; or (ii) the GCF interbank funds amount exceeds fifty percent of the amount of GCF Repo collateral pledged for three consecutive days. FICC reviews these figures on a semi-annual basis to determine whether they remain adequate. FICC also has the right to declare a GCF Repo Event in any other circumstances where it is concerned about GCF Repo volumes and believes it is necessary to declare a GCF Repo Event in order to protect itself and its members. FICC will inform its members about the declaration of the GCF Repo Event via important notice. FICC will also inform the Commission about the declaration of the GCF Repo Event.

[18] No other changes are being proposed to the NFE process that was in place by the 2007 NFE Filing; the risk management measures that were put in place by the 2007 NFE Filing remain in place with the present proposal.

[19] SR–FICC–2011–05 noted that the possible time range would be between 8 a.m. and 1 p.m. to coincide with the collateral substitution mechanism that was being developed between FICC and its clearing banks. FICC wishes to clarify that the 8 a.m. to 1 p.m. proposed time range in SR–FICC–2011–05 referred to the clearing bank hold on the FICC interest in the NFE (i.e., as part of the NFE process, FICC grants to the other clearing bank (that was due to receive the funds) a security interest in the NFE—related collateral to support the debit in the FICC account at the clearing bank). With respect to the NFE hold on the dealers, please see footnote 21 below.

[20] This change updates the current Schedule to provide that the cutoff for submissions and dealer affirmations/disaffirmations is at the same time; the current practice is inconsistent with the current Schedule and the proposed rule change would remedy this inconsistency.

[21] Currently, the NFE hold is from the time the collateral is returned to the repo dealer (approximately 7:30 a.m.) until the time the funds move between the two clearing banks (approximately 5 p.m.). When the systems processing for the tri-party reform effort continues on the part of the clearing banks, the unwind will move to 3:30 p.m. and the funds will continue to move between the two clearing banks at 5 p.m.; when this occurs, the NFE hold which applies to dealers will be between 3:30 p.m. and 5 p.m.

[22] FICC will establish such deadline prior to the implementation of the changes to this service in conjunction with the clearing banks and the Federal Reserve in light of market circumstances. The initial substitution deadline is anticipated to be 1 p.m.; however, this will be finalized with the Federal Reserve and the clearing banks. The possible time range will be between 8 a.m. and 1 p.m. FICC will provide members advanced notice of the substitution deadline and any future changes thereto by important notice.

the GCF Repo securities collateral in exchange for cash and/or eligible securities of equivalent value can be effected by simple debits and credits to the accounts of the GCF Repo dealer counterparties at the clearing agent bank (*i.e.,* in the example, Chase). Eligible securities for this purpose will be the same as those currently permitted under the GSD rules for collateral allocations, namely, Comparable Securities,[23] (ii) Other Acceptable Securities,[24] or (iii) U.S. Treasury bills, notes or bonds maturing in a time frame no greater than that of the securities that have been traded (except where such traded securities are U.S. Treasury bills, substitution may be with Comparable Securities and/or cash only).

Substitutions on Interbank GCF Repos

For a GCF Repo that was processed on an interbank basis and to accommodate a potential substitution request, FICC proposes to initiate a debit of the securities in the account of the lender through the FICC GCF Repo accounts at the clearing bank of the lender and the FICC GCF Repo account at the clearing bank of the borrower (''Interbank Movement''). This Interbank Movement is being done so that a borrower who elects to substitute collateral will have access to the collateral for which it is substituting. The Interbank Movement is expected to occur in the morning, though the clearing banks and FICC have the capability to have the Interbank Movement occur at any point during the day up until 2:30 p.m. During the Pilot Program, FICC and the clearing banks will unwind the intrabank GCF Repo transactions at 3:30 p.m. FICC and the clearing banks will determine the most appropriate timeframe for the Interbank Movement process to occur.

In the example above, the GCF Repo securities collateral will be debited from the securities account of the receiver of the collateral (*i.e.,* Dealer B) at its clearing bank (*i.e.,* BNY), and from the FICC Account for BNY. If a substitution request is received by the clearing bank (*i.e.,* Chase) of the provider of GCF Repo securities collateral, prior to the substitution deadline at a time specified in FICC's procedures,[25] that clearing bank will process the substitution request by releasing the GCF Repo securities collateral from the FICC GCF Repo account at Chase and crediting it to the account of the provider of GCF Repo securities collateral (*i.e.,* Dealer C). All cash and/or securities substituted for the GCF Repo securities collateral being released will be credited to FICC's GCF Repo account at the clearing bank (*i.e.,* Chase).

Simultaneously, with the debit of the GCF Repo securities collateral from the account at the clearing bank (*i.e.,* BNY) of the original receiver of GCF Repo securities collateral (*i.e.,* Dealer B), for purposes of making payment to the original receiver of securities collateral (*i.e.,* Dealer B), such clearing bank will effect a cash debit equal to the value of the securities collateral in FICC's GCF Repo account at such clearing bank and will credit the account of the original receiver of securities collateral (*i.e.,* Dealer B) at such clearing bank with such cash amount. (This is because when Dealer B is debited the securities, Dealer B must receive the funds.) In order to secure FICC's obligation to repay the balance in FICC's GCF Repo account at such clearing bank (*i.e.,* BNY), FICC will grant to such clearing bank a security interest in the cash and/or securities substituted for the GCF securities collateral in FICC's GCF repo account at the other clearing bank (*i.e.,* Chase).

Using the example from above, assume that Dealer C submits a substitution notification—it requires the securities collateral that has been pledged to Dealer B and will substitute cash and/or securities. BNY will debit the securities from Dealer B's account and the relevant liens will be released so that the securities are in FICC's account at Chase. Chase will credit the securities to Dealer C's account and the cash and/or securities that Dealer C uses for its collateral substitution will be credited by Chase to FICC's account at Chase. From Dealer B's perspective, when BNY debits the securities from Dealer B's account, Dealer B is supposed to receive the funds—but as noted, the funds are at Chase. BNY will credit the funds to Dealer B's account and debit FICC's account at BNY.

At this point in the example, FICC is running a credit at Chase and a debit at BNY. In order to secure FICC's debit at BNY, FICC will grant a security interest in the funds in the FICC account at Chase.

For substitutions that occur with respect to GCF Repo transactions that were processed on an inter-clearing bank basis, FICC and the clearing banks will permit cash substitutions as noted in SR–FICC–2011–05. However, as discussions have developed between FICC and its clearing banks, it has been determined that cash and/or securities may be used for substitutions. The proposed rule change provides FICC with flexibility in this regard by referring to FICC's procedures. When interbank securities substitutions begin to be permitted, FICC will announce this to members by important notice.

Other Rule Changes

FICC is also proposing to make technical clean-up changes to Section 7 of GSD Rule 20, which relate to the GCF Repo collateral process. Specifically, a correction is being made to change references to the defined term ''Security'' to ''security'' to conform to the use of ''security'' throughout the rule. The proposed rule change also introduces a term that previously had not been included in the rules inadvertently, ''GCF Collateral Excess Account.'' This term is defined in the proposed rule change as ''the account established by a GCF Custodian Bank in the name of the Corporation to hold securities it credits to the GCF Securities Account the Corporation establishes for another GCF Clearing Bank.''

(ii) FICC believes the proposed rule changes are consistent with the requirements of Section 17A of the Act[26] and the rules and regulations thereunder applicable to FICC because the rule amendments are designed to promote the prompt and accurate clearance and settlement of security transactions and assure the safeguarding of securities and funds which are in the custody or control of FICC by aligning the GCF Repo service with recommendations being made by the TPR to address risks in the overall tri-party repo market, which will serve to

[23] The GSD rules define ''Comparable Securities'' as follows: The term ''Comparable Securities'' means, with respect to a security or securities that are represented by a particular Generic CUSIP Number, any other security or securities that are represented by the same Generic CUSIP Number.

[24] The GSD rules define ''Other Acceptable Securities'' as follows: The term ''Other Acceptable Securities'' means, with respect to: (an) Adjustable-rate mortgage-backed security or securities issued by Ginnie Mae, any fixed-rate mortgage-backed security or securities issued by Ginnie Mae, or (an) adjustable-rate mortgage-backed security or securities issued by either Fannie Mae or Freddie Mac: (a) Any fixed-rate mortgage-backed security or securities issued by Fannie Mae and Freddie Mac, (b) any fixed-rate mortgage-backed security or securities issued by Ginnie Mae, or (c) any adjustable-rate mortgage-backed security or securities issued by Ginnie Mae.

[25] This timeframe will also be established in consultation with the clearing banks and the Federal Reserve. The parties are considering whether to have the substitution process be accomplished in two batches during the day depending upon the time of submission of the notifications for substitution. In any event, substitution requests will be subject to the substitution deadline. The details of the batches, if applied, will be announced to members by important notice. The deadline for submission of GCF Repo substitution requests will be the same for intrabank and interbank processing.

[26] 15 U.S.C. 78q–1.

safeguard the securities and funds for which FICC is responsible.

(B) Self-Regulatory Organization's Statement on Burden on Competition

FICC does not believe that the proposed rule change would impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. FICC will notify the Commission of any written comments received by FICC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*) or

Send an email to *rule-comments@sec.gov.* Please include File Number SR–FICC–2012–05 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FICC–2012–05. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Section, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filings will also be available for inspection and copying at the principal office of FICC and on FICC's Web site at *http://www.dtcc.com/downloads/legal/rule_filings/2012/ficc/2012–05.pdf*

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FICC–2012–05 and should be submitted on or before July 17, 2012.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[27]

Kevin O'Neill,

Deputy Secretary.

[FR Doc. 2012–15536 Filed 6–25–12; 8:45 am]

BILLING CODE 8011–01–P

[27] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67226; File No. SR–EDGA–2012–22]

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend EDGA Rules To Add the Mid-Point Discretionary Order

June 20, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 8, 2012, the EDGA Exchange, Inc. (the ''Exchange'' or the ''EDGA'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

EDGA Exchange, Inc. (''EDGA'' or the ''Exchange'') proposes to amend Exchange Rule 11.5(c) to add a new order type, the Mid-Point Discretionary Order, to the rule. In addition, the Exchange proposes to amend Exchange Rule 11.8(a)(2)(C) to reflect the priority that a Mid-Point Discretionary Order would have under certain circumstances. The text of the proposed rule changes are attached as Exhibit 5 and are available on the Exchange's Web site at *www.directedge.com,* at the Exchange's principal office, and at the Public Reference Room of 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, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Purpose

1. Proposed Amendment to Rule 11.5(c)

Exchange Rule 11.5(c) describes the Exchange's current order types. In order to provide additional flexibility and increased functionality to its System[3] and its Users,[4] the Exchange proposes to add a new order type, the Mid-Point Discretionary Order (the ''MDO''), to Rule 11.5(c)(17). MDOs to buy would be displayed at and pegged to the national best bid (the ''NBB[5]''), with discretion to execute at prices up to and including the mid-point of the National Best Bid

[3] As defined in Exchange Rule 1.5(cc)

[4] As defined in Exchange Rule 1.5(ee).

[5] As defined in Exchange Rule 1.5(o) and Rule 600(b)(42) of Regulation NMS under the Securities Exchange Act of 1934.

and Offer (the ''NBBO[6]''). MDOs to sell would be displayed at and pegged to the national best offer (the ''NBO[7]''), with discretion to execute at prices down to and including the mid-point of the NBBO. The displayed prices of MDOs would move in tandem with changes in the NBB (for buy orders) or the NBO (for sell orders). Moreover, MDOs would not independently establish or maintain an NBB or NBO; rather, the displayed prices of MDOs would be derived from the then current NBB or NBO.

Users entering MDOs would have the option to enter limit prices to specify the highest or lowest prices at which MDOs to buy or sell, respectively, would be eligible to be executed under any circumstances. For example, if an MDO to buy was entered with a limit price that was less than the prevailing NBBO mid-point, it would not have discretion to buy up to the NBBO mid-point, but rather only up to its limit price. If a User did not place a limit price on an MDO, then the MDO would have discretion to execute to the mid-point of the NBBO, regardless of the price of then [sic] current NBBO, unless and until the MDO was cancelled or fully executed. Thus, depending on certain factors, including the types and characteristics of contra side orders and any limit prices placed on the MDO, the MDO could be executed at its displayed price, at a price between its displayed price and the mid-point of the NBBO, at the mid-point of the NBBO, or not be executed at all.

A new time stamp would be created for an MDO each time its displayed price was automatically adjusted. There would be no separate time stamp for the displayed and non-displayed portions of an MDO if the displayed price remained the same but the discretionary range changed. Like all discretionary order types, the only time stamp would be the one assigned to the displayed portion of the MDO.

In addition, pursuant to Exchange Rule 11.8(a)(2), as with all discretionary order types, as described below, the discretionary portion of the order would be given lower time priority than the displayed portion and non-displayed size/reserve quantity of reserve orders. In addition, MDOs would not be eligible for routing pursuant to Exchange Rule 11.9(b)(2).

MDOs Entered Without Limit Prices

The following examples demonstrate how an MDO that is entered without a limit price would operate:

Example 1

Assume the NBBO is 10.00 × 10.03 (so the NBBO mid-point is 10.015) and an MDO is entered without a limit price to buy 100 shares.

- The MDO would be displayed at 10.00 with discretion to buy up to 10.015.
- A contra side market order or marketable limit order to sell 100 shares at 10.00 would execute against the MDO to buy at 10.00 for 100 shares.
- A contra side limit order to sell 100 shares at 10.01 would execute against the MDO to buy at 10.01 for 100 shares. As discussed below, only certain types of contra side order would be able to execute against MDOs at sub-penny prices.

Example 2

Following on from Example 1, if the NBBO changes to 10.01 × 10.06 (so the NBBO mid-point is now 10.035), the displayed price of the MDO would be adjusted to 10.01, with discretion to buy up to 10.035. If the NBBO changes once again to 10.03 × 10.05 (so the NBBO mid-point is now 10.04), the displayed price of the MDO would be adjusted to 10.03, with discretion to buy up to 10.04.

This example illustrates that the displayed prices of MDOs entered without limit prices will continue to move in tandem with, and be displayed at, changes in the NBB (for buy orders) and the NBO (for sell orders).

Example 3

Assume the NBBO is 10.00 × 10.03 (so the NBBO mid-point is 10.015), and an MDO is entered without a limit price to buy 100 shares. Assume further that on the EDGA Book there are two other displayed orders to buy 100 shares each at 10.00, both with time priority over the MDO. Assume further that there is a displayed resting order to buy at 9.99 on the EDGA Book, and no other market is publishing a bid at 10.00.

- The MDO would be displayed at 10.00 with discretion to buy up to 10.015.
- A contra side market order to sell 200 shares would execute against the two buy orders with time priority over the MDO at 10.00, thereby leaving the MDO order to buy on the EDGA Book.
- The MDO would then re-price to 9.99 because MDOs could not independently establish or maintain an NBB or NBO—rather, their displayed prices would be derived from the NBB and NBO. Therefore, the MDO would be displayed at 9.99 with discretion to trade up to 10.01 (assuming the NBO remained at 10.03), although the resting buy order at 9.99 would have time priority over the MDO.

MDOs Entered With Limit Prices

The following examples demonstrate how an MDO that is entered with a limit price would operate:

Example 1

Assume the NBBO is 10.00 × 10.03 (so the NBBO mid-point is 10.015) and an MDO is entered to buy 100 shares with a limit price of 10.03.

- The MDO would be displayed at 10.00 with discretion to buy up to 10.015.
- A contra side market order or marketable limit order to sell 100 shares at 10.00 would execute against the MDO to buy at 10.00 for 100 shares.
- A contra side limit order to sell 100 shares at 10.01 would execute against the MDO to buy at 10.01 for 100 shares.
- A contra side limit order to sell 100 shares at 10.02 would not execute against the MDO to buy, because the MDO had discretion to buy only up to the mid-point of the NBBO. The limit order to sell would thus be displayed at 10.02 and reduce the mid-point of the NBBO to 10.01.

Example 2

Assume the NBBO is 10.00 × 10.04 (so the NBBO mid-point is 10.02) and an MDO is entered to buy 100 shares with a limit price of 10.03.

- The MDO would be displayed at 10.00 with discretion to buy up to 10.02.
- A contra side limit order to sell 100 shares at 10.02 would execute against the MDO to buy at 10.02 for 100 shares.

Example 3

Following on from Example 2, assume the NBBO changes to 10.01 × 10.06 (so the NBBO mid-point is now 10.035). The displayed price of the MDO to buy would be adjusted to 10.01 with discretion to buy up to 10.03, and not the NBBO mid-point of 10.035, because the NBBO mid-point would be higher than the 10.03 limit price placed on the MDO.

- A contra-side limit order to sell 100 shares at 10.03 would execute against the MDO to buy at 10.03. If the sell order were for 10.02, then it would execute against the MDO to buy at 10.02.

Example 4

Following on from Example 3, assume the NBBO changes once again to 10.03 × 10.05 (so the NBBO mid-point is now 10.04). The displayed price of the MDO to buy would be adjusted to 10.03, but there would be no discretion to trade at a price exceeding 10.03 because of the limit price placed on the MDO. And, if the NBBO changed again to 10.04 × 10.06, the MDO to buy would simply post to the EDGA Book at its limit price of 10.03 and be displayed as a limit order (in the depth of book view) with no discretion. However, if the NBBO again changed to, say, 10.02 × 10.03, then the MDO would again be displayed at the NBB with discretion to trade up to the NBBO mid-point of 10.025 (assuming the MDO was not cancelled or fully executed in the meantime).

Example 5

Following on from Example 4, assume the NBBO is still 10.04 × 10.06, and that on the EDGA Book there is one displayed order to buy 100 shares at 10.04 and two separate displayed orders to buy 100 shares each at 10.03 with time priority over the MDO resting at 10.03. Assume further that there is also a displayed buy order at 10.02 for 100 shares on the EDGA Book, and no other market is publishing a bid at either 10.03 or 10.04.

- A contra side market order to sell 300 shares would execute first against the buy order on the book at 10.04, and then against the two buy orders on the book with time priority over the MDO at 10.03, thereby leaving the MDO to buy on the book.
- The MDO would then re-price to 10.02 because MDOs could not independently establish or maintain an NBB or NBO—rather, their displayed price(s) would be

[6] *Id.*

[7] *Id.*

derived from the then current NBB and NBO. Therefore, the MDO would be displayed at 10.02 with discretion to trade up to 10.03 (assuming the NBO remained at 10.06), although the resting buy order at 10.02 would have time priority over the MDO.

Sub-Penny Executions

MDOs would only be able to execute at sub-penny prices in stocks priced at $1 or more against contra side orders that were by their terms eligible for NBBO mid-point executions regardless [sic] whether such mid-point is in a penny or sub-penny increment, namely, (1) other MDOs, and (2) Mid-Point Peg Orders (''MPOs'').[8] Nonetheless, despite being eligible to execute in sub-pennies to the extent that they executed at the NBBO mid-point, MDOs would not be displayed or ranked in sub-penny increments. MDOs would execute against all other order types solely in penny increments.

Example 1

Assume the NBBO is 10.00 × 10.03 (so the NBBO mid-point is 10.015) and an MDO is entered to buy 100 shares with a limit price of 10.02.

- The MDO would be displayed at 10.00 with discretion to buy up to 10.015.
- A contra side MPO to sell 100 shares would execute against the MDO to buy at the NBBO mid-point of 10.015.

Assume the NBBO changes to 10.02 × 10.05 (so the NBBO mid-point is now 10.035).

- The MDO would be displayed at 10.02, with no discretion above 10.02 given its limit price.
- A contra side MPO to sell 100 shares would not execute against the MDO to buy at 10.02, because the NBBO mid-point would exceed the limit price on the MDO.

Example 2

Assume the NBBO is 10.00 × 10.03 (so the mid-point is 10.015) and an MDO is entered to buy 100 shares with a limit price of 10.03, and an MDO is subsequently entered to sell 100 shares with a limit price of 10.00.

- The MDO to buy would be displayed at 10.00 with discretion to buy up to 10.015. The MDO to sell would then execute against the MDO to buy at the NBBO mid-point of 10.015.

If instead the MDO to sell was entered with a limit price of 10.02, it would not execute against the MDO to buy since the limit price on the MDO to sell was greater than the NBBO mid-point.

2. Proposed Amendment to Rule 11.8(a)(2)(C)

The Exchange proposes to amend Rule 11.8(a)(2)(C) to reflect the priority that MDOs would have when they are executed within their discretionary range. When MDOs execute at their displayed price, they would have the same priority as that of the displayed size of limit orders, in accordance with Rule 11.8(a)(2)(A). However, when they execute within their discretionary range, they would have the same priority as the discretionary range of Discretionary Orders, as set forth in Rule 11.8(a)(2)(C). Therefore, the Exchange is proposing to amend Rule 11.8(a)(2)(C) to account for the priority of MDOs when they act within their discretionary range.

Example

Assume the NBBO is 10.00 × 10.04 (so the NBBO mid-point is 10.02) and an MDO is entered to buy 100 shares with a limit price of 10.02, and a non-displayed order to buy 100 shares at 10.02 is subsequently entered.

- The MDO would be displayed at 10.00 with discretion to buy up to 10.02.
- A contra side limit order to sell 100 shares at 10.02 would execute against the non-displayed order, and not the MDO, since non-displayed orders would have priority over the discretionary range of MDOs in accordance with Rule 11.8(a)(2).

The Exchange will notify its Members in an information circular of the exact implementation date of these rule changes, which will be no later than July 31, 2012.

Basis

The Exchange believes that the proposed rule changes are consistent with Section 6(b) of the Act[9] and further the objectives of Section 6(b)(5) of the Act,[10] because they are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and, in general, to protect investors and the public interest. The proposed rule changes would provide Users with a greater selection of order types that may result in the efficient execution of such orders and provide additional flexibility and increased functionality to the Exchange's System and its Users. Specifically, the Exchange believes that Users may receive more efficient order executions by permitting them to have greater flexibility to be displayed at the NBBO with discretion to execute to the mid-point of the NBBO, resulting in the potential benefit of price improvement.

The MDO would be similar in nature to several existing order types of the Exchange. First, the MDO would be similar to the Pegged Order[11] and the MPO in that like these order types, an MDO's displayed price would be pegged to and automatically adjusted in tandem with changes in the then current NBB or NBO, a new timestamp would be created for the order each time it was automatically adjusted, and it would not be eligible for routing pursuant to Rule 11.9(b)(2). In addition, like the MPO, the MDO would be eligible to receive sub-penny executions at the mid-point of the NBBO. However, unlike the MPO, the MDO would provide the added benefit of transparency, since there would always be a displayed component to an MDO. In addition, the MDO would be similar to a Discretionary Order,[12] in that it would include a displayed order at a specified price (in this case, an objectively determined price based on the prevailing NBB or NBO) and an undisplayed order at a specified price (in this case, an objectively determined price based on the mid-point of the NBBO and subject to any limits the User attaches the MDO). The Exchange believes that this proposed order type would benefit its Users by offering greater flexibility to display liquidity at the NBBO with discretion generally to execute to the NBBO mid-point, resulting in additional opportunities for price improvement for contra-side orders.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative 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, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[13] and Rule 19b–4(f)(6) thereunder.[14]

[8] As defined in Exchange Rule 11.5(c)(7).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] As defined in Exchange Rule 11.5(c)(6).

[12] As defined in Exchange Rule 11.5(c)(13).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the

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A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [15] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6) [16] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing, noting that similar functionality is already offered by other market centers.[17] The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission designates the proposal operative upon filing.[18]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–EDGA–2012–22 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–EDGA–2012–22. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–EDGA–2012–22 and should be submitted on or before July 17, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Kevin M. O'Neill,

Deputy Secretary.

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Commission with written notice of its intent to file the proposed rule change along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6).

[17] *See* NYSE Arca, Inc. Equities Rule 7.31(cc).

[18] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67222; File No. SR–NYSEArca–2012–37]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change Proposing a Pilot Program To Create a Lead Market Maker Issuer Incentive Program for Issuers of Certain Exchange-Traded Products Listed on NYSE Arca, Inc.

June 20, 2012.

On April 27, 2012, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''SEC'' or ''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 create and implement, on a pilot basis, a Lead Market Maker (''LMM'') Issuer Incentive Program (''Fixed Incentive Program'') for issuers of certain exchange-traded products (''ETPs'') listed on the Exchange. The proposed rule change was published for comment in the **Federal Register** on May 17, 2012.[3] The Commission received two comment letters on the proposal.[4]

Section 19(b)(2) of the Act [5] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is July 1, 2012. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change, the comments received, and any response to the comments submitted by the Exchange. The proposed rule change would, among

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 66966 (May 11, 2012), 77 FR 29419.

[4] *See* Letter from Gus Sauter, Managing Director and Chief Investment Officer, Vanguard, dated June 7, 2012; and Letter from Ari Burstein, Senior Counsel, Investment Company Institute, dated June 7, 2012.

[5] 15 U.S.C. 78s(b)(2).

other things, adopt new NYSE Arca Equities Rule 8.800, which would create a pilot program to incentivize market makers to undertake LMM assignments in ETPs.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[6] designates August 15, 2012, as the date by which the Commission should either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR–NYSEArca–2012–37).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–15491 Filed 6–25–12; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67223; File No. SR–NYSEAmex–2012–24]

Self-Regulatory Organizations; NYSE Amex LLC; Order Granting Approval of Proposed Rule Change To List Shares of the Nuveen Long/Short Commodity Total Return Fund Under NYSE Amex Rule 1600 *et seq.*

June 20, 2012.

I. Introduction

On April 18, 2012, NYSE Amex LLC (''Exchange'' or ''NYSE Amex'') 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 shares of the Nuveen Long/Short Commodity Total Return Fund under NYSE Amex Rule 1600 *et seq.* The proposed rule change was published for comment in the **Federal Register** on May 7, 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 shares (''Shares'') of the Nuveen Long/Short Commodity Total Return Fund (''Fund'') pursuant to NYSE Amex Rule 1600 *et seq.,* which permits the listing of Trust Units[4] on the Exchange. The Fund was organized as a statutory trust under Delaware law on May 25, 2011, and will be operated pursuant to a Trust Agreement.[5] The Fund will issue Shares that represent units of fractional undivided beneficial interest in and ownership of the Fund. The Fund will not continuously offer Shares and will not provide daily redemptions. Thus, the Manager (as defined below) has advised the Exchange that it expects the Shares to have trading characteristics similar to those of exchange-traded closed-end funds.

The Fund is managed by Nuveen Commodities Asset Management, LLC (''Manager''), a Delaware limited liability company and a wholly-owned subsidiary of Nuveen Investments, Inc. (''Nuveen Investments'').[6] The Manager will serve as the CPO and a CTA of the Fund and will determine the Fund's overall investment strategy, including: (i) The selection and ongoing monitoring of the Fund's sub-advisors; (ii) the assessment of performance and potential needs to modify strategy or change sub-advisors; (iii) the determination of the Fund's administrative policies; (iv) the management of the Fund's business affairs; and (v) the provision of certain clerical, bookkeeping, and other administrative services.[7]

Gresham Investment Management LLC (''Commodity Sub-Advisor'') will be responsible for the Fund's commodity futures investment strategy and options strategy.[8] Nuveen Asset Management, LLC (''Collateral Sub-Advisor''), an affiliate of the Manager and a wholly-owned subsidiary of Nuveen Investments, will invest the Fund's collateral in short-term, high-grade debt securities.

Wilmington Trust Company is the Delaware Trustee of the Fund and is unaffiliated with the Manager. State Street Bank and Trust Company (''State Street'') will be the Custodian and Accounting Agent for the assets of the Fund, and its affiliate, Computershare Shareholder Services, Inc., will be the Transfer Agent and Registrar for the Shares of the Fund. Barclays Capital Inc. (''BCI'') will serve as the Fund's clearing broker to execute and clear the Fund's futures transactions and provide other brokerage-related services. BCI is a registered securities broker-dealer and futures commission merchant. BCI is wholly owned by Barclays Bank PLC, which is authorized and regulated by the U.K. Financial Services Authority.

Each of the Manager, BCI, the Commodity Sub-Advisor, and the Collateral Sub-Advisor has represented to the Exchange that it has erected and maintains firewalls within its respective institution to prevent the flow and/or use of non-public information regarding the portfolio of underlying securities from the personnel involved in the development and implementation of the investment strategy to others such as sales and trading personnel. In the event that there is any new manager, adviser, sub-adviser, or commodity broker, such new entity will maintain a firewall within its respective institution to prevent the flow and/or use of non-public information regarding the portfolio of underlying commodity futures contracts.[9]

[6] 15 U.S.C. 78s(b)(2).

[7] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 66887 (May 1, 2012), 77 FR 26798 (''Notice'').

[4] The term ''Trust Units'' is defined as a security that is issued by a trust or other similar entity that is constituted as a commodity pool that holds investments comprising or otherwise based on any combination of futures contracts, options on futures contracts, forward contracts, swap contracts, and/or commodities. *See* NYSE Amex Rule 1600(b)(ii).

[5] *See* Pre-Effective Amendment No. 3 to Registration Statement on Form S–1 under the Securities Act of 1933 (15 U.S.C. 77a) as filed with the Commission on December 20, 2011 (File No. 333–174764) (''Registration Statement''). The Fund, as a commodity pool, will not be subject to registration and regulation under the Investment Company Act of 1940.

[6] The Manager is registered as a commodity pool operator (''CPO'') and a commodity trading advisor (''CTA'') with the Commodity Futures Trading Commission (''CFTC'') and is a member of the National Futures Association (''NFA'').

[7] Pursuant to the Fund's Trust Agreement, the Manager will possess and exercise all authority (other than the limited functions performed by the independent committee of the Manager which will fulfill the Fund's audit committee and nominating committee functions) to operate the business of the Fund and will be responsible for the conduct of the Fund's commodity affairs. The Manager has established within its organization an independent committee, comprised of three members who are unaffiliated with the Manager, which will fulfill the audit committee and nominating committee functions for the Fund, those functions required under the NYSE Amex listing standards, and certain other functions as set forth in the Trust Agreement. As a registered CPO and CTA, the Manager is required to comply with various regulatory requirements under the CEA and the rules and regulations of the CFTC and the NFA.

[8] The Commodity Sub-Advisor is a Delaware limited liability company, is registered with the CFTC as a CTA and a CPO, and is a member of the NFA. As a registered CPO and CTA, the Commodity Sub-Advisor is required to comply with various regulatory requirements under the CEA and the rules and regulations of the CFTC and the NFA. Nuveen Investments and the Commodity Sub-Advisor have announced the execution of an agreement pursuant to which Nuveen Investments would acquire a 60% interest in the Commodity Sub-Advisor, which would make the Commodity Sub-Advisor an affiliate of the Manager.

[9] The Commodity Sub-Advisor and the Collateral Sub-Advisor are each registered with the Commission under the Investment Advisers Act of 1940 (''Advisers Act''). As a result, the Commodity Sub-Advisor, the Collateral Sub-Advisor, any sub-adviser of either, and the respective related personnel of both are subject to the provisions of Rule 204A–1 under the Advisers Act relating to

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Description of the Fund's Investments

The Fund's investment objective will be to generate attractive total returns. The Fund will be actively managed and will seek to outperform its benchmark, the Morningstar® Long/Short Commodity℠ Index (''Index'').[10] In pursuing its investment objective, the Fund will invest directly in a diverse portfolio of exchange-traded commodity futures contracts that represent the main commodity sectors and are among the most actively traded futures contracts in the global commodity markets. Generally, individual commodity futures positions may be either long or short (or flat in the case of energy futures contracts) depending upon market conditions. The Commodity Sub-Advisor will use various rules to determine the commodity futures contracts in which the Fund will invest, their respective weightings, and whether the futures positions in each commodity are held long, short, or flat (in the case of energy futures contracts). The Fund's commodity investments will, at all times, be fully collateralized. The Fund's investments will be consistent with its investment objective and will not be used to create or enhance leverage. The Fund also will employ a commodity option writing strategy that seeks to produce option premiums for the purpose of enhancing the Fund's risk-adjusted total return over time. Option premiums generated by this strategy may also enable the Fund to more efficiently implement its distribution policy.

The Fund's investment strategy will utilize the Commodity Sub-Advisor's proprietary long/short commodity investment program, which has three principal elements:

- An actively managed long/short portfolio of exchange-traded commodity futures contracts;
- A portfolio of exchange-traded commodity option contracts; and
- A collateral portfolio of cash equivalents and short-term, high-grade debt securities.

The Manager has advised the Exchange that the Commodity Sub-Advisor has represented that it does not believe that position limits will be an issue for its firm, but that it has reserved firm-wide capacity for the Fund so that the Fund will be able to continue to invest in futures contracts without hitting any position limits.

Long/Short Commodity Investment Program. The Fund's long/short commodity investment program will be an actively managed, fully collateralized, rules-based commodity investment strategy that seeks to capitalize on opportunities in both up and down commodity markets. The Fund will invest in a diverse portfolio of exchange-traded commodity futures contracts with an aggregate notional value substantially equal to the net assets of the Fund. To provide diversification, the Fund will invest initially in approximately 20 commodities, and the long/short commodity investment program rules will limit weights for any individual commodity futures contract. The Fund expects to make investments in the most actively traded commodity futures contracts in the four main commodity sectors in the global commodities markets:

- Energy;
- Agriculture;
- Metals; and
- Livestock.

During temporary defensive periods or during adverse market circumstances,[11] the Fund may deviate from its investment objective and policies. The Commodity Sub-Advisor may invest 100% of the total assets of the Fund in short-term, high-quality debt securities and money market instruments to respond to adverse market circumstances. The Fund may invest in such instruments for extended periods, depending on the Commodity Sub-Advisor's assessment of market conditions. These debt securities and money market instruments may include shares of mutual funds, commercial paper, certificates of deposit, bankers' acceptances, U.S. Government securities, repurchase agreements, and bonds that are rated AAA.

Generally, the program rules will be used to determine the specific commodity futures contracts in which the Fund will invest, the relative weighting for each commodity, and whether a position is either long or short (or flat in the case of energy futures contracts).

The commodity markets are dynamic and as such the long/short commodity investment program may require frequent adjustments in the Fund's commodity positions. The Commodity Sub-Advisor expects to trade each position no less frequently than once per month. The relative balance of the Fund's long/short commodity investments may vary significantly over time, and at certain times, the Fund's aggregate exposure may be all long, all short and flat, or may consist of various combinations (long, short, and/or flat) thereof. The Commodity Sub-Advisor intends to manage its overall strategy so that the notional amount of the Fund's combined long, short, and flat futures positions will not exceed 100% of the Fund's net assets. As of September 30, 2011, the Index had 61.85% long, 24.08% short and 14.07% flat exposure.

The Fund has no intention to short energy futures contracts because the prices of energy futures contracts are generally more sensitive to geopolitical events than to economic factors and, as a result, significant price variations are often driven by factors other than supply-demand imbalances. References to a flat position mean that instead of shorting energy futures contracts when market signals dictate, the Fund will have no futures contracts positions, either long or short, for that energy commodity. In that circumstance, the sum of the notional value of the portfolio's futures contracts will be less than the sum of the collateral assets. The difference quantitatively equals the notional value of what would have been the short portion in energy and is generally referred to as the ''flat'' position in energy. Because the Fund will hold no futures contracts to express a flat position, commodity traders customarily say that being flat is the equivalent of being invested in cash. The amounts that otherwise would have been allocated to an energy futures

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 there under; (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.

[10] Morningstar, Inc., the Index sponsor, owns a dually-registered investment advisor and broker-dealer subsidiary, Morningstar Investment Services, Inc., which maintains a broker-dealer registration for the limited purpose of receiving 12b–1 fees directly from the underlying funds that make up the portfolios managed by it. The Manager has advised the Exchange that it has been informed by Morningstar, Inc., that it has erected and maintains information firewalls between the group which is responsible for the Index and employees of the broker-dealer to prevent the flow and/or use of material non-public information regarding the Index from the personnel responsible for the Index to employees of the broker-dealer.

[11] Adverse market circumstances would include large downturns in the broad market value of two or more times current average volatility, where the Commodity Sub-Advisor views such downturns as likely to continue for an extended period of time.

contract will be held in cash as collateral for the Fund.

The specific commodities and the total number of futures contracts in which the Fund will invest, and the relative weighting of those contracts, will be determined annually by the Commodity Sub-Advisor based upon the composition of the Index at that time. The selected commodity futures contracts are expected to remain unchanged until the next annual reconstitution each December. Upon annual reconstitution, the target weight of any individual commodity futures contract will be set and will be limited to 10% of the Fund's net assets to provide for diversification. The Commodity Sub-Advisor expects the actual portfolio weights to vary during the year due to market movements. If price movements cause an individual commodity futures contract to represent more than 10% of the Index at any time between monthly rebalancing, the Fund would seek to match the target weighting at the time of the monthly rebalancing. Generally, the Fund expects to invest in short-term commodity futures contracts with terms of one to three months, but may invest in commodity futures contracts with terms of up to six months.

Eligible Contracts. The Fund will invest in those commodity futures contracts and option contracts that are listed on an exchange with the greatest dollar volume traded in those contracts. Listed below are the main categories of eligible commodity futures contracts. The related options contracts are traded on the same exchanges as the futures contracts on which they are based. Each commodity may have several different types of individual commodity futures contracts (*e.g.,* hard winter wheat and soft red wheat). The Commodity Sub-Advisor will have discretion over commodity futures contract selection and may choose from the available contract types.

Group	Commodity	Primary Exchange	Trading Hours (Eastern Time)
Energy	Coal	New York Mercantile Exchange	18:00–15:00
	Crude Oil	New York Mercantile Exchange	9:00–14:30
	Crude Oil	ICE Futures Europe	1:00–23:00
	Ethanol	New York Mercantile Exchange	8:50–12:05
	Ethanol	Chicago Board of Trade	9:30–13:15
	Gas Oil	ICE Futures Europe	1:00–23:00
	Gasoline	New York Mercantile Exchange	9:00–14:30
	Heating Oil	New York Mercantile Exchange	9:00–14:30
	Natural Gas	New York Mercantile Exchange	9:00–14:30
	Propane	New York Mercantile Exchange	Delisted
Agriculture	Butter	Chicago Mercantile Exchange	12:05–12:15
	Cocoa	ICE Futures US	8:00–11:50
	Coffee	ICE Futures US	8:00–13:30
	Corn	Chicago Board of Trade	10:30–14:15
	Cotton	ICE Futures US	10:30–14:15
	Diamonium Phosphate	Chicago Mercantile Exchange	Delisted
	Lumber	Chicago Mercantile Exchange	10:00–14:05
	Milk	Chicago Mercantile Exchange	10:05–14:10
	Oats	Chicago Board of Trade	10:30–14:15
	Orange Juice	ICE Futures US	10:00–13:30
	Pulp	ICE Futures US	7:00–15:15
	Pulp	Chicago Mercantile Exchange	17:00–16:00
	Rice	Chicago Board of Trade	9:30–13:15
	Soybean Meal	Chicago Board of Trade	10:30–14:15
	Soybean Oil	Chicago Board of Trade	10:30–14:15
	Soybeans	Chicago Board of Trade	10:30–14:15
	Sugar	ICE Futures US	8:10–13:30
	Urea	Chicago Mercantile Exchange	Delisted
	Urea Ammonium Nitrate	Chicago Mercantile Exchange	Delisted
	Wheat	Chicago Board of Trade	10:30–14:15
	Wheat	Kansas City Board of Trade	10:30–14:15
Metals	Aluminum	New York Mercantile Exchange	Delisted
	Copper	New York Commodities Exchange	8:10–13:00
	Gold	New York Commodities Exchange	8:20–13:30
	Palladium	New York Mercantile Exchange	8:30–13:00
	Platinum	New York Mercantile Exchange	8:20–13:05
	Silver	New York Commodities Exchange	8:25–13:25
Livestock	Broilers	Chicago Mercantile Exchange	Delisted
	Feeder Cattle	Chicago Mercantile Exchange	10:05–14:00
	Hogs	Chicago Mercantile Exchange	10:05–14:00
	Live Cattle	Chicago Mercantile Exchange	10:05–14:00
	Pork Bellies	Chicago Mercantile Exchange	Delisted

Current Index Composition. The actual signals (direction) and weights of the Morningstar® Long/Short Commodity℠ Index as of September 30, 2011 are as follows:

Long Commodity Futures Positions	61.85%
Short Commodity Futures Positions	24.08%
Flat Commodity Futures Positions	14.07%
	100.00%

Commodity	Signal	Weight (%)
Energy:		
Crude Oil Brent	Long	8.18
Gas-Oil-Petroleum	Long	6.50
Heating Oil #2/Fuel Oil	Long	5.43
Gasoline Blendstock	Long	5.28
Long Energy Positions		25.39
Crude Oil WTI	Flat	8.45
Natural Gas Henry Hub	Flat	5.62
Flat Energy Positions		14.07
Total Energy Positions		39.46
Agriculture:		
Corn	Long	5.20
Soybeans	Long	4.33
Sugar #11	Long	4.08
Coffee 'C'/Colombian	Long	3.70
Soybean Oil	Long	3.30
Soybean Meal	Long	3.10
Long Agriculture Positions		23.71
Wheat/No. 2 Soft Red	Short	5.58
Wheat/No. 2 Hard Winter	Short	3.60
Cotton/1 1/16	Short	3.59
Short Agriculture Positions		12.77
Total Agriculture Positions		36.48
Metals:		
Gold	Long	8.58
Silver	Long	4.17
Long Metals Positions		12.75
Copper High Grade	Short	4.64
Short Metals Positions		4.64
Total Metals Positions		17.39
Livestock:		
Cattle Live	Short	3.87
Hogs Lean	Short	2.80
Short Livestock Positions		6.67

These are the actual signals and weights of the Index as of September 30, 2011, and are not the actual signals or weights of the Fund.

The Index construction rules and other information about the Index can be found on Morningstar's Web site at *http://indexes.morningstar.com,* which is publicly available at no charge.

Long/Short Portfolio of Commodity Futures. The Fund will invest directly in a diverse portfolio of exchange-traded commodity futures contracts that provide long/short exposure to the global commodity markets. By investing long/short, the Fund will seek to generate attractive total returns from positive or negative commodity price changes and positive or negative roll yield. Like most commodity futures investors, the Fund will replace expiring futures contracts with more distant contracts to avoid taking physical delivery of a commodity. This replacement of expiring contracts with more distant contracts is referred to as ''roll.'' To maintain exposure to commodity futures over an extended period, before contracts expire, the Commodity Sub-Advisor will roll the futures contracts throughout the year into new contracts so as to maintain a fully invested position.

The Commodity Sub-Advisor will employ a proprietary methodology in assessing commodity market movements and in determining the Fund's long/short commodity futures positions. Generally, the Commodity Sub-Advisor will employ momentum-based modeling (quantitative formulas that evaluate trend relationships between the changes in prices of futures contracts and trading volumes for a specific commodity) to estimate forward-looking prices and to evaluate the return impact of futures contract rolls. To determine the direction of the commodity futures position, either long or short (or flat in the case of energy futures contracts), the Commodity Sub-Advisor will calculate a roll-adjusted price that accounts for the current spot price and the impact of roll yield. The

futures price for a commodity that has positive roll yield (described as ''backwardation'') is adjusted up and the price for a commodity that has negative roll yield (described as ''contango'') is adjusted down. Generally, if a commodity's roll-adjusted price exceeds its 12-month moving average, the Fund expects to be long the commodity futures contract. Conversely, if the roll-adjusted price is below its 12-month moving average, the Fund expects to be short the commodity futures contract except for energy contracts which will be flat, *i.e.,* in cash. The Commodity Sub-Advisor may exercise discretion in its long/short decisions and the timing and implementation of the Fund's commodity investments to seek to benefit from trading on commodity price momentum.

The Commodity Sub-Advisor's long/short commodity investment program rules are proprietary, were developed by its senior portfolio management team, and expand upon the rules governing the Index. Upon completing the initial investment of the net proceeds of the offering, the Fund expects that the commodity futures contracts, their relative weights, and long/short direction will substantially replicate the constituent holdings and weights of the Index. Although the Commodity Sub-Advisor may exercise discretion in deciding which commodities to invest in, typically, the Fund expects to follow certain rules pertaining to eligible commodity futures contracts, weights, diversification, rebalancing, and annual reconstitution that are the same as those for the Index in order to minimize the divergence between the price behavior of the Fund's commodity futures portfolio and the price behavior of the Index (referred to as ''tracking error''). Over time, the Fund's commodity investments managed pursuant to the Commodity Sub-Advisor's long/short commodity investment program may differ from those of the Index.

In addition, in actively managing the Fund's long/short portfolio of commodity futures contracts, the Commodity Sub-Advisor will seek to add value compared with the Index by implementing the following proprietary investment methods: (i) Trading contracts in advance of monthly index rolls; (ii) individual commodity futures contract selection; and (iii) active implementation. As a result, the roll dates, terms, underlying contracts, and contract prices selected by the Commodity Sub-Advisor may vary significantly from the Index based upon the Commodity Sub-Advisor's implementation of the long/short commodity investment program in light of the relative value of different contract terms. The Commodity Sub-Advisor's active management approach will be market-driven and opportunistic and is intended to minimize market impact and avoid market congestion during certain days of the trading month.

Integrated Options Strategy. The Fund will employ a commodity option writing strategy that seeks to produce option premiums for the purpose of enhancing the Fund's risk-adjusted total return over time. Option premiums generated by this strategy may also enable the Fund to more efficiently implement its distribution policy. There can be no assurance that the Fund's options strategy will be successful.

Pursuant to the options strategy, the Fund may sell commodity call or put options, which will all be exchange-traded, on a continual basis on up to approximately 25% of the notional value of each of its corresponding commodity futures contracts that, in the Commodity Sub-Advisor's determination, have sufficient option trading volume and liquidity. Initially, the Fund expects to sell commodity options on approximately 15% of the notional value of each of its commodity futures contracts. If the Commodity Sub-Advisor buys the commodity futures contract, they will sell a call option on the same underlying commodity futures contract. If the Commodity Sub-Advisor shorts the commodity futures contract, they will sell a put option on the same underlying commodity futures contract (except in the case of energy futures contracts). The Commodity Sub-Advisor may exercise discretion with respect to commodity futures contract selection. Due to trading and liquidity considerations, the Commodity Sub-Advisor may determine that it is in the best interest of Fund shareholders to sell options on like commodities (for example, gas oil and heating oil are like commodities) and not matched commodity futures contracts.

Since the Fund's option overwrite is initially expected to represent 15% of the notional value of each of its commodity futures contract positions, the Fund will retain the ability to benefit from the full capital appreciation potential beyond the strike price on the majority (85% or more) of its long and/or short commodity futures contracts. An important objective of the Fund's long/short commodity investment strategy will be to retain capital appreciation potential with respect to the major portion of the Fund's portfolio.

When initiating new trades, the Fund expects to sell covered in-the-money options. Because the Fund will hold options until expiration, the Fund may have uncovered out-of-the-money options in its portfolio depending on price movements of the underlying futures contracts.[12] This element of the Fund's options strategy increases the Fund's gap risk, which is the risk that a commodity price will change from one level to another with no trading in between. In the event of an extreme market change or gap move in the price of a single commodity, the Fund's options strategy may result in increased exposure to that commodity from any uncovered options.

Generally, the Fund expects to sell short-term commodity options with terms of one to three months. Subject to the foregoing limitations, the implementation of the options strategy will be within the Commodity Sub-Advisor's discretion. Over extended periods of time, the ''moneyness'' of the commodity options may vary significantly. Upon sale, the commodity options may be ''in-the-money,'' ''at-the-money,'' or ''out-of-the-money.'' A call option is said to be ''in-the-money'' if the exercise price is below current market levels, ''out-of-the-money'' if the exercise price is above current market levels, and ''at-the-money'' if the exercise price is at current market levels. Conversely, a put option is said to be ''in-the-money'' if the exercise price is above the current market levels and ''out-of-the-money'' if the exercise price is below current market levels.

If the Commodity Sub-Advisor determines the Fund should have long exposure to an individual commodity futures contract, it will invest long in the commodity futures contract and sell call options on the same underlying commodity futures contract with the same strike price and expiration date. If the Commodity Sub-Advisor determines the Fund should have short exposure to

[12] While the Fund intends to only write covered options, in certain circumstances as described below, the Fund may continue to hold options that due to subsequent trades become out-of-the-money and would be uncovered options. An out-of-the-money option becomes worthless after its expiration and there is no expectation that it will be exercised (and there is no resulting exposure risk for the Fund). For example, if the Fund is long wheat futures and sells covered call options on wheat futures, subsequent price movements in wheat futures may result in the Commodity Sub-Advisor, on behalf of the Fund, reversing from a long position to a short position. In this example, the Commodity Sub-Advisor would then sell its long wheat futures contracts and hold onto the out-of-the-money call option. At the same time, to effect its short position, the Commodity Sub-Advisor would short wheat futures contracts and sell covered put options on wheat futures. The Fund will rebalance its positions no less frequently than monthly and as such it is anticipated that no out-of-the-money option position would be uncovered for longer than one month.

an individual commodity futures contract, it will short the commodity futures contract and sell put options on the same underlying commodity futures contract with the same strike price and expiration date.

An exception is made for commodities in the energy sector since prices of those contracts are extremely sensitive to geopolitical events and not necessarily driven by supply-demand imbalances. If the Commodity Sub-Advisor determines the Fund should have long exposure to an energy futures contract, the Fund will only sell call options on that contract. If the Commodity Sub-Advisor determines the Fund should have short exposure to an energy futures contract, the Fund will move to cash (*i.e.,* a flat position) for that contract and will not sell call or put options on that contract.

Collateral Portfolio. The Fund's commodity investments will, at all times, be fully collateralized. The notional value of the Fund's commodity exposure is expected to be approximately equal to the market value of the collateral. The Fund's commodity investments generally will not require significant outlays of principal. Approximately 25% of the Fund's net assets will be initially committed as ''initial'' and ''variation'' margin to secure the futures contracts. These assets will be placed in one or more commodity futures accounts maintained by the Fund at BCI and will be held in cash or invested in U.S. Treasury bills and other direct or guaranteed debt obligations of the U.S. government maturing within less than one year at the time of investment. The remaining collateral (approximately 75% of the Fund's net assets) will be held in a separate collateral investment account managed by the Collateral Sub-Advisor.

The Fund's assets held in this separate collateral account will be invested in cash equivalents or short-term debt securities with final terms not exceeding one year at the time of investment. These collateral investments shall be rated at all times at the applicable highest short-term or long-term debt or deposit rating or money market fund rating as determined by at least one nationally recognized statistical rating organization. These collateral investments will consist primarily of direct and guaranteed obligations of the U.S. government and senior obligations of U.S. government agencies and may also include, among others, money market funds and bank money market accounts invested in U.S. government securities, as well as repurchase agreements collateralized with U.S. government securities.

Commodity Futures Contracts and Related Options

Investments in individual commodity futures contracts and options on futures contracts historically have had a high degree of price variability and may be subject to rapid and substantial price changes, which could affect the value of the Shares. The Fund will invest in a diverse portfolio of exchange-traded commodity futures contracts and exchange-traded options on commodity futures contracts. The Fund expects to make investments in the most actively traded commodity futures contracts in the four main commodity sectors in the global commodities markets, as described above. Options on commodity futures contracts are contracts giving the purchaser the right, as opposed to the obligation, to acquire or to dispose of the commodity futures contract underlying the option on or before a future date at a specified price.

The potential Fund investments in futures contracts and options on such futures contracts are traded on U.S. and non-U.S. exchanges, including the Chicago Board of Trade (''CBOT''), the Chicago Mercantile Exchange (''CME''), the ICE Futures Europe, the ICE Futures U.S., the New York Mercantile Exchange (''NYMEX'') and the New York Commodities Exchange (''COMEX''), and the Kansas City Board of Trade (''KBOT'').

Additional Product Information

Commencing with the Fund's first distribution, the Fund intends to make regular monthly distributions to its shareholders (stated in terms of a fixed cents per share distribution rate) based on the past and projected performance of the Fund. Among other factors, the Fund will seek to establish a distribution rate that roughly corresponds to the Manager's projections of the total return that could reasonably be expected to be generated by the Fund over an extended period of time. Each monthly distribution will not be solely dependent on the amount of income earned or capital gains realized by the Fund, and such distributions may from time to time represent a return of capital and may require that the Fund liquidate investments. As market conditions and portfolio performance may change, the rate of distributions on the Shares and the Fund's distribution policy could change. The Fund reserves the right to change its distribution policy and the basis for establishing the rate of its monthly distributions, or may temporarily suspend or reduce distributions without a change in policy, at any time and may do so without prior notice to shareholders.

Under the Fund's intended operational procedures, the Fund's net asset value (''NAV'') will be calculated after the close of the Exchange (normally 4:00 p.m. Eastern Time or ''E.T.''), on each day that the Exchange is open.[13] The normal trading hours for those investments of the Fund traded on the various commodity exchanges may differ from the normal trading hours of the Exchange, which are from 9:30 a.m. to 4:00 p.m. E.T. Therefore, there may be time periods during the trading day where the Shares will be trading on the Exchange, but the futures contracts on various commodity exchanges will not be trading. The value of the Shares may accordingly be influenced by the non-concurrent trading hours between the Exchange and the various futures exchanges on which the futures contracts based on the underlying commodities are traded.

The Fund will not continuously offer Shares and will not provide daily redemptions. Rather, if a shareholder determines to buy additional Shares or sell Shares already held, the shareholder may do so by trading on the Exchange through a broker or otherwise. Shares of the Fund may trade on the Exchange at prices higher or lower than NAV. Because the market value of the Fund's Shares may be influenced by such factors as distribution levels (which are in turn affected by expenses), distribution stability, NAV, relative demand for and supply of such Shares in the market, general market and economic conditions, and other factors beyond the Fund's control, the Fund cannot guarantee that Shares will trade

[13] NAV per Share will be computed by dividing the value of all assets of the Fund (including any accrued interest and dividends), less all liabilities (including accrued expenses and distributions declared but unpaid), by the total number of Shares outstanding. The Fund will publish its NAV on its Web site on a daily basis, rounded to the nearest cent.

For purposes of determining the NAV of the Fund, portfolio instruments will be valued primarily by independent pricing services approved by the Manager at their market value. The Manager will review the values as determined by the independent pricing service and discuss those valuations with the pricing service if appropriate based on pricing oversight guidelines established by the Manager that it believes are consistent with industry standards. If the pricing services are unable to provide a market value or if a significant event occurs such that the valuation(s) provided are deemed unreliable, the Fund may value portfolio instrument(s) at their fair value, which will be generally the amount that the Fund might reasonably expect to receive upon the current sale or closing of a position. The fair value of an instrument will be based on the Manager's good faith judgment and may differ from subsequent quoted or published prices.

at a price equal to or higher than NAV in the future. Shares will be registered in book entry form through the Depository Trust & Clearing Corporation.

Additional information regarding the Fund, the Shares, the Fund's investment strategies, risks, fees, portfolio holdings and disclosure policies, distributions, availability of information, trading rules and halts, and surveillance procedures, among other things, can be found in the Notice and the Registration Statement, as applicable.[14]

III. Discussion and Commission's Findings

The Commission has carefully reviewed the proposed rule change and finds that it is consistent with the requirements of Section 6 of the Act and the rules and regulations thereunder applicable to a national securities exchange.[15] In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[16] 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 rules of the Exchange, including the requirements of NYSE Amex Rule 1600 *et seq.,* 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,[17] 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 through the facilities of the Consolidated Tape Association (''CTA''). The daily settlement prices of the futures contracts and options on futures contracts held by the Fund are readily available from the Web sites of the relevant futures exchanges, automated quotation systems, published or other public sources, or on-line information services such as Bloomberg or Reuters. The relevant futures exchanges also provide delayed futures information on current and past trading sessions and market news free of charge on their respective Web sites. Futures and related exchange-traded options quotes and last-sale information for the commodity futures contracts are widely disseminated through a variety of market data vendors worldwide, including Bloomberg and Reuters, and complete real-time data for futures contracts and exchange-traded options is available by subscription from Reuters and Bloomberg. The daily returns for the Index (*i.e.,* percentage change from the previous day) are posted on the Morningstar Web site by 8:00 a.m. E.T. on the following business day, and the Index value is disseminated through Bloomberg and other market data vendors every 15 seconds from 9:30 a.m. to 5:15 p.m. E.T. The Index construction rules and other information about the Index are publicly available on Morningstar's Web site at no charge. The Fund's total portfolio composition and the composition of the collateral portfolio will be disclosed on the Fund's Web site on each business day that the Exchange is open for trading.[18] As noted above, the Fund's NAV will be calculated after the close of the Exchange (normally 4:00 p.m. E.T.), on each day that the Exchange is open, and disseminated daily to all market participants at the same time.[19] The Fund's Web site will also include a form of the prospectus for the Fund, information relating to NAV, and other quantitative and trading information.[20]

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 will be made available to all market participants at the same time.[21] With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares, and trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. In particular, if the Exchange becomes aware that the portfolio holdings and NAV per Share are not being disseminated as required, the Exchange may halt trading during the day in which the interruption to the dissemination of the portfolio holdings or NAV per Share occurs. If the interruption to the dissemination of the portfolio holdings or NAV per Share persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption.[22]

[14] *See* Notice and Registration Statement, *supra* notes 3 and 5, respectively.

[15] 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).

[16] 15 U.S.C. 78f(b)(5).

[17] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[18] This Web site disclosure of portfolio holdings will be made daily and will include, as applicable: (a) The name, number of contracts or options, value per contract or option, and total value and percentage of the Fund's total value represented by each individual commodity futures contract or option to purchase a commodity futures contract invested in by the Fund; (b) the total value of the collateral as represented by cash; (c) cash equivalents; and (d) debt securities rated at the applicable highest short-term or long-term debt or deposit rating or money market fund rating as determined by at least one nationally recognized statistical rating organization held in the Fund's portfolio. The total portfolio holdings will be disseminated to all market participants at the same time.

[19] NAV per Share will be computed by dividing the value of all assets of the Fund (including any accrued interest and dividends), less all liabilities (including accrued expenses and distributions declared but unpaid), by the total number of Shares outstanding. The Fund will publish its NAV on its Web site on a daily basis, rounded to the nearest cent.

[20] The Exchange notes that exchange traded funds (''ETFs'') (and commodity pools that seek to replicate an ETF structure) publish intraday indicative values generally every 15 seconds (along with full transparency of portfolio holdings) in order to facilitate the arbitrage mechanism that is intended to minimize any deviation between the ETF's market price and the per share NAV of the ETF shares, which in turn facilitates the creation/redemption mechanism that is fundamental to ETFs. The creation/redemption mechanism is the process by which institutional investors make and redeem investments in large ''Creation Units'' of ETF Shares. Unlike ETFs, the Fund will not redeem its Shares, and therefore will not rely on a creation/redemption mechanism to create an arbitrage mechanism. Instead, the Manager has advised the Exchange that it expects the Shares to have trading characteristics similar to those of exchange-traded closed-end funds. Because the Fund has no creation/redemption mechanism, the Manager has advised the Exchange that it believes that the publishing of an intraday indicative value for the Fund would serve no useful purpose for investors or the market as a whole, and because the Fund is actively managed, publication of its trades in advance would be harmful to the Fund and its shareholders.

[21] *See* NYSE Amex Rule 1602(a)(ii). The Manager has represented to the Exchange that the NAV will be disseminated to all market participants at the same time. *See* Notice, *supra,* note 3.

[22] *See* NYSE Amex Rule 1602(b)(ii). In addition, the Exchange will halt trading in the Shares if the circuit breaker parameters of Rule 80B–NYSE Amex Equities have been reached. In exercising its discretion to halt or suspend trading in the Shares,

Continued

In addition, each of the Manager, the Commodity Sub-Advisor, and the Collateral Sub-Advisor has represented to the Exchange that it has erected and maintains firewalls within its respective institution to prevent the flow and/or use of non-public information regarding the portfolio of underlying securities from the personnel involved in the development and implementation of the investment strategy to others such as sales and trading personnel. The Commodity Sub-Advisor, the Collateral Sub-Advisor, any sub-adviser of either, and the respective related personnel of both are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. Morningstar, Inc. has erected and maintains information firewalls between the group which is responsible for the Index and employees of its broker-dealer subsidiary to prevent the flow and/or use of material non-public information regarding the Index from the personnel responsible for the Index to employees of the broker-dealer. 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 is able to obtain information with respect to the underlying futures contracts and options on futures contracts from the exchanges listing and trading such futures contracts and options on futures contracts that are members of the Intermarket Surveillance Group (''ISG'') or with which the Exchange has entered into a comprehensive surveillance sharing agreement.[23]

The Exchange further 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 Fund will be subject to the criteria in NYSE Amex Rule 1602 for initial and continued listing of the Shares.

(2) The Exchange's surveillance procedures are adequate to properly monitor Exchange trading of the Shares and to deter and detect violations of Exchange rules and applicable federal securities laws. All of the commodity futures contracts and options on commodity futures contracts in which the Fund will invest will be traded on regulated exchanges, and the Manager has represented to the Exchange that, while the Fund may invest in futures contracts or options on futures contracts which trade on markets that are not members of ISG or with which the Exchange does not have in place a comprehensive surveillance sharing agreement, such instruments will never represent more than 10% of the Fund's holdings.

(3) The Exchange will distribute an Information Circular (''Circular'') to its members in connection with the trading of the Shares. The Circular will discuss the special characteristics and risks of trading this type of security. Specifically, the Circular, among other things, will discuss what the Shares are, the requirement that members and member firms deliver a prospectus to investors purchasing the Shares prior to or concurrently with the confirmation of a transaction during the initial public offering, applicable NYSE Amex rules, and trading information and applicable suitability rules. The Circular will also explain that the Fund is subject to various fees and expenses described in the Registration Statement. The Circular will also reference the fact that there is no regulated source of last sale information regarding physical commodities and note the respective jurisdictions of the Commission and CFTC. The Circular will also advise members of their suitability obligations with respect to recommended transactions to customers in the Shares.

(4) For initial and continued listing of the Shares, the Fund will be in compliance with Rule 10A–3 under the Act.[24]

(5) The Fund will not invest in swaps or over-the-counter derivatives.

(6) The Fund's commodity investments will, at all times, be fully collateralized, and the Fund's investments will be consistent with the Fund's investment objective and will not be used to enhance leverage.

(7) A minimum of 2,000,000 Shares will be required to be publicly distributed at the commencement of trading on the Exchange.

This approval order is based on all of the Exchange's representations and description of the Fund, including those set forth above and in the Notice.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act[25] 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,[26] that the proposed rule change (SR–NYSEAmex–2012–24) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–15492 Filed 6–25–12; 8:45 am]

BILLING CODE 8011–01–P

the Exchange may consider factors such as those set forth in Rule 953NY(a), in addition to other factors that may be relevant. *Id.*

[23] The Exchange represents that it can obtain market surveillance information, including customer identity information, with respect to transactions occurring on exchanges that are members of ISG, including CME, CBOT, COMEX, NYMEX (all of which are part of CME Group, Inc.), and ICE Futures US. In addition, the Exchange currently has in place a comprehensive surveillance sharing agreement with each of CME, NYMEX, ICE Futures Europe, and KCBOT for the purpose of providing information in connection with trading in or related to futures contracts or options on futures contracts traded on those markets.

[24] *See* 17 CFR 240.10A–3.

[25] 15 U.S.C. 78f(b)(5).

[26] 15 U.S.C. 78s(b)(2).

[27] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Inspector General; Line of Succession Designation, No. 23–C, Revision 5

This document replaces and supersedes ''Delegation of Authority and Line of Succession No. 23–C, Revision 4.''

Line of Succession Designation, No. 23–C, Revision 5:

Effective immediately, the Inspector General's Line of Succession Designation is as follows:

(a) In the event of my inability to perform the functions and duties of my position, or my absence from the office, the Deputy Inspector General, who is the first assistant for purposes of the Federal Vacancies Reform Act of 1998 (5 U.S.C. § 3345–3349d), will assume all functions and duties of the Inspector General. In the event the Deputy Inspector General and I are both unable to perform the functions and duties of the position or are absent from our offices, and in the absence of the specific designation of another official in writing by the Inspector General or the Acting Inspector General, I designate the officials in listed order below, if they are eligible to act as Inspector General under the provisions of the Federal Vacancies Reform Act of 1998, to serve as Acting Inspector General with full authority to perform all acts which the Inspector General is authorized to perform:

(1) Assistant Inspector General for Auditing;

(2) Assistant Inspector General for Investigations;

(3) Assistant Inspector General for Management and Policy;

(4) Counsel to the Inspector General;

(5) Special Assistant to the Inspector General; and

(6) Special Agent-in-Charge–Eastern, Central, or Western Region (by seniority).

(b) ''Absence from the office,'' as used in reference to myself in paragraph (a) above, means the following:

(1) I am not present in the office and cannot be reasonably contacted by phone or other electronic means, and there is an immediate business necessity for the exercise of my authority; or

(2) I am not present in the office and, upon being contacted by phone or other electronic means, I determine that I cannot exercise my authority effectively without being physically present in the office.

(c) An individual serving in an acting capacity in any of the positions listed in subparagraphs (a)(1) through (6), unless designated as such by the Inspector General, is not included in this Line of Succession. Instead, the next non-acting incumbent in the Line of Succession shall serve as Acting Inspector General.

(d) This designation shall remain in full force and effect until revoked or superseded in writing by the Inspector General, or by the Deputy Inspector General when serving as Acting Inspector General.

(e) Serving as Acting Inspector General has no effect on the officials listed in subparagraphs (a)(1) through (6), above, with respect to their full-time position's authorities, duties and responsibilities (except that such official cannot both recommend and approve an action).

Dated: June 20, 2012.

Peggy E. Gustafson,

Inspector General.

[FR Doc. 2012–15561 Filed 6–25–12; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

Annual Meeting of the Regional Small Business Regulatory Fairness Boards Office of the National Ombudsman

AGENCY: U.S. Small Business Administration (SBA).

ACTION: Notice of open meeting of the Regional Small Business Regulatory Fairness Boards.

SUMMARY: The SBA, Office of the National Ombudsman is issuing this notice to announce the location, date, time and agenda for the annual board meeting of the ten Regional Small Business Regulatory Fairness Boards (Regional Regulatory Fairness Boards). The meeting is open to the public.

DATES: The meeting will be held on the following dates: Monday, July 16, 2012, from 9 a.m. to 5 p.m. EST and on Tuesday, July 17, 2012, from 9 a.m. to 7 p.m. EST.

ADDRESSES: The meeting will be at The Westin Indianapolis Hotel, 50 South Capital Avenue, Indianapolis, IN 46204, in the Capitol 1 Room located on the Main Lobby area.

SUPPLEMENTARY INFORMATION: Pursuant to the Small Business Regulatory Enforcement Fairness Act (Pub. L. 104–121), Sec. 222, SBA announces the meeting of the Regional Regulatory Fairness Boards. The Regional Regulatory Fairness Boards are tasked to advise the National Ombudsman on matters of concern to small businesses relating to enforcement activities of agencies and to report on substantiated instances of excessive enforcement against small business concerns, including any findings or recommendations of the Board as to agency enforcement practice or policy.

The purpose of the meeting is to discuss the following topics related to the Regional Regulatory Fairness Boards:

—RegFair Board Member Duties, Responsibilities, and Standards of Conducting Briefing.
—Board Relationships with the Field.
—ONO Highlights.
—Planning for and Logistics of Hearings/Roundtables.
—Securing Comments and the Comment Process.
—National Small Business Association (NSBA) Update.
—Introduction of Chief Counsel, Office of Advocacy.
—Introduction of Director of Field Operations.
—Small Businesses: Creating and Contributing to the Future.
—RegFair Board Members Present Examples of Activities in their Regions.
—Federal Agency Partnerships: Existing and Future.
—Introduction and Remarks by SBA Deputy Administrator.
—Presentation of Certificates and Photos.
—Board Member Travel Reimbursement.
—Introduction of SBA Administrator.
—All Participants Join DD Conference.

FOR FURTHER INFORMATION CONTACT: The meeting is open to the public; however advance notice of attendance is requested. Anyone wishing to attend and/or make a presentation to the Regulatory Fairness Boards must contact Yolanda Swift by July 12, 2012, by fax or email in order to be placed on the agenda. *Yolanda.swift@sba.gov,* Deputy National Ombudsman for Regulatory Enforcement Fairness, Office of the National Ombudsman, 409 3rd Street SW., Suite 7125, Washington, DC 20416, phone (202) 205–6918, fax (202) 401–6128.

Additionally, if you need accommodations because of a disability or require additional information, please contact José Méndez, Case Management Specialist, Office of the National Ombudsman, 409 3rd Street SW., Suite 7125, Washington, DC 20416, phone (202) 205–6178, fax (202) 401–2707, email *jose.mendez@sba.gov.*

For more information on the Office of the National Ombudsman, please visit our Web site at *http://www.sba.gov/ombudsman.*

Dated: June 20, 2012.

Dan Jones,

SBA Committee Management Officer.

[FR Doc. 2012–15578 Filed 6–25–12; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

[License No. 09/79–0454]

Emergence Capital Partners SBIC, L.P.; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Seacoast Capital Partners III, L.P., 555 Ferncroft Road, Danvers, MA 01923, a Federal Licensee under the Small Business Investment Act of 1958, as amended (''the Act''), in connection with the financing of a small concern, has sought an exemption under Section 312 of the Act and Section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration (''SBA'') Rules and Regulations (13 CFR 107.730). Seacoast Capital Partners III, L.P., proposes to provide debt/equity security financing to Fox Run Holdings, Inc., 1907 Stout Drive, Warminster, PA 18974 (''Fox Run'').

The financing is brought within the purview of § 107.730(a)(1) of the Regulations because Seacoast Capital Partners II, L.P. an Associate of Seacoast Capital Partners III, L.P., own more than ten percent of Fox Run, and therefore this transaction is considered a financing of an Associate requiring prior SBA approval.

Notice is hereby given that any interested person may submit written comments on the transaction, within fifteen days of the date of this publication, to the Associate Administrator for Investment, U.S.

Small Business Administration, 409 Third Street SW., Washington, DC 20416.

Dated: June 14, 2012.

Sean J. Greene,

Associate Administrator for Investment.

[FR Doc. 2012–15559 Filed 6–25–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF STATE

[Public Notice 7933]

In the Matter of the Designation of Abubakar Adam Kambar, Also Known as Abu Yasir, Also Known as Abubakar Kambar, Also Known as Abu Yasir Kambar, as a Specially Designated Global Terrorist Pursuant to Section 1(b) of Executive Order 13224, as Amended

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July 2, 2002, and Executive Order 13284 of January 23, 2003, I hereby determine that the individual known as Abubakar Adam Kambar, also known as Abu Yasir, also known as Abubakar Kambar, also known as Abu Yasir Kambar, committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in Section 10 of Executive Order 13224 that ''prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously,'' I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

Dated: June 18, 2012.

Hillary Rodham Clinton,

Secretary of State.

[FR Doc. 2012–15577 Filed 6–25–12; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

[Public Notice 7934]

Foreign Affairs Policy Board Meeting Notice; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App § 10(a)(2), the Department of State announces a meeting of the Foreign Affairs Policy Board to take place on July 19, 2012, at the Department of State, Washington, DC.

The Foreign Affairs Policy Board reviews and assesses: (1) Global threats and opportunities; (2) trends that implicate core national security interests; (3) tools and capacities of the civilian foreign affairs agencies; and (4) priorities and strategic frameworks for U.S. foreign policy. Pursuant to section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App § 10(d), and 5 U.S.C. 552b(c)(1), it has been determined that this meeting will be closed to the public as the Board will be reviewing and discussing matters properly classified in accordance with Executive Order 13526.

For more information, contact Samantha Raddatz at (202) 647–2372.

Dated: June 15, 2012.

Dan Kurtz-Phelan,

Designated Federal Officer.

[FR Doc. 2012–15600 Filed 6–25–12; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

[Public Notice 7932]

The Designation of Khalid al-Barnawi, Also Known as Khalid Barnawi, Also Known as Khaled al-Barnawi, Also Known as Khaled el-Barnaoui, Also Known as Mohammed Usman, Also Known as Abu Hafsat, as a Specially Designated Global Terrorist Pursuant to Section 1(b) of Executive Order 13224, as Amended

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July 2, 2002, and Executive Order 13284 of January 23, 2003, I hereby determine that the individual known as Khalid al-Barnawi, also known as Khalid Barnawi, also known as Khaled al-Barnawi, also known as Khaled el-Barnaoui, also known as Mohammed Usman, also known as Abu Hafsat, committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in Section 10 of Executive Order 13224 that ''prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously,'' I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

Dated: June 18, 2012.

Hillary Rodham Clinton,

Secretary of State.

[FR Doc. 2012–15587 Filed 6–25–12; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

[Public Notice 7930]

In the Matter of the Designation of Aitzol Iriondo Yarza, also known as Gurbitz, also known as Gurbita, also known as Barbas, also known as Balak as a Specially Designated Global Terrorist Pursuant to Section 1(b) of Executive Order 13224, as Amended

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July 2, 2002, and Executive Order 13284 of January 23, 2003, I hereby determine that the individual known as Aitzol Iriondo Yarza, also known as Gurbitz, also known as Gurbita, also known as Barbas, also known as Balak, committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in section 10 of Executive Order 13224 that ''prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously,'' I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register.**

Dated: June 14, 2012.

Hillary Rodham Clinton,

Secretary of State.

[FR Doc. 2012–15598 Filed 6–25–12; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

[Public Notice 7931]

The Designation of Abubakar Shekau, Also Known as Abu Mohammed Abubakar bin Mohammed, Also Known as Shekau, Also Known as Abu Muhammed Abubakar Bi Muhammed, Also Known as Shehu, Also Known as Shayku, as a Specially Designated Global Terrorist Pursuant to Section 1(b) of Executive Order 13224, as Amended

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July 2, 2002, and Executive Order 13284 of January 23, 2003, I hereby determine that the individual known as Abubakar Shekau, also known as Abu Mohammed Abubakar Bin Mohammed, also known as Shekau, also known as Abu Muhammed Abubakar Bi Muhammed, also known as Shehu, also known as Shayku, committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in Section 10 of Executive Order 13224 that ''prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously,'' I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

Dated: June 18, 2012.

Hillary Rodham Clinton,

Secretary of State.

[FR Doc. 2012–15592 Filed 6–25–12; 8:45 am]

BILLING CODE 4710–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2012–0052]

Agency Information Collection Activities: Request for Comments for a New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for a new information collection, which is summarized below under **SUPPLEMENTARY INFORMATION.** We published a **Federal Register** Notice with a 60-day public comment period on this information collection on May 14, 2012. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by July 26, 2012.

ADDRESSES: You may send comments within 30 days to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention DOT Desk Officer. You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burden; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. All comments should include the Docket number FHWA–2012–0052.

FOR FURTHER INFORMATION CONTACT: Karen Scurry, (609) 637–4207 or *karen.scurry@dot.gov* mailto: *ben.gribbon@dot.gov,* Office of Administration, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Assessment and Delivery of Safety Funding at the Local Level.

Type of request: New information collection requirement.

Background: The Safe, Accountable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users (SAFETEA–LU), 23 U.S.C. 148, established the Highway Safety Improvement Program (HSIP) as a core federal-aid highway program. The overall purpose of this program is to achieve a significant reduction in traffic fatalities and serious injuries on all public roads through the implementation of infrastructure-related highway safety improvements. Using federal and state funds to assist local agencies in improving safety on local roads is critical for reducing fatalities and serious injuries. However, state and local agencies face many challenges and barriers when identifying, prioritizing, developing, and implementing safety projects on local roads.

The requested information collection, in the form of an on-line survey tool, will be used to evaluate the extent, practices and processes state departments of transportation (DOTs) use to deliver or apply safety funding resources to local agencies for road safety improvement projects. The survey will also help identify challenges and barriers state DOTs and local agencies face when developing and implementing local road safety projects.

Survey respondents will be asked to provide information about training, technical support, and human resources provided to, or on behalf of local agencies, to assist in the identification, analysis, development, evaluation, and implementation of local road safety improvement projects. Respondents will also be asked to identify any challenges or barriers states and local agencies face when attempting to provide funding and other resources for local road safety projects.

Certain survey respondents will also be asked to provide feedback on federal or state fiscal year expenditures applied to local road safety improvement projects over a three-year period and any methodologies used to identify a specific dollar amount or percentage of funds set aside for those local road safety improvement projects.

The information will allow FHWA to assess the extent to which states are providing funds to local agencies for safety projects, and to identify human resources and technical assistance states need in order to overcome barriers and challenges to developing and implementing local road safety improvement projects. The survey will also help FHWA identify noteworthy practices that can be implemented in other states, with the ultimate goal of improving highway safety outcomes across the Nation.

Respondents: State DOTs.

Frequency: one time.

Estimated Average Burden per Response: Approximately 5 hours.

Estimated Total Annual Burden Hours: The total burden for this collection would be approximately 250 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection of information is necessary for the U.S. DOT's performance, including whether the information will have practical utility; (2) the accuracy of the U.S. DOT's estimate of the burden of the proposed information collection; (3) ways to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued On: June 19, 2012.

Steven Smith,

Chief, Information Technology Division.

[FR Doc. 2012–15366 Filed 6–25–12; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2012–0154]

Qualification of Drivers; Application for Exemptions; National Association of the Deaf

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemptions; extension of comment period.

SUMMARY: FMCSA announces an extension of the comment period on its May 25, 2012, notice requesting public comments on the National Association of the Deaf's (NAD) application for exemptions on behalf of 45 individuals from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). On June 6, 2012, NAD formally requested that the Agency extend the comment period. The Agency grants the request for an extension.

DATES: Comments must be received on or before July 25, 2012.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2012–0154 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgment page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the FDMS published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf.*

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief Medical Programs, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

FMCSA published a notice in the **Federal Register** with a request for comments on May 25, 2012 (77 FR 31423), announcing that NAD had applied for exemptions on behalf of 45 individuals from the hearing requirement in the FMCSRs. The comment period was scheduled to end on June 25. However, on June 6, NAD formally requested an extension of the comment period. After reviewing the request, FMCSA has decided to grant the request. The Agency extends the comment period for an additional 30 days to July 25, 2012.

Issued on: June 20, 2012.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2012–15668 Filed 6–22–12; 11:15 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[USCG–2006–24644]

Withdrawal of TORP Terminal LP, Bienville Offshore Energy Terminal Liquefied Natural Gas (LNG) Deepwater Port Application

AGENCY: Maritime Administration, DOT.

ACTION: Deepwater port, application withdrawal announcement; notice.

SUMMARY: The Maritime Administration (MARAD) announces TORP Terminal LP's (TORP) withdrawal of the deepwater port license application for the proposed Bienville Offshore Energy Terminal (BOET). All actions related to the processing and agency coordination activities required under the Deepwater Port Act of 1974, as amended, are hereby terminated, and the official Record of Decision on the BOET application issued October 29, 2010, by David T. Matsuda, Maritime Administrator, is hereby rescinded.

DATES: The date of withdrawal and cancellation of all actions related to this application was effective June 14, 2012.

ADDRESSES: The Docket Management Facility maintains the public docket for this project. The docket may be viewed electronically at *http://www.regulations.gov* under docket number USCG–2006–24644, 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 20590.

FOR FURTHER INFORMATION CONTACT: If you have questions about the TORP

Terminal LP Deepwater Port project, contact Ms. Yvette M. Fields, Director, Office of Deepwater Ports and Offshore Activities, Maritime Administration at 202–366–0926 or *Yvette.Fields@dot.gov*.

SUPPLEMENTARY INFORMATION: On January 13, 2012, MARAD received notification from the applicant, TORP Terminal LP, of the withdrawal of its application to own, construct, and operate a deepwater port for a liquefied natural gas deepwater port facility, located approximately 62.6 miles south of Fort Morgan, Alabama in the Federal waters of the Outer Continental Shelf (OCS) on Main Pass Block 258 and connected to existing offshore pipelines. Consequently, MARAD has terminated all activities pertaining to TORP's application and has rescinded its Record of Decision for this deepwater port project. All agency records and documents related to the BOET deepwater port license application are being preserved and retained by MARAD and USCG. Further information pertaining to this application may be found in the public docket (see **ADDRESSES**).

Authority: 49 CFR 1.66.

By Order of the Maritime Administrator.

Dated: June 18, 2012.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2012–15623 Filed 6–25–12; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2012–0085]

Vision Motor Cars, Inc.; Receipt of Petition for Temporary Exemption From Certain Requirements of FMVSS No. 126, FMVSS No. 201, and FMVSS No. 208

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of receipt of petition for temporary exemption.

SUMMARY: In accordance with the procedures in 49 CFR part 555, Vision Motor Cars, Inc., (VMCI) has petitioned the agency for temporary exemption from certain requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 126, *Electronic Stability Control Systems,* FMVSS No. 201, *Occupant Protection in Interior Impact,* and FMVSS No. 208, *Occupant Crash Protection.* The basis for the application is that the petitioner avers that compliance would cause it substantial economic hardship and that it has tried in good faith to comply with the standards.[1] This notice of receipt of an application for a temporary exemption is published in accordance with statutory and administrative provisions. NHTSA has made no judgment on the merits of the application.

DATES: You should submit your comments not later than July 26, 2012.

FOR FURTHER INFORMATION CONTACT: William H. Shakely, Office of the Chief Counsel, NCC–112, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., West Building 4th Floor, Room W41–318, Washington, DC 20590. Telephone: (202) 366–2992; Fax: (202) 366–3820.

ADDRESSES: We invite you to submit comments on the application described above. You may submit comments identified by docket number at the heading of this notice by any of the following methods:

- *Web Site: http://www.regulations.gov.* Follow the instructions for submitting comments on the electronic docket site by clicking on ''Help and Information'' or ''Help/Info.''
- *Fax:* 1–202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act discussion below. We will consider all comments received before the close of business on the comment closing date indicated above. To the extent possible, we will also consider comments filed after the closing date.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* at any time or to 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. Telephone: (202) 366–9826.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://www.dot.gov/privacy.html.*

Confidential Business Information: If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation (49 CFR part 512).

SUPPLEMENTARY INFORMATION:

I. Statutory Basis for Temporary Exemptions

The National Traffic and Motor Vehicle Safety Act (Safety Act), codified as 49 U.S.C. Chapter 301, authorizes the Secretary of Transportation to exempt, on a temporary basis and under specified circumstances, motor vehicles from a motor vehicle safety standard or bumper standard. This authority is set forth at 49 U.S.C. 30113. The Secretary has delegated the authority in this section to NHTSA.

NHTSA established 49 CFR part 555, *Temporary Exemption from Motor Vehicle Safety and Bumper Standards,* to implement the statutory provisions concerning temporary exemptions. A vehicle manufacturer wishing to obtain an exemption from a standard must demonstrate in its application (A) that an exemption would be in the public interest and consistent with the Safety Act and (B) that the manufacturer satisfies one of the following four bases for an exemption: (i) Compliance with the standard would cause substantial economic hardship to a manufacturer that has tried to comply with the

[1] To view the petition, go to *http://www.regulations.gov* and enter the docket number set forth in the heading of this document.

standard in good faith; (ii) the exemption would make easier the development or field evaluation of a new motor vehicle safety feature providing a safety level at least equal to the safety level of the standard; (iii) the exemption would make the development or field evaluation of a low-emission motor vehicle easier and would not unreasonably lower the safety level of that vehicle; or (iv) compliance with the standard would prevent the manufacturer from selling a motor vehicle with an overall safety level at least equal to the overall safety level of nonexempt vehicles.

A manufacturer is eligible to apply for a hardship exemption if its total motor vehicle production in its most recent year of production did not exceed 10,000 vehicles, as determined by the NHTSA Administrator (49 U.S.C. 30113).

In determining whether a manufacturer of a vehicle meets that criterion, NHTSA considers whether a second vehicle manufacturer also might be deemed the manufacturer of that vehicle. The statutory provisions governing motor vehicle safety (49 U.S.C. Chapter 301) do not state that a manufacturer has substantial responsibility as manufacturer of a vehicle simply because it owns or controls a second manufacturer that assembled that vehicle. However, the agency considers the statutory definition of ''manufacturer'' (49 U.S.C. 30102) to be sufficiently broad to include sponsors, depending on the circumstances. Thus, NHTSA has stated that a manufacturer may be deemed to be a sponsor and thus a manufacturer of a vehicle assembled by a second manufacturer if the first manufacturer had a substantial role in the development and manufacturing process of that vehicle.

II. Air Bag Requirements and Small Volume Manufacturers

All trucks with a gross vehicle weight rating (GVWR) of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less manufactured on or after September 1, 1998, are required to have air bags at the driver and right front passenger positions, and the vehicle must meet certain injury criteria as measured by test dummies during specified test procedures.[2]

The requirements for standard air bags are longstanding, and a number of small volume manufacturers have found ways to meet them. Although NHTSA granted a small number of exemptions from the standard air bag requirements in the past, the agency announced in 2007 that given the large benefits of frontal air bags, the number of years that the requirements had been in effect and the fact that a number of small volume manufacturers had been able to meet the requirements, the agency had determined that it was generally not in the public interest or consistent with the Safety Act to grant new exemptions from these requirements.[3]

In 2000, NHTSA upgraded the requirements for air bags in passenger cars and light trucks, requiring what are commonly known as ''advanced air bags.'' [4] The upgrade was designed to meet the twin goals of improving protection for occupants of all sizes, belted and unbelted, in moderate-to-high-speed crashes, and of minimizing the risks posed by air bags to infants, children, and other occupants, especially in low-speed crashes.

The issuance of the advanced air bag requirements was a culmination of a comprehensive plan that the agency announced in 1996 to address the adverse effects of air bags. This plan also included an extensive consumer education program to encourage the placement of children in rear seats.

The new requirements were phased-in, beginning with the 2004 model year. Small volume manufacturers were not subject to the advanced air bag requirements until the end of the phase-in period, i.e., September 1, 2006.

In recent years, NHTSA has addressed a number of petitions for exemption from the advanced air bag requirements of FMVSS No. 208. The majority of these requests have come from small volume manufacturers, each of which has petitioned on the basis that compliance would cause it substantial economic hardship and that it has tried in good faith to comply with the standard. In recognition of the more limited resources and capabilities of small volume manufacturers, authority to grant exemptions based on substantial economic hardship and good faith efforts was added to the Vehicle Safety Act in 1972 to enable the agency to give those manufacturers additional time to comply with the Federal safety standards.

NHTSA has granted a number of these petitions, usually in situations in which the manufacturer is supplying standard air bags in lieu of advanced air bags.[5] In addressing these petitions, NHTSA has recognized that small volume manufacturers may face particular difficulties in acquiring or developing advanced air bag systems.

Notwithstanding those previous grants of exemption, NHTSA has considered two key issues—

(1) Whether it is in the public interest to continue to grant such petitions, particularly in the same manner as in the past, given the number of years these requirements have now been in effect and the benefits of advanced air bags, and

(2) To the extent such petitions are granted, what plans and countermeasures to protect child and infant occupants, short of compliance with the advanced air bags, should be expected.

While the exemption authority was created to address the problems of small manufacturers and the agency wishes to be appropriately attentive to those problems, it was not anticipated by the agency that use of this authority would result in small manufacturers being given much more than relatively short term exemptions from recently implemented safety standards, especially those addressing particularly significant safety problems.

Given the passage of time since the advanced air bag requirements were established and implemented, and in light of the benefits of advanced air bags, NHTSA has determined that it is not in the public interest to continue to grant exemptions from these requirements under the same terms as in the past.[6] The costs of compliance with the advanced air bag requirements of FMVSS No. 208 are costs that all entrants to the U.S. automobile marketplace should expect to bear. Furthermore, NHTSA understands that, in contrast to the initial years after the advanced air bag requirements went into effect, low volume manufacturers now have access to advanced air bag technology. Accordingly, NHTSA has concluded that the expense of advanced air bag technology is not now sufficient, in and of itself, to justify the grant of a petition for a hardship exemption from the advanced air bag requirements.[7]

NHTSA further notes that the granting of hardship exemptions from motor vehicle safety standards is subject to the agency's finding that the petitioning manufacturer has ''tried to comply with the standard in good faith.'' [8] In response to prior petitions, NHTSA has granted temporary exemptions from the advanced air bag requirements as a

[2] 49 CFR 571.208, S4.2.6.2.

[3] *See* denial of petition of SS II of America, 72 FR 30426 (May 31, 2007).

[4] *See* 65 FR 30680 (May 12, 2000).

[5] *See, e.g.,* grant of petition to Panoz, 72 FR 28759 (May 22, 2007), or grant of petition to Koenigsegg, 72 FR 17608 (April 9, 2007).

[6] See denial of petition of Pagani Automobili SpA, 76 FR 47641–42 (Aug. 5, 2011).

[7] See *id.*

[8] 49 U.S.C. 30113(b)(3)(B)(i).

means of affording eligible manufacturers an additional transition period to comply with the exempted standard. In deciding whether to grant an exemption based on substantial economic hardship and good faith efforts, NHTSA considers the steps that the manufacturer has already taken to achieve compliance, as well as the future steps the manufacturer plans to take during the exemption period and the estimated date by which full compliance will be achieved.[9]

NHTSA invites comment on how these considerations relate to VMCI's petition for an exemption from the standard and advanced air bag requirements of FMVSS No. 208.

III. Electronic Stability Control Systems Requirement

In April 2007, NHTSA published a final rule requiring that vehicles with a gross vehicle weight rating of 4,536 kg (10,000 pounds) or less be equipped with electronic stability control (ESC) systems. ESC systems use automatic computer-controlled braking of individual wheels to assist the driver in maintaining control in critical driving situations in which the vehicle is beginning to lose directional stability at the rear wheels (spin out) or directional control at the front wheels (plow out). An anti-lock brake system (ABS) is a prerequisite for an ESC system because ESC uses many of the same components as ABS. Thus, the cost of complying with FMVSS No. 126 is less for vehicle models already equipped with ABS.

Preventing single-vehicle loss-of-control crashes is the most effective way to reduce deaths resulting from rollover crashes. This is because most loss-of-control crashes culminate in the vehicle leaving the roadway, which dramatically increases the probability of a rollover. NHTSA's crash data study of existing vehicles equipped with ESC demonstrated that these systems reduce fatal single-vehicle crashes of passenger cars by 55 percent and fatal single-vehicle crashes of light trucks and vans (LTVs) by 50 percent.[10] NHTSA estimates that ESC has the potential to prevent 56 percent of the fatal passenger car rollovers and 74 percent of the fatal LTV first-event rollovers that would otherwise occur in single-vehicle crashes.[11]

The ESC requirement became effective for substantially all vehicles on September 1, 2011.

IV. Occupant Protection in Interior Impact Requirement

FMVSS No. 201, *Occupant Protection in Interior Impact* applies to vehicles with a gross vehicle weight rating of 4,536 kg (10,000 pounds) or less. The standard establishes performance requirements designed to reduce the risk of injury in the event an occupant strikes the interior of a vehicle during a crash. Specifically, certain areas within the vehicle must be properly padded or otherwise have energy absorbing properties to minimize head injury in the event of a crash. Head impact protection performance is determined, in part, by testing specific targets on the vehicle interior. FMVSS No. 201 further specifies that doors to interior compartments must remain latched when subjected to certain forces that might be experienced in a crash.

V. Overview of Petition

In accordance with 49 U.S.C. 30113 and the procedures in 49 CFR part 555, VMCI submitted a petition asking the agency for a temporary exemption from the electronic stability control requirements of FMVSS No. 126, certain requirements of FMVSS No. 201, and the standard and advanced air bag requirements of FMVSS No. 208.[12] Specifically, VMCI requested exemption from all of FMVSS No. 126; the requirements in S5.1 (requirements for instrument panels), S5.2 (requirements for seat backs), S5.3 (requirements for interior compartment doors), S6 (requirements for upper interior components), S8 (test conditions and specification of target locations), S9 (orthogonal reference system), and S10 (specification of target locations) of FMVSS No. 201; and the requirements in paragraphs S4.2.6.2 (standard air bag requirements for light trucks), S14 (advanced air bag requirements), S15 (rigid barrier test requirements using 5th percentile adult female dummies), S17 (offset frontal deformable barrier requirements using 5th percentile adult female dummies), S19 (except for S19.2.2) (requirements to provide protection for infants in rear facing and convertible child restraints and car beds), S20 (test procedure for infant requirements), S21 (requirements using 3-year-old child dummies), S22 (test procedure for 3-year-old requirements), S23 (requirements using 6-year-old child dummies), S24 (test procedure for 6-year-old requirements), S25 (requirements using an out-of-position 5th percentile adult female dummy at the driver position), and S26 (procedure for low risk deployment tests of driver air bag) of FMVSS No. 208. The petition for exemption is for the Everest model, a two-seat, all-electric light delivery truck.

The basis for the application is that compliance would cause the petitioner substantial economic hardship and that the petitioner has tried in good faith to comply with the standard. VMCI has requested an exemption for the Everest model for 36 months. VMCI asserts that over $3 million has been spent so far to comply with the FMVSSs. However, the company states that the additional capital required to accomplish FMVSS certification at this time presents a hardship to the company and that an exemption would provide feedback and revenue in order to bring the Everest into compliance. VMCI states that the company intends to comply with the requirements of FMVSS Nos. 126, 201, and 208 by the end of the exemption period. VMCI is a Tennessee corporation with its headquarters in North Carolina. The company manufactured 6 vehicles in the 12 month period prior to filing the petition. The company states that it plans to produce approximately 2,500 vehicles annually during the exemption period.

Regarding FMVSS No. 126, VMCI asserts that the equipment design, fitting, testing and certification of the Everest for compliance with the ESC requirements would cost approximately $1.4 million, and that these costs pose an economic hardship to the company. VMCI requests an exemption from the ESC requirements for 36 months. VMCI states that the lightweight nature of the vehicle (GVWR of 1,400 kg) and the fact that it will be equipped with front disc brakes and rear drum or disc braking will keep the vehicle stable in all braking conditions. VMCI further states that the placement of the vehicle's battery packs below the center of gravity will result in a much lower chance of vehicle rollover in most driving conditions. VMCI asserts that, accordingly, the risk presented to the public by the exemption is low.

Regarding the specified requirements of FMVSS No. 201, VMCI states that the Everest will be equipped with energy-absorbing materials in the interior passenger compartment target zones of potential impact. However, VMCI requests an exemption from certain requirements because, according to VMCI, the costs of testing to certify

[9] 49 CFR 555.6(a)(2).

[10] Sivinski, R., Crash Prevention Effectiveness of Light-Vehicle Electronic Stability Control: An Update of the 2007 NHTSA Evaluation; DOT HS 811 486 (June 2011).

[11] *Id.*

[12] In response to a request for clarification from the agency, VMCI clarified in an email certain background information and from which requirements of FMVSS No. 208 the company was seeking exemption. A copy of this email will be posted to the docket.

compliance would present an economic hardship to the company.[13]

VMCI requests exemption from the standard and advanced air bag requirements of FMVSS No. 208 because, according to VMCI, the costs of testing to certify compliance would present an economic hardship to the company.[14] VMCI states that the Everest will be equipped with air bags on the driver and passenger sides, retracting seat belts, and reinforced doors. However, the company asserts that the cost of certifying the vehicle to the FMVSS requirements is prohibitive prior to production.

VMCI further states that the Everest will be equipped with an interlock that will prevent the vehicle from moving if occupants are not properly belted. The company asserts that this mitigates the risks of an exemption from the unbelted occupant requirements. Additionally, VMCI states that it is unlikely that an infant or child would be riding in the Everest because it is being targeted to the commercial light delivery market. However, the Everest will be equipped with a key switch to deactivate the passenger side air bag and a compliant air bag status telltale.

VMCI asserts that granting the exemption would serve the public good by making an all electric, affordable, practical work truck available, by creating jobs, and by reducing pollution and dependence on foreign sources of oil.

VI. Completeness and Comment Period

Upon receiving a petition, NHTSA conducts an initial review of the petition with respect to whether the petition is complete. The agency has tentatively concluded that the petition from VMCI is complete. The agency has not made any judgment on the merits of the petition, and is placing a non-confidential copy of the petition in the docket.

The agency seeks comment from the public on the merits of VMCI's petition for a temporary exemption from FMVSS No. 126, certain requirements of FMVSS No. 201, and the standard and advanced air bag requirements of FMVSS No. 208. We are providing a 30-day comment period. After considering public comments and other available information, we will publish a notice of final action on the petition in the **Federal Register**.

Issued on: June 15, 2012.

Lori Summers,

Director, Office of Crashworthiness Standards.

[FR Doc. 2012–15585 Filed 6–25–12; 8:45 am]

BILLING CODE 4910–59–P

[13] VMCI has requested confidential treatment under 49 CFR part 512 for certain business and financial information submitted as part of its petition for temporary exemption. Accordingly, the information placed in the docket does not contain the information that is the subject of this request. The precise costs of testing and certification are provided in the confidential version of the petition.

[14] The precise costs of testing and certification are provided in the confidential version of the petition.

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2009–0203]

Pipeline Safety: Meeting of the Technical Pipeline Safety Standards Committee and the Technical Hazardous Liquid Pipeline Safety Standards Committee

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of advisory committee meetings.

SUMMARY: This notice announces a public meeting of the Technical Pipeline Safety Standards Committee (TPSSC) and the Technical Hazardous Liquid Pipeline Safety Standards Committee (THLPSSC). The committees will meet to discuss a proposed rulemaking to make miscellaneous changes to the pipeline safety regulations and to discuss several future regulatory initiatives.

DATES: The TPSSC and the THLPSSC will meet in joint session on Wednesday, July 11, 2012, from 9 a.m. to 5 p.m. The TPSSC and THLPSSC will meet separately but simultaneously on Thursday, July 12 from 9 a.m. to 12 Noon followed by a second joint session from 1 p.m. to 4 p.m. EDT. The meeting will not be web cast; however, presentations will be available on the meeting Web site and posted in the E-Gov Web Site: *http://www.regulations.gov* under docket number PHMSA–2009–0203 within 30 days following the meeting.

ADDRESSES: The meeting will be held at the Marriott at Metro Center, 775 12th Street NW., Washington, DC 20005. The telephone number is 1–800–228–9290: the local telephone number is (202) 737–2200. Additional information about the hotel is available at: *http://www.marriott.com/hotels/travel/WASMC-Washington-Marriott-at-Metro-Center.* Any new information or changes will be posted on the PHMSA Web page, (*http://www.phmsa.dot.gov/public*), under ''Latest News'' on the homepage.

Comments on the meeting may be submitted to the docket in the following ways:

E-Gov Web Site: http://www.regulations.gov. This site allows the public to enter comments on any **Federal Register** notice issued by any agency.

Fax: 1–202–493–2251.

Mail: Docket Management Facility; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590–001.

Hand Delivery: Room W12–140 on the ground level of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal Holidays.

Instructions: Identify the docket number PHMSA–2009–0203 at the beginning of your comments. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. You should know that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). Therefore, you may want to review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or view the Privacy Notice at *http://www.regulations.gov* before submitting any such comments.

Docket: For access to the docket or to read background documents or comments, go to *http://www.regulations.gov* at any time or to Room W12–140 on the ground level of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

If you wish to receive confirmation of receipt of your written comments, please include a self-addressed, stamped postcard with the following statement: ''Comments on PHMSA–2009–0203.'' The Docket Clerk will date-stamp the postcard prior to returning it to you via the U.S. mail. Please note that due to delays in the delivery of U.S. mail to Federal offices in Washington, DC, we recommend that persons consider an alternative method (Internet, fax, or professional delivery service) of submitting comments to the docket and ensuring their timely receipt at DOT.

Privacy Act Statement

Anyone may search the electronic form of comments received in response to any of our dockets by the name of the individual who submitted the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). DOT's complete Privacy Act Statement was published in the **Federal Register** on April 11, 2000 (65 FR 19477).

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities, or to seek special assistance at the meeting, please contact Cheryl Whetsel at 202–366–4431 by July 5, 2012.

FOR FURTHER INFORMATION CONTACT: For information about the meeting, contact Cheryl Whetsel by phone at 202–366–4431 or by email at *cheryl.whetsel@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Meeting Details

Members of the public may attend and make a statement during the advisory committee meeting. If you intend to make a statement, please notify PHMSA in advance by forwarding an email to *cheryl.whetsel@dot.gov* by July 5, 2012.

II. Committee Background

The TPSSC and THLPSSC are statutorily mandated advisory committees that advise PHMSA on proposed safety standards, risks assessments, and safety policies for natural gas pipelines and for hazardous liquid pipelines. Both committees were established under the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. 1) and the pipeline safety law (49 U.S.C. Chap. 601). Each committee consists of 15 members—with membership evenly divided among the Federal and state government, the regulated industry, and the public. The committees advise PHMSA on the technical feasibility, practicability, and cost-effectiveness of each proposed pipeline safety standard.

III. Agenda

The Agenda is published on the PHMSA (DOT) Web site.

Authority: 49 U.S.C. 60102, 60115; 60118.

Issued in Washington, DC on June 18, 2012.

Linda Daugherty,

Deputy Associate Administrator for Policy and Programs.

[FR Doc. 2012–15292 Filed 6–25–12; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Announcement of Two Competitions Under the America COMPETES Reauthorization Act of 2010: MyMoneyAppUp IdeaBank Challenge and the MyMoneyAppUp App Design Challenge

AGENCY: Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury (Treasury) is announcing the launch of two related competitions, the MyMoneyAppUp IdeaBank Challenge and the MyMoneyAppUp App Design Challenge. Both challenges are sponsored by Treasury in partnership with the D2D Fund (D2D) and the Center for Financial Services Innovation (CFSI).

Please go to *http://mymoneyappup.challenge.gov* to learn more about the two challenges and how to participate.

DATES: Important dates for the IdeaBank Challenge Competition—

Start Date and Time: 12 a.m. EDT, June 27, 2012.

End Date and Time: 11:59 p.m. EDT, August 1, 2012.

Announcement of Challenge Winners: It is anticipated that winners will be announced before November 1, 2012.

Important dates for the App Design Challenge Competition—

Start Date and Time: 12 a.m. EDT, June 27, 2012.

End Date and Time: 11:59 p.m. EDT, August 12, 2012.

Announcement of Challenge Winners: It is anticipated that winners will be announced before November 1, 2012.

FOR FURTHER INFORMATION CONTACT: Sophie Raseman, Office of Financial Access, Financial Education and Consumer Protection, Department of the Treasury, *Sophie.Raseman@Treasury.gov.*

SUPPLEMENTARY INFORMATION:

Introduction

The Department of the Treasury and its partners CFSI and D2D are sponsoring the two related MyMoneyAppUp prize challenges to promote the development of ideas and designs for innovative applications (''apps'') for mobile devices that will increase financial access and/or financial capability.

Detailed Information about the Challenges—

The following sections provide the official rules for each Challenge.

IdeaBank Challenge Competition—

Table of Contents

1. Eligibility
2. Challenge Period and Judging Period
3. How to Enter and Submission Requirements
4. Intellectual Property Rights
5. Display of Ideas and Public Voting
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1. Eligibility

Eligible Individuals and Entities

The Challenge is open only to:

• Individuals who are U.S. citizens or permanent residents of the fifty (50) United States and its territories who are at least fourteen (14) years old at the time of entry; and

• Corporations (including not-for-profit corporations and other non-profit entities) or organizations that (i) are incorporated in the United States or its territories, (ii) have been duly organized and validly exist, and (iii) maintain a primary place of business in the United States (such corporations or organizations, ''Organizations'').

Individuals, Organizations, or teams must register to participate in the Challenge. Individuals may form teams (comprised solely of individuals) to enter the Challenge, provided that each member of a team must be independently eligible in accordance with these eligibility requirements. Individuals submitting on behalf of teams or Organizations must meet the eligibility requirements for individual Contestants. An individual may join more than one team and/or Organization.

Ineligible Individuals and Entities

The following individuals and entities are not eligible to participate in the Challenge:

• The Administrators and any advertising agency or other company or contractor involved with the design, production, promotion, execution, or distribution of the Challenge;

- Any parent company, subsidiary, or other affiliate of any entity described above;
- Any employee of the entities described above (and their respective parent companies, subsidiaries, and other affiliates) and any member of such employee's immediate family or household;
- Any individual involved with the design, production, promotion, execution, or distribution of the Challenge and each member of any such individual's immediate family or household;
- Any judge (as described in Section 6), any member of a judge's immediate family or household, and anyone who otherwise has a familial or financial relationship with a judge;
- Any entity or individual in whom a judge has a personal or financial interest or for whom a judge is an employee, officer, director, or agent;
- Any company or individual that has a material business relationship or affiliation with the judges;
- Any employee of Treasury;
- Any Federal entity; and
- Any Federal employee acting within the scope of his or her employment.

For purposes of these Official Rules, (a) the members of an individual's immediate family include such individual's spouse, children and step-children, parents and step-parents, and siblings and step-siblings, and (b) the members of an individual's household include any other person that shares the same residence as such individual for at least three (3) months out of the year.

By submitting an idea, Contestants certify they meet these eligibility requirements. If they become aware they may no longer meet any of the eligibility requirements of this section, Contestants agree to notify Administrators immediately by email at *info@mymoneyappup.com.*

The Challenge is subject to all applicable Federal and state laws and regulations. Participation constitutes Contestant's full and unconditional agreement to these Official Rules and the Administrators' and Treasury's decisions, which are final and binding in all matters related to the Challenge. Eligibility for a prize award is contingent upon fulfilling all requirements set forth herein.

2. Challenge Period and Judging Period

The Challenge submission period begins on 06/27/2012 at 12 a.m. EDT and ends on 08/01/2012 at 11:59 p.m. EDT (the ''Challenge Period''). A computer specified by the Administrators and Treasury, in their sole discretion, set to Eastern Time, is the official time-keeping device for this Challenge.

The approximate dates for the judging are between 08/02/2012 and 08/16/2012. These dates are approximate and are subject to change at the discretion of the Administrators and Treasury.

3. How To Enter and Submission Requirements

Registration: During the Challenge Period, Contestants must register by visiting *http://ideabank.mymoneyappup.challenge.gov* and completing the registration form, or, if already registered, follow the procedures to join this Challenge. Registration is free. After the Contestant registers, the Contestant must verify the email address the Contestant provided via the registration email sent to the address entered in the registration form. Once registered, Contestants will be able to submit ideas for apps (''Ideas''). Registration will be required to receive updates on the Challenge.

Submitting an Idea: To submit an Idea, a Contestant must agree to these Official Rules and any other terms, conditions, or policies that apply to the Contestant's use of the Challenge Web site, and complete the short statement that begins with ''I want an app that'' by inputting the Contestant's idea and posting it to *http://ideabank.mymoneyappup.challenge.gov.* Ideas will be automatically submitted as an Idea of that Contestant upon posting the Idea on *http://ideabank.mymoneyappup.challenge.gov.*

Idea Guidelines: Ideas should be innovative ideas for apps that will promote financial capability and/or financial access.

Integration of Data: Contestants are encouraged to propose ideas for apps that integrate data in ways that foster financial capability and/or financial access. Types of data include, but are not limited to, (i) the user's own personal financial data, such as information on the balances and transactions in his or her existing financial accounts and (ii) data on financial products and services.

Idea Submission Requirements: Ideas submitted must meet the below requirements to be eligible to win a prize:

- Must be submitted during the Challenge Period;
- Must be for an app that promotes financial access and/or financial capability;
- Must not be substantially identical to a prior submission;
- Must be original, be the work of the Contestant, and not violate the rights of other parties;
- Must not contain any matter that in the sole discretion of the Administrators, Treasury, or the judges: (i) Depicts hatred; (ii) defames or denigrates (or is derogatory towards) any person or group of persons or any race, ethnic group, or culture; (iii) threatens a specific community in society, including any specific race, ethnic group, or culture; (iv) is intended to or may reasonably incite violence; (v) contains vulgar or obscene language or excessive violence; (vi) contains pornography, obscenity, or sexual activity; (vii) is otherwise indecent, in obvious bad taste, or demonstrates a lack of respect for public morals or conduct; or (viii) adversely affects the reputation of Treasury or the Administrators;
- Must comply with the Terms of Participation of *http://ideabank.mymoneyappup.challenge.gov* and with applicable law; and
- Must be in the English language.

If the Administrators, Treasury, or the judges, in their discretion, find any Idea to not satisfy these requirements or any other provisions in these Official Rules, then such Idea shall be deemed disqualified. The Administrators, Treasury, or the judges may also prevent such an Idea from being displayed on the Web site, or may remove such an Idea that was already posted.

Each Contestant (or if a team, then each member of the team) represents and warrants that he, she, or it is the sole author and owner of the Idea, that the Idea is wholly original with the Contestant, and that the Idea does not infringe, misappropriate, or otherwise violate any copyright, trade secret rights, or any other rights of any third party.

4. Intellectual Property Rights

Each Contestant grants to the Administrators, Treasury, and their agents, a perpetual, royalty-free, non-exclusive, worldwide license with the right to sublicense under the Contestant's copyright in and to each Idea or other comment submitted by the Contestant to use, copy for use, make derivative works of, perform publicly, and display publicly, for any purpose whatsoever.

5. Display of Ideas and Public Voting

Ideas meeting the Idea Submission Requirements (Section 3) will be posted on *http://ideabank.mymoneyappup.challenge.gov* and publicly attributed to the Contestant's username or first name and last initial

associated with the Challenge.gov user account that the voter creates upon registration on the *http://ideabank.mymoneyappup.challenge.gov.*

To vote, a member of the public must register for the Challenge at *http://ideabank.mymoneyappup.challenge.gov.*

The public voting will take place from 06/27/2012 through 08/07/2012. Public voting will be used to rank the Ideas, with the top ten (10) vote-getters being finalists (''Finalists''). In the event there is a tie in voting such that it is not possible to identify only ten (10) Finalists, the number of Finalists will be increased as necessary. Each registered visitor is able to vote once for any or all Ideas during the voting period and may not revise his or her vote.

Use of an automated process or similar device to submit an electronic vote is strictly prohibited. Any attempt to circumvent the one vote limit per Idea or to use an automated voting process will subject all votes from the person to disqualification. If a Contestant receives multiple and/or irregular votes from the same user or users, including but not limited to, votes generated by a robotic, programmed, script, macro, other automated means or other source, the Administrators and/or Treasury reserve the right to disqualify the Contestant in their sole discretion. If the voting process fails to operate properly or appears to be tampered with or tainted with errors, fraud or unfair practices, the Administrators and Treasury, in their sole discretion, reserve the right to direct the judging panel, as described in Section 6 below, to select up to ten (10) Finalists. Contestants may not pay people or provide any other type of consideration in exchange for votes. Any Contestant who violates the ban on paying or providing consideration in exchange for votes will be disqualified. Public votes may be displayed on the competition Web site, on a real-time basis, before being verified for integrity. These unverified votes do not necessarily accurately reflect the Finalists. The winners will be the Contestants who are contacted directly by the Administrators after votes have been verified.

There is no limitation on the number of Ideas a Contestant can submit. A Contestant, however, may only have one (1) Idea as a winner of a monetary award.

6. Judges and Winner Selection

Judges: A panel of judges will be appointed by Treasury and the Administrators. The individual judges that comprise the judging panel may change at the discretion of the Administrators and Treasury. Judges have the right to withdraw from the Challenge without advance notice in the event of extenuating circumstances beyond their control or as may be otherwise permitted by the Administrators and Treasury.

Winner selection: Judges will score each of the Finalist Ideas. The five (5) Contestants whose Ideas earn the highest overall scores will win the prizes. The Idea with the highest score is the Grand Prize Winner, provided that the Idea and the Contestant who submitted the Idea is in compliance with these Official Rules, as determined by the judges. The Ideas with the second and third highest scores are the Runners Up, provided that the Idea and the Contestant who submitted the Idea is in compliance with these Official Rules, as determined by the judges. The Ideas with the fourth and fifth highest scores are the Honorable Mentions, provided that the Idea and the Contestant who submitted the Idea is in compliance with these Official Rules, as determined by the judges. If there is a tie between one or more Ideas for any of the monetary prizes, the winners will be selected by a final vote by the judges.

Judging criteria: Finalists will be judged according to the below criteria.

Criteria	Factors
Innovativeness of the idea	• How innovative is this solution?
Potential to expand financial capability and/or financial access.	• How significant is the potential impact on consumers? • What is the potential for the app to enhance consumer financial capability and decision-making? (if applicable). • What is the potential for consumers to use the app to gain access to high quality financial products and services? (if applicable). • What is the potential for the app to help consumers adopt financial behaviors which will help them achieve their financial goals? (if applicable). • To what extent does the app incorporate data, such as personal account data or data on financial products, to promote financial capability and/or financial access? (if applicable).

7. Verification of Potential Winners

All Finalists are subject to verification by the Administrators and Treasury, whose decisions are final and binding in all matters related to the Challenge.

Finalists must continue to comply with all terms and conditions of these Official Rules, and winning is contingent upon fulfilling all requirements. The Finalists will be notified by email after the date of the public voting. Each Finalist, and the Finalist's parent/guardian if the winner is under eighteen (18) years of age, will be required to sign and return to the Administrators, within five (5) calendar days of the date notice is sent, an Affidavit of Eligibility and Liability/Publicity Release (except where prohibited) to claim his/her prize. If a Finalist cannot be contacted, fails to sign and return the Affidavit of Eligibility and Liability/Publicity Release within the required time period (if applicable), or if the prize or prize notification is returned as undeliverable, the Finalist will forfeit the prize. In the event that a Finalist is disqualified for any reason, the Administrators may award the applicable prize to an alternate winner in their discretion, provided that the Idea and the Contestant who submitted the Idea is in compliance with these Official Rules.

8. Prizes

As described in Section 6, winners are determined by the judges based on the criteria listed in Section 6, provided that the Idea and the Contestant who submitted the Idea are in compliance with these Official Rules.

Administrators shall pay prizes as follows. No prize will be paid from Federal funds, and Treasury is not responsible for paying any prize winner.

Winner	Prize	Quantity
Grand Prize Winner	$1,000	1
Runners-Up	500	2
Honorable Mention	250	2

9. Entry Conditions, Release, and Indemnification

By entering, each Contestant agrees to:

(a) Comply with and be bound by these Official Rules and the decisions of the Administrators, Treasury, and/or the Challenge judges, which are binding and final in all matters relating to this Challenge;

(b) Release and hold harmless the Administrators and the Federal government (including Treasury) and their respective parent, subsidiary, and affiliated companies, offices, contractors and subcontractors at any tier, suppliers, users, customers, cooperating parties, grantees, investigators, detailees; the prize suppliers, and any other organizations responsible for sponsoring, fulfilling, administering, advertising, or promoting the Challenge; and all of their respective past and present officers, directors, employees, agents, and representatives (collectively, the ''Released Parties'') from and against any and all losses, damages, costs, expenses, liability and claims of any kind, including but not limited to any injury, death, damage, loss of property, revenue, or profits, negligence, invasion of privacy (under appropriation, intrusion, public disclosure of private facts, false light in the public eye or other legal theory), defamation, slander, libel, violation of right of publicity, infringement of trademark, copyright or other intellectual property rights, in each case whether direct, indirect or consequential, arising out of or relating to a Contestant's conception or submission of an Idea, participation in the Challenge, acceptance or use or misuse of prize (including any travel or activity related thereto), and/or the broadcast, transmission, performance, exploitation or use of a Contestant's Idea. Without limitation of the above, the Released Parties are not responsible for:

i. Any incorrect or inaccurate information, whether caused by Contestants, printing errors, or by any of the equipment or programming associated with or utilized in the Challenge;

ii. Technical failures of any kind, including, but not limited to malfunctions, interruptions, or disconnections in Internet lines or network hardware or software;

iii. Unauthorized human intervention in any part of the entry process or the Challenge;

iv. Technical or human error that may occur in the administration of the Challenge or the processing of entries; or

v. Any injury or damage to persons or property which may be caused, directly or indirectly, in whole or in part, from Contestant's participation in the Challenge or receipt, use or misuse of any prize.

(c) Indemnify, defend, and hold harmless the Administrators and the Federal government (including Treasury) from and against any and all claims, expenses, and liabilities (including reasonable attorneys' fees) arising out of or relating to a Contestant's participation in the Challenge, submission of an Idea, and/or Contestant's acceptance, use, or misuse of a prize.

Notwithstanding the foregoing, the waivers and releases set forth in this Section 9 shall not apply (i) in the case of willful misconduct or (ii) for claims arising out of the unauthorized use or disclosure by Treasury of the intellectual property, trade secrets, or confidential business information of the Contestant.

10. Publicity

Except where prohibited, participation in the Challenge constitutes a Finalist's consent to the Administrators', Treasury's, and their agents' use of the Finalist's name, likeness, photograph, voice, opinions, and/or hometown and state for promotional purposes in any media, worldwide, without further payment or consideration.

11. No Endorsement

The Administrators and Treasury do not endorse any commercial enterprise or product.

12. General Conditions

The Administrators and Treasury reserve the right to cancel, suspend, and/or modify the Challenge, or any part of it, if any fraud, technical failures, or any other factor beyond the Administrators' or Treasury's reasonable control impairs the integrity or proper functioning of the Challenge, as determined by the Administrators and Treasury. The Administrators and Treasury reserve the right to disqualify any individual or Contestant it finds to be tampering with the entry process or the operation of the Challenge or to be acting in violation of these Official Rules or in an unsportsmanlike or disruptive manner. Any attempt to undermine the legitimate operation of the Challenge may be a violation of criminal and civil law, and, should such an attempt be made, the Administrators and/or Treasury reserve the right to seek damages from any such person to the fullest extent permitted by law. The Administrators' and Treasury's failure to enforce any term of these Official Rules shall not constitute a waiver of that provision. The Administrators and Treasury are not responsible for, nor are they required to count, incomplete, late, misdirected, damaged, unlawful, or illicit votes, including those secured through payment, automated means, registering more than one email account and name, using another Contestant's email account and name. In addition, Administrators and Treasury are not responsible for or required to count votes lost for technical reasons or otherwise.

If for any reason a Contestant's entry is confirmed to have been erroneously deleted, lost, or otherwise destroyed or corrupted, Contestant's sole remedy is another entry in the Challenge. No more than the stated number of prizes will be awarded.

13. Disputes; Governing Law; Choice of Forum

Contestant agrees that:

(a) Any and all disputes, claims and causes of action against the Administrators arising out of or connected with this Challenge, or any prizes awarded, other than those concerning the administration of the Challenge or the determination of winners, shall be resolved individually, without resort to any form of class action; and

(b) Any and all claims, judgments and awards shall be limited to actual damages and out-of-pocket costs incurred, including costs associated with entering this Challenge, but shall in no event include attorneys' fees.

All issues and questions concerning the construction, validity, interpretation, and enforceability of these Official Rules, or the rights and obligations of the Contestant, the Administrators, or Treasury in connection with the Challenge, shall be governed by and interpreted in accordance with Federal law and not the law of any state or locality. To the extent that a court looks to the laws of any state to determine or define the Federal law, the Contestants, Administrators, and Treasury agree that such court shall look only to the laws of the State of New York without regard to the rules of conflicts of laws.

Each of the Administrators, Treasury, and the Contestant agree that the courts in Washington, DC, are the exclusive forum for resolving any disputes arising out of or related to the Challenge.

14. Privacy

Any personal information collected from a visitor by registering or filling out the submission form through the Competition Web site is used to

facilitate the Challenge and respond to the registrant in matters regarding the registrant's Ideas and/or the Competition only. Information is not collected for commercial marketing. Please read the Challenge.gov Privacy Policy for complete information.

App Design Challenge Competition—

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1. Eligibility

Eligible Individuals and Entities

The Challenge is open only to:

• Individuals who are U.S. citizens or permanent residents of the fifty (50) United States and its territories who are at least fourteen (14) years old at the time of entry; and

• Corporations (including not-for-profit corporations and other non-profit entities) or organizations that (i) are incorporated in the United States or its territories, (ii) have been duly organized and validly exist, and (iii) maintain a primary place of business in the United States (such corporations or organizations, ''Organizations'').

Individuals, Organizations, or teams must register to participate in the Challenge. Individuals may form teams (comprised solely of individuals) to enter the Challenge, provided that each member of a team must be independently eligible in accordance with these eligibility requirements. Individuals submitting on behalf of teams or Organizations must meet the eligibility requirements for individual Contestants. An individual may join more than one team and/or Organization.

Ineligible Individuals and Entities

The following individuals and entities are not eligible to participate in the Challenge:

• The Administrators and any advertising agency or other company or contractor involved with the design, production, promotion, execution, or distribution of the Challenge;

• Any parent company, subsidiary, or other affiliate of any entity described above;

• Any employee of the entities described above (and their respective parent companies, subsidiaries, and other affiliates) and any member of such employee's immediate family or household;

• Any individual involved with the design, production, promotion, execution, or distribution of the Challenge and each member of any such individual's immediate family or household;

• Any judge (as described in Section 6), any member of a judge's immediate family or household, and anyone who otherwise has a familial or financial relationship with a judge;

• Any entity or individual in whom a judge has a personal or financial interest or for whom a judge is an employee, officer, director, or agent;

• Any company or individual that has a material business relationship or affiliation with any judge;

• Any employee of Treasury;

• Any Federal entity; and

• Any Federal employee acting within the scope of his or her employment.

For purposes hereof, (a) the members of an individual's immediate family include such individual's spouse, children and step-children, parents and step-parents, and siblings and step-siblings, and (b) the members of an individual's household include any other person that shares the same residence as such individual for at least three (3) months out of the year.

By submitting an idea, Contestants certify they meet these eligibility requirements. If they become aware they may no longer meet any of the eligibility requirements of this section, Contestants agree to notify Administrators immediately by email at *info@moneyappup.com.*

The Challenge is subject to all applicable Federal and state laws and regulations. Participation constitutes Contestant's full and unconditional agreement to these Official Rules and the Administrators and Treasury's decisions, which are final and binding in all matters related to the Challenge. Eligibility for a prize award is contingent upon fulfilling all requirements set forth in these Official Rules.

2. Challenge Period and Judging Period

The Challenge submission period begins on 06/27/2012 at 12 a.m. EDT and ends on 08/12/2012 at 11:59 p.m. EDT (the ''Challenge Period''). A computer specified by the Administrators and Treasury, in their sole discretion, set to Eastern Time, is the official time-keeping device for this Challenge.

The approximate dates for the judging are between 08/13/2012 and 09/28/2012. These dates are approximate and are subject to change at the discretion of the Administrators and Treasury.

3. How To Enter; Submission Guidelines and Requirements

How to register: To register, Contestant must visit *http://mymoneyappup.challenge.gov* and complete the registration form, or, if already registered, follow the procedures to join this Challenge. The Contestant must complete all these steps during the Challenge Period. Registration is free. After the Contestant registers, the Contestant must verify the email address provided by the Contestant via the registration email sent to the email address entered in the registration form. Once registered, Contestants will be able to enter app design ideas that conform to the requirements set forth herein (each such app design idea, a ''*Submission*''). Registration will be required to receive updates on the Challenge.

What to submit: To submit a Submission, a Contestant must fill out the submission form on *http://mymoneyappup.challenge.gov,* agree to these Official Rules and any other terms, conditions, or policies that apply to the Contestant's use of the Challenge Web site, and must provide the following items:

A written description of:

▪ The idea for the app;

▪ How the app is innovative and contributes something new to the marketplace;

▪ How the app would promote financial capability and/or financial access;

▪ The feasibility of creating the app;

▪ The potential for sustainability for the app; and

▪ An image or video describing the app.

Submission Guidelines

Integration of Data. Contestants are encouraged to propose apps that integrate data in ways that promote financial capability and financial access. Types of data include, but are not limited to: (1) the user's own personal financial data, such as information on the balances and transactions in his or her existing financial accounts; and (2) data on financial products and services.

Mobile formats. Submissions may be for any mobile format (e.g., downloadable app, mobile Web site,

text messaging service, mobile-web hybrid) and type of mobile device (e.g., tablet, smartphone, feature phone), or any combination of these.

Public Display. All Submissions will be made available to the public after the close of the Challenge Period.

Changes and Revisions. Contestants may make changes or revisions to their Submissions until the close of the Challenge Period, on 08/12/2012.

Submission Requirements: Submissions must meet the below requirements to be eligible for a prize:

- Must be submitted during the Challenge Period;
- Must be designs for mobile apps that promote financial capability and/or financial access;
- Must be original, be the work of the Contestant, and not violate the rights of other parties;
- Must be made available free of charge to the public, such that anyone may use any of the ideas incorporated into the Submissions to create an app;
- Must not contain any matter that in the sole discretion of the Administrators, Treasury, or the judges: (i) Depicts hatred; (ii) defames or denigrates (or is derogatory towards) any person or group of persons or any race, ethnic group, or culture; (iii) threatens a specific community in society, including any specific race, ethnic group, or culture; (iv) is intended to or may reasonably incite violence; (v) contains vulgar or obscene language or excessive violence; (vi) contains pornography, obscenity, or sexual activity; (vii) is otherwise indecent, in obvious bad taste, or demonstrates a lack of respect for public morals or conduct; or (viii) adversely affects the reputation of Treasury or the Administrators;
- Must comply with the Terms of Participation of *http://mymoneyappup.challenge.gov* and with applicable law; and
- Must be in the English language.

If the Administrators, Treasury, or judges find any Submission to be unacceptable based on these restrictions or any other provisions in these Official Rules, then such Submission shall be deemed disqualified. The Administrators, Treasury, or the judges may also prevent such a Submission from being displayed on the Web site, or may remove such a Submission that was already posted.

Each Contestant (or if a team, then each member of the team) represents and warrants that he, she, or it is the sole author and owner of the Submission, that the Submission is wholly original with the Contestant and that it does not infringe, misappropriate, or otherwise violate any copyright, trade secret rights, or any other rights of any third party.

4. Intellectual Property Rights

Each Contestant acknowledges and consents that the ideas contained in his or her Submissions may be used by any third party (including but not limited to other Contestants) for any purpose whatsoever without any compensation to the Contestant. Each Contestant grants to the Administrators, Treasury, and their agents, a perpetual, royalty-free, non-exclusive, worldwide license with the right to sublicense under all of the Contestant's intellectual property rights in and to each Submission submitted by the Contestant to use, copy for use, make derivative works of, perform publicly, and display publicly, for any non-commercial purpose.

5. Display of Submissions

Submissions will be posted on *http://mymoneyappup.challenge.gov* after the close of the Challenge Period after being screened by the Administrators to confirm that the Submission includes all of the required items (see Section 3, ''What to Submit'').

All Contestants will have equal access to Submissions posted on the Web site.

6. Judges and Winner Selection

Judges: A panel of judges will be appointed by Treasury and the Administrators. The individual judges that comprise the judging panel may change at the discretion of the Administrators and Treasury. Judges have the right to withdraw from the Challenge without advance notice in the event of extenuating circumstances beyond their control or as may be otherwise permitted by the Administrators and Treasury.

Judging criteria: Contestants will be judged according to the below criteria.

Criteria	Factors
Innovativeness of the idea	• How innovative is this solution?
Potential to expand financial capability and/or financial access.	• How significant is the potential impact on consumers? • What is the potential for the app to enhance consumer financial capability and decision-making? (if applicable). • What is the potential for consumers to use the app to gain access to high quality financial products and services? (if applicable). • What is the potential for the app to help consumers adopt financial behaviors which will help them achieve their financial goals? (if applicable). • To what extent does the app incorporate data, such as personal account data or data on financial products, to promote financial capability and/or financial access? (if applicable).
Feasibility	• How feasible would it be to create the app? • Can the design be implemented with available technology?
Sustainability	• What is the potential for the app to attract users? • What is the potential for the app to have a sustainable business model?

Winner selection: The potential winners whose Submissions are selected as finalist Submissions (''Finalists'') will be notified as set forth in Section 7 and invited to attend the award ceremony described in Section 8. Up to eight (8) Submissions will be selected as Finalists. Treasury and the Administrators reserve the right to cancel the award ceremony. Judges will score each of the Finalist Submissions prior to the award ceremony (''Preliminary Score''). Each Finalist who attends the award ceremony will be allotted no longer than ten (10) minutes at the ceremony to (a) describe their Submission, (b) explain how their Submission satisfies the above-mentioned criteria, and (c) respond to any questions that the judges may have regarding their Submission (''Oral Presentation''). Each judge may, at his or her discretion, revise the Preliminary Score of a Submission by increasing or decreasing the Submission's score in light of the Finalist's Oral Presentation. The five (5) Contestants whose Submissions earn the highest overall scores will win the prizes identified below in Section 9. In the event of a tie,

the winners will be selected by a final vote by the judges.

7. Verification of Potential Winners

All Finalists are subject to Verification by the Administrators and Treasury Whose Decisions are Final and Binding in all Matters Related to the Challenge.

Finalists must continue to comply with all terms and conditions of these Official Rules, and winning is contingent upon fulfilling all requirements. Finalists will be notified by email after the date of the judging. Each Finalist, or a Finalist's parent/guardian if the Finalist is under eighteen (18) years of age, will be required to sign and return to the Administrators, within ten (10) calendar days of the date notice is sent, an Affidavit of Eligibility and Liability/Publicity Release (except where prohibited) to claim the prize. If a Finalist cannot be contacted, fails to sign and return the Affidavit of Eligibility and Liability/Publicity Release within the required time period (if applicable), or if the prize or prize notification is returned as undeliverable, the Finalist forfeits the prize. If a Finalist is disqualified for any reason, the Administrators may award the applicable prize to an alternate winner who had the highest score of the remaining eligible entries.

8. Prizes and Award Ceremony

Administrators shall pay prizes as follows. No prize will be paid from Federal funds, and Treasury is not responsible for paying any prize winner.

Winner	Prize	Quantity
Grand Prize Winner ..	$10,000	1
Runners-Up	$5,000	2
Honorable Mention ...	$2,500	2

Award Ceremony

All Finalists will be invited to attend an award ceremony, the details of which will be announced at a later time. Treasury and the Administrators reserve the right to cancel the award ceremony, in their sole discretion. The Administrators, judges, members of Treasury staff, media representatives, and other guests will also be invited to attend. Travel to the event for all Finalists will be reimbursed by the Administrators in the amount of up to five hundred U.S. dollars ($500) for individual Finalists and up to fifteen-hundred U.S. dollars ($1,500) for Finalist teams (total, regardless of how many individuals are on the team). Any Finalist who is a minor must be accompanied by his or her parent or legal guardian to the ceremony. Finalists who attend the ceremony will have an opportunity to present their Submissions to the judges and answer questions posed by judges. The judges may, at their discretion, take such presentation and answers into account in judging the Submissions. The awarding of a prize is, however, not contingent upon a Finalist attending the award ceremony.

9. Entry Conditions, Release, and Indemnification

By entering, each Contestant agrees to each of the following:

(a) To comply with and be bound by these Official Rules and the decisions of the Administrators, Treasury, and/or the Challenge judges, which are binding and final in all matters relating to this Challenge.

(b) To release and hold harmless the Administrators and the Federal Government (including Treasury), and their respective parent, subsidiary, and affiliated companies, offices, contractors and subcontractors at any tier, suppliers, users, customers, cooperating parties, grantees, investigators, detailees; the prize suppliers; and any other organizations responsible for sponsoring, fulfilling, administering, advertising or promoting the Challenge; and all of their respective past and present officers, directors, employees, agents, and representatives (collectively, the ''Released Parties'') from and against any and all losses, damages, costs, expenses, liability, and claims of any kind, including but not limited to any injury, death, damage, loss of property, revenue, or profits, negligence, invasion of privacy (under appropriation, intrusion, public disclosure of private facts, false light in the public eye, or any other legal theory), defamation, slander, libel, violation of right of publicity, infringement of trademark, copyright or other intellectual property rights, in each case whether direct, indirect, or consequential, arising out of or relating to a Contestant's creation or submission of a Submission, participation in the Challenge, acceptance or use or misuse of prize (including any travel or activity related thereto), and/or the broadcast, transmission, performance, exploitation, or use of a Contestant's Submission. Without limitation of the above, the Released Parties are not responsible for:

i. Any incorrect or inaccurate information, whether caused by Contestants, printing errors, or by any of the equipment or programming associated with or utilized in the Challenge;

ii. Technical failures of any kind, including, but not limited to malfunctions, interruptions, or disconnections in Internet lines or network hardware or software;

iii. Unauthorized human intervention in any part of the entry process or the Challenge;

iv. Technical or human error which may occur in the administration of the Challenge or the processing of entries; or

v. Any injury or damage to persons or property which may be caused, directly or indirectly, in whole or in part, from Contestant's participation in the Challenge or receipt, use, or misuse of any prize.

(c) To indemnify, defend, and hold harmless the Administrators and the Federal government (including Treasury) from and against any and all claims, expenses, and liabilities (including reasonable attorneys' fees) arising out of or relating to a Contestant's participation in the Challenge, submission of a Submission, and/or Contestant's acceptance, use, or misuse of a prize.

Notwithstanding the foregoing, the waivers and releases set forth in this Section 9 shall not apply (i) in the case of willful misconduct or (ii) for claims arising out of the unauthorized use or disclosure by Treasury of the intellectual property, trade secrets, or confidential business information of the Contestant.

10. Publicity

Except where prohibited, participation in the Challenge constitutes a Finalist's consent to the Administrators', the Treasury's, and their agents' use of the Finalist's name, likeness, photograph, voice, opinions, and/or hometown and state for promotional purposes in any media, worldwide, without further payment or consideration.

11. No Endorsement

The Administrators and Treasury do not endorse any commercial enterprise or product.

12. General Conditions

The Administrators and Treasury reserve the right to cancel, suspend, and/or modify the Challenge, or any part of it, if any fraud, technical failures, or any other factor beyond the Administrators' or Treasury's reasonable control impairs the integrity or proper functioning of the Challenge, as determined by the Administrators and Treasury. The Administrators and Treasury reserve the right to disqualify any individual or Contestant it finds to be tampering with the entry process or the operation of the Challenge or to be

acting in violation of these Official Rules or in an unsportsmanlike or disruptive manner. Any attempt to undermine the legitimate operation of the Challenge may be a violation of criminal and civil law, and, should such an attempt be made, the Administrators and/or the Treasury reserves the right to seek damages from any such person to the fullest extent permitted by law. The Administrators' or the Treasury's failure to enforce any term of these Official Rules shall not constitute a waiver of that provision.

If for any reason a Contestant's entry is confirmed to have been erroneously deleted, lost, or otherwise destroyed or corrupted, Contestant's sole remedy is another entry in the Challenge. No more than the stated number of prizes will be awarded.

13. Disputes; Governing Law; Choice of Forum

Contestant agrees that:

(a) Any and all disputes, claims and causes of action against the Administrators arising out of or connected with this Challenge, or any prizes awarded, other than those concerning the administration of the Challenge or the determination of winners, shall be resolved individually, without resort to any form of class action; and

(b) Any and all claims, judgments and awards shall be limited to actual damages and out-of-pocket costs incurred, including costs associated with entering this Challenge, but shall in no event include attorneys' fees.

All issues and questions concerning the construction, validity, interpretation, and enforceability of these Official Rules, or the rights and obligations of the Contestant, the Administrators, or Treasury in connection with the Challenge, shall be governed by and interpreted in accordance with Federal law and not the law of any state or locality. To the extent that a court looks to the laws of any state to determine or define the Federal law, the Contestants, Administrators, and Treasury agree that such court shall look only to the laws of the State of New York without regard to the rules of conflicts of laws.

Each of the Administrators, Treasury and the Contestant agree that the courts in Washington, DC, are the exclusive forum for resolving any disputes arising out of or related to the Challenge.

14. Privacy

Any personal information collected from a visitor by registering or filling out the submission form through the Competition Web site is used to facilitate the Challenge and respond to the registrant in matters regarding the registrant's Submissions and/or the Competition only. Information is not collected for commercial marketing. Please read the Challenge.gov Privacy Policy for complete information.

Authority: 15 U.S.C. 3719.

Dated: June 21, 2012.

Cyrus Amir-Mokri,

Assistant Secretary for Financial Institutions, Department of the Treasury.

[FR Doc. 2012–15583 Filed 6–25–12; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designations, Foreign Narcotics Kingpin Designation Act

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury 's Office of Foreign Assets Control (''OFAC'') is publishing the names of 4 individuals and 2 entities) whose property and interests in property have been blocked pursuant to the Foreign Narcotics Kingpin Designation Act (''Kingpin Act'') (21 U.S.C. 1901–1908, 8 U.S.C. 1182).

DATES: The designation by the Director of OFAC of the four individuals and three entities identified in this notice pursuant to section 805(b) of the Kingpin Act is effective on June 20, 2012.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Sanctions Compliance & Evaluation, Office of Foreign Assets Control, U.S. Department of the Treasury, Washington, DC 20220, Tel: (202) 622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available on OFAC's Web site at *http://www.treasury.gov/ofac* or via facsimile through a 24-hour fax-on-demand service at (202) 622–0077.

Background

The Kingpin Act became law on December 3, 1999. The Kingpin Act establishes a program targeting the activities of significant foreign narcotics traffickers and their organizations on a worldwide basis. It provides a statutory framework for the imposition of sanctions against significant foreign narcotics traffickers and their organizations on a worldwide basis, with the objective of denying their businesses and agents access to the U.S. financial system and the benefits of trade and transactions involving U.S. companies and individuals.

The Kingpin Act blocks all property and interests in property, subject to U.S. jurisdiction, owned or controlled by significant foreign narcotics traffickers as identified by the President. In addition, the Secretary of the Treasury, in consultation with the Attorney General, the Director of the Central Intelligence Agency, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, the Secretary of State, and the Secretary of Homeland Security may designate and block the property and interests in property, subject to U.S. jurisdiction, of persons who are found to be: (1) Materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of a person designated pursuant to the Kingpin Act; (2) owned, controlled, or directed by, or acting for or on behalf of, a person designated pursuant to the Kingpin Act; or (3) playing a significant role in international narcotics trafficking.

On June 20, 2012, the Director of OFAC designated the following four individuals and two entities whose property and interests in property are blocked pursuant to section 805(b) of the Kingpin Act.

Individuals

1. BARAKZAI, Shah Mohammad; DOB 01 Jan 1979; POB Nava, Lash Kargah, Afghanistan; nationality Afghanistan (individual) [SDNTK] Linked To: NEW AHMADI LTD.
2. HADI, Abdul (a.k.a. ''DOCTOR''); DOB 01 Oct 1979; POB Nawzad District of Helmand Province; citizen Afghanistan (individual) [SDNTK].
3. MOHAMMAD, Haji Baz; DOB 12 Mar 1964; citizen Afghanistan (individual) [SDNTK].
4. WALI, Mohammad; DOB 02 Dec 1975; alt. DOB 02 Oct 1975; citizen Afghanistan (individual) [SDNTK] Linked To: MOHAMMAD WALI MONEY EXCHANGE.

Entities

1. MOHAMMAD WALI MONEY EXCHANGE (a.k.a. NEW AHMADY LTD. KANDAHAR), Sarafi Market, Fourth Floor, Shop #1, Kandahar, Afghanistan [SDNTK].
2. NEW AHMADI LTD. (a.k.a. NEW AHMADI COMPANY LTD; a.k.a. NEW

AHMADY LTD), Sarafi Market, Shop 48/49, Gereshk, Helmand, Afghanistan [SDNTK].

Dated: June 20, 2012.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2012–15488 Filed 6–25–12; 8:45 am]

BILLING CODE 4811–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Proposed Collection; Comment Request for Electronic License Application Form

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Office of Foreign Assets Control (''OFAC'') within the Department of the Treasury is soliciting comments concerning OFAC's Electronic License Application Form TD–F 90–22.54, which is referred to throughout this Notice as the ''OFAC Application for the Release of Blocked Funds.''

DATES: Written comments must be submitted on or before August 27, 2012 to be assured of consideration.

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

Federal eRulemaking Portal: www.regulations.gov.

Follow the instructions on the Web site for submitting comments.

Fax: Attn: Request for Comments (OFAC Application for the Release of Blocked Funds) (202) 622–1657.

Mail: Attn: Request for Comments (OFAC Application for the Release of Blocked Funds), Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Instructions: All submissions received must include the agency name and the **Federal Register** Doc. number that appears at the end of this document. Comments received will be made available to the public via regulations.gov or upon request, without change and including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Assistant Director for Sanctions Compliance & Evaluation, tel.: 202/622–2490, Assistant Director for Licensing, tel.: 202/622–2480, Assistant Director for Policy, tel.: 202/622–4855, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202/622–2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Title: OFAC Application for the Release of Blocked Funds.

OMB Control Number: 1505–0170.

Abstract: Transactions prohibited pursuant to the Trading With the Enemy Act, 50 U.S.C. App. 1–44, the International Emergency Economic Powers Act, 50 U.S.C. 1701 *et seq.,* and other authorities may be authorized by means of specific licenses issued by the Office of Foreign Assets Control (''OFAC''). Such licenses are issued in response to applications submitted by persons whose property and interests in property have been blocked or who wish to engage in transactions that would otherwise be prohibited. The OFAC Application for the Release of Blocked Funds, which provides a standardized method of application for all applicants seeking the unblocking of funds, is available in electronic format on OFAC's Web site. Use of the form greatly facilitates and speeds applicants' submissions and OFAC's processing of such applications. By obviating the need for applicants to write lengthy letters to OFAC, this form reduces the overall burden of the application process. Since February 2000, use of the OFAC Application for the Release of Blocked Funds to apply for the unblocking of funds has been mandatory pursuant to a revision in OFAC's regulations at 31 CFR § 501.801. *See* 65 FR 10707 February 29, 2000.

Current Actions: The OFAC Application for the Release of Blocked Funds is being revised to include a space for applicants to provide an email address.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals/businesses and other for-profit institutions/banking institutions.

Estimated Number of Respondents: 3,000.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 1,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid Office of Management and Budget (''OMB'') control number.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 20, 2012.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2012–15494 Filed 6–25–12; 8:45 am]

BILLING CODE 4811–25–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Proposed Collection; Comment Request for Iranian Financial Sanctions Regulations Report on Closure by U.S. Financial Institutions of Correspondent Accounts and Payable-Through Accounts

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Office of Foreign Assets Control (''OFAC'') within the Department of the Treasury is soliciting comments concerning OFAC's Iranian Financial Sanctions Regulations Report on Closure by U.S. Financial

Institutions of Correspondent Accounts and Payable-Through Accounts.

DATES: Written comments must be submitted on or before August 27, 2012 to be assured of consideration.

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

Federal eRulemaking Portal: www.regulations.gov.

Follow the instructions on the Web site for submitting comments.

Fax: Attn: Request for Comments (Iranian Financial Sanctions Regulations Report on Closure by U.S. Financial Institutions of Correspondent Accounts and Payable-Through Accounts) (202) 622–1657.

Mail: Attn: Request for Comments (Iranian Financial Sanctions Regulations Report on Closure by U.S. Financial Institutions of Correspondent Accounts and Payable-Through Accounts), Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Instructions: All submissions received must include the agency name and the **Federal Register** Doc. number that appears at the end of this document. Comments received will be made available to the public via regulations.gov or upon request, without change and including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Assistant Director for Sanctions Compliance & Evaluation, tel.: 202/622–2490, Assistant Director for Licensing, tel.: 202/622–2480, Assistant Director for Policy, tel.: 202/622–4855, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202/622–2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Title: Iranian Financial Sanctions Regulations Report on Closure by U.S. Financial Institutions of Correspondent Accounts and Payable-Through Accounts.

OMB Control Number: 1505–0243.

Abstract: Section 561.504(b) of the Iranian Financial Sanctions Regulations, 31 CFR Part 561 (the ''IFSR''), specifies that a U.S. financial institution that maintained a correspondent account or payable-through account for a foreign financial institution whose name is added to the Part 561 List on OFAC's Web site (*www.treasury.gov/ofac*) as subject to a prohibition on the maintaining of such accounts must file a report with OFAC that provides full details on the closing of each such account within 30 days of the closure of the account. This collection of information assists in verifying that U.S. financial institutions are complying with prohibitions on maintaining correspondent accounts or payable-through accounts for foreign financial institutions listed on the Part 561 List. The reports will be reviewed by the U.S. Department of the Treasury and may be used for compliance and enforcement purposes by the agency.

Current Actions: There are no changes being made to the collection at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: U.S. financial institutions operating correspondent or payable-through accounts for foreign financial institutions.

Estimated Number of Respondents: Because this collection of information is a report that must be filed when OFAC adds the name of a foreign financial institution to the Part 561 List, OFAC cannot predict the number of respondents for the section 561.504(b) reporting requirement at this time. From the date this reporting requirement was added to the IFSR (February 27, 2012) through June 14, 2012, OFAC did not add the name of a foreign financial institution to the Part 561 List, and the number of respondents to this collection was therefore zero. For future submissions, OFAC will continue to report retrospectively on the number of respondents during the previous reporting period.

Estimated Time per Respondent: 2 hours per response.

Estimated Total Annual Burden Hours: Because the section 561.504(b) reporting requirement applies to those U.S. financial institutions that operate correspondent or payable-through accounts for a foreign financial institution whose name is added to the Part 561 List, OFAC cannot predict the response rate for the section 561.504(b) reporting requirement at this time. For future submissions, OFAC will report retrospectively on the response rate during the previous reporting period.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid Office of Management and Budget (''OMB'') control number.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 20, 2012.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2012–15495 Filed 6–25–12; 8:45 am]

BILLING CODE 4811–25–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 6252

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 6252, Installment State Income.

DATES: Written comments should be received on or before August 27, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala, at (202) 622–3634, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Installment Sale Income.

OMB Number: 1545–0228.

Form Number: 6252.

Abstract: Internal Revenue Code section 453 provides that if real or personal property is disposed of at a gain and at least one payment is to be received in a tax year after the year of sale, the income is to be reported in installments, as payment is received. Form 6252 provides for the computation of income to be reported in the year of sale and in years after the year of sale. It also provides for the computation of installment sales between certain related parties required by Code section 453(e).

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business of other for-profit organizations, individuals or households, and farms.

Estimated Number of Respondents: 521,898.

Estimated Time per Respondent: 3 hrs., 4 minutes.

Estimated Total Annual Burden Hours: 1,597,008.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. *Comments are invited on:* (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 5, 2012.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2012–15551 Filed 6–25–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 23 and Form 23–EP

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 23, Application for Enrollment to Practice Before the Internal Revenue Service, and Form 23–EP, Application for Enrollment to Practice Before the Internal Revenue Service as an Enrolled Retirement Plan Agent (ERPA).

DATES: Written comments should be received on or before August 27, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala, at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3634, or through the internet at *RJoseph.Durbala@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Application for Enrollment to Practice Before the Internal Revenue Service. Application for Enrollment to Practice Before the Internal Revenue Service as an Enrolled Retirement Plan Agent (ERPA).

OMB Number: 1545–0950.

Form Number: Form 23 and Form 23–EP.

Abstract: Form 23 must be completed by those who desire to be enrolled to practice before the Internal Revenue Service. The information on the form will be used by the Director of Practice to determine the qualifications and eligibility of applicants for enrollment. Form 23–EP is the application form for Enrolled Retirement Plan Agents (ERPA's).

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and the Federal government.

Estimated Number of Respondents: 4,800.

Estimated Time per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 1,200.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. *Comments are invited on:* (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 5, 2012.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2012–15552 Filed 6–25–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8594

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8594, Asset Acquisition Statement.

DATES: Written comments should be received on or before August 27, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala, at (202) 622–3634, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet, at *RJoseph.Durbala@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Asset Acquisition Statement.

OMB Number: 1545–1021.

Form Number: 8594.

Abstract: Internal Revenue Code section 1060 requires reporting to the IRS by the buyer and seller of the total consideration paid for assets in an applicable asset acquisition. The information required to be reported includes the amount allocated to goodwill or going concern value. Form 8594 is used to report this information.

Current Actions: There are no changes being made to Form 8594 at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals.

Estimated Number of Respondents: 13,200.

Estimated Time per Respondent: 16 hrs., 28 minutes.

Estimated Total Annual Burden Hours: 217,272

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. *Comments are invited on:* (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 5, 2012.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2012–15553 Filed 6–25–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8902

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8902, Alternative Tax on Qualifying Shipping Activities.

DATES: Written comments should be received on or before August 27, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Alternative Tax on Qualified Shipping Activities.

OMB Number: 1545–1968.

Form Number: Form 8902.

Abstract: Form 8902 is used to elect the alternative tax on national income from qualifying shipping activities and to figure the alternative tax.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit institutions.

Estimated Number of Respondents: 200.

Estimated Time per Respondent: 15 hr., 17 min.

Estimated Total Annual Burden Hours: 3,056

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. *Comments are invited on:* (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to

minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 19, 2012.

Allan Hopkins,

Tax Analyst.

[FR Doc. 2012–15555 Filed 6–25–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1099–U.

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1099–U, United States Account Reporting.

DATES: Written comments should be received on or before August 27, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette B. Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Elaine Christophe, (202) 622–3179, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Elaine.H.Christophe@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: United States Account Reporting.

OMB Number: 1545–XXXX.

Form Number: 1099–U.

Abstract: Internal Revenue Codes Section 1471(c)(1)(A) and Section 1472(b)(3) require information reporting by foreign financial institutions (FFI) and non-foreign financial entities (NFFE) with respect to U.S. accounts. Form 1099–U is used to improve monitoring and tax compliance of U.S. Citizens, and Residents with an interest in a foreign financial account.

Current Actions: Requesting new OMB Control Number.

Type of Review: Approval for new information collection.

Affected Public: Individuals or households, Business or other for-profit organizations.

Estimated Number of Responses: 336,205.

Estimated Time per Response: 19 min.

Estimated Total Annual Burden Hours: 110,948.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. *Comments are invited on:* (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 19, 2012.

Yvette B. Lawrence,

IRS Reports Clearance Officer.

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Part II

Department of the Treasury

Internal Revenue Service

26 CFR Part 1

Additional Requirements for Charitable Hospitals; Proposed Rule

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–130266–11]

RIN 1545–BK57

Additional Requirements for Charitable Hospitals

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations that provide guidance regarding the requirements for charitable hospital organizations relating to financial assistance and emergency medical care policies, charges for certain care provided to individuals eligible for financial assistance, and billing and collections. The regulations reflect changes to the law made by the Patient Protection and Affordable Care Act of 2010. The regulations will affect charitable hospital organizations.

DATES: Comments and requests for a public hearing must be received by September 24, 2012.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–130266–11), room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–130266–11), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at *http://www.regulations.gov* (IRS REG–130266–11).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Amber L. Mackenzie or Preston J. Quesenberry at (202) 622–6070; concerning submissions of comments and requests for a public hearing, Oluwafunmilayo Taylor at (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review and approval under 1545–0047, in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, SE:W:CAR:MP:T:T:SP, Washington, DC 20224. Comments on the collection of information should be received by August 27, 2012. Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the Internal Revenue Service, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information;

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collection of information may be minimized, including through forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

The collection of information in the proposed regulations is in §§ 1.501(r)–4 and 501(r)–6(c). The collection of information flows from section 501(r)(4) of the Internal Revenue Code (Code), which requires hospital organizations to establish a written financial assistance policy and a written policy related to care for emergency medical conditions, and section 501(r)(6), which requires a hospital organization to make reasonable efforts to determine whether an individual is eligible for assistance under a financial assistance policy before engaging in extraordinary collection actions against that individual. The expected recordkeepers are hospital organizations described in sections 501(c)(3) and 501(r)(2).

Estimated number of recordkeepers: 3,377.

Estimated average annual burden hours per recordkeeper: 11.5 hours.

Estimated total annual recordkeeping burden: 38,836.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and return information are confidential, as required by 26 U.S.C. 6103.

Background

The Patient Protection and Affordable Care Act, Public Law 111–148 (124 Stat. 119 (2010)) (the Affordable Care Act), enacted section 501(r) of the Code, which adds requirements for hospital organizations that are (or seek to be) recognized as described in section 501(c)(3). Section 501(r)(1) of the Code states that an organization described in section 501(r)(2) (a hospital organization) will not be treated as described in section 501(c)(3) unless the organization meets the requirements described in section 501(r)(3) through 501(r)(6). The Affordable Care Act did not otherwise affect the substantive standards for tax exemption that hospital organizations are required to meet under section 501(c)(3).

Section 501(r)(2)(A) defines a hospital organization as: (i) An organization that operates a facility required by a state to be licensed, registered, or similarly recognized as a hospital; and (ii) any other organization that the Secretary determines has the provision of hospital care as its principal function or purpose constituting the basis for its exemption under section 501(c)(3).

Section 501(r)(2)(B)(i) requires a hospital organization that operates more than one hospital facility to meet the requirements of section 501(r) separately with respect to each hospital facility. Section 501(r)(2)(B)(ii) provides that a hospital organization will not be treated as described in section 501(c)(3) with respect to any hospital facility for which the requirements of section 501(r) are not separately met.

Community Health Needs Assessments

Section 501(r)(3) requires a hospital organization to conduct a community health needs assessment (CHNA) at least once every three years and adopt an implementation strategy to meet the community health needs identified through the CHNA. The CHNA must take into account input from persons who represent the broad interests of the community served by the hospital facility, including those with special knowledge of or expertise in public health. In addition, the CHNA must be made widely available to the public.

Financial Assistance Policy and Emergency Medical Care Policy

Section 501(r)(4) requires a hospital organization to establish a written financial assistance policy (FAP) and a written policy relating to emergency medical care.

The FAP must include: (1) Eligibility criteria for financial assistance, and whether such assistance includes free or

discounted care; (2) the basis for calculating amounts charged to patients; (3) the method for applying for financial assistance; (4) in the case of an organization that does not have a separate billing and collections policy, the actions the hospital organization may take in the event of nonpayment; and (5) measures to widely publicize the FAP within the community to be served by the hospital organization.

The emergency medical care policy must require the hospital organization to provide, without discrimination, care for emergency medical conditions (within the meaning of the Emergency Medical Treatment and Labor Act (EMTALA), section 1867 of the Social Security Act (42 U.S.C. 1395dd)) to individuals regardless of their eligibility under the organization's FAP.

Limitation on Charges

Section 501(r)(5)(A) requires a hospital organization to limit amounts charged for emergency or other medically necessary care provided to individuals eligible for assistance under the organization's FAP (FAP-eligible individuals) to not more than the amounts generally billed to individuals who have insurance covering such care (AGB). Section 501(r)(5)(B) prohibits the use of gross charges.

Billing and Collections

Section 501(r)(6) requires a hospital organization to make reasonable efforts to determine whether an individual is FAP-eligible before engaging in extraordinary collection actions (ECAs) against the individual.

Notice 2010–39

In June 2010, the Department of Treasury (Treasury Department) and the Internal Revenue Service (IRS) issued Notice 2010–39 (2010–24 IRB 756 (May 27, 2010)), which solicited comments regarding the application of the additional requirements imposed by section 501(r). The Treasury Department and the IRS received approximately 125 comments in response to Notice 2010–39. The principal comments considered in drafting these proposed regulations are discussed in this preamble under Explanation of Provisions.

Notice 2011–52

In July 2011, the Treasury Department and the IRS issued Notice 2011–52 (2011–30 IRB 60 (July 8, 2011)), which addressed the CHNA requirements described in section 501(r)(3). Notice 2011–52 described specific provisions related to the CHNA requirements that the Treasury Department and the IRS anticipate will be included in regulations to be proposed under section 501(r) and solicited comments from the public. The comment period for Notice 2011–52 closed on September 23, 2011. The Treasury Department and the IRS received more than 80 comments in response to Notice 2011–52.

Hospital organizations may rely on the guidance in Notice 2011–52 with respect to any CHNA made widely available to the public, and any implementation strategy adopted, on or before the date that is six months after the date further guidance regarding the CHNA requirements is issued.

Explanation of Provisions

These proposed regulations provide guidance on the requirements described in section 501(r)(4) through 501(r)(6) of the Code. Sections 501(r)(4), 501(r)(5), and 501(r)(6) all relate to a hospital facility's FAP or to individuals who are, or may be, FAP-eligible. The proposed regulations under section 501(r)(4) describe the information that a hospital facility must include in its FAP and the methods a hospital facility must use to widely publicize its FAP. They also describe what a hospital facility must include in its emergency medical care policy. The proposed regulations under section 501(r)(5) describe how a hospital facility determines the maximum amounts (that is, the amounts generally billed to individuals who have insurance coverage, or AGB) it can charge FAP-eligible individuals for emergency and other medically necessary care. In the case of an individual who is FAP-eligible but has not applied for financial assistance at the time charges are made, the proposed regulations provide that a hospital facility will not fail to satisfy section 501(r)(5) if it charges the individual more than AGB, provided the hospital facility is complying with all the requirements regarding notifying individuals about the FAP and responding to applications submitted, including correcting the amount charged and seeking to reverse any ECA previously initiated if an individual is later found to be FAP-eligible.

The proposed regulations under section 501(r)(6) describe the actions that are considered ''extraordinary collection actions'' and the ''reasonable efforts'' a hospital facility must make to determine FAP-eligibility before engaging in such actions. In general, to have made reasonable efforts under the proposed regulations, a hospital facility must determine whether an individual is FAP-eligible or provide required notices during a notification period ending 120 days after the date of the first billing statement. Although a hospital facility may undertake extraordinary collection actions after this 120-day notification period, a hospital facility that has not determined whether an individual is FAP-eligible must still accept and process a FAP application from the individual for an additional 120 days. Accordingly, the total period during which a hospital facility must accept and process FAP applications is 240 days from the date of the first billing statement. If a hospital facility receives a FAP application during the application period, it must suspend any ECAs it has started until it has processed the application and, if it determines the individual is FAP-eligible, must seek to reverse the ECAs and promptly refund any overpaid amounts. While debts may be referred to third parties to assist with collection actions at any time, including during the initial 120-day notification period, they may not be sold to third parties during the notification period unless and until an eligibility determination has been made.

These proposed regulations also provide guidance on which entities must meet the requirements described in section 501(r)(4) through 501(r)(6). In particular, the proposed regulations contain a definitions section that defines ''hospital organization,'' ''hospital facility,'' and other key terms used in the regulations.

In crafting proposed regulations to implement these interrelated statutory provisions, the Treasury Department and the IRS sought to ensure that patients who may require financial assistance—and the patient advocacy groups that assist them—will have access to the information about a hospital facility's FAP that the patients need in order to effectively seek financial assistance under the FAP. The Treasury Department and the IRS also sought to preserve hospital facilities' flexibility to determine the best way to meet the particular health needs of the specific communities they serve. Neither the statute nor these proposed regulations establish specific eligibility criteria that a FAP must contain. Moreover, aside from prohibiting hospital facilities from charging FAP-eligible individuals more than AGB, neither the statute nor the proposed regulations dictate the amounts or kinds of financial assistance that a FAP must provide.

As discussed further in this Explanation of Provisions, these proposed regulations do not provide guidance on the CHNA requirements described in section 501(r)(3) or on the consequences described in sections

501(r)(1) and 501(r)(2)(B) for failing to satisfy the section 501(r) requirements. The Treasury Department and the IRS intend to issue additional proposed regulations addressing the CHNA requirements and the consequences for failing to satisfy the section 501(r) requirements and responding to the comments received in response to Notice 2011–52.

1. Hospital Facilities and Organizations

a. Hospital Facilities

Because section 501(r)(2)(B) requires a hospital organization to satisfy the requirements of section 501(r) separately with respect to each hospital facility it operates, a number of commenters requested a definition of ''hospital facility.'' In accordance with section 501(r)(2)(A)(i), the proposed regulations define a hospital facility as a facility that is required by a state to be licensed, registered, or similarly recognized as a hospital. Except as otherwise provided in future published guidance, a hospital organization may treat multiple buildings operated under a single state license as a single hospital facility. Future published guidance also will address whether a hospital organization's operations in a single building under more than one state license are treated as one or multiple hospital facilities.

The proposed regulations refer to hospital facilities taking certain actions. Such references are intended to include instances in which the hospital organization operating the hospital facility takes action through, or on behalf of, the hospital facility.

b. Hospital Organizations

In accordance with section 501(r)(2)(A)(i), the proposed regulations provide that a hospital organization includes any organization recognized (or seeking to be recognized) as described in section 501(c)(3) that operates one or more hospital facilities.

Section 501(r)(2)(A)(ii) provides that a hospital organization also includes any other organization that the Secretary determines has the provision of hospital care as its principal function or purpose constituting the basis for its exemption under section 501(c)(3). These proposed regulations do not include a determination that any other categories of organizations or facilities have the provision of hospital care as their principal function or purpose, but comments are requested regarding whether additional organizations should be included. Moreover, the Treasury Department and the IRS intend that any future regulations regarding any such categories of organizations or facilities will apply only prospectively, after an opportunity for notice and comment. Prior to the effective date of any such future regulations, only organizations operating a facility required by a state to be licensed, registered, or similarly recognized as a hospital will be considered ''hospital organizations'' that must satisfy the requirements under section 501(r).

c. Hospital Facilities Located Outside of the United States

A number of commenters asked whether section 501(r) will apply to an organization as a result of its operating a hospital facility located outside of the United States. The proposed regulations provide that, for purposes of determining whether a facility is required by a state to be licensed, registered, or similarly recognized as a hospital, the term ''state'' includes only the 50 states and the District of Columbia, and not any U.S. territory or foreign country. As a result, a facility located outside of the United States will not be considered a hospital facility under these proposed regulations. Thus, pending any future guidance regarding other categories of hospital organizations or facilities, a hospital organization operating a facility located outside of the United States that is not required to be licensed by any State will not be required to meet the section 501(r) requirements with respect to that facility and an organization will not be considered a hospital organization as a result of operating such a facility.

d. Operating Hospital Facilities Through Partnerships or Disregarded Entities

Notice 2011–52 notes that the Treasury Department and the IRS intend to include within the definition of ''hospital organization'' any organization described in section 501(c)(3) that operates a hospital facility through a disregarded entity, or a joint venture, limited liability company, or other entity treated as a partnership for federal tax purposes. Notice 2011–52 also requested comments regarding whether (or under what circumstances) an organization should not be considered to ''operate'' a hospital facility for purposes of section 501(r) as a result of its owning a small interest (other than a general partner or similar interest) in an entity treated as a partnership for federal tax purposes that operates the hospital facility.

The proposed regulations provide that a hospital organization includes any organization that operates a hospital facility through a disregarded entity. The Treasury Department and the IRS are considering the comments received in response to Notice 2011–52 regarding the operation of hospital facilities through partnerships and will address this issue in separate guidance.

e. Government Hospital Organizations

A number of commenters requested that the Treasury Department and the IRS provide an exception from the requirements imposed by section 501(r) for certain government hospital organizations. For example, some commenters suggested that the requirements of section 501(r) should not apply to a hospital organization that excludes its income from gross income under section 115 but has nonetheless applied for and received recognition as an organization described in section 501(c)(3). Other commenters suggested that the section 501(r) requirements should not apply to any hospital organization that is a governmental unit or an affiliate of a governmental unit as described in Rev. Proc. 95–48 (1995–2 CB 418) (relieving such organizations from the annual filing requirement under section 6033).

The statutory language of section 501(r) applies to all hospital organizations that are (or seek to be) recognized as described in section 501(c)(3). Section 501(r) does not explicitly address government hospital organizations, nor does it include a specific exception for government hospital organizations. Accordingly, as indicated in Notice 2011–52, the Treasury Department and the IRS intend to apply section 501(r) to every hospital organization that has been recognized (or seeks recognition) as an organization described in section 501(c)(3). As a result, the proposed regulations do not contain any exceptions or special rules for government hospital organizations and are intended to apply to any government hospital organization recognized as described in section 501(c)(3). However, in recognition of the unique position of government hospitals, the Treasury Department and the IRS request comments regarding alternative methods a government hospital may use to satisfy the requirements of section 501(r)(4) through 501(r)(6).

2. Failures To Satisfy the Requirements of Section 501(r)

Numerous commenters requested guidance on the consequences of failing to meet one or more of the requirements of section 501(r). The Treasury Department and the IRS are continuing to consider comments regarding the consequences of failing to meet the

requirements of section 501(r) and will address this issue in separate guidance.

3. Community Health Needs Assessments

As described in the Background section of this preamble, the comment period for Notice 2011–52, which solicited comments on anticipated regulatory provisions regarding the CHNA requirements, closed on September 23, 2011. The Treasury Department and the IRS are considering the comments received in response to Notice 2011–52 and will address the CHNA requirements in separate guidance. Accordingly, these proposed regulations do not provide further guidance regarding the CHNA requirements. Hospital organizations may continue to rely on the anticipated regulatory provisions described in Notice 2011–52 with respect to any CHNA made widely available to the public, and any implementation strategy adopted, until six months after the date further guidance regarding the CHNA requirements is issued.

4. Financial Assistance Policies and Emergency Medical Care Policies

In accordance with the statute, the proposed regulations require hospital organizations to establish written FAPs as well as written emergency medical care policies.

a. Financial Assistance Policies

The proposed regulations provide that a hospital organization meets the requirements of section 501(r)(4)(A) with respect to a hospital facility it operates if the hospital organization establishes for that hospital facility a written FAP that applies to, at a minimum, all emergency and other medically necessary care provided by the hospital facility.

In general, a hospital facility's FAP must include: (1) Eligibility criteria for financial assistance, and whether such assistance includes free or discounted care; (2) the basis for calculating amounts charged to patients; (3) the method for applying for financial assistance; (4) in the case of an organization that does not have a separate billing and collections policy, the actions the organization may take in the event of nonpayment; and (5) measures to widely publicize the FAP within the community served by the hospital facility.

While the FAP itself must generally include each of these items of information and must be made available on a Web site and without charge upon request in public locations in the hospital facility and by mail, the proposed regulations otherwise permit a hospital facility to widely publicize its FAP using summaries that do not contain all of the information in the FAP. In addition, the Treasury Department and the IRS recognize that certain details related to the FAP are likely to change regularly and that it may be inefficient in certain circumstances for a hospital facility to have to update its FAP to reflect every such change. As a result, the proposed regulations give hospital facilities the option of providing certain information separately from the FAP, as long as the FAP explains how members of the public can readily obtain this information free of charge on a Web site and in writing.

i. Eligibility Criteria and Basis for Calculating Amounts Charged to Patients

A few commenters noted that section 501(r)(4) does not appear to mandate that FAPs contain any particular eligibility criteria and asked that hospital facilities be given the flexibility to develop FAP eligibility criteria that respond to local needs. Other commenters asked the Treasury Department and the IRS to require all FAPs to include certain minimum eligibility criteria.

Consistent with the statute, the proposed regulations do not mandate any particular eligibility criteria and require only that a FAP specify the financial assistance, including all discounts and free care, available under the FAP and all of the specific eligibility criteria that an individual must satisfy to receive each such discount, free care, or other level of assistance. If applicable, a FAP must also specify the amounts, such as gross charges, to which any discount percentages specified in the FAP will be applied.

At least one commenter recommended that hospital facilities be required to consult with members of the community, including representatives of vulnerable or disadvantaged community members, as they develop or revise their FAPs. Although the proposed regulations do not include such a requirement, the Treasury Department and the IRS are considering the potential link between the needs of a hospital facility's community, as determined through the hospital facility's most recent CHNA, and a hospital facility's FAP. Comments are requested on this issue.

In addition, because section 501(r)(5)(A) requires a hospital facility to limit amounts charged for emergency or other medically necessary care provided to FAP-eligible individuals to not more than the amounts generally billed to individuals who have insurance covering such care (AGB), the proposed regulations require the FAP to state that following a determination of FAP-eligibility, an individual will not be charged more than AGB for emergency or other medically necessary care.

The FAP must also state which of the permitted methods (described in the section of this preamble on Limitation on Charges) the hospital facility uses to determine AGB. Finally, if applicable, the FAP must either state the percentage(s) of gross charges the hospital facility applies to determine AGB (the AGB percentage(s)) and how these AGB percentage(s) were calculated or explain how members of the public may readily obtain this information in writing and free of charge.

ii. Method for Applying for Financial Assistance

Section 501(r)(4)(A)(iii) requires a hospital facility's FAP to include the method for applying for financial assistance under the FAP. Accordingly, the proposed regulations require a hospital facility's FAP to describe how an individual may apply for financial assistance under the FAP. In addition, either the hospital facility's FAP or FAP application form (including accompanying instructions) must describe the information or documentation the hospital facility may require an individual to submit as part of his or her FAP application and provide certain contact information that an individual can use to obtain assistance with the FAP application process. Financial assistance may not be denied based on the omission of information or documentation if such information or documentation is not specifically required by the FAP or FAP application form.

iii. Actions That May Be Taken in the Event of Nonpayment

Section 501(r)(4)(A)(iv) requires a hospital facility that does not have a separate billing and collections policy to describe in the FAP the actions the hospital facility may take in the event of nonpayment. The statute does not define what it means for a hospital facility to have a separate billing and collections policy. The Treasury Department and the IRS propose to define the term ''billing and collections policy'' as a separate written policy that describes the actions a hospital facility may take in the event of nonpayment in a manner that would be sufficient to satisfy section 501(r)(4)(A)(iv) if the hospital facility had chosen to include

the description in its FAP. The Treasury Department and the IRS also propose to define the term ''actions a hospital organization may take in the event of nonpayment'' to include any extraordinary collection actions described in section 501(r)(6) that a hospital organization may take only after making reasonable efforts to determine whether an individual is FAP-eligible.

Accordingly, to implement the requirement under section 501(r)(4)(A)(iv), the proposed regulations require either the FAP, or a separate written billing and collections policy, to describe the actions that the hospital facility (or other authorized party) may take related to obtaining payment of a bill for medical care provided by the facility, including, but not limited to, any extraordinary collection actions described in section 501(r)(6). Either the FAP or billing and collections policy must also describe the process and time frames the hospital facility (or other authorized party) will use in taking these actions, including any reasonable efforts to determine whether an individual is FAP-eligible described in section 501(r)(6). In addition, the FAP or billing and collections policy must describe the office, department, committee, or other body with the final authority or responsibility for determining that the hospital facility has made reasonable efforts to determine whether an individual is FAP-eligible and may therefore engage in extraordinary collection actions against the individual.

In the case of a hospital facility that fulfills these requirements in a separate written billing and collections policy rather than in the FAP, the proposed regulations require the hospital facility's FAP to state that the actions the hospital facility may take in the event of nonpayment are described in a separate billing and collections policy and explain how members of the public may readily obtain a free copy of this separate policy both on a Web site and upon request.

iv. Widely Publicizing the FAP

In accordance with section 501(r)(4)(A)(v), the proposed regulations require a FAP to include measures to widely publicize the FAP. One commenter asked that ''widely publicize'' be defined by example but that it not be defined too narrowly or prescriptively because hospital facilities need flexibility to address their particular circumstances. Other commenters recommended requiring use of one or a combination of the following specific measures to widely publicize a FAP:

- Posting information on the hospital facility's Web site;
- Distributing information at the hospital facility's patient access points;
- Notifying patients upon admission;
- Distributing information with discharge materials;
- Posting information conspicuously in public areas of the hospital facility (including admissions areas, emergency rooms, waiting rooms, billing offices, outpatient reception areas, etc.);
- Including information with or on billing statements;
- Mentioning the FAP when discussing an individual's bill over the telephone;
- Making the FAP available for public inspection and/or copying without charge at the hospital facility's principal, regional, and district offices during regular business hours;
- Publicizing the FAP to physicians and community health centers in the community;
- Including information regarding the FAP in hospital newsletters or magazines;
- Including information regarding the FAP in appropriate reports filed with state governments;
- Publicizing the FAP through local news media; and/or
- Publicizing the FAP through social service agencies.

In addition, several commenters asked that hospital facilities be allowed to publicize a summary of the FAP instead of the FAP itself. According to these commenters, summaries of a FAP are often more easily understood by members of the public. Some commenters also asked that such summaries of the FAP, or the FAP itself, be translated into languages spoken by a significant part of the community served by the hospital facility.

The proposed regulations require a FAP to include four types of measures that the hospital facility will take to widely publicize the FAP. Hospital facilities have the option of summarizing these measures in the FAP itself or explaining in the FAP how members of the public may readily obtain a free written summary of these measures.

First, the FAP must include measures the hospital facility will take to make paper copies of the FAP, the FAP application form, and a plain language summary of the FAP available upon request and without charge, both for distribution in public locations in the hospital facility and by mail. Each of these documents must be made available in English and in the primary language of any populations with limited proficiency in English that constitute more than 10 percent of the residents of the community served by the hospital facility. A similar 10 percent threshold is used in certain state laws requiring notification about financial assistance, as well as certain federal regulations requiring notices or summaries to be issued in non-English languages. See, for example, 26 CFR 54.9815–2719T(e)(3); 29 CFR 2520.102–2(c)(2); 45 CFR 147.136(e)(3).

Second, the FAP must include measures the hospital facility will take to inform and notify visitors to the hospital facility about the FAP through a conspicuous public display or other measure(s) reasonably calculated to attract the attention of visitors to the hospital facility. Such measures could include, for example, conspicuously posting signs and displaying brochures that provide basic information about the FAP in public locations in the hospital facility.

Third, the FAP must include measures the hospital facility will take to inform and notify members of the community served by the hospital facility about the FAP in a manner reasonably calculated to reach those members of the community who are most likely to require financial assistance. Such measures could include, for example, the distribution of information sheets summarizing the FAP to local public agencies and nonprofit organizations that address the health needs of the community's low-income populations.

For purposes of these proposed regulations, ''informing and notifying'' hospital visitors and community members about a FAP does not require a hospital facility to provide these individuals with the FAP or all of the information in the FAP. Rather, provision of a summary of the FAP or notification of the FAP's existence, combined with instructions on how to obtain more information about the FAP, will suffice.

The proposed regulations also make clear that whether a measure is reasonably calculated to attract visitors' attention or reach members of the community likely to require financial assistance will depend on all of the facts and circumstances, including the primary languages spoken by the residents of the community served by the hospital facility and other attributes of the community and the hospital facility.

Finally, the FAP must include measures the hospital facility will take to make the FAP, FAP application form, and a plain language summary of the

FAP widely available on the hospital facility or hospital organization's Web site or on a Web site established and maintained by another entity. The hospital facility must conspicuously post complete and current versions of these documents, both in English and in the primary language of any populations with limited proficiency in English that constitute more than 10 percent of the residents of the community served by the hospital facility.

In addition, any individual with access to the Internet must be able to access, download, view, and print a hard copy of these documents, without requiring special computer hardware or software (other than software that is readily available to members of the public without payment of any fee) and without payment of a fee to the hospital facility, hospital organization, or other entity maintaining the Web site. Finally, the hospital facility or hospital organization must provide any individual who asks how to access a copy of the FAP, FAP application form, or plain language summary of the FAP online with the direct Web site address, or URL, where these documents are posted.

b. Emergency Medical Care Policy

A number of commenters opined that the requirement under section 501(r)(4)(B) that a hospital facility establish an emergency medical care policy is intended to reflect existing federal law under the Emergency Medical Treatment and Labor Act (EMTALA) and is not intended to create any new requirements other than to set forth pre-existing obligations under federal law in a written policy.

To satisfy the requirements of section 501(r)(4)(B), the proposed regulations provide that a hospital facility must establish a written policy that requires the hospital facility to provide, without discrimination, care for emergency medical conditions (within the meaning of EMTALA) to individuals, regardless of whether they are FAP-eligible. The proposed regulations further provide that an emergency medical care policy will generally satisfy this standard if it requires the hospital facility to provide the care for any emergency medical condition that the hospital facility is required to provide under Subchapter G of Chapter IV of Title 42 of the Code of Federal Regulations, the chapter regarding the Centers for Medicare and Medicaid Services' standards and certification and including the regulations under EMTALA.

Any hospital policy or procedure that discourages individuals from seeking emergency medical care, such as demanding that emergency department patients pay before receiving treatment or permitting debt collection activities in the emergency department, may jeopardize a hospital facility's compliance with EMTALA and with the requirement under 501(r)(4)(B) to establish a nondiscriminatory emergency medical care policy. Accordingly, the proposed regulations provide that unless a hospital facility's emergency medical care policy prohibits debt collection activities from occurring in the emergency department or in other hospital venues where such activities could interfere with the treatment of emergency medical conditions without discrimination, the hospital's policy will not meet the requirements of section 501(r)(4)(B).

c. Establishing the FAP and Other Policies

The proposed regulations provide that a hospital organization will have established a FAP, a separate billing and collections policy, or an emergency medical care policy for a hospital facility only if an authorized body of the hospital organization has adopted the policy for the hospital facility and the hospital facility has implemented the policy. For these purposes, an authorized body of a hospital organization means: (1) The hospital organization's governing body (that is, the board of directors, board of trustees, or equivalent controlling body); (2) a committee of the governing body that is permitted under state law to act on behalf of the governing body; or (3) other parties authorized by the governing body of the hospital organization to act on its behalf (such as, for example, one or more executives of the hospital facility), to the extent permitted under state law. In the case of a hospital facility (operated by a hospital organization) that is recognized as an entity under state law but is a disregarded entity for federal tax purposes, an authorized body of the hospital organization may also include the governing body of that hospital facility or a committee of, or other parties authorized by, that governing body, as permitted under state law.

A hospital facility has implemented a policy if it has consistently carried out the policy.

One commenter asked whether, for purposes of complying with section 501(r)(4), a policy established for a system of multiple hospital facilities will qualify as a policy for each hospital facility in the system. The proposed regulations provide that, while a hospital organization operating multiple hospital facilities must separately establish a FAP and emergency medical care policy for each hospital facility it operates, such policies may contain the same operative terms. The proposed regulations do note, however, that different AGB percentages and methods of determining AGB and the unique attributes of a hospital facility or the community it serves could necessitate that hospital facilities include in their FAPs (or otherwise make available) different information about AGB or different measures to widely publicize the FAP. For example, if a hospital organization operates two hospital facilities, only the first of which serves a community that includes a population with limited proficiency in English that constitutes more than 10 percent of the community's residents, only the first hospital facility must include in its FAP (or otherwise make available a summary of) measures to widely publicize the FAP in a language other than English.

5. Limitation on Charges

The proposed regulations provide that a hospital organization meets the requirements of section 501(r)(5) with respect to a hospital facility it operates if the hospital facility limits the amount charged for any emergency or other medically necessary care it provides to a FAP-eligible individual to not more than the amounts generally billed to individuals with insurance covering that care (AGB). The proposed regulations also require a hospital facility to limit the amount charged for any medical care it provides to a FAP-eligible individual to less than the gross charges for that care.

a. Amounts Generally Billed

In discussing methods to determine AGB, numerous commenters pointed to the Joint Committee on Taxation's (JCT) statement in the Technical Explanation of the Affordable Care Act that ''[i]t is intended that amounts billed to those who qualify for financial assistance may be based on either the best, or an average of the three best, negotiated commercial rates, or Medicare rates.'' Staff of the Joint Committee on Taxation, Technical Explanation of the Revenue Provisions of the ''Reconciliation Act of 2010,'' as Amended, in Combination with the ''Patient Protection and Affordable Care Act'' (March 21, 2010), at 82 (Technical Explanation). A few commenters recommended requiring hospital facilities to use Medicare rates in determining AGB, while at least one commenter requested that hospital facilities not be required to use Medicare rates. Numerous commenters asked that hospital facilities be

permitted to determine AGB by applying an average percentage of gross charges that commercial insurers and the patients they cover are, together, expected to pay.

A number of commenters recommended that AGB should be determined at least annually, and a few commenters asked that AGB be calculated based on past claims paid by commercial insurers, such as claims paid over the last six months or over the prior year. In addition, several commenters asked that hospital facilities be permitted to make separate AGB determinations for inpatient and outpatient services.

The proposed regulations provide two methods for hospital facilities to use to determine AGB. The first method is a ''look-back'' method based on actual past claims paid to the hospital facility by either Medicare fee-for-service only or Medicare fee-for-service together with all private health insurers paying claims to the hospital facility (including, in each case, any associated portions of these claims paid by Medicare beneficiaries or insured individuals).

The Treasury Department and the IRS believe that the three ''best'' commercial rates may be difficult to determine because different commercial insurers may negotiate the lowest rates for different items and services. Basing AGB on the claims paid by all private health insurers and Medicare avoids this difficulty by eliminating the need to determine which private health insurers have the lowest rates. Although such an approach allows a hospital facility to include the higher rates paid by health insurers that are not the lowest (or three lowest), it also requires the hospital facility to include the rates paid by Medicare. In addition, basing AGB on the claims paid by all private health insurers and Medicare is arguably more consistent with the statutory phrase ''amounts generally billed to individuals who have insurance'' than basing AGB only on claims paid by those private health insurers with the lowest, or three lowest, rates. However, the Treasury Department and the IRS request comments regarding whether hospital facilities should also have the option of basing AGB on claims paid by the private health insurer with the lowest rate or by the three private health insurers with the three lowest rates, and how the lowest rate(s) should be determined. The Treasury Department and the IRS also request comments regarding whether hospital facilities should have the option of basing AGB on claims paid by all private health insurers paying claims to the hospital facility, without also including claims paid by Medicare.

The second method for determining AGB is ''prospective,'' in that it requires the hospital facility to estimate the amount it would be paid by Medicare and a Medicare beneficiary for the emergency or other medically necessary care at issue if the FAP-eligible individual were a Medicare fee-for-service beneficiary. This prospective method is based only on Medicare because the Treasury Department and the IRS expect that such a method is only administrable if based on a single insurer's billing and coding processes. The Treasury Department and the IRS request comments regarding whether a hospital facility should also have the option of determining AGB prospectively by estimating the amount the facility would charge the insured individual and the private health insurer with the lowest rate (or the insured individuals and three private health insurers with the three lowest rates).

These two methods of determining AGB are mutually exclusive, and a hospital facility may use only one method to determine AGB. After choosing a particular method, a hospital facility must continue to use that method. The Treasury Department and the IRS request comments on whether a hospital facility should be allowed to change its method of calculating AGB under certain circumstances or following a certain period of time and, if so, under what circumstances or how frequently.

Several commenters asked whether Medicare Advantage should be included in the determination of AGB. The proposed regulations clarify that for purposes of determining AGB, amounts paid under ''Medicare'' only include amounts paid under ''Medicare fee-for-service,'' which is defined as including only Medicare Part A and Part B and excluding Medicare Advantage (or Medicare Part C). For purposes of the proposed regulations, claims paid under Medicare Advantage are treated as claims paid by a private health insurer.

Finally, a number of commenters recommended that in states that require specific discounts or otherwise control the amount that may be billed to patients with financial need, those requirements should establish AGB. Given the wide variation among state laws and the advantage of uniformity in applying the federal rules, the Treasury Department and the IRS are proposing to adopt a single federal regulatory definition of AGB.

i. Look-Back Method

Under the look-back method for determining AGB, a hospital facility must determine AGB for any emergency or other medically necessary care provided to a FAP-eligible individual by multiplying the gross charges for that care by one or more percentages of gross charges, called AGB percentages. The hospital facility must calculate its AGB percentage(s) no less frequently than annually by dividing the sum of certain claims paid to the hospital facility by the sum of the associated gross charges for those claims. More specifically, these AGB percentages must be based on all claims that have been paid in full to the hospital facility for emergency and other medically necessary care by either Medicare fee-for-service alone or by Medicare fee-for-service and all private health insurers together as the primary payer(s) of these claims during a prior 12-month period. For these purposes, a hospital facility may include in ''all claims that have been paid in full'' both the portions of the claims paid by Medicare or the private insurer and the associated portions of the claims paid by Medicare beneficiaries or insured individuals in the form of co-insurance, copayments, or deductibles. A hospital facility must begin applying its AGB percentage(s) by the 45th day after the end of the 12-month period the hospital facility used in calculating the AGB percentage(s).

The Treasury Department and the IRS request comments regarding this look-back method generally, and regarding three aspects of this method in particular. First, comments are requested regarding whether a hospital facility using the look-back method should have the option to base its AGB percentage(s) on a representative sample of claims (rather than all claims) that have been paid in full over a prior 12-month period. Specifically, comments should address how a hospital facility would ensure that such samples are representative and reliable. Second, comments are requested regarding whether a hospital facility needs more than 45 days between the end of the 12-month period used in calculating the AGB percentage(s) and the date it must begin applying the AGB percentage(s). Third, comments are requested regarding whether hospital facilities might significantly increase their gross charges after calculating one or more AGB percentages and whether such an increase could mean that determining AGB by multiplying current gross charges by an AGB percentage will result in charges that exceed the amounts that are in fact generally billed

to those with insurance at the time of the charges. If so, comments are requested regarding whether safeguards should be implemented to offset increases in gross charges after the calculation of the AGB percentage(s), including, for example, requiring AGB to be determined by applying an AGB percentage not to current gross charges but rather to current gross charges reduced by any percentage increases in gross charges since the AGB percentage was last calculated.

As previously noted, numerous commenters asked that hospital facilities be permitted to determine AGB by applying one average percentage of gross charges. The proposed regulations provide that a hospital facility using the look-back method may calculate one average AGB percentage for all emergency and other medically necessary care provided by the hospital facility. Alternatively, a hospital facility may calculate multiple AGB percentages for separate categories of care (such as inpatient and outpatient care or care provided by different departments) or for separate items or services, as long as the hospital facility calculates AGB percentages for all emergency and other medically necessary care provided by the hospital facility.

ii. Prospective Medicare Method

Under the prospective Medicare method, a hospital facility may determine AGB for any emergency or other medically necessary care that the hospital facility provides to a FAP-eligible individual by using the same billing and coding process the hospital facility would use if the individual were a Medicare fee-for-service beneficiary. The hospital facility may then set AGB for that care at the amount the hospital facility determines would be the amount Medicare and the Medicare beneficiary together would be expected to pay for the care.

b. Gross Charges

Section 501(r)(5)(B) prohibits the use of gross charges. The proposed regulations define a gross charge (also known as the ''chargemaster rate'') as a hospital facility's full, established price for medical care that the hospital facility consistently and uniformly charges all patients before applying any contractual allowances, discounts, or deductions.

A number of commenters recommended that section 501(r)(5)(B)'s prohibition on gross charges should apply only to FAP-eligible individuals, noting that such an interpretation is consistent with the JCT's statement in the Technical Explanation that ''[a] hospital facility may not use gross charges * * * when billing individuals who qualify for financial assistance.'' Technical Explanation, at 82. The proposed regulations adopt this recommendation. The proposed regulations also clarify that the prohibition on the use of gross charges applies to any medical care, not just emergency and medically necessary care, provided to a FAP-eligible individual.

Numerous commenters requested that hospital facilities not be prohibited from including the amount of gross charges on a hospital bill as an explanatory item or a starting point for itemizing certain discounts. Commenters stated that this practice is standard in the healthcare industry and should not be affected by section 501(r)(5)(B). The proposed regulations make clear that including the gross charges on hospital bills as the starting point to which various contractual allowances, discounts, or deductions are applied is permissible, as long as the gross charges are not the actual amount a FAP-eligible individual is expected to pay.

c. Safe Harbor for Certain Charges in Excess of AGB

A number of commenters noted that if an individual has yet to submit a FAP application, a hospital facility will not know at the time of initial and subsequent billing whether the individual is FAP-eligible. The proposed regulations provide that whether an individual is FAP-eligible is determined without regard to whether the individual has applied for assistance under a hospital facility's FAP. However, the proposed regulations also provide a safe harbor under which a hospital facility will not violate section 501(r)(5) if it charges more than AGB for emergency or other medically necessary care, or charges gross charges for any medical care, to a FAP-eligible individual who has not submitted a complete FAP application as of the time of the charge, as long as the hospital facility made and continues to make reasonable efforts to determine whether the individual is FAP-eligible (within the meaning of and during the periods required under section 501(r)(6), including by correcting the amount charged if the individual is subsequently found to be FAP-eligible). The Treasury Department and IRS request comments regarding the proposed safe harbor and whether the patient protections provided in section 1.501(r)–6, including the requirements that a hospital facility refund amounts overcharged and seek to reverse previously taken ECAs (except sales of debts) once an individual has been determined to be FAP-eligible, are sufficient.

6. Billing and Collection

The proposed regulations provide that a hospital organization meets the requirements of section 501(r)(6) with respect to a hospital facility it operates if the hospital facility does not engage in ECAs against an individual before making reasonable efforts to determine whether the individual is FAP-eligible. For these purposes, a hospital facility will be considered to have engaged in ECAs against an individual if the hospital facility engages in ECAs against any other individual who has accepted or is required to accept responsibility for the first individual's hospital bills. In addition, a hospital facility will be considered to have engaged in an ECA against an individual if any purchaser of the individual's debt or any debt collection agency or other party to which the hospital facility has referred the individual's debt has engaged in an ECA against the individual.

a. Extraordinary Collection Actions

In discussing the scope of the term ''extraordinary collection actions'' (ECAs), many commenters pointed to the JCT's statement in the Technical Explanation that ''extraordinary collections include lawsuits, liens on residences, arrests, body attachments, or other similar collection processes.'' Technical Explanation, at 82. A number of these commenters argued that ECAs should be limited to the examples listed in the Technical Explanation, with the term ''other similar collection processes'' being limited to actions that must be initiated through a legal or judicial process.

Other commenters recommended that additional actions related to collections should constitute ECAs or even be prohibited altogether, including such actions as deferring or denying care based on a pattern of nonpayment, selling patient debts to third parties, referring debts to debt collection agencies, charging interest on patient debts, and any other action beyond sending a patient a bill. A number of commenters also recommended that reporting to credit agencies should constitute ECAs and pointed to the statement in the Technical Explanation that reasonable efforts include certain actions before ''reporting to credit rating agencies is initiated.'' Technical Explanation, at 82. In addition, several commenters suggested that the express approval of a hospital organization's governing body should be required before a hospital facility it operates is permitted to engage in such actions as

wage garnishment, freezing bank accounts, or placing liens on patients' homes or cars.

The proposed regulations state that ECAs include any actions taken by a hospital facility against an individual related to obtaining payment of a bill for care covered under the hospital facility's FAP that require a legal or judicial process. ECAs that require a legal or judicial process include, but are not limited to, actions to—

- Place a lien on an individual's property;
- Foreclose on an individual's real property;
- Attach or seize an individual's bank account or any other personal property;
- Commence a civil action against an individual;
- Cause an individual's arrest;
- Cause an individual to be subject to a writ of body attachment; and
- Garnish an individual's wages.

In addition, the Treasury Department and the IRS understand that the reporting of adverse information about an individual to consumer credit reporting agencies or credit bureaus is a part of the process of obtaining payment of a hospital bill that can cause significant financial harm to an individual for many years. Reporting to credit agencies is also an activity that is restricted in some state laws governing debt collection by hospitals. The proposed regulations provide that ECAs include reporting to credit agencies.

The final action listed in the proposed regulations as an ECA is the sale of an individual's debt to another party. A number of commenters suggested that the proposed regulations prohibit the sale of debt altogether. Such a prohibition is contained in at least one state law governing debt collection by hospitals. The proposed regulations provide that the sale of debt is an ECA because the Treasury Department and the IRS understand that after a hospital facility has sold a debt, it may have a more limited ability to control the purchaser's actions to collect the debt. By contrast, when a hospital facility refers an individual's debt to a debt collection agent or other party without selling the debt (for example, by entering into a contract under which the other party conducts all of the facility's billing and collections activities pursuant to the hospital facility's billing and collections policy), a hospital facility can presumably maintain greater control over its third party agent. As a result, the proposed regulations do not define ECAs to include referring an individual's debt without selling it. The Treasury Department and the IRS request comments regarding whether a hospital facility can maintain sufficient control over the collection actions of parties to which it refers or sells debt and whether either referring debt or selling debt (or both) should constitute ECAs.

The proposed regulations do not define ECAs to include deferring or denying care based on a pattern of nonpayment, requiring deposits before providing care, or charging interest, although policies allowing certain of these actions may not satisfy the emergency medical care policy provision noted in section 4.b of this preamble. In addition, the Treasury Department and the IRS understand that some state laws restrict the degree to which hospitals can engage in these activities and request additional comments on whether such activities should constitute ECAs.

The proposed regulations also do not require a hospital facility to obtain governing body approval before engaging in ECAs. Comments are requested regarding what additional procedural protections, if any, may be appropriate as a part of the reasonable efforts to determine FAP-eligibility that a hospital facility must make before engaging in ECAs, discussed in the immediately following section 6.b of this preamble.

b. Reasonable Efforts

In discussing the scope of the term ''reasonable efforts,'' many commenters pointed to the JCT's statement in the Technical Explanation that reasonable efforts were intended to include ''notification by the hospital of its FAP upon admission and in written and oral communications with the patient regarding the patient's bill, including invoices and telephone calls.'' Technical Explanation, at 82. A few commenters recommended that providing one written summary of a FAP in at least one invoice mailed or otherwise provided to an individual following the provision of hospital services and prior to referring the account to a collection agency should be deemed to constitute ''reasonable efforts'' to determine the individual's FAP-eligibility. Other commenters recommended that a hospital facility be required to provide at least three notices about the FAP (as well as contact information to request additional information) and wait at least 120 days from the first notice or billing statement before engaging in ECAs. One commenter noted that hospitals have traditionally handled their receivables internally and then turned them over to collections agencies after 120 days. Several commenters suggested that individuals be given more than 120 days, such as one year, to apply for financial assistance.

The proposed regulations provide that, with respect to any care provided by a hospital facility to an individual, the hospital facility will have made reasonable efforts to determine whether the individual is FAP-eligible if the hospital facility: (1) Notifies the individual about the FAP; (2) in the case of an individual who submits an incomplete FAP application, provides the individual with information relevant to completing the FAP application; and (3) in the case of an individual who submits a complete FAP application, makes and documents a determination as to whether the individual is FAP-eligible (and meets certain other specified requirements described later in this preamble).

For purposes of meeting these requirements, the proposed regulations describe both a ''notification period'' and an ''application period.'' The notification period is the period during which the hospital facility must notify an individual about the FAP. Under the proposed regulations, this period begins on the date care is provided to the individual and ends on the 120th day after the hospital facility provides the individual with the first billing statement for the care. If a hospital facility has met all of the notification requirements and the individual has failed to submit a FAP application by the end of the notification period, the hospital facility may engage in ECAs against the individual. However, a hospital facility must accept and process FAP applications submitted by an individual during a longer ''application period'' that ends on the 240th day after the hospital facility provides the individual with the first billing statement for the care. The Treasury Department and the IRS have proposed including both a shorter notification period and a longer application period as a way of balancing the individual's need for sufficient time to seek financial assistance with the hospital facility's interest in efficiently carrying out its billing processes. The Treasury Department and the IRS request comments regarding other possible ways to achieve this balance.

The Treasury Department and the IRS are proposing a notification period of 120 days from the first billing statement because a few commenters suggested that hospital billing cycles are typically 45 days and the Treasury Department and the IRS intend that individuals will receive notice about the FAP with at least three billing statements and then have at least 30 days after the third

billing statement to apply for financial assistance before ECAs are initiated. In addition, a 120-day notification period was selected because hospitals are used to dealing with a 120-day period in the context of deeming debts to be bad debts under the Medicare program and because such a period is consistent with some state requirements or recommendations to wait 120 days before taking such collection actions as commencing lawsuits, reporting to credit agencies, or referring to collection agencies. Similarly, a 240-day period to apply for financial assistance is roughly in the middle of the range of application periods required under various state laws and recommended by some commenters. The Treasury Department and the IRS request comments regarding the proposed lengths of the notification period and the application period and/or whether it would be preferable to have only one concurrent period.

Finally, the Treasury Department and the IRS recognize that some inpatients staying at a hospital facility for a prolonged period of time may start receiving billing statements in the mail before being discharged. Comments are requested regarding whether the notification and application periods for such inpatients should start on a date later than the date of the first billing statement (such as the date of discharge) and on the feasibility of this and other approaches to addressing this issue.

i. Notification About the FAP

To satisfy the notification component of ''reasonable efforts'' with respect to any care provided to an individual, the proposed regulations require a hospital facility to distribute a plain language summary of the FAP, and offer a FAP application form, to the individual before discharge from the hospital facility. A hospital facility must also include a plain language summary of the FAP with all (and at least three) billing statements for the care and all other written communications regarding the bill provided to the individual during the notification period. In addition, the hospital facility must inform the individual about the FAP in all oral communications regarding the amount due for the care that occur during the notification period. Finally, the hospital facility must provide the individual with at least one written notice that informs the individual about the ECAs the hospital facility (or other authorized party) may take if the individual does not submit a FAP application or pay the amount due by a date (specified in the notice) that is no earlier than the last day of the notification period. The hospital facility must provide this written notice at least 30 days before the deadline specified in the notice.

The proposed regulations define a ''plain language summary'' of the FAP as a written statement that notifies an individual that the hospital facility offers financial assistance under a FAP and also includes the following items of information in language that is clear, concise, and easy to understand:

- A brief description of the eligibility requirements and assistance offered under the FAP;
- The direct Web site address, or URL, and physical location(s) where the individual can obtain copies of the FAP and FAP application form;
- Instructions on how the individual can obtain a free copy of the FAP and FAP application form by mail;
- The contact information of hospital facility staff who can provide the individual with information about the FAP and the FAP application process, as well as of any nonprofit organizations or government agencies the hospital facility has identified as capable and available sources of assistance with FAP applications;
- A statement of the availability of translations of the FAP, FAP application form, and plain language summary in other languages, if applicable; and
- A statement that no FAP-eligible individual will be charged more for emergency or other medically necessary care than AGB.

The proposed regulations provide that if an individual submits a complete or incomplete FAP application to a hospital facility during the application period, the hospital facility will be deemed to have met the notification requirements with respect to the individual as of the time the FAP application is submitted. Thus, once a hospital facility receives a FAP application from an individual, the hospital facility no longer needs to continue notifying that individual about the FAP. However, the submission of a FAP application form during the application period triggers other requirements that the hospital facility must satisfy to have made reasonable efforts to determine whether the individual is FAP-eligible, which are discussed in the immediately following sections 6.b.ii and 6.b.iii of this preamble.

Many commenters noted that even when a hospital facility makes reasonable efforts to notify an individual about its FAP and FAP application process, some individuals will decline to apply for financial assistance under the FAP, leaving the hospital facility without the information it needs to determine FAP-eligibility. These commenters asked that a hospital facility not be foreclosed from initiating ECAs when it makes reasonable efforts to notify an individual about its FAP and the individual does not respond.

The Treasury Department and the IRS recognize that some FAP-eligible individuals will not submit a FAP application, notwithstanding a hospital facility's efforts to notify individuals about its FAP. As a result, the proposed regulations provide that, with respect to any care provided to an individual, a hospital facility has made reasonable efforts to determine whether the individual is FAP-eligible if the hospital facility meets, and documents that it met, the notification component of reasonable efforts and the individual does not submit a FAP application by the end of the notification period (or, if later, the deadline specified by the hospital facility). Once the hospital facility has made reasonable efforts to determine whether an individual is FAP-eligible as a result of notifying the individual during the 120-day notification period, it may engage in one or more ECAs against the individual. However, even after a hospital facility is permitted to engage in ECAs against an individual, it must still process FAP applications submitted before the end of the application period in order to have made reasonable efforts to determine whether the individual is FAP-eligible, as described in the immediately following sections 6.b.ii and 6.b.iii of this preamble.

ii. Incomplete FAP Applications

The proposed regulations provide that if an individual submits an incomplete FAP application during the application period, a hospital facility will have made reasonable efforts to determine whether the individual is FAP-eligible only if it takes three steps. First, if applicable, the hospital facility must suspend any ECAs against the individual (meaning it does not initiate any new ECAs or take further action with respect to previously-initiated ECAs). Second, the hospital facility must provide the individual with a written notice that describes the additional information and/or documentation the individual must submit to complete his or her FAP application and include a plain language summary of the FAP with the written notice. Third, the hospital facility must provide the individual with at least one written notice that informs the individual about the ECAs that the hospital facility or other authorized party may initiate or resume if the individual does not complete the

application or pay the amount due by a completion deadline (specified in the notice) that is no earlier than the later of 30 days from the date of the written notice or the last day of the application period. The hospital facility must provide this written notice regarding ECAs at least 30 days before the completion deadline.

If a hospital facility provides this required information and suspends any ECAs against the individual, and the individual fails to complete the FAP application by the completion deadline, the hospital facility will have made reasonable efforts to determine whether the individual is FAP-eligible and thus may initiate or resume ECAs against the individual.

If the individual completes the FAP application by the completion deadline, the proposed regulations provide that the individual will be considered to have submitted a complete FAP application during the application period, and thus the requirements for complete FAP applications, discussed in the immediately following section 6.b.iii of this preamble, apply.

The Treasury Department and IRS request comments on ways to encourage timely completion of incomplete applications so that hospital facilities may determine whether individuals are FAP-eligible while still providing individuals with sufficient time to apply for financial assistance.

iii. Complete FAP Applications

The proposed regulations provide that if a hospital facility receives a complete FAP application from an individual during the application period, the hospital facility will have made reasonable efforts to determine whether the individual is FAP-eligible only if it suspends any ECAs against the individual, makes and documents an eligibility determination in a timely manner, and notifies the individual in writing of the determination and the basis for the determination. In addition, if the hospital facility has determined that the individual is FAP-eligible, the hospital facility must take three additional steps in a timely manner. First, it must provide the individual with a billing statement that indicates the amount the individual owes as a FAP-eligible individual. This billing statement must also show—or describe how the individual can get information regarding—the AGB for the care provided and how the hospital facility determined the amount the individual owes as a FAP-eligible individual. Second, the hospital facility must refund any excess payments made by the individual. Third, the hospital facility must take all reasonably available measures to reverse any ECA (with the exception of a sale of debt) taken against the individual to collect the debt at issue. Accordingly, the hospital facility generally must take measures to vacate any judgment against the individual, lift any liens or levies on the individual's property, and remove from the individual's credit report any adverse information reported to a consumer reporting agency or credit bureau.

The Treasury Department and the IRS request comments regarding the feasibility of reversing various ECAs when the hospital facility determines that an individual is FAP-eligible, including in circumstances in which an individual's debt has been referred or sold to another party.

As a general matter, once a hospital facility has taken all of the required steps after receiving a complete FAP application, it has made reasonable efforts to determine whether the individual is FAP-eligible and thus may initiate or resume ECAs against the individual. However, the proposed regulations also contain an anti-abuse rule that provides that a hospital facility will not have made reasonable efforts to determine whether an individual is FAP-eligible if the hospital facility bases a determination that the individual is not FAP-eligible on information the hospital facility has reason to believe is unreliable or incorrect or on information obtained from the individual under duress or through the use of coercive practices.

In addition, the proposed regulations provide that a hospital facility has made reasonable efforts to determine whether an individual is FAP-eligible if it determines that the individual is eligible for the most generous assistance available under its FAP based on information other than that provided by the individual as part of a complete FAP application. For example, a hospital facility could make reasonable efforts by determining that an individual is eligible for the most generous assistance offered under its FAP based on information establishing that the individual is eligible for assistance under one or more means-tested public programs.

The Treasury Department and the IRS seek comments on how to provide additional flexibility under the regulations to hospital facilities seeking to determine whether an individual is FAP-eligible so that the procedural protections provided under section 501(r)(6) are respected but do not unnecessarily interfere with a hospital facility's reasonable financial management. Comments are requested on how a hospital facility might reasonably determine whether an individual is FAP-eligible in ways other than soliciting and processing FAP applications.

Specifically, the Treasury Department and the IRS understand that many individuals who are not FAP-eligible (for example, because they are relatively affluent and/or have adequate insurance coverage) will never submit a complete FAP application. A hospital facility may wish to make a FAP-eligibility determination based on reliable information early in the billing cycle in order to avoid unwarranted interference with its routine billing practices and to avoid the administrative burdens of notifying these non-FAP-eligible individuals about the FAP and tracking each individual's notification and application periods. The Treasury Department and the IRS request comments regarding whether, and under what circumstances, a hospital facility should be permitted to use reliable information, other than that provided by an individual with a complete FAP application, to make a determination that the individual is not FAP-eligible or is eligible for assistance that is less than the most generous assistance offered under the FAP. Comments are also requested regarding whether a hospital facility might be able to rely on prior FAP-eligibility determinations for a period of time to avoid having to re-determine whether an individual is FAP-eligible every time he or she receives care. The Treasury Department and the IRS request comments regarding what sources of information can reliably and accurately be used to determine FAP-eligibility and whether hospital facilities should therefore have the flexibility to use such sources of information rather than being limited to making determinations based only on complete FAP applications.

iv. Agreements With Other Parties

The proposed regulations provide that if a hospital facility refers or sells an individual's debt to another party during the application period, the hospital facility will have made reasonable efforts to determine whether the individual is FAP-eligible only if it first obtains (and, to the extent applicable, enforces) a legally binding written agreement from the other party to abide by certain requirements. First, a party to which the individual's debt is referred during the notification period must agree to refrain from engaging in ECAs against the individual until the hospital facility has made reasonable

efforts to determine whether the individual is FAP-eligible.

Second, if the individual submits a FAP application during the application period, the party must suspend any ECAs against the individual until the hospital facility has made reasonable efforts to determine whether the individual is FAP-eligible.

Third, if the individual submits a FAP application during the application period and the hospital facility determines that the individual is FAP-eligible, the party must adhere to procedures specified in the agreement that ensure that the FAP-eligible individual does not pay, and will have no obligation to pay, the party and hospital facility together more than he or she is required to pay as a FAP-eligible individual. If the party, rather than the hospital facility, has the authority to do so, the party must also take all reasonably available measures to reverse any ECA (with the exception of a sale of debt) taken against the individual to collect the debt at issue.

Fourth, if the party refers or sells the debt to yet another party during the application period, the party must obtain a written agreement from the other party to abide by the three previously-mentioned requirements.

The Treasury Department and the IRS request comments regarding the feasibility of a hospital facility imposing these requirements on the parties to which it sells or refers debt by means of a written agreement. In particular, comments are requested regarding how the regulations should balance the need to ensure that hospital facilities satisfy the requirements of section 501(r)(6) with the goal of avoiding unnecessary disruptions and inefficiencies in their billing processes.

v. Miscellaneous Issues

In order to ensure that individuals have sufficient opportunity to consider whether they might be eligible for assistance under the hospital facility's FAP, the proposed regulations also provide that a hospital facility will not have made reasonable efforts to determine whether an individual is FAP-eligible simply because it obtains a signed waiver from the individual. Thus, a signed statement that the individual does not wish to apply for assistance under the FAP or to receive certain notifications about the FAP will not constitute a determination of FAP-eligibility or satisfy the requirement to make reasonable efforts to determine FAP-eligibility before engaging in ECAs against the individual.

Finally, the proposed regulations provide that a hospital facility may print any written notice or communication described in this section 6 of the preamble, including any plain language summary of the FAP, on a billing statement or along with other descriptive or explanatory matter, as long as the required information is conspicuously placed and of sufficient size to be clearly readable.

Effective/Applicability Dates

Consistent with the statutory effective date, the proposed regulations provide that, except for the requirements of section 501(r)(3), section 501(r) applies to taxable years beginning after March 23, 2010. The requirements of section 501(r)(3) apply to taxable years beginning after March 23, 2012.

The regulations under section 501(r)(4) through 501(r)(6) are proposed to apply for taxable years beginning on or after the date these rules are published in the **Federal Register** as final or temporary regulations. Taxpayers may rely on these proposed regulations until final or temporary regulations are issued. The Treasury Department and the IRS invite comments on whether, and what type of, transitional relief may be necessary.

Availability of IRS Documents

IRS notices, revenue rulings, and revenue procedures cited in this preamble are made available by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to this proposed regulation. It is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that the regulations are consistent with the requirements imposed by statute and that the collection of information in the regulation that is subject to the Regulatory Flexibility Act will impose a minimal burden upon the affected organizations. Consistent with the statute, the regulations require hospital facilities to establish two written policies—a financial assistance policy (FAP) and an emergency medical care policy—but much of the work involved in putting such policies into writing need only be performed once. Moreover, while hospital facilities may need to periodically modify these policies to reflect changed circumstances, the proposed regulations attempt to minimize that ongoing burden by giving hospital facilities the option of providing certain information separately from the policy, as long as the policy explains how members of the public can readily obtain this information free of charge. In addition, as a general matter, the regulations describing how a hospital facility makes reasonable efforts to determine eligibility for assistance under its FAP and widely publicizes its FAP are designed to ensure that a hospital facility can meet these requirements by providing basic information about its FAP using pre-existing processes (such as the issuance of billing statements) and resources (such as its Web site and physician networks) in providing this information. Thus, the collection of information in this regulation that is subject to the Regulatory Flexibility Act will not impose a significant economic burden upon the affected organizations. Accordingly, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Code, this regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small entities.

Comments and Requests for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under the ''Addresses'' heading. The Treasury Department and the IRS request comments on all aspects of the proposed rules. All comments will be available at *www.regulations.gov* or upon request.

A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal authors of these proposed regulations are Preston J. Quesenberry and Amber L. Mackenzie, Office of the Chief Counsel (Tax-Exempt and Government Entities). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.501(r)–0 is added to read as follows:

§ 1.501(r)–0 Outline of regulations.

This section lists the table of contents for §§ 1.501(r)–1 through 1.501(r)–7.

§ 1.501(r)–1 Definitions

(a) Application.
(b) Definitions.
(1) Amounts generally billed (AGB).
(2) AGB percentage.
(3) Application period.
(4) Billing and collections policy.
(5) Completion deadline.
(6) Disregarded entity.
(7) Emergency medical care.
(8) Emergency medical conditions.
(9) Extraordinary collection action (ECA).
(10) Financial assistance policy (FAP).
(11) FAP application.
(12) FAP application form.
(13) FAP-eligible individual.
(14) Gross charges.
(15) Hospital facility.
(16) Hospital organization.
(17) Medicare fee-for-service.
(18) Notification period.
(19) Plain language summary.
(20) Primary payer.
(21) Private health insurer.
(22) Referring.

§ 1.501(r)–2 Failures to satisfy section 501(r) requirements. [Reserved]

§ 1.501(r)–3 Community health needs assessments. [Reserved]

§ 1.501(r)–4 Financial assistance policy and emergency medical care policy.

(a) In general.
(b) Financial assistance policy.
(1) In general.
(2) Eligibility criteria and basis for calculating amounts charged to patients.
(3) Method for applying for financial assistance.
(4) Actions that may be taken in the event of nonpayment.
(5) Widely publicizing the FAP.
(6) Readily obtainable information.
(c) Emergency medical care policy.
(1) In general.
(2) Interference with provision of emergency medical care.
(3) Relation to federal law governing emergency care.
(4) Examples.
(d) Establishing the FAP and other policies.
(1) In general.
(2) Authorized body.
(3) Implementing a policy.
(4) Establishing a policy for more than one hospital facility.

§ 1.501(r)–5 Limitation on charges.

(a) In general.
(b) Amounts generally billed.
(1) Look-back method.
(2) Prospective Medicare method.
(3) Examples.
(c) Gross charges.
(d) Safe harbor for certain charges in excess of AGB.

§ 1.501(r)–6 Billing and collection.

(a) In general.
(b) Extraordinary collection actions.
(c) Reasonable efforts.
(1) In general.
(2) Notification.
(3) Incomplete FAP applications.
(4) Complete FAP applications.
(5) Suspending ECAs while a FAP application is pending.
(6) Waiver does not constitute reasonable efforts.
(7) Agreements with other parties.
(8) Clear and conspicuous placement.

§ 1.501(r)–7 Effective/applicability dates.

(a) Statutory effective/applicability date.
(1) In general.
(2) Community health needs assessment.
(b) Effective/applicability date of regulations.

Par. 3. Section 1.501(r)–1 is added to read as follows:

§ 1.501(r)–1 Definitions.

(a) *Application.* The definitions set forth in this section apply to §§ 1.501(r)–2 through 1.501(r)–7.

(b) *Definitions*—(1) *Amounts generally billed* (*AGB*) means the amounts generally billed for emergency or other medically necessary care to individuals who have insurance covering such care, determined in accordance with § 1.501(r)–5(b).

(2) *AGB percentage* means a percentage of gross charges that a hospital facility uses under § 1.501(r)–5(b)(1) to determine the AGB for any emergency or other medically necessary care it provides to a FAP-eligible individual.

(3) *Application period* means the period during which a hospital facility must accept and process an application for assistance under its financial assistance policy (FAP) submitted by an individual in order to have made reasonable efforts to determine whether the individual is FAP-eligible. With respect to any care provided by a hospital facility to an individual, the application period begins on the date the care is provided to the individual and ends on the 240th day after the hospital facility provides the individual with the first billing statement for the care.

(4) *Billing and collections policy* means a written policy that includes all of the elements described in § 1.501(r)–4(b)(4).

(5) *Completion deadline* means the date after which a hospital facility may initiate or resume extraordinary collection actions against an individual who has submitted an incomplete FAP application if that individual has not provided the hospital facility with the missing information and/or documentation necessary to complete the application. The completion deadline must be specified in a written notice (as described in § 1.501(r)–6(c)(3)(i)(C)) and must be no earlier than the later of—

(i) 30 days after the hospital facility provides the individual with this written notice; or

(ii) The last day of the application period described in paragraph (b)(3) of this section.

(6) *Disregarded entity* means an entity that is generally disregarded as separate from its owner for federal tax purposes under § 301.7701–3 of this chapter. One example of a disregarded entity is a domestic single member limited liability company that does not elect to be classified as an association taxable as a corporation for federal tax purposes.

(7) *Emergency medical care* means care provided by a hospital facility for emergency medical conditions.

(8) *Emergency medical conditions* means emergency medical conditions as defined in section 1867 of the Social Security Act (42 U.S.C. 1395dd).

(9) *Extraordinary collection action* (*ECA*) means an action described in § 1.501(r)–6(b).

(10) *Financial assistance policy* (*FAP*) means a written policy that meets the requirements described in § 1.501(r)–4(b).

(11) *FAP application* means the information and accompanying documentation that a hospital facility requires an individual to submit to apply for financial assistance under the facility's FAP. A FAP application is considered complete if it contains information and documentation sufficient for the hospital facility to determine whether the applicant is FAP-eligible and incomplete if it does not contain such information and documentation.

(12) *FAP application form* means the application form (and any accompanying instructions) that a hospital facility requires an individual to submit as part of his or her FAP application.

(13) *FAP-eligible individual* means an individual eligible for financial assistance under a hospital facility's

FAP, without regard to whether the individual has applied for assistance under the FAP.

(14) *Gross charges,* or the *chargemaster rate,* means a hospital facility's full, established price for medical care that the hospital facility consistently and uniformly charges all patients before applying any contractual allowances, discounts, or deductions.

(15) *Hospital facility* means a facility that is required by a state to be licensed, registered, or similarly recognized as a hospital. Except as otherwise provided in published guidance, a hospital organization may treat multiple buildings operated under a single state license as a single hospital facility. For purposes of this paragraph (b)(15), the term ''state'' includes only the 50 states and the District of Columbia and not any U.S. territory or foreign country. References to a hospital facility taking actions include instances in which the hospital organization operating the hospital facility takes action through or on behalf of the hospital facility.

(16) *Hospital organization* means an organization recognized (or seeking to be recognized) as described in section 501(c)(3) that operates one or more hospital facilities, including a hospital facility operated through a disregarded entity.

(17) *Medicare fee-for-service* means health insurance available under Medicare Part A and Part B of Title XVIII of the Social Security Act.

(18) *Notification period* means the period during which a hospital facility must notify an individual about its FAP in accordance with § 1.501(r)–6(c)(2) in order to have made reasonable efforts to determine whether the individual is FAP-eligible. With respect to any care provided by a hospital facility to an individual, the notification period begins on the first date care is provided to the individual and ends on the 120th day after the hospital facility provides the individual with the first billing statement for the care.

(19) *Plain language summary* means a written statement that notifies an individual that the hospital facility offers financial assistance under a FAP and provides the following additional information in language that is clear, concise, and easy to understand—

(i) A brief description of the eligibility requirements and assistance offered under the FAP;

(ii) The direct Web site address (or URL) and physical location(s) (including a room number, if applicable) where the individual can obtain copies of the FAP and FAP application form;

(iii) Instructions on how the individual can obtain a free copy of the FAP and FAP application form by mail;

(iv) The contact information, including the telephone number(s) and physical location (including a room number, if applicable), of hospital facility staff who can provide an individual with information about the FAP and the FAP application process, as well as of the nonprofit organizations or government agencies, if any, that the hospital facility has identified as available sources of assistance with FAP applications;

(v) A statement of the availability of translations of the FAP, FAP application form, and plain language summary in other languages, if applicable; and

(vi) A statement that no FAP-eligible individual will be charged more for emergency or other medically necessary care than AGB.

(20) *Primary payer* means a health insurer (whether a private health insurer or a public payer such as Medicare) that pays first on a claim for medical care (usually after a deductible has been paid by the insured) up to the limits of the policy or program, regardless of other insurance coverage the insured may have. Primary payers are distinguished from secondary payers that pay second on a claim for medical care to the extent payment has not been made by the primary payer.

(21) *Private health insurer* means any organization that offers insurance for medical care that is not a governmental unit described in section 170(c)(1). For purposes of § 1.501(r)–5(b), claims paid under Medicare Advantage (Part C of Title XVIII of the Social Security Act) are treated as claims paid by a private health insurer.

(22) *Referring* an individual's debt to a debt collection agency or other party includes contracting with, delegating, or otherwise using the debt collection agency or other party to collect amounts owed by the individual to the hospital facility while still maintaining ownership of the debt.

Par. 4. Sections 1.501(r)–2 and 1.501(r)–3 are added and reserved to read as follows:

§ 1.501(r)–2 Failures to satisfy section 501(r) requirements. [Reserved].

§ 1.501(r)–3 Community health needs assessments. [Reserved].

Par. 5. Sections 1.501(r)–4, 1.501(r)–5, 1.501(r)–6, and 1.501(r)–7 are added to read as follows:

§ 1.501(r)–4 Financial assistance policy and emergency medical care policy.

(a) *In general.* A hospital organization meets the requirements of section 501(r)(4) with respect to a hospital facility it operates if the hospital organization establishes for that hospital facility—

(1) A written financial assistance policy (FAP) that meets the requirements described in paragraph (b) of this section; and

(2) A written emergency medical care policy that meets the requirements described in paragraph (c) of this section.

(b) *Financial assistance policy*—(1) *In general.* To satisfy paragraph (a)(1) of this section, a hospital facility's FAP must apply to all emergency and other medically necessary care provided by the hospital facility and include—

(i) Eligibility criteria for financial assistance and whether such assistance includes free or discounted care;

(ii) The basis for calculating amounts charged to patients;

(iii) The method for applying for financial assistance;

(iv) In the case of a hospital facility that does not have a separate billing and collections policy, the actions that may be taken in the event of nonpayment; and

(v) Measures to widely publicize the FAP within the community served by the hospital facility.

(2) *Eligibility criteria and basis for calculating amounts charged to patients*—(i) *In general.* To satisfy paragraphs (b)(1)(i) and (b)(1)(ii) of this section, the FAP must—

(A) Specify all financial assistance available under the FAP, including all discount(s) and free care and, if applicable, the amount(s) (for example, gross charges) to which any discount percentages will be applied;

(B) Specify all of the eligibility criteria that an individual must satisfy to receive each such discount, free care, or other level of assistance;

(C) State that following a determination of FAP-eligibility, a FAP-eligible individual will not be charged more for emergency or other medically necessary care than the amounts generally billed to individuals who have insurance covering such care (AGB);

(D) Describe which method under § 1.501(r)–5(b) the hospital facility uses to determine AGB; and

(E) If the hospital facility uses the look-back method described in § 1.501(r)–5(b)(1) to determine AGB, either state the hospital facility's AGB percentage(s) and describe how the hospital facility calculated such percentage(s) or explain how members of the public may readily obtain this information in writing and free of charge.

(ii) *Examples.* The following examples illustrate this paragraph (b)(2):

Example 1. Q is a hospital facility that establishes a FAP that provides assistance to all uninsured and underinsured individuals whose family income is less than or equal to x% of the Federal Poverty Level (FPL), with the level of discount for which an individual is eligible under Q's FAP determined based upon the individual's family income as a percentage of FPL. Q's FAP defines the meaning of ''uninsured,'' ''underinsured,'' ''family income,'' and ''Federal Poverty Level'' and specifies that all emergency and other medically necessary care provided by Q is covered under the FAP. Q's FAP also states that Q determines AGB by multiplying the gross charges for any emergency or other medically necessary care it provides to a FAP-eligible individual by 50 percent. The FAP states, further, that Q calculated the AGB percentage of 50 percent based on all claims paid in full to Q by Medicare and private health insurers and the individuals they insured over a specified 12-month period, divided by the associated gross charges for those claims. Q's FAP contains the following chart, specifying each discount available under the FAP, the amounts (gross charges) to which these discounts will be applied, and the specific eligibility criteria for each such discount:

Family income as % of FPL	Discount off of gross charges
>y%–x%	50%.
>z%–y%	75%.
≤z%	Free.

Q's FAP also contains a statement that no FAP-eligible individual will be charged more for emergency or other medically necessary care than AGB because Q's AGB percentage is 50 percent of gross charges and the most a FAP-eligible individual will be charged is 50 percent of gross charges. Q's FAP satisfies the requirements of this paragraph (b)(2).

Example 2. R is a hospital facility that establishes a FAP that provides assistance based on household income. R's FAP defines the meaning of ''household income'' and specifies that all emergency and other medically necessary care provided by R is covered under the FAP. R's FAP contains the following chart, specifying the assistance available under the FAP and the specific eligibility criteria for each level of assistance offered, which R updates occasionally to account for inflation:

Household income	Maximum amount individual will be responsible for paying
>$b–$a	40% of gross charges, up to the lesser of AGB or x% of annual household income.
>$c–$b	20% of gross charges, up to the lesser of AGB or y% of annual household income.
≤$c	$0 (free).

R's FAP contains a statement that no FAP-eligible individual will be charged more for emergency or other medically necessary care than AGB. R's FAP also states that R determines AGB by multiplying the gross charges for any emergency or other medically necessary care it provides by AGB percentages, which are based on claims paid under Medicare. In addition, the FAP provides a web address individuals can visit, and a telephone number they can call, if they would like to obtain an information sheet stating R's AGB percentages and explaining how these AGB percentages were calculated. This information sheet, which R makes available on its Web site and provides to any individual who requests it, states that R's AGB percentages are 35 percent of gross charges for inpatient care and 60 percent of gross charges for outpatient care. It also states that these percentages were based on all claims paid to R for emergency or other medically necessary inpatient and outpatient care by Medicare and Medicare beneficiaries over a specified 12-month period, divided by the associated gross charges for those claims. R's FAP satisfies the requirements of this paragraph (b)(2).

(3) *Method for applying for financial assistance*—(i) *In general.* To satisfy paragraph (b)(1)(iii) of this section, a hospital facility's FAP must describe how an individual applies for financial assistance under the FAP. In addition, either the hospital facility's FAP or FAP application form (including accompanying instructions) must describe the information and documentation the hospital facility may require an individual to submit as part of his or her FAP application and provide the contact information described in § 1.501(r)–1(b)(19)(iv). The hospital facility may not deny financial assistance under the FAP based on an applicant's failure to provide information or documentation that the hospital facility's FAP or FAP application form does not require an individual to submit as part of a FAP application.

(ii) *Example.* The following example illustrates this paragraph (b)(3):

Example. S is a hospital facility with a FAP that bases eligibility solely on an individual's household income. S's FAP provides that an individual may apply for financial assistance by completing and submitting S's FAP application form. S's FAP also describes how individuals can obtain copies of the FAP application form. S's FAP application form contains lines on which the applicant lists all items of household income received by the applicant's household over the last three months and the names of the applicant's household members. The instructions to S's FAP application form tell applicants where to submit the application and provide that an applicant must attach to his or her FAP application form proof of household income in the form of the applicant's most recent federal tax return, payroll check stubs from the last three months, documentation of the applicant's qualification for certain specified state means-tested programs, or other reliable evidence of the applicant's earned and unearned household income. S does not require FAP applicants to submit any information or documentation not mentioned in the FAP application form instructions. S's FAP application form instructions also provide the contact information of hospital facility staff who can provide an applicant with information about the FAP and FAP application process. S's FAP satisfies the requirements of this paragraph (b)(3).

(4) *Actions that may be taken in the event of nonpayment*—(i) *In general.* To satisfy paragraph (b)(1)(iv) of this section, either a hospital facility's FAP or a separate written billing and collections policy established by the hospital facility must describe—

(A) Any actions that the hospital facility (or other authorized party) may take relating to obtaining payment of a bill for medical care, including, but not limited to, any extraordinary collection actions described in § 1.501(r)–6(b);

(B) The process and time frames the hospital facility (or other authorized party) uses in taking the actions described in paragraph (b)(4)(i)(A) of this section, including, but not limited to, the reasonable efforts it will make to determine whether an individual is FAP-eligible before engaging in any extraordinary collection actions, as described in § 1.501(r)–6(c); and

(C) The office, department, committee, or other body with the final authority or responsibility for determining that the hospital facility has made reasonable efforts to determine whether an individual is FAP-eligible and may therefore engage in extraordinary collection actions against the individual.

(ii) *Separate billing and collections policy.* In the case of a hospital facility that satisfies paragraph (b)(1)(iv) of this section by establishing a separate written billing and collections policy, the hospital facility's FAP must state that the actions the hospital facility may take in the event of nonpayment are described in a separate billing and collections policy and explain how members of the public may readily obtain a free copy of this separate policy.

(5) *Widely publicizing the FAP*—(i) *In general.* To satisfy paragraph (b)(1)(v) of this section, a FAP must include, or explain how members of the public may readily obtain a free written description of, measures taken by the hospital facility to—

(A) Make the FAP, FAP application form, and a plain language summary of the FAP (as defined in § 1.501(r)–1(b)(19)) widely available on a Web site, as described in paragraph (b)(5)(iv) of this section;

(B) Make paper copies of the FAP, FAP application form, and plain language summary of the FAP available upon request and without charge, both in public locations in the hospital facility and by mail, in English and in the primary language of any populations with limited proficiency in English that constitute more than 10 percent of the residents of the community served by the hospital facility;

(C) Inform and notify visitors to the hospital facility about the FAP through conspicuous public displays or other measures reasonably calculated to attract visitors' attention; and

(D) Inform and notify residents of the community served by the hospital facility about the FAP in a manner reasonably calculated to reach those members of the community who are most likely to require financial assistance.

(ii) *Meaning of inform and notify.* For purposes of paragraphs (b)(5)(i)(C) and (b)(5)(i)(D) of this section, a measure will inform and notify visitors to a hospital facility or residents of a community about the hospital facility's FAP if the measure, at a minimum, notifies the reader or listener that the hospital facility offers financial assistance under a FAP and informs him or her about how or where to obtain more information about the FAP.

(iii) *Meaning of reasonably calculated.* Whether one or more measures to widely publicize a hospital facility's FAP are reasonably calculated to inform and notify visitors to a hospital facility or residents of a community about the hospital facility's FAP in the manner described in paragraphs (b)(5)(i)(C) and (b)(5)(i)(D) of this section will depend on all of the facts and circumstances, including the primary language(s) spoken by the residents of the community served by the hospital facility and other attributes of the community and the hospital facility.

(iv) *Widely available on a Web site.* For purposes of paragraph (b)(5)(i)(A) of this section, a hospital facility makes its FAP, FAP application form, and plain language summary of the FAP widely available on a Web site only if—

(A) The hospital facility conspicuously posts complete and current versions of these documents in English and in the primary language of any populations with limited proficiency in English that constitute more than 10 percent of the residents of the community served by the hospital facility on—

(*1*) The hospital facility's Web site;

(*2*) If the hospital facility does not have its own Web site separate from the hospital organization that operates it, the hospital organization's Web site; or

(*3*) A Web site established and maintained by another entity, but only if the Web site of the hospital facility or hospital organization (if the facility or organization has a Web site) provides a conspicuously-displayed link to the web page on which the document is posted, along with clear instructions for accessing the document on that Web site;

(B) Any individual with access to the Internet can access, download, view, and print a hard copy of these documents without requiring special computer hardware or software (other than software that is readily available to members of the public without payment of any fee) and without payment of a fee to the hospital facility, hospital organization, or other entity maintaining the Web site; and

(C) The hospital facility provides any individual who asks how to access a copy of the FAP, FAP application form, or plain language summary of the FAP online with the direct Web site address, or URL, of the web page on which these documents are posted.

(v) *Limited English proficient populations.* For purposes of paragraphs (b)(5)(i)(B) and (b)(5)(iv)(A) of this section, a hospital facility may determine whether any language minority with limited proficiency in English constitutes more than 10 percent of the residents of the community served by the hospital facility based on the latest data available from the U.S. Census Bureau or other similarly reliable data.

(vi) *Examples.* The following examples illustrate this paragraph (b)(5):

Example 1. (i) Z is a hospital facility whose FAP states that Z will make its FAP, FAP application form, and a plain language summary of its FAP widely available through its Web site. In accordance with its FAP, the home page and main billing page of Z's Web site conspicuously display the following message: ''Need help paying your bill? You may be eligible for financial assistance. Click *here* for more information.'' When readers click on the link, they are taken to a web page that explains the various discounts available under Z's FAP and the specific eligibility criteria for each such discount. This web page also provides a telephone number and room number of Z that individuals can call or visit for more information about the FAP, as well as the name and contact information of a few nonprofit organizations and government agencies that Z has identified as capable and available sources of assistance with FAP applications. In addition, the web page contains prominently-displayed links that allow readers to download PDF files of the FAP and the FAP application form, free of charge. Z provides any individual who asks how to access a copy of the FAP, FAP application form, or plain language summary of the FAP online with the URL of this web page. Z's FAP includes measures to make the FAP widely available on a Web site within the meaning of paragraph (b)(5)(i)(A) of this section.

(ii) Z's FAP also states that Z will make paper copies of the FAP, FAP application form, and plain language summary of the FAP available upon request and without charge, both by mail and in its billing office, admissions and registrations areas, and emergency room, and will inform and notify visitors to the hospital facility about the FAP in these same locations using signs and brochures. In accordance with its FAP, Z conspicuously displays a sign in large font regarding the FAP in its billing office, admissions and registrations areas, and emergency room. The sign says: ''Uninsured? Having trouble paying your hospital bill? You may be eligible for financial assistance.'' The sign also provides the URL of the Web page where Z's FAP and FAP application form can be accessed. In addition, the sign provides a telephone number and room number of Z that individuals can call or visit with questions about the FAP or the FAP application process. Underneath each sign, Z conspicuously displays copies of a brochure that contains all of the information required to be included in a plain language summary of the FAP (as defined in § 1.501(r)–1(b)(19)). Z makes these brochures available in quantities sufficient to meet visitor demand. Z also makes paper copies of its FAP and FAP application form available upon request and without charge in these same locations and by mail. Z's FAP includes measures to widely publicize the FAP within the meaning of paragraphs (b)(5)(i)(B) and (b)(5)(i)(C) of this section.

(iii) In addition, Z's FAP states that Z will inform and notify members of the community served by the hospital facility about the FAP through its quarterly newsletter and by distributing copies of its FAP brochures to physicians and local nonprofit organizations and public agencies that address the health needs of low-income people. In accordance with its FAP, Z distributes copies of the brochure and its FAP application form to all of its referring staff physicians and to the community health centers serving its community. Z also distributes copies of these documents to the local health department and to numerous public agencies and nonprofit organizations in its community that address the health issues and other needs of low-income populations, in quantities

sufficient to meet demand. In addition, every issue of the quarterly newsletter that Z mails to the individuals in its customer database contains a prominently-displayed advertisement informing readers that Z offers financial assistance and that people having trouble paying their hospital bills may be eligible for financial assistance. The advertisement also provides readers with the URL of the Web page where Z's FAP and FAP application form can be accessed and a telephone number and room number of Z that individuals can call or visit with questions about the FAP or the FAP application process. Z's FAP includes measures to widely publicize its FAP within the meaning of paragraph (b)(5)(i)(D) of this section.

(iv) Because Z's FAP includes measures to widely publicize the FAP described in paragraphs (b)(5)(i)(A), (b)(5)(i)(B), (b)(5)(i)(C), and (b)(5)(i)(D) of this section, Z's FAP meets the requirements of this paragraph (b)(5).

Example 2. Assume the same facts as *Example 1,* except that Z serves a community in which 11 percent of the residents speak Spanish and have limited proficiency in English. Z's FAP states that Z will provide all of the information described in *Example 1,* including the FAP itself, in both Spanish and English. In accordance with its FAP, Z translates its FAP, FAP application form, and FAP brochure (which constitutes a plain language summary of the FAP) into Spanish, and displays and distributes Spanish versions of these documents in its hospital facility and in the Spanish-speaking portions of the community it serves, using all of the measures described in *Example 1.* Moreover, the home page and main billing page of Z's Web site conspicuously display an ''¿Habla Español?'' link that takes readers to a Web page that summarizes the FAP in Spanish and contains links that allow readers to download PDF files of the Spanish versions of the FAP and FAP application form, free of charge. Z's FAP meets the requirements of this paragraph (b)(5) by including measures to widely publicize the FAP within the community served by Z.

Example 3. Assume the same facts as *Example 1,* except that instead of including generalized summaries of the measures Z will take to widely publicize its FAP in the FAP itself, Z's FAP states that a task force established by Z with control over a set budget will meet at least annually to develop and adopt a plan to widely publicize Z's FAP. The FAP further states that the task force will summarize this plan in a one-page information sheet that will be made available upon request in Z's billing office and posted on the Web page through which Z makes its FAP and FAP application form widely available. In year 1, the task force considers the needs of Z's patients and the surrounding community and adopts and implements a plan to take all of the measures described in *Example 1.* The task force prepares a one-page information sheet summarizing this plan that is made available as described in the FAP. Z's FAP meets the requirements of this paragraph (b)(5) in year 1 by including measures to widely publicize the FAP within the community served by Z.

(6) *Readily obtainable information.* For purposes of this paragraph (b), members of the public may readily obtain information if a hospital facility makes the information available free of charge both on a Web site and in writing upon request in a manner similar to that described in paragraphs (b)(5)(i)(A) and (b)(5)(i)(B) of this section.

(c) *Emergency medical care policy*—(1) *In general.* To satisfy paragraph (a)(2) of this section, a hospital facility must establish a written policy that requires the hospital facility to provide, without discrimination, care for emergency medical conditions to individuals regardless of whether they are FAP-eligible.

(2) *Interference with provision of emergency medical care.* A hospital facility's emergency medical care policy will not be described in paragraph (c)(1) of this section unless it prohibits the hospital facility from engaging in actions that discourage individuals from seeking emergency medical care, such as by demanding that emergency department patients pay before receiving treatment for emergency medical conditions or by permitting debt collection activities in the emergency department or in other areas of the hospital facility where such activities could interfere with the provision, without discrimination, of emergency medical care.

(3) *Relation to federal law governing emergency medical care.* Subject to paragraph (c)(2) of this section, a hospital facility's emergency medical care policy will be described in paragraph (c)(1) of this section if it requires the hospital facility to provide the care for emergency medical conditions that the hospital facility is required to provide under Subchapter G of Chapter IV of Title 42 of the Code of Federal Regulations (or any successor regulations).

(4) *Examples.* The following examples illustrate this paragraph (c):

Example 1. F is a hospital facility with a dedicated emergency department that is subject to the Emergency Medical Treatment and Labor Act (EMTALA) and is not a critical access hospital. F establishes a written emergency medical care policy requiring F to comply with EMTALA by providing medical screening examinations and stabilizing treatment and referring or transferring an individual to another facility, when appropriate, and to provide emergency services in accordance with 42 CFR 482.55 (or any successor regulation). F's emergency medical care policy also states that F prohibits any actions that would discourage individuals from seeking emergency medical care, such as by demanding that emergency department patients pay before receiving treatment for emergency medical conditions or permitting debt collection activities in the emergency department or in other areas of the hospital facility where such activities could interfere with the provision, without discrimination, of emergency medical care. F's emergency medical care policy is described in paragraph (c)(1) of this section.

Example 2. G is a rehabilitation hospital facility. G does not have a dedicated emergency department, nor does it have specialized capabilities that would make it appropriate to accept transfers of individuals who need stabilizing treatment for an emergency medical condition. G establishes a written emergency medical care policy that addresses how it appraises emergencies, provides initial treatment, and refers or transfers an individual to another facility, when appropriate, in a manner that complies with 42 CFR 482.12(f)(2) (or any successor regulation). G's emergency medical care policy also states that G prohibits any actions that would discourage individuals from seeking emergency medical care, such as by permitting debt collection activities in any areas of the hospital facility where such activities could interfere with the provision, without discrimination, of emergency medical care. G's emergency medical care policy is described in paragraph (c)(1) of this section.

(d) *Establishing the FAP and other policies*—(1) *In general.* A hospital organization has established a FAP, a billing and collections policy, or an emergency medical care policy for a hospital facility only if an authorized body of the hospital organization has adopted the policy for the hospital facility and the hospital facility has implemented the policy.

(2) *Authorized body.* For purposes of this paragraph (d), an authorized body of a hospital organization means—

(i) The governing body (that is, the board of directors, board of trustees, or equivalent controlling body) of the hospital organization;

(ii) A committee of the governing body, which may be composed of any individuals permitted under state law to serve on such a committee, to the extent that the committee is permitted by state law to act on behalf of the governing body;

(iii) To the extent permitted under state law, other parties authorized by the governing body of the hospital organization to act on its behalf; or

(iv) In the case of a hospital facility (operated by the hospital organization) that has its own governing body and is recognized as an entity under state law but is a disregarded entity for federal tax purposes, the governing body of that disregarded entity (or a committee of or other parties authorized by that governing body as described in paragraphs (d)(2)(ii) or (d)(2)(iii) of this section).

(3) *Implementing a policy.* For purposes of this paragraph (d), a

hospital facility has implemented a policy if the hospital facility has consistently carried out the policy.

(4) *Establishing a policy for more than one hospital facility.* Although a hospital organization operating more than one hospital facility must separately establish a FAP and emergency medical care policy for each hospital facility it operates, such policies may contain the same operative terms. However, different AGB percentages and methods of determining AGB and the unique attributes of the communities that different hospital facilities serve may require the hospital facilities to include in their FAPs (or otherwise make available) different information regarding AGB and different measures to widely publicize the FAP in order to meet the requirements of paragraphs (b)(2) and/or (b)(5) of this section.

§ 1.501(r)–5 Limitation on charges.

(a) *In general.* A hospital organization meets the requirements of section 501(r)(5) with respect to a hospital facility it operates if the hospital facility limits the amount charged for care it provides to any individual who is eligible for assistance under its financial assistance policy (FAP) to—

(1) In the case of emergency or other medically necessary care, not more than the amounts generally billed to individuals who have insurance covering such care (AGB), as determined under paragraph (b) of this section; and

(2) In the case of all other medical care, less than the gross charges for such care, as described in paragraph (c) of this section.

(b) *Amounts generally billed.* In order to meet the requirements of paragraph (b)(1) of this section, a hospital facility must determine AGB for emergency or other medically necessary care using a method described in either paragraph (b)(1) or (b)(2) of this section. A hospital facility may use only one of these methods to determine AGB. After choosing a particular method, a hospital facility must continue to use that method.

(1) *Look-back method*—(i) *In general.* A hospital facility may determine AGB for any emergency or other medically necessary care it provides to a FAP-eligible individual by multiplying the hospital facility's gross charges for the care provided to the individual by one or more percentages of gross charges (AGB percentages). The hospital facility must calculate its AGB percentage(s) at least annually by dividing the sum of all claims for emergency and other medically necessary care described in either paragraph (b)(1)(i)(A) or (b)(1)(i)(B) of this section that have been paid in full to the hospital facility during a prior 12-month period by the sum of the associated gross charges for those claims:

(A) Claims paid by Medicare fee-for-service as the primary payer, including any associated portions of the claims paid by Medicare beneficiaries in the form of co-insurance or deductibles; or

(B) Claims paid by both Medicare fee-for-service and all private health insurers as primary payers, together with any associated portions of these claims paid by Medicare beneficiaries or insured individuals in the form of co-payments, co-insurance, or deductibles.

(ii) *One or multiple AGB percentages.* A hospital facility's AGB percentage that is calculated using the method described in this paragraph (b)(1) may be one average percentage of gross charges for all emergency and other medically necessary care provided by the hospital facility. Alternatively, a hospital facility may calculate multiple AGB percentages for separate categories of care (such as inpatient and outpatient care or care provided by different departments) or for separate items or services, as long as the hospital facility calculates AGB percentages for all emergency and other medically necessary care provided by the hospital facility.

(iii) *Start date for applying AGB percentages.* For purposes of determining AGB under this paragraph (b)(1), with respect to any AGB percentage that a hospital facility has calculated, the hospital facility must begin applying the AGB percentage by the 45th day after the end of the 12-month period the hospital facility used in calculating the AGB percentage.

(2) *Prospective Medicare method.* As an alternative to the method described in paragraph (b)(1) of this section, a hospital facility may determine AGB for any emergency or other medically necessary care provided to a FAP-eligible individual by using the billing and coding process the hospital facility would use if the FAP-eligible individual were a Medicare fee-for-service beneficiary and setting AGB for the care at the amount the hospital facility determines would be the amount Medicare and the Medicare beneficiary together would be expected to pay for the care.

(3) *Examples.* The following examples illustrate this paragraph (b):

Example 1. On January 15 of year 1, Y, a hospital facility, generates data on all claims paid to it in full for emergency or other medically necessary care by all private health insurers and Medicare fee-for-service as primary payers over the immediately preceding calendar year. Y determines that it received a total of $360 million on these claims from the private health insurers and Medicare and another $40 million from their insured patients and Medicare beneficiaries in the form of deductibles, co-insurance, and co-payments. Y's gross charges for these claims totaled $800 million. Y calculates that its AGB percentage is 50 percent of gross charges ($400 million/$800 million × 100). Y determines AGB for any emergency or other medically necessary care it provides to a FAP-eligible individual between February 1 of year 1 (less than 45 days after the end of the 12-month claim period) and January 31 of year 2 by multiplying the gross charges for the care provided to the individual by 50%. Y has determined AGB in accordance with this paragraph (b).

Example 2. On September 20 of year 1, X, a hospital facility, generates data on all claims paid to it in full for emergency or other medically necessary care by Medicare fee-for-service as the primary payer over the 12 months ending on August 31 of year 1. X determines that, of these claims for inpatient services, it received a total of $80 million from Medicare and another $20 million from Medicare beneficiaries in the form of co-insurance or deductibles. X's gross charges for these inpatient claims totaled $250 million. Of the claims for outpatient services, X received a total of $100 million from Medicare and another $25 million from Medicare beneficiaries. X's gross charges for these outpatient claims totaled $200 million. X calculates that its AGB percentage for inpatient services is 40 percent of gross charges ($100 million/$250 million × 100) and its AGB percentage for outpatient services is 62.5 percent of gross charges ($125 million/$200 million × 100). Between October 15 of year 1 (45 days after the end of the 12-month claim period) and October 14 of year 2, X determines AGB for any emergency or other medically necessary inpatient care it provides to a FAP-eligible individual by multiplying the gross charges for the inpatient care it provides to the individual by 40% and AGB for any emergency or other medically necessary outpatient care it provides to a FAP-eligible individual by multiplying the gross charges for the outpatient care it provides to the individual by 62.5%. X has determined AGB in accordance with this paragraph (b).

Example 3. Z is a hospital facility. Whenever Z provides emergency or other medically necessary care to a FAP-eligible individual, Z determines the AGB for the care by using the billing and coding process it would use if the individual were a Medicare fee-for-service beneficiary and setting AGB for the care at the amount it determines Medicare and the Medicare beneficiary together would be expected to pay for the care. Z determines AGB in accordance with this paragraph (b).

(c) *Gross charges.* A hospital facility must charge a FAP-eligible individual less than the gross charges for any medical care provided to that individual. However, a billing statement issued to a FAP-eligible individual for

medical care provided by a hospital facility may state the gross charges for such care as the starting point to which various contractual allowances, discounts, or deductions are applied, as long as the actual amount the individual is expected to pay is less than the gross charges for such care.

(d) *Safe harbor for certain charges in excess of AGB.* A hospital facility will be deemed to meet the requirements of paragraph (a) of this section, even if it charges more than AGB for emergency or other medically necessary care (or gross charges for any medical care) provided to a FAP-eligible individual if—

(1) The FAP-eligible individual has not submitted a complete FAP application to the hospital facility as of the time of the charge; and

(2) The hospital facility has made and continues to make reasonable efforts to determine whether the individual is FAP-eligible, as described in § 1.501(r)–6(c), during the applicable time periods described in that section (including by correcting the amount charged if the individual is subsequently found to be FAP-eligible).

§ 1.501(r)–6 Billing and collection.

(a) *In general.* A hospital organization meets the requirements of section 501(r)(6) with respect to a hospital facility it operates if the hospital facility does not engage in extraordinary collection actions (ECAs), as defined in paragraph (b) of this section, against an individual before the hospital facility has, consistent with paragraph (c) of this section, made reasonable efforts to determine whether the individual is eligible for assistance under its financial assistance policy (FAP). For purposes of this section, with respect to any debt owed by an individual for care provided by a hospital facility—

(1) ECAs against the individual include ECAs against any other individual who has accepted or is required to accept responsibility for the individual's hospital bills; and

(2) The hospital facility will be deemed to have engaged in an ECA against the individual if any purchaser of the individual's debt or any debt collection agency or other party to which the hospital facility has referred the individual's debt has engaged in an ECA against the individual.

(b) *Extraordinary collection actions.* ECAs are actions taken by a hospital facility against an individual related to obtaining payment of a bill for care covered under the hospital facility's FAP that require a legal or judicial process or involve selling an individuals' debt to another party or reporting adverse information about the individual to consumer credit reporting agencies or credit bureaus. For purposes of this paragraph (b), actions that require a legal or judicial process include, but are not limited to, actions to—

(1) Place a lien on an individual's property;

(2) Foreclose on an individual's real property;

(3) Attach or seize an individual's bank account or any other personal property;

(4) Commence a civil action against an individual;

(5) Cause an individual's arrest;

(6) Cause an individual to be subject to a writ of body attachment; and

(7) Garnish an individual's wages.

(c) *Reasonable efforts*—(1) *In general.* With respect to any care provided by a hospital facility to an individual, the hospital facility will have made reasonable efforts to determine whether the individual is FAP-eligible only if the hospital facility—

(i) Notifies the individual about its FAP during the notification period (as defined in § 1.501(r)–1(b)(18)), as described in paragraph (c)(2) of this section;

(ii) In the case of an individual who submits an incomplete FAP application during the application period (as defined in § 1.501(r)–1(b)(3)), meets the requirements described in paragraph (c)(3) of this section; and

(iii) In the case of an individual who submits a complete FAP application during the application period, meets the requirements described in paragraph (c)(4) of this section.

(2) *Notification*—(i) *In general.* Except as provided in paragraph (c)(2)(ii) of this section, with respect to any care provided by a hospital facility to an individual, a hospital facility will have notified the individual about its FAP for purposes of paragraph (c)(1)(i) of this section only if the hospital facility—

(A) Distributes a plain language summary of the FAP (as defined in § 1.501(r)–1(b)(19)) and offers a FAP application form to the individual before discharge from the hospital facility;

(B) Includes a plain language summary of the FAP with all (and at least three) billing statements for the care and all other written communications regarding the bill provided to the individual during the notification period;

(C) Informs the individual about the FAP in all oral communications with the individual regarding the amount due for the care that occur during the notification period; and

(D) Provides the individual with at least one written notice that—

(*1*) Informs the individual about the ECAs the hospital facility or other authorized party may take if the individual does not submit a FAP application or pay the amount due by a deadline (specified in the notice) that is no earlier than the last day of the notification period; and

(*2*) Is provided to the individual at least 30 days before the deadline specified in the written notice.

(ii) *Notification when FAP application is submitted.* If an individual submits a complete or incomplete FAP application to a hospital facility during the application period, the hospital facility will be deemed to have notified the individual about its FAP for purposes of paragraph (c)(1)(i) of this section as of the day the application is submitted. However, to have made reasonable efforts to determine whether such an individual is FAP-eligible, the hospital facility must meet the requirements of paragraphs (c)(3) and (c)(4) of this section, as applicable.

(iii) *When no FAP application is submitted.* If an individual fails to submit a FAP application during the notification period (or, if later, by the deadline specified in the written notice described in paragraph (c)(2)(i)(D) of this section) and the hospital facility has notified (and documented that it has notified) the individual as described in paragraph (c)(2)(i) of this section, the hospital facility will have satisfied paragraph (c)(1)(i) of this section. Until and unless the individual subsequently submits a FAP application during the remainder of the application period, paragraphs (c)(1)(ii) and (c)(1)(iii) do not apply. As a result, the hospital facility will have made reasonable efforts to determine whether the individual is FAP-eligible and may engage in one or more ECAs against the individual.

(iv) *Example.* The following example illustrates this paragraph (c)(2):

Example. Individual A receives care from hospital facility T on February 1 and February 2. When A is discharged from T on February 2, T gives A its FAP application form and a plain language summary of its FAP. On March 1, April 15, and May 30, T sends A billing statements that include a one-page insert that provides a plain language summary of the FAP. With the May 30 billing statement, T also includes a letter that informs A that if she does not pay the amount owed or submit a FAP application form by June 29 (120 days after the first billing statement was provided on March 1), T may report A's delinquency to credit reporting agencies, seek to obtain a judgment against A, and, if such a judgment is obtained, seek to attach and seize A's bank account or other personal property, which

are the only ECAs that T (or any party to which T refers A's debt) may take in accordance with T's billing and collections policy. T does not have any other written or oral communications with A about her bill before June 29. T keeps electronic records showing that it provided a plain language summary and FAP application to A on discharge and included the letter regarding ECAs and the plain language summaries with the billing statements sent to A. A does not submit a FAP application form by June 29. T has made reasonable efforts to determine whether A is FAP-eligible, and thus may engage in ECAs against A, as of June 30.

(3) *Incomplete FAP applications*—(i) *In general.* With respect to any care provided by a hospital facility to an individual, if the individual submits an incomplete FAP application during the application period, the hospital facility will have made reasonable efforts to determine whether the individual is FAP-eligible only if the hospital facility—

(A) Suspends any ECAs against the individual as described in paragraph (c)(5) of this section;

(B) Provides the individual with a written notice that describes the additional information and/or documentation required under the FAP or FAP application form that the individual must submit to the hospital facility to complete his or her FAP application and includes a plain language summary of the FAP with this notice; and

(C) Provides the individual with at least one written notice that—

(*1*) Informs the individual about the ECAs the hospital facility or other authorized party may initiate or resume if the individual does not complete the FAP application or pay the amount due by a completion deadline (specified in the notice) that is no earlier than the later of the last day of the application period or 30 days after the hospital facility provides the individual with the written notice; and

(*2*) Is provided to the individual at least 30 days before the completion deadline.

(ii) *FAP application completed by the completion deadline.* If an individual who has submitted an incomplete FAP application during the application period completes the FAP application by the completion deadline, the individual will be considered to have submitted a complete FAP application during the application period, and the hospital facility will therefore only have made reasonable efforts to determine whether the individual is FAP-eligible if it meets the requirements for complete FAP applications described in paragraph (c)(4) of this section.

(iii) *FAP application not completed by the completion deadline.* If an individual who submits an incomplete FAP application to a hospital facility during the application period fails to complete the FAP application by the completion deadline and the hospital facility has met the requirements described in paragraph (c)(3)(i) of this section, the hospital facility will have made reasonable efforts to determine whether the individual is FAP-eligible and may initiate or resume ECAs against the individual after the completion deadline.

(iv) *Examples.* The following examples illustrate this paragraph (c)(3):

Example 1. (i) Assume the same facts as the example in paragraph (c)(2)(iv) of this section and the following additional facts: A submits an incomplete FAP application to T on October 13, two weeks before the last day of the application period on October 27 (240 days after the first billing statement was provided on March 1). Eligibility for assistance under T's FAP is based solely on an individual's family income and the instructions to T's FAP application form require applicants to attach certain documentation verifying family income to their application forms. The FAP application form that A submits to T on October 13 includes all of the required income information, but A fails to attach the required documentation verifying her family income. After receiving A's incomplete FAP application on October 13, T does not initiate any new ECAs against A and does not take any further action on the ECAs T previously initiated against A. On October 15, a member of T's staff calls A to inform her that she failed to attach any of the required documentation of her family income and explain what kind of documentation A needs to submit and how she can submit it. On October 16, T sends a letter to A explaining the kind of documentation of family income that A must provide to T to complete her application and informing A about the ECAs that T (or any other authorized party) may initiate or resume against A if A does not submit the missing documentation or pay the amount due by November 15 (30 days after October 16). T includes a plain language summary of the FAP with the letter. T has met the requirements of this paragraph (c)(3).

(ii) On November 15, A provides T with the missing documentation. Because A provides the missing documentation by the completion deadline, she has submitted a complete FAP application during the application period. As a result, to have made reasonable efforts to determine whether A is FAP-eligible, T must assess the documentation to determine whether A is FAP-eligible and otherwise meet the requirements for complete FAP applications described in paragraph (c)(4) of this section.

Example 2. Individual B receives care from hospital facility U on January 10. U has established a FAP that provides assistance to all individuals whose household income is less than $y, and the instructions to U's FAP application form specify the documentation that applicants must provide to verify their household income. Upon discharge, U's staff gives B a plain language summary of the FAP and a copy of its FAP application form. On January 20, B submits a FAP application form to U indicating that he has household income of less than $y. The FAP application form includes all of the required income information, but B fails to attach the required documentation verifying household income. On February 1, U sends B the first billing statement for the care and includes with the statement another plain language summary of the FAP. U also includes with the billing statement a letter informing B that the income information he provided on his FAP application form indicates that he may be eligible to pay only x% of the amount stated on the billing statement if he can provide documentation that verifies his household income. In addition, this letter describes the type of documentation (also described in the instructions to U's FAP application form) that B needs to provide to complete his FAP application. By August 30, B has not provided the missing documentation. U sends B a written notice on August 30 informing him about the ECAs U (or any other authorized party) may initiate against B if B does not submit the missing documentation or pay the amount due by September 29 (240 days after the first billing statement was provided on February 1 and the last day of the application period). B fails to provide the missing documentation by September 29. U has made reasonable efforts to determine whether B is FAP-eligible, and thus many engage in ECAs against B, as of September 30.

(4) *Complete FAP applications*—(i) *In general.* With respect to any care provided by a hospital facility to an individual, if the individual submits a complete FAP application during the application period, the hospital facility will have made reasonable efforts to determine whether the individual is FAP-eligible only if the hospital facility does the following in a timely manner—

(A) Suspends any ECAs against the individual as described in paragraph (c)(5) of this section;

(B) Makes and documents a determination as to whether the individual is FAP-eligible;

(C) Notifies the individual in writing of the eligibility determination (including, if applicable, the assistance for which the individual is eligible) and the basis for this determination;

(D) If the hospital facility determines the individual is FAP-eligible, does the following—

(*1*) Provides the individual with a billing statement that indicates the amount the individual owes as a FAP-eligible individual and shows, or describes how the individual can get information regarding, the AGB for the care and how the hospital facility determined the amount the individual owes as a FAP-eligible individual;

(*2*) If the individual has made payments to the hospital facility (or any other party) for the care in excess of the amount he or she is determined to owe as a FAP-eligible individual, refunds those excess payments; and

(*3*) Takes all reasonably available measures to reverse any ECA (with the exception of a sale of debt) taken against the individual to collect the debt at issue; such reasonably available measures generally include, but are not limited to, measures to vacate any judgment against the individual, lift any lien or levy on the individual's property, and remove from the individual's credit report any adverse information that was reported to a consumer reporting agency or credit bureau.

(ii) *Determination based on complete FAP applications.* If a hospital facility has met the requirements described in paragraph (c)(4)(i) of this section and not violated the anti-abuse rule described in paragraph (c)(4)(iii) of this section, the hospital facility has made reasonable efforts to determine whether the individual is FAP-eligible and may initiate or resume ECAs against the individual. To have made reasonable efforts to determine the FAP-eligibility of an individual who has submitted a complete FAP application during the application period, the hospital facility must meet the requirements described in this paragraph (c)(4) regardless of whether the hospital facility has previously made such reasonable efforts under paragraphs (c)(2)(iii) or (c)(3)(iii) of this section.

(iii) *Anti-abuse rule for complete FAP applications.* A hospital facility will not have made reasonable efforts to determine whether an individual is FAP-eligible if the hospital facility bases its determination that the individual is not FAP-eligible on information that the hospital facility has reason to believe is unreliable or incorrect or on information obtained from the individual under duress or through the use of coercive practices. For purposes of this paragraph (c)(4)(iii), a coercive practice includes delaying or denying emergency medical care to an individual until the individual has provided the requested information.

(iv) *Presumptive eligibility permitted.* A hospital facility will have made reasonable efforts to determine whether an individual is FAP-eligible if the hospital facility determines that the individual is eligible for the most generous assistance (including free care) available under the FAP based on information other than that provided by the individual as part of a complete FAP application and the hospital facility meets the requirements described in paragraph (c)(4)(i) of this section.

(v) *Examples.* The following examples illustrate this paragraph (c)(4):

Example 1. V is a hospital facility with a FAP under which the specific assistance for which an individual is eligible depends exclusively upon that individual's household income. The most generous assistance offered for care under V's FAP is 90 percent off of gross charges up to a maximum amount due of $1,000. On March 3, D, an individual, receives care from V, the gross charges for which are $500. Although D does not submit a FAP application to V, V learns that D is eligible for certain benefits under a state program that bases eligibility on household income. Based on this knowledge, V determines that D is eligible under V's FAP to receive the most generous assistance under the FAP, resulting in D owing $50 (90 percent off of the $500 in gross charges) for the March 3 care. V documents this determination, and, on March 21, sends D a billing statement that informs him that V determined he was eligible for the 90% discount based on his eligibility for the benefits under the state program and the fact that his bill, after the discount, was not more than $1,000. This billing statement indicates an amount owed of $50, shows that V arrived at $50 by applying a 90 percent discount to the gross charges for the care, and provides a telephone number D can call to obtain the AGB for the care he received. V has made reasonable efforts to determine whether D is FAP-eligible as of March 21.

Example 2. Individual C receives care from hospital facility W on September 1. W has established a FAP that provides assistance only to individuals whose family income is less than or equal to x% of the Federal Poverty Level (FPL), which, in the case of C's family size, is $y. Upon discharge, W's staff gives C a plain language summary of the FAP and a FAP application form and informs C that if she needs assistance in filling out the form, W has a social worker on staff who can assist her. C expresses interest in getting assistance with a FAP application while she is still on site and is directed to K, one of W's social workers. K explains the eligibility criteria in W's FAP to C, and C realizes that to determine her family income as a percentage of FPL she needs to look at her prior year's tax returns. On September 20, after returning home and obtaining the necessary information, C submits a FAP application to W that contains all of the information and documentation required in the FAP application form instructions. W's staff promptly examines C's FAP application and, based on the information and documentation therein, determines that C's family income is well in excess of $y. On October 1, W sends C her first billing statement for the care she received on September 1. With the billing statement, W includes a letter informing C that she is not eligible for financial assistance because her FAP application indicates that she has family income in excess of x% of FPL ($y for a family the size of C's family) and W only provides financial assistance to individuals with family income that is less than x% of FPL. W has made reasonable efforts to determine whether C is FAP-eligible as of October 1.

Example 3. E, an individual, receives care from P, a hospital facility, in February. P provides E with the first billing statement for the care on March 1. P notifies E about its FAP as described in paragraph (c)(2)(i) of this section, but E fails to submit a FAP application by P's specified deadline of June 30 (120 days after the initial March 1 billing statement and the last day of the notification period). In September, P seeks and obtains a judgment against E, in which the court determines that E owes P $1,200 for the care P provided and states that E has 30 days to pay this amount. E does not pay any of the $1,200 in 30 days. By October 20, P has seized E's bank account and obtained a total of $450 in funds from the account. E submits a complete FAP application to P on October 20, before the last day of the application period on October 27 (240 days after the initial March 1 billing statement). Upon receiving this application, P does not seize any additional funds from E's bank account and also does not initiate any additional ECAs against E. P promptly examines the application and determines that E is eligible under P's FAP to receive a discount that results in E only owing $150 for the care she received. P also determines that the AGB for the care is $500. P documents this determination, seeks to vacate the judgment against E, lifts the levy on E's bank account, and sends E a letter that informs her about the FAP discount for which she is eligible and explains the basis for this eligibility determination. P includes with this letter a check for $300 (the $450 that P seized from E's bank account minus the $150 that E owes as a FAP-eligible individual) and a billing statement that indicates a $300 refund, shows how P applied the FAP discount for which E is eligible to arrive at an amount owed of $150, and states that the AGB for the care is $500. P has made reasonable efforts to determine whether E is FAP-eligible.

Example 4. R, a hospital facility, has established a FAP that provides financial assistance only to individuals whose family income is less than or equal to x% of the Federal Poverty Level (FPL), as based on their prior year's federal tax return. Individual L receives care from R. While L is being discharged from R, she is approached by M, an employee of a debt collection company that has a contract with R to handle all of R's patient billing. M asks L for her family income information, telling L that this information is needed to determine whether L is eligible for financial assistance. L tells M that she does not know what her family income is and would need to consult her tax returns to determine it. M tells L that she can just provide a ''rough estimate'' of her family income. L states that her family income may be around $y, an amount slightly above the amount that would allow her to qualify for financial assistance. M enters $y on the income line of a FAP application form with L's name on it and marks L as not FAP-eligible. Based on M's information collection, R determines that L is not FAP-eligible and notifies L of this determination with her first billing

statement. Because M had reason to believe that the income estimate provided by L was unreliable, R has violated the anti-abuse rule described in paragraph (c)(4)(iii) of this section. Thus, R has not made reasonable efforts to determine whether L is FAP-eligible.

(5) *Suspending ECAs while a FAP application is pending.* If an individual submits a complete or incomplete FAP application during the application period, the hospital facility will have made reasonable efforts to determine whether the individual is FAP-eligible only if the hospital facility does not initiate any ECAs, or take further action on any previously-initiated ECAs, against the individual after receiving the application and until either—

(i) The hospital facility has met the requirements described in paragraph (c)(4) of this section; or

(ii) In the case of an incomplete FAP application, the completion deadline has passed without the individual having completed the FAP application.

(6) *Waiver does not constitute reasonable efforts.* For purposes of this paragraph (c), obtaining a signed waiver from an individual, such as a signed statement that the individual does not wish to apply for assistance under the FAP or receive the information described in paragraphs (c)(2) or (c)(3) of this section, will not constitute a determination of FAP-eligibility and will not satisfy the requirement to make reasonable efforts to determine whether the individual is FAP-eligible before engaging in ECAs against the individual.

(7) *Agreements with other parties.* If a hospital facility refers or sells an individual's debt to another party during the application period, the hospital facility will have made reasonable efforts to determine whether the individual is FAP-eligible only if it first obtains (and, to the extent applicable, enforces) a legally binding written agreement from the party that—

(i) In the case of any debt referred to the party during the notification period, the party will refrain from engaging in ECAs against the individual until the hospital facility has met (and documented that it has met) the requirements necessary to have made reasonable efforts under paragraph (c)(2)(iii), (c)(3)(iii), or (c)(4)(ii) of this section;

(ii) If the individual submits a FAP application during the application period, the party will suspend any ECAs against the individual as described in paragraph (c)(5) of this section;

(iii) If the individual submits a FAP application during the application period and the hospital facility determines the individual to be FAP-eligible, the party will do the following in a timely manner—

(A) Adhere to procedures specified in the agreement that ensure that the individual does not pay, and has no obligation to pay, the party and the hospital facility together more than he or she is required to pay as a FAP-eligible individual; and

(B) If applicable and if the party (rather than the hospital facility) has the authority to do so, takes all reasonably available measures to reverse any ECA (other than the sale of a debt) taken against the individual as described in paragraph (c)(4)(i)(D)(*3*) of this section; and

(iv) If the party refers or sells the debt to yet another party during the application period, the party will obtain a written agreement from that other party including all of the elements described in this paragraph (c)(7).

(8) *Clear and conspicuous placement.* A hospital facility may print any written notice or communication described in this paragraph (c), including any plain language summary of the FAP, on a billing statement or along with other descriptive or explanatory matter, as long as the required information is conspicuously placed and of sufficient size to be clearly readable.

§ 1.501(r)–7 Effective/applicability dates.

(a) *Statutory effective/applicability date*—(1) *In general.* Except as provided in paragraph (a)(2) of this section, section 501(r) applies to taxable years beginning after March 23, 2010.

(2) *Community health needs assessment.* The requirements of section 501(r)(3) apply to taxable years beginning after March 23, 2012.

(b) *Effective/applicability date of regulations.* The rules of § 1.501(r)–1 and §§ 1.501(r)–4 through 1.501(r)–6 apply to taxable years beginning on or after the date these regulations are published as final regulations in the **Federal Register**.

Sarah Hall Ingram,

Acting Deputy Commissioner for Services and Enforcement.

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H.R. 5883/P.L. 112–135

To make a technical correction in Public Law 112-108. (June 21, 2012; 126 Stat. 384)

H.R. 5890/P.L. 112–136

To correct a technical error in Public Law 112-122. (June 21, 2012; 126 Stat. 385)

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