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FEDERAL REGISTER

Vol. 77 Monday,
No. 131 July 9, 2012

Pages 40249–40458

OFFICE OF THE FEDERAL REGISTER

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

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WHEN: Tuesday, July 10, 2012
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Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC 20002

RESERVATIONS: (202) 741–6008

Printed on recycled paper.

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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

Office of the Secretary

7 CFR Part 2

Agricultural Research Service

7 CFR Part 520

RIN 0524–AA63

Revision of Delegations of Authority

AGENCIES: Office of the Secretary, USDA; Agricultural Research Service, USDA.

ACTION: Final rule.

SUMMARY: This rule makes a number of miscellaneous amendments to delegations of authority by adding new authorities, correcting references, and removing obsolete authorities.

DATES: This rule is effective July 9, 2012.

FOR FURTHER INFORMATION CONTACT: Matthew Lockhart; Senior Policy Specialist; National Institute of Food and Agriculture; U.S. Department of Agriculture; STOP 2299; 1400 Independence Avenue SW.; Washington, DC 20250–2299; Voice: 202–559–5088; Fax: 202–401–7752; Email: *mlockhart@nifa.usda.gov.*

SUPPLEMENTARY INFORMATION:

Delegations of Authority

This rule makes changes to existing delegations in 7 CFR parts 2 and 520. The delegations of authority to the Under Secretary for Research, Education, and Economics (REE) in 7 CFR 2.21 and to the Director of the National Institute of Food and Agriculture (NIFA) in 7 CFR 2.66 are amended to reflect the delegation of the authority of the Secretary of Agriculture (Secretary) in section 405 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7625), as added by section 209(b) of the FDA Food Safety Modernization Act, Public Law 111–353, to carry out a competitive grant program within NIFA to provide food safety training, education, extension, outreach, and technical assistance to owners and operators of farms, small food processors, and small fruit and vegetable merchant wholesalers.

The authorities to approve the selection of State directors of extension and memoranda of understanding (MOUs) between land-grant universities and USDA, related to cooperative extension programs, reserved to the Secretary in 7 CFR 2.21(b)(1)(v) and (vi), respectively, are removed. The MOUs, which required USDA approval of extension directors/administrators, have been terminated by USDA due to obsolescence.

The delegations of authority to the Administrator of the National Agricultural Statistics Service in 7 CFR 2.68 are amended to reflect the delegation of authority, currently delegated to the Under Secretary for REE in 7 CFR 2.21(a)(xviii), to enter into agreements with and receive funds from any State, other political subdivision, organization, or individual for the purpose of conducting cooperative research projects, including agricultural statistical survey activities (7 U.S.C. 450a).

Finally, this rule amends Agricultural Research Service (ARS) regulations at 7 CFR 520.4 to correct a reference to the ARS official with delegated responsibility for the establishment of procedures and coordination necessary to carry out the policies and provisions of the National Environmental Policy Act within ARS.

Classification

This rule relates to internal agency management. Accordingly, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required, and this rule may be made effective less than 30 days after publication in the **Federal Register.** This rule also is exempt from the provisions of Executive Order 12866. This action is not a rule as defined by the Regulatory Flexibility Act, as amended by the Small Business Regulatory Fairness Enforcement Fairness Act of 1996, 5 U.S.C. 601 *et seq.,* or the Congressional Review Act, 5 U.S.C. 801 *et seq.,* and thus is exempt from the provisions of those Acts. This rule contains no 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 Parts 2 and 520

Authority delegations (Government agencies), Agricultural research, Agricultural extension, Federal assistance, Food and agricultural sciences.

Title 7 of the Code of Federal Regulations is amended accordingly as set forth below:

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

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

Authority: 7 U.S.C. 6912(a)(1); 5 U.S.C. 301; Reorganization Plan No. 2 of 1953, 3 CFR 1949–1953 Comp., p. 1024.

Subpart C—Delegations of Authority to the Deputy Secretary, Under Secretaries, and Assistant Secretaries

■ 2. Amend § 2.21 as follows:
■ a. Add paragraph (a)(1)(ccv); and
■ b. Remove paragraphs (b)(1)(v) and (vi).

The addition reads as follows:

§ 2.21 Under Secretary for Research, Education, and Economics.

(a) * * *

(1) * * *

(ccv) Administer a competitive grant program for national food safety training, education, extension, outreach, and technical assistance (7 U.S.C. 7625).

* * * * *

Subpart K—Delegations of Authority by the Under Secretary for Research, Education, and Economics

■ 3. Amend § 2.66 by adding paragraph (a)(160) to read as follows:

§ 2.66 Director, National Institute of Food and Agriculture.

(a) * * *

(160) Administer a competitive grant program for national food safety training, education, extension, outreach, and technical assistance (7 U.S.C. 7625).

* * * * *

■ 4. Amend § 2.68 by adding paragraph (a)(12) to read as follows:

§ 2.68 Administrator, National Agricultural Statistics Service.

(a) * * *

(12) Enter into agreements with and receive funds from any State, other political subdivision, organization, or individual for the purpose of conducting cooperative research projects, including agricultural statistical survey activities (7 U.S.C. 450a).

* * * * *

PART 520—PROCEDURES FOR IMPLEMENTING NATIONAL ENVIRONMENTAL POLICY ACT

■ 5. The authority citation for part 520 continues to read as follows:

Authority: National Environmental Policy Act (NEPA) as amended, 42 U.S.C. 4321 *et seq.;* E.O. 11514, 34 FR 4247, as amended by E.O. 11991, 42 FR 26927; E.O. 12144, 44 FR 11957; 5 U.S.C. 301; 40 CFR 1500–1508.

■ 6. Amend § 520.4 by revising paragraph (a) to read as follows:

§ 520.4 Responsibilities.

(a) *Administrator.* The Administrator is responsible for environmental analysis and documentation required for compliance with the provisions of NEPA and related laws, policies, plans, programs, and projects. The ARS Deputy Administrator for Natural Resources has been delegated responsibility for the establishment of procedures and coordination necessary to carry out the policies and provisions of NEPA.

* * * * *

Dated: June 29, 2012.

Thomas J. Vilsack,

Secretary.

[FR Doc. 2012–16610 Filed 7–6–12; 8:45 am]

BILLING CODE 3410–09–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 930

[Doc. No. AMS–FV–11–0092; FV12–930–1 FR]

Tart Cherries Grown in the States of Michigan, et al.; Increasing the Primary Reserve Capacity and Revising Exemption Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule revises the primary inventory reserve capacity and the exemption provisions applicable to handler diversion activities prescribed under the marketing order for tart cherries (order). The order regulates the handling of tart cherries grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin, and is administered locally by the Cherry Industry Administrative Board (Board). This action increases the volume of tart cherries that can be placed in the primary inventory reserve from 50 million pounds to 100 million pounds and revises exemption provisions by limiting diversion credits for new market development and market expansion activities to one year. These changes are intended to facilitate sales and lessen the impact of market expansion activities on volume restriction calculations.

DATES: *Effective Date:* July 10, 2012.

FOR FURTHER INFORMATION CONTACT: Jennie M. Varela, Marketing Specialist, or Christian D. Nissen, Regional Director, Southeast Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; Telephone: (863) 324–3375, Fax: (863) 325–8793, or Email: *Jennie.Varela@ams.usda.gov* or *Christian.Nissen@ams.usda.gov.*

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

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order No. 930, as amended (7 CFR part 930), regulating the handling of tart cherries grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect.

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

This rule revises the primary inventory reserve capacity and the exemption provisions applicable to handler diversion activities prescribed under the order. This action increases the volume of tart cherries that can be placed in the primary inventory reserve from 50 million pounds to 100 million pounds and revises exemption provisions by limiting diversion credits for new market development and market expansion activities to one year. These changes are intended to facilitate sales and lessen the impact of new market development and market expansion activities on volume restriction calculations. These changes were recommended by the Board at its meetings on September 15, 2011, and November 2, 2011, respectively.

Section 930.55 of the order provides authority for the establishment of a primary inventory reserve as part of the order's volume control provisions. Section 930.50(i) of the order establishes a cap of 50 million pounds on the primary inventory reserve, but provides authority to raise that limit if necessary, provided that any recommendation for change is made by the Board on or before September 30 to become effective for the following crop year.

Section 930.59 of the order authorizes handler diversion. When volume regulation is in effect, handlers may fulfill any restricted percentage requirement in full or in part by acquiring diversion certificates or by voluntarily diverting cherries or cherry products in a program approved by the Board, rather than placing cherries in an inventory reserve. These eligible diversion activities include, in part, use for new market development and market expansion activities.

Section 930.159 of the order's administrative rules specifies methods of handler diversion, including using cherries or cherry products for exempt purposes prescribed under § 930.162.

Section 930.162 establishes the terms and conditions of exemption that must be satisfied for handlers to receive diversion certificates for exempt uses. Section 930.162(b) defines the activities which qualify for exemptions including new market development and market expansion. New market development and market expansion activities include, but are not limited to, sales of cherries into markets that are not yet commercially established, product line extensions, or segmentation of markets along geographic or other definable characteristics.

In July 2011, the Board established an ad hoc committee (committee) to examine the volume regulation process under the order and recommend changes that might benefit the industry. The committee made a series of recommendations, mostly administrative in nature, which were discussed by the entire Board at its September and November meetings. The recommended administrative changes were approved by the Board and the changes to the primary reserve and diversion credits for market expansion activities, are the subject of this action.

The order provides for the use of volume regulation to stabilize prices and improve grower returns during periods of oversupply. At the beginning of each season, the Board examines production and sales data to determine whether a volume regulation is necessary and if so, announces free and restricted percentages to limit the volume of tart cherries on the market. Free percentage cherries can be used to supply any available market, including domestic markets for pie filling, water packed, and frozen tart cherries. Restricted percentage cherries can be placed in reserve, marketed through exempt activities, including market expansion, or diverted in orchard or at the processing plant.

When using reserves to meet their restricted percentage, handlers have two inventory reserve pools available, a primary reserve currently limited to 50 million pounds and an unlimited secondary reserve. Reserves allow the industry to mitigate the impact of oversupply in large crop years, while allowing the industry to supply markets in years when production falls below demand. Volume in the secondary reserve cannot be released unless the primary reserve is empty. Most reserve inventory flows in and out of the primary reserve, and it is rarely at zero, making it difficult to release volume from the secondary reserve.

Accessing reserves, particularly at the beginning of a crop year when the new crop has yet to be harvested, has become more important in recent seasons. When the order was promulgated, tart cherries were primarily processed as ingredients or into pie filling and a 50 million pound primary reserve met the needs of the industry. However, dried cherries, juice, and juice concentrate are growing segments of the industry, and some handlers are also manufacturing finished products for retail. The additional processing steps for these new products, as well as the growing variety of retail products have changed reserve needs. At any given time, handlers now hold more volume in reserve.

Additionally, in years when a crop is short or demand exceeds expectations, the Board can vote to issue a reserve release. During the 2010–2011 season, the Board found it necessary to issue two such releases. The Board believes increasing the capacity of the primary reserve to 100 million pounds will facilitate the release of reserve cherries when they are needed. Moving additional reserve volume into the primary pool, which is easier to access, allows the industry to be more responsive to changes in demand and supply, and allows handlers more flexibility in how they utilize the reserve. The intent of this action is not to increase the volume of cherries in reserve, but to shift a greater volume into the primary reserve where it is more accessible to meet handler needs. This change should not impact volume restriction calculations.

Accordingly, at its meeting on September 15, 2011, the Board recommended increasing the capacity of the primary inventory reserve from 50 million pounds to 100 million pounds. Fifteen Board members voted for this change and two abstained.

In addition to discussing the primary reserve, the Board also considered changes to diversion credits. These credits are a handler's alternative to placing fruit in reserve in order to comply with their restricted percentage under volume restriction. The order provides that fruit used for certain exempt purposes, including new market development and market expansion, is eligible to receive diversion credits. Market expansion is defined as an activity that expands the sale of either tart cherries or the products in which tart cherries are an ingredient. The Board currently limits the duration of any diversion credit for new market development and market expansion to three years.

The Board believes that new market development and market expansion activities have been successful in increasing sales. Some Board members expressed that these activities have been very helpful in developing the dried cherry and juice segments. Earlier regulations limited the volume that could receive diversion credit to 10 million pounds. However, the Board believed the limitation could be discouraging expansion and in 2006 recommended removing the diversion credit volume limitations. Since that time, the use of new market development and market expansion activities to meet restricted percentages has grown. The current three-year average for diversion credit for market expansion activities is approximately 35 million pounds a year.

In its discussions of this issue, the Board sought to find a solution that would continue to encourage new market development and market expansion projects, but reduce the impact these credits have on volume restriction calculations. While market expansion activities designated for diversion credit represent about 15 percent of gross sales, these sales are not included in the average sales figure used to determine optimum supply for volume regulation. The Board estimates that limiting credits to one year will lower the annual average credit for market expansion to 16 million pounds, or 19 million pounds below the current average.

With this action, it is anticipated that the difference in volume between the three-year credit and one-year credit for market expansion will shift to free sales helping to reduce the calculated restricted percentage. Using current numbers, assuming that the difference of 19 million pounds will be counted as free sales, this change will reduce the calculated surplus. Reducing the calculated surplus will, in turn, help lower restricted percentages. The Board believes this change will help make the calculations under volume regulation more reflective of industry conditions.

Accordingly, at its November 2, 2011, meeting, the Board voted unanimously to revise exemption provisions applicable to handler diversion activities by limiting diversion credits for market expansion activities to one year, with the time limit beginning with the date of the first shipment. The Board also noted that projects approved prior to this action will be allowed to finish their three-year cycle.

Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly,

AMS has prepared this final regulatory flexibility analysis.

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

There are approximately 40 handlers of tart cherries who are subject to regulation under the marketing order and approximately 600 producers of tart cherries in the regulated area. Small agricultural service firms have been defined by the Small Business Administration (SBA) as those having annual receipts of less than $7,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000 (13 CFR 121.201).

According to the National Agricultural Statistics Service, and Board data, the average annual grower price for tart cherries during the 2010–11 season was $0.221 per pound, and total shipments were around 270 million pounds. Therefore, average receipts for tart cherry producers were around $99,000, well below the SBA threshold for small producers. In 2010, The Food Institute estimated an f.o.b. price of $0.84 per pound for frozen tart cherries, which make up the majority of processed tart cherries. Using this data, average annual handler receipts were about $5.7 million, also below the SBA threshold for small agricultural service firms. Assuming a normal distribution, the majority of producers and handlers of tart cherries may be classified as small entities.

This rule increases the volume of tart cherries that can be placed in the primary inventory reserve from 50 million pounds to 100 million pounds and revises the exemption provisions pertaining to handler diversion activities by limiting diversion credits for new market development and market expansion activities to one year. These changes are intended to facilitate sales and lessen the impact of such activities on volume restriction calculations. This rule adds § 930.150 to the rules and regulations to establish the increased limit for the primary inventory reserve, and revises § 930.162 of the regulations regarding exemptions as they pertain to handler diversion activities. The authority for these actions is provided in §§ 930.50 and 930.59 of the order. The Board recommended these actions at meetings on September 15, 2011, and November 2, 2011.

The Board believes these changes better align regulations with industry needs and practices, facilitate the release of restricted fruit, and help avoid over-restriction. It is not anticipated that this action will impose additional costs on handlers or growers, regardless of size. Handlers of all sizes could realize a cost savings by not having to store product relegated to the secondary reserve, which is difficult to access.

Further, increasing the maximum volume that can be held in the primary reserve will allow handlers to be more responsive to industry needs by making reserves easier to access in periods of short supply or increased demand, which could facilitate sales. Changes in processing and cherry products have created a situation in which handlers may have more volume on hand at any given time, furthering the need to access reserves. Expanding the volume available in the primary reserve will assist handlers in managing their stocks and should help maintain a steady inventory of finished products to supply retailers and consumers.

Additionally, the Board believes limiting diversion credits for market expansion to one year will move more sales into the free sales category for purposes of computing volume regulations. This should reduce the calculated surplus, and in turn lower restrictions. Lower restrictions allow handlers to have a greater portion of their volume available for free sales. This could facilitate additional sales which could improve returns for growers and handlers.

This rule is expected to benefit producers, handlers, and consumers. The effects of this rule are not expected to be disproportionately greater or less for small handlers or producers than for larger entities.

The Committee discussed alternatives to these changes, including not increasing the primary reserve capacity, as well as eliminating diversion credits for market expansion rather than limiting them to one year. Regarding the change to primary reserve capacity, the Board agreed that changes in the industry necessitated this change and that it was in the industry's best interest to have this change in place by the next season. In discussing the change to diversion credits for market expansion, the Board considered phasing out diversion credits for market expansion altogether. However, some Board members believed that offering diversion credit for these activities had been beneficial to the industry and thus should not be eliminated entirely. The Board believes limiting credits to a maximum of one year would continue to encourage handlers to enter new markets, but lessen the impact on volume restriction calculations. Therefore, these alternatives were rejected.

In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C. chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0177, (Tart Cherries Grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin). No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

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

As noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this final rule.

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

In addition, the Board formed a committee to review the order's volume regulation procedures and suggest changes to the Board. This committee held meetings where these issues were discussed in detail. These meetings were public meetings and both large and small entities were able to participate and express their views. The Board's meetings were widely publicized throughout the tart cherry industry and all interested persons were invited to attend and participate in Board deliberations on all issues. Like all Board meetings, the September 15, 2011, and November 2, 2011, meetings were public meetings and all entities, both large and small, were able to express views on these issues.

A proposed rule concerning this action was published in the **Federal Register** on April 25, 2012 (77 FR 24640). Copies of the rule were emailed to all Board members and tart cherry handlers. Finally, the rule was made available through the Internet by USDA and the Office of the Federal Register. A

15-day comment period ending May 10, 2012, was provided to allow interested persons to respond to the proposal. No comments were received.

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

After consideration of all relevant matter presented, including the information and recommendation submitted by the Board and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because handlers are already beginning to make plans for the upcoming season. Further, handlers are aware of these changes, which were recommended at public meetings. Also, a 15-day comment period was provided for in the proposed rule.

List of Subjects in 7 CFR Part 930

Marketing agreements, Reporting and recordkeeping requirements, Tart cherries.

For the reasons set forth in the preamble, 7 CFR part 930 is amended as follows:

PART 930—TART CHERRIES GROWN IN THE STATES OF MICHIGAN, NEW YORK, PENNSYLVANIA, OREGON, UTAH, WASHINGTON, AND WISCONSIN

■ 1. The authority citation for 7 CFR part 930 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. A new § 930.150 is added to read as follows:

§ 930.150 Primary inventory reserve.

Beginning July 1, 2012, the primary inventory reserve may not exceed 100 million pounds.

■ 3. Section 930.162 is amended by adding a sentence at the end of section (b)(2) to read as follows:

§ 930.162 Exemptions.

* * * * *

(b) * * *

(2) * * * In addition, shipments of tart cherries or tart cherry products in new market development and market expansion outlets are eligible for handler diversion credit for a period of one year from the handler's first date of shipment into such outlets.

* * * * *

Dated: July 3, 2012.

David R. Shipman,

Administrator, Agricultural Marketing Service.

[FR Doc. 2012–16699 Filed 7–6–12; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Part 3560

RIN 0575–AC66

Reserve Account

AGENCY: Rural Housing Service, USDA.

ACTION: Final rule.

SUMMARY: Through this action, the Rural Housing Service (RHS) is amending its regulation to change the Reserve Account for new construction for the Sections 514/516 Farm Labor Housing (FLH) program and the Section 515 Rural Rental Housing (RRH) program. This action will not affect reserve accounts for existing portfolios.

DATES: *Effective Date:* This rule is effective September 7, 2012.

FOR FURTHER INFORMATION CONTACT: Michael Steininger, Acting Director, Multi-Family Housing Preservation and Direct Loan Division, Rural Housing Service, U.S. Department of Agriculture, STOP 0781, 1400 Independence Avenue SW., Washington, DC 20250–0781. Telephone: 202–720–1610 (this is not a toll-free number); email: *michael.steininger@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Classification

This final rule has been determined to be not significant and was reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

Civil Justice Reform

This final rule has been reviewed under E.O. 12988, Civil Justice Reform. If this final rule is adopted: (1) Unless otherwise specifically provided, all State and local laws that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule except as specifically prescribed in the rule; and (3) administrative proceedings of the National Appeals Division of the Department of Agriculture (7 CFR part 11) must be exhausted before bringing suit.

Regulatory Flexibility Act

The final rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). The undersigned has determined and certified by signature on this document that this rule will not have a significant economic impact on a substantial number of small entities. This rulemaking action does not involve a new or expanded program nor does it require any more action on the part of a small business than required of a large entity.

Paperwork Reduction Act

There are no new reporting and recordkeeping requirements associated with this rule.

E-Government Act Compliance

RHS is committed to complying with the E-Government Act, by promoting the use of the Internet and other information technologies in order to provide increased opportunities for citizen access to Government information, services, and other purposes.

Unfunded Mandate Reform Act (UMRA)

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.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' RHS determined that the proposed action does not constitute a major Federal action significantly affecting the quality of the environment. Therefore in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement is not required.

Programs Affected

The programs affected by this regulation are listed in the Catalog of Federal Domestic Assistance under numbers 10.405—Farm Labor Housing Loans and Grants; 10.415—Rural Rental Housing Loans; and 10.427—Rural Rental Assistance Payments.

Federalism

For the reasons discussed above, this rule does not have significant Federalism implications that warrant the preparation of a Federalism assessment under Executive Order 13132.

Intergovernmental Consultation

These loans are subject to the provisions of E.O. 12372 which require intergovernmental consultation with state and local officials. RHS conducts intergovernmental consultations for each loan in a manner delineated in 7 CFR part 1940, subpart J (available in any Rural Development office and on the Internet at *http://www.rurdev.usda.gov*).

Background Information

In the past, Rural Development based its reserve account on a set percentage of a property's total development cost (TDC). With this final rule Rural Development will now base the reserve account amount on a life-cycle analysis or Capital Needs Assessment (CNA). Either reserve account analysis that meets Rural Development approval will be prepared by a third-party. The reserve account analysis will be used to determine the expected useful life of the building components and furnishings and to determine which building components or furnishings are the most cost efficient over the life of the building. The reserve account deposit level will be maintained through steady deposits to meet the needs of the project as they become due. The exact contribution amounts will be articulated in the borrower's loan agreement. Adjustments may be made at five or ten year intervals, either CNA or as part of the original analysis. Any adjustments that were not reflected in the original loan agreement will be reflected in an amendment to the loan agreement. The requirement for a reserve account analysis will be used for new construction rental housing funded under Sections 514/516 and Section 515 of the Housing Act of 1949. The new requirement is intended to assure quality construction as well as long term viability of the complexes. Reserve levels will be based on life cycle costs or capital needs in order to ensure necessary resources are available when needed to replace essential building components. Current agency regulations require an annual minimum deposit of 1 percent of the TDC be put in a reserve account for FLH and RRH programs. The Agency has found over the years that the 1 percent requirement does not necessarily correlate to the long term needs of the property. This final regulatory change will ensure that reserve accounts properly sized to meet the capital needs anticipated at the time of construction. Due to the administrative burden involved, this change will only affect reserve account requirements of new construction rental housing funded under Sections 515 RRH or Sections 514/516 FLH.

Public Comments

The Agency received the following comments as a result of the publication as a Proposed Rule published in the **Federal Register** on April 5, 2007 (72 FR 16730–16731).

The Agency received eight responses to the proposed regulatory change. The commentators represented Rural Development employees who work with the Multi-Family Housing Direct Programs, a Multi-Family developer and rental property owner, and Interest Groups. The comments are summarized as follows:

1. *Defining the formula that will be used in the life cycle analysis.* A commenter suggested defining the formula to be used in the life cycle analysis as this could serve as a chart. Having the chart could alleviate people's resistance to calculating a full life cycle analysis for each component in the Multi Family Housing Direct Projects. Defining the formula could ease the concerns of Multi-Family Housing (MFH) borrowers regarding what basis was used to calculate the life cycle costs.

The Agency does not have a general formula that is used for the life cycle cost analysis. The life cycle cost analysis is a professional report that is performed by a third-party that primarily describes a detailed analysis and review of the components and estimates the replacement cost in the future. The life cycle cost analysis is defined in 7 CFR 3560.11. The Agency reviews the results of the life cycle cost analysis for its acceptability and compliance with the definition contained in 7 CFR 3560.11. The Agency has made no changes in response to this comment.

2. *Increasing the Reserve Fund Requirement in excess of 1 percent, addressing the overcharging of gross rental incomes and the over-inflation of property taxes which are causes of underfunded reserve accounts.* Two commenters supported increasing the amount of contribution to the reserve account in excess of 1 percent as the commenters think the current system requiring this funding level is flawed and inadequate in regards to providing funding for improvements and/or renovations to existing properties. The comments suggested an increase in the amount of the contribution to the reserve account is a step in the right direction for newly built and rehabilitated properties in the future. Their comments also mentioned the gross overcharging of property management related costs that generally range from 20 percent to 30 percent of gross rental incomes. The private sector residential property management costs typically run less than 8 percent. Lastly, they discussed the over-inflation of property taxes which are causes of underfunded reserve accounts. Management companies and owners do not have a personal risk at stake with the Section 515 property and therefore fail to challenge their annual over-inflated tax bills and assessments. As a result, rent income funding that could be used to properly fund reserve accounts instead goes to the local Government. The Agency will not make a change to the regulation in response to these comments. The goal of the regulation is to move the reserve deposits off a percentage basis and base the reserve account amount on the facts of the CNA or life cycle cost analysis. The Agency agrees that the reserve accounts based on a percentage can be underfunded and the change to the reserve account rule should help with that problem for new construction. While these comments related to operating expense are appreciated, the focus of this change will remain solely on properly sizing reserve accounts.

3. One commentator also agreed with the change to the reserve account requirements as the change would benefit MFH projects by linking reserve account amounts to anticipated needs for repair and replacement of building systems and components instead of the current 1 percent of TDC that are now set-aside in the reserve accounts.

4. Two commentators agreed with the change to the reserve account requirements, but cautioned the Agency that it might be cost prohibitive for smaller properties to review the CNA or life cycle cost analysis every 5 years. In response to this comment, the Agency has added a clause to the regulation that states contributions adjustments can be made every 5 or 10 years based on a revised CNA or as part of the original life cycle cost analysis. So a revised CNA will not be required in 5 years.

5. *Addressing the Reserve Requirements during ownership transfers and assumptions and/or subsequent loans.* One commenter suggested in addition to reserve requirements for new construction, the rule should address reserve requirements during ownership transfers and assumptions and/or subsequent loans. The Agency does not see a need to adopt this comment because the change to the regulation only addresses new construction and the regulations at 7 CFR 3560.406(d)(5) provide adequate guidance concerning

reserve requirements meeting the capital needs of the property when there is an ''ownership transfer or sale''. The change in the regulation only concerns new construction so it does not address the reserve requirements in the case of a subsequent loan, with an ownership transfer or sale and without an ownership transfer of sale. The Agency does not plan on making a change to the regulation in response to this comment at this time.

6. *Changing the wording in Section 3560.65.* A commenter recommended changing the wording in Section 3560.65, as the analysis is really based upon the CNA or the Life Cycle Cost Analysis, prepared by a consultant or architect hired by the developer, not developed by Rural Development. We would note that the language ''Acceptable to Rural Development'' still allows for the CNA to be prepared by others but establish Rural Development as the final approval authority. The Agency agrees and will make the change to the regulation.

7. *Performing a CNA every 5 years, incurring the cost of the assessment and sharing the information.* Two commenters suggested that Rural Development perform a CNA every 5 years. The first of the two commenters suggested, if the cost of updating a CNA every 5 years is prohibitive for a specific project, it may be more appropriate to allow the Rural Development staff and the project management to conduct reviews, with a process for resolving disparities in their recommendations. The second of the two commenters suggested the Rural Development program incur the cost of the assessment and share the information and adjust the reserve requirements accordingly, as rents cannot be raised to an amount that will cover all current and future reserve expenses. Utilizing Rural Development staff and project management to update a CNA is a potentially beneficial practice, and the Agency understands that CNAs can be cost prohibitive. Therefore, a revision as to the regulation has been made to allow for contribution adjustments every 5 or 10 years rather than every 5 years. These updated CNAs must be paid for by the borrower and conducted by a third-party.

8. *Basing the reserve account deposits on a CNA or Life Cycle Cost Analysis.* A commentator agreed that the Agency should base the reserve account deposits on a CNA or life cycle cost analysis. By doing this, MFH projects would have better project cash flow and improved long term performance which would benefit the low-income families residing in these units and provide sufficient reserves to maintain these projects in the long term, as well as the communities in which these projects are located. There is no need to change the rule for this comment.

List of Subjects in 7 CFR Part 3560

Accounting, Government property management, Grant programs—housing and community development, Insurance, Loan programs—Agriculture, Loan programs—housing and community development, Mortgage.

Therefore, chapter XXXV, Title 7 of the Code of Federal Regulations, is amended as follows:

Part 3560—Direct Multi-Family Housing Loans and Grants

■ 1. The authority citation for Part 3560 continues to read as follows:

Authority: 42 U.S.C. 1480.

Subpart B—Direct Loan and Grant Origination

■ 2. Section 3560.65 is revised to read as follows:

§ 3560.65 Reserve account.

(a) For new construction, to meet major capital expenses of a housing project, applicants must establish and fund a reserve account that meets the requirements of § 3560.306. The applicant must agree to make monthly contributions to the reserve account pursuant to a reserve account analysis which sets forth how the reserve account funds will meet the capital needs of the property over an acceptable 20-year period. The reserve account analysis is based on either a Capital Needs Assessment or life cycle cost analysis, provided and acceptable to Rural Development by the applicant. Adjustments may be made to the contribution amount at 5 or 10-year intervals, either through an updated Capital Needs Assessment or as part of the original life cycle cost analysis. The cost of conducting either a Capital Needs Assessment or life cycle cost analysis will be paid for by the applicant. The cost of the initial Capital Needs Assessment or life cycle cost analysis may be included in the loan financing.

(b) For ownership transfers or sales, the requirements of § 3560.406(d)(5) will be met.

(c) For other existing properties, at a minimum the borrower must agree to make monthly contributions to the reserve account at the rate of 1 percent annually of the amount of total development cost until the reserve account equals 10 percent of the total development cost.

Dated: May 29, 2012.

Tammye Treviño,

Administrator, Rural Housing Service.

[FR Doc. 2012–16731 Filed 7–6–12; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2012–0499; Special Conditions No. 25–466–SC]

Special Conditions: Boeing, Model 737–800; Large Non-Structural Glass in the Passenger Compartment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Boeing Model 737–800 airplane. This airplane as modified by Lufthansa Technik will have a novel or unusual design feature associated with the installation of large non-structural glass items in the cabin area of an executive interior occupied by passengers and crew. The installation of these items in a passenger compartment, which can be occupied during taxi, takeoff, and landing, is a novel or unusual design feature with respect to the material used. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: *Effective Date:* June 25, 2012.

FOR FURTHER INFORMATION CONTACT: John Shelden, FAA, Cabin Safety Branch, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–2785; facsimile 425–227–1232.

SUPPLEMENTARY INFORMATION:

Background

On December 16, 2010, Lufthansa Technik AG, Weg Beim Jaeger 193, 22335 Hamburg Germany applied for a supplemental type certificate for the installation of large non-structural glass items in the cabin area of the executive interior occupied by passengers and crew in a Boeing Model 737–800. The Boeing Model 737–800, approved under Type Certificate No. A16WE, is a large transport category airplane that is

limited to 189 passengers or less, depending on the interior configuration. This specific Boeing Model 737–800 configuration includes seating provisions for 34 passengers.

Type Certification Basis

Under the provisions of Title 14, Code of the Federal Regulations (14 CFR) 21.101, Lufthansa Technik must show that the Boeing Model 737–800, as changed, continues to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A16WE or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations incorporated by reference in Type Certificate No. A16WE are as follows: 14 CFR part 25 as amended by Amendments 25–1 through 25–77 with exceptions for the Boeing Model 737–800. In addition, the certification basis includes certain special conditions, exemptions, or later amended sections of the applicable part that are not relevant to these special conditions.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the Boeing Model 737–800 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same or similar novel or unusual design feature, the special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Boeing Model 737–800 must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type-certification basis under § 21.101.

Novel or Unusual Design Features

The Boeing Model 737–800 will incorporate the following novel or unusual design features: The installation of large non-structural glass items, typically in the form of glass sheets in the cabin area of an executive interior occupied by passengers and crew.

These installations would be for aesthetic purposes, not for safety, in components other than windshields or windows. For these special conditions, a large glass item is 4 kg (approximately 10 pounds) and greater in mass. This limit was established as the mass at which a glass component could be expected to potentially cause widespread injury if it were to shatter or break free from its retention system.

These special conditions address the novel and unusual design features for the use of large non-structural glass in the passenger cabin. These large glass items would be installed in occupied rooms or areas during taxi, take off, and landing, or rooms or areas that occupants do have to enter or pass through to get to any emergency exit. The installations of large non-structural glass items may include, but are not limited to, the following items:

- Glass partitions.
- Glass attached to the ceiling.
- Wall/door mounted mirrors/glass panels.

Discussion

The existing part 25 regulations only address the use of glass in windshields, instrument or display transparencies, or window applications. The regulations treat glass as unique for special applications where no other material will serve and address the adverse properties of glass.

Section 25.775, ''Window and windshields,'' provides for the use of glass in airplanes but limits glass to windshields and windows. Furthermore, except for bolted-in windshields, there is limited experience with either adhesive or mechanical retention methods for large glass objects installed in an airplane subject to high loads supported by flexible restraints.

The FAA has accepted the following uses of glass in the passenger cabin under the current regulations:

1. Glass items installed in rooms or areas in the cabin that are not occupied during taxi, take off, and landing, and occupants do not have to enter or pass through the room or area to get to any emergency exit.

2. Glass items integrated into a functional device whose operation is dependent upon the characteristics of glass, such as instrument or indicator protective transparencies, or monitor screens such as liquid crystal display (LCD) or plasma displays. These glass items may be installed in any area in the cabin regardless of occupancy during taxi, take-off, and landing. Acceptable means for these items may depend on the size and specific location of the device.

3. Small glass items installed in occupied rooms or areas during taxi, take off, and landing, or rooms or areas that occupants do have to enter or pass through to get to any emergency exit. For the purposes of these special conditions, a small glass item is less than 4 kg in mass or a group of glass items weighing less than 4 kg in mass.

The glass items in numbers one, two, and three (above) have been restricted to applications where the potential for injury is either highly localized (such as instrument faces) or the location is such that injury due to failure of the glass is unlikely (e.g., mirrors in lavatories). These glass items are subject to the inertia loads contained in § 25.561 and maximum positive differential pressure for items like monitors, but are not subject to these special conditions. They have been found acceptable through project specific means of compliance requiring testing to meet the requirement in § 25.785(d) and by adding a protective polycarbonate layer that covers the glass exposed to the cabin.

The use of glass in airplanes utilizes the one unique characteristic of glass—its capability for undistorted or controlled light transmittance, or transparency. Glass, in its basic form as annealed, untreated sheet, plate, or float glass, when compared to metals, is extremely notch-sensitive, has a low fracture resistance, has a low modulus of elasticity, and can be highly variable in its properties. While reasonably strong, it is not a desirable material for traditional aircraft applications because, as a solo component, it is heavy (about the same density as aluminum). In addition, when glass fails, it can break into extremely sharp fragments that have the potential for injury above and beyond simple impact and have been known to be lethal.

The proposed special conditions address installing glass in much larger sizes than previously accepted and in a multitude of locations and applications, instead of using more traditional aircraft materials. In most, if not all cases, the glass will not be covered with a polycarbonate layer. Additionally, the retention of glass of this size and weight is not amenable to conventional techniques currently utilized in airplane cabins.

The proposed special conditions consider the unusual material properties of glass as an interior material that have limited or prevented its use in the past, and address the performance standards needed to ensure that those properties do not reduce the level of safety

intended by the regulations. They address the use of large glass items installed in occupied rooms or areas during taxi, take off, and landing, or rooms or areas that occupants do have to enter or pass through to get to any emergency exit.

The special conditions define a large glass component threshold of 4 kg, which is based on an assessment of the mass dislodged during a high ''g'' level (as defined in § 25.562) event. Groupings of glass components that total more than 4 kg would also need to be included. The applicable performance standards in the regulations for the installation of these components also apply and should not adversely affect the standards provided below. For example, heat release and smoke density testing should not result in fragmentation of the component.

For large glass components mounted in a cabin occupied by passengers or crew that are not otherwise protected from the injurious effects of failure of the glass component, the following apply:

Material. The glass used must be tempered or otherwise treated to ensure that when fractured, it breaks into small pieces with relatively dull edges. This must be demonstrated by testing to failure. Tests similar to ANSI/SAE Z26.1 section 5.7, Test 7 would be acceptable.

Fragmentation. The glass component construction must control the fragmentation of the glass to minimize the danger from flying glass shards or pieces. Impact and puncture testing to failure must demonstrate this. Tests similar to ANSI/SAE Z26.1 section 5.9, Test 9 adjusted to ensure cracking the glass would be acceptable.

Strength. The glass component, as installed in the airplane, must be strong enough to meet the load requirements for all flight and landing loads and all of the emergency landing conditions in subparts C and D of part 25. In addition, glass components that are located such that they are not protected from contact with cabin occupants must be designed for abusive loading without failure, such as impact from service carts, or occupants stumbling into, leaning against, sitting on, or performing other intentional or unintentional forceful contact. This must be demonstrated by static structural testing to ultimate load except that the critical loading condition must be tested to failure. The tested glass component must have all features that affect component strength, such as etched surfaces, cut or engraved designs, holes, and so forth.

Retention. The glass component, as installed in the airplane, must not come free of its restraint or mounting system in the event of an emergency landing. Based on the characteristics of a large glass component, dynamic tests should be performed to demonstrate that the occupants would be protected up to the load levels required by the certification basis of the airplane. A single test for the most critical loading for the installed component would be sufficient. This may be accomplished by using already accepted methods for dynamic testing.

Analysis may be used in lieu of testing if the applicant has validated the strength models and dynamic simulation models used against static tests to failure and dynamic testing to the above requirements and can predict structural failure and dynamic response and inertial load. The glass material properties must meet § 25.613, ''Material strength properties and material design values.'' The effect of design details, such as geometric discontinuities or surface finish, must be accounted for in the test/analysis.

Discussion of Comments

Notice of proposed special conditions No. 25–12–01–SC for the Boeing Model 737–800 airplane was published in the **Federal Register** on May 15, 2012 (77 FR 28533). No comments were received, and the special conditions are adopted as proposed.

Applicability

As discussed above, these special conditions are applicable to the Boeing Model 737–800. Should Lufthansa Technik apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. A16WE to incorporate the same novel or unusual design feature, the special conditions would apply to that model as well.

Under standard practice, the effective date of final special conditions would be 30 days after the date of publication in the **Federal Register**; however, as the date for the approval of the supplemental type certificate for the Boeing Model 737–800 is imminent, the FAA finds that good cause exists to make these special conditions effective upon issuance.

Conclusion

This action affects only certain novel or unusual design features on one model of airplane. It is not a rule of general applicability, and it affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Boeing Model 737–800 airplanes modified by Lufthansa Technik AG. For these special conditions, a large glass component is 4 kg (approximately 10 pounds) and greater in mass, or a grouping of glass components that total more than 4 kg.

1. Boeing Model 737–800 Airplane; Large Non-Structural Glass in the Passenger Compartment.

The airplane must not be operated for hire or offered for common carriage. This provision does not preclude the operator from receiving remuneration to the extent consistent with 14 CFR parts 125 and 91, subpart F, as applicable.

2. *Material Fragmentation.* The glass used to fabricate the component must be tempered or treated to ensure that, when fractured, it breaks into small pieces with relatively dull edges. In addition, it must be shown that fragmentation of the glass is controlled to reduce the danger from flying glass shards or pieces. This must be demonstrated by testing to failure.

3. *Component Strength.* The glass component must be strong enough to meet the load requirements for all flight and landing loads including any of the applicable emergency landing conditions in subparts C and D of part 25. Abuse loading without failure, such as impact from occupants stumbling into, leaning against, sitting on, or performing other intentional or unintentional forceful contact, must also be demonstrated. This must be demonstrated by static structural testing to ultimate load, except that the critical loading condition must be tested to failure in the as-installed condition. The tested glass must have all features that affect component strength, such as etched surfaces, cut or engraved designs, holes, and so forth. Glass pieces must be non-hazardous.

4. *Component Retention.* The glass component, as installed in the airplane, must not come free of its restraint or mounting system in the event of an emergency landing. A test must be performed to demonstrate that the occupants would be protected from the effects of the component failing or

becoming free of restraint under dynamic loading. The dynamic loading of § 25.562(b)(2) is considered an acceptable dynamic event. The applicant may propose an alternate pulse; however, the impulse and peak load may not be less than that of § 25.562(b)(2). As an alternative to a dynamic test, static testing may be used if the loading is assessed as equivalent as or more critical than a dynamic test, based upon validated dynamic analysis. Both the primary directional loading and rebound conditions need to be assessed.

5. *Instructions for Continued Airworthiness.* The instructions for continued airworthiness must reflect the fastening method used and must ensure the reliability of the methods used (e.g., life limit of adhesives, or clamp connection). Inspection methods and intervals must be defined based upon adhesion data from the manufacturer of the adhesive or actual adhesion test data, if necessary.

Issued in Renton, Washington, on June 25, 2012.

K.C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–16720 Filed 7–6–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 748

[Docket No. 120608159–2159–01]

RIN 0694–AF71

Amendment to Existing Validated End-User Authorizations: Hynix Semiconductor China Ltd., Hynix Semiconductor (Wuxi) Ltd., and Boeing Tianjin Composites Co. Ltd. in the People's Republic of China

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: In this rule, the Bureau of Industry and Security (BIS) amends the Export Administration Regulations (EAR) to revise the existing Authorization Validated End-User (VEU) listings for three VEUs in the People's Republic of China (PRC). Specifically, BIS amends the EAR to change the names of existing VEUs Hynix Semiconductor China Ltd. and Hynix Semiconductor (Wuxi) Ltd. and their respective ''Eligible Destinations'' in the PRC. Also, BIS amends the list of ''Eligible Items (by ECCN)'' that may be exported, reexported and transferred (in-country) to the approved facility of VEU Boeing Tianjin Composites Co. Ltd. (BTC) in the PRC. These changes are prompted by factors arising from the companies' normal course of business, and are not the result of any activities of concern by the companies.

DATES: This rule is effective July 9, 2012.

FOR FURTHER INFORMATION CONTACT: Karen Nies-Vogel, Chair, End-User Review Committee, Bureau of Industry and Security, U.S. Department of Commerce, 14th Street & Pennsylvania Avenue NW., Washington, DC 20230; by telephone: (202) 482–5991, fax: (202) 482–3991, or email: *ERC@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

Authorization Validated End-User

BIS amended the EAR in a final rule on June 19, 2007 (72 FR 33646), creating a new authorization for ''Validated end-users'' (VEUs) located in eligible destinations to which eligible items may be exported, reexported, or transferred (in-country) under a general authorization instead of a license, in conformance with section 748.15 of the EAR. VEUs may obtain eligible items that are on the Commerce Control List, set forth in Supplement No. 1 to Part 774 of the EAR, without having to wait for their suppliers to obtain export licenses from BIS. Eligible items may include commodities, software, and technology, except those controlled for missile technology or crime control reasons.

The VEUs listed in Supplement No. 7 to Part 748 of the EAR were reviewed and approved by the U.S. Government in accordance with the provisions of section 748.15 and Supplement Nos. 8 and 9 to Part 748 of the EAR. The revisions to Supplement No. 7 to Part 748 set forth in this rule are being made either at the request of the VEUs or pursuant to the U.S. Government's periodic review of VEU authorizations, and were approved by the End-User Review Committee (ERC) following the process set forth in Section 748.15 and Supplement No. 9 to Part 748 of the EAR.

Amendment to Existing Validated End-User Authorizations in the PRC

Revision to Names of Hynix Semiconductor China Ltd. and Hynix Semiconductor (Wuxi) Ltd. and Their ''Eligible destinations''

In this rule, BIS amends Supplement No. 7 to Part 748 of the EAR to change the names of existing VEUs Hynix Semiconductor China Ltd. and Hynix Semiconductor (Wuxi) Ltd. and the names of the companies' respective ''Eligible destinations'' (i.e., facilities) in the People's Republic of China (PRC). Both companies were designated as VEUs on October 12, 2010 (75 FR 62462).

In this rule, the name Hynix Semiconductor China Ltd. is changed to SK hynix Semiconductor (China) Ltd., and the name of the company's existing approved ''Eligible destination'' is changed from Hynix Semiconductor China Ltd. to SK hynix Semiconductor (China) Ltd. In addition, the name Hynix Semiconductor (Wuxi) Ltd. is changed to SK hynix Semiconductor (Wuxi) Ltd., and the name of the company's existing approved ''Eligible destination'' is changed from Hynix Semiconductor (Wuxi) Ltd. to SK hynix Semiconductor (Wuxi) Ltd. The addresses of the companies' respective ''Eligible destinations'' remain the same. These amendments are prompted by factors arising from the companies' normal course of business, and are not the result of activities of concern by the companies.

Revision to the List of ''Eligible items (by ECCN)'' for Boeing Tianjin Composites Co. Ltd.

BIS designated BHA Aero Composite Parts Co. as a VEU on October 19, 2007 (72 FR 59164). On April 29, 2009, BIS amended the authorization by changing the name of the VEU to Boeing Tianjin Composites Co., Ltd. (BTC) (74 FR 19382). In addition, on February 24, 2012, BIS amended BTC's VEU authorization to correct the address of BTC's eligible destination and revise the list of ''Eligible items (by ECCN)'' that may be exported, reexported, and transferred (in-country) to BTC (77 FR 10953). In this rule, BIS further revises the list of ''Eligible items (by ECCN)'' that may be exported, reexported, and transferred (in-country) to BTC. This amendment is prompted by factors arising from BTC's normal course of business, and is not the result of activities of concern by BTC.

BTC's list of ''Eligible items (by ECCN)'' prior to the publication of this rule was:

1A002.a, 1B001.f, 1C010.b, 1C010.e, 1D001 (limited to ''software'' specially designed or modified for the ''development'', ''production'' or ''use'' of equipment controlled by 1B001.f), 1E001 (limited to ''technology'' according to the General Technology Note for the ''development'' or ''production'' of items controlled by 1A002.a, 1B001.f, and 1C010.b & .e), 2B001.b.2 (limited to machine tools with accuracies no better than (i.e., less than) 13 microns),

2B001.e, 2D001 (limited to ''software,'' other than that controlled by 2D002, specially designed or modified for the ''development'', ''production'' or ''use'' of equipment controlled by 2B001.b.2 and 2B001.e), and 2D002 (limited to ''software'' for electronic devices, even when residing in an electronic device or system, enabling such devices or systems to function as a ''numerical control'' unit, capable of coordinating simultaneously more than 4 axes for ''contouring control'' controlled by 2B001.b.2 and 2B001.e).

With this rule, BTC's revised list of ''Eligible items (by ECCN)'' is:

1B001.f, 1D001 (limited to ''software'' specially designed or modified for the ''use'' of equipment controlled by 1B001.f), 2B001.b.2 (limited to machine tools with accuracies no better than (i.e., not less than) 13 microns), 2D001 (limited to ''software,'' other than that controlled by 2D002, specially designed or modified for the ''use'' of equipment controlled by 2B001.b.2), and 2D002 (limited to ''software'' for electronic devices, even when residing in an electronic device or system, enabling such devices or systems to function as a ''numerical control'' unit, capable of coordinating simultaneously more than 4 axes for ''contouring control'' controlled by 2B001.b.2).

Since August 21, 2001, the Export Administration Act (the Act) has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp., p. 783 (2002)), as extended most recently by the Notice of August 12, 2011, 76 FR 50661 (August 16, 2011), has continued the EAR in effect under the International Emergency Economic Powers Act. BIS continues to carry out the provisions of the Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This rule has been determined to be not significant for purposes of Executive Order 12866.

2. This rule involves collections previously approved by the Office of Management and Budget (OMB) under Control Number 0694–0088, ''Multi-Purpose Application,'' which carries a burden hour estimate of 43.8 minutes to prepare and submit form BIS–748; and for recordkeeping, reporting and review requirements in connection with Authorization VEU, which carries an estimated burden of 30 minutes per submission. This rule is expected to result in a decrease in license applications submitted to BIS. Total burden hours associated with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA) and OMB Control Number 0694–0088 are not expected to increase significantly as a result of this rule.

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

3. This rule does not contain policies with Federalism implications as that term is defined under Executive Order 13132.

4. Pursuant to the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), BIS finds good cause to waive requirements that this rule be subject to notice and the opportunity for public comment because such notice and comment here are unnecessary and contrary to the public interest. In determining whether to grant VEU designations, a committee of U.S. Government agencies evaluates information about and commitments made by candidate companies, the nature and terms of which are set forth in 15 CFR part 748, Supplement No. 8. The criteria for evaluation by the committee are set forth in 15 CFR 748.15(a)(2).

The information, commitments, and criteria for this extensive review were all established through the notice of proposed rulemaking and public comment process (71 FR 38313, July 2, 2006 (proposed rule), and 72 FR 33646, June 19, 2007 (final rule)). Given the similarities between the authorizations provided under the VEU program and export licenses (as discussed further below), the publication of this information does not establish new policy; in publishing this final rule, BIS simply amends three VEU authorizations by updating the names of two end users and revising the ''Eligible items (by ECCN)'' of another end user. These changes have been made within the established regulatory framework of the Authorization VEU program. Further, this rule does not abridge the rights of the public or eliminate the public's option to export under any of the forms of authorization set forth in the EAR.

Publication of this rule in other than final form is unnecessary because the authorization granted in the rule is consistent with the authorizations granted to exporters for individual licenses (and amendments or revisions thereof), which do not undergo public review. Just as license applicants do, VEU authorization applicants provide the U.S. Government with confidential business information. This information is extensively reviewed according to the criteria for VEU authorizations, as set out in 15 CFR 748.15(a)(2). Additionally, just as the interagency reviews license applications, the authorizations granted under the VEU program involve interagency deliberation and result from review of public and non-public sources, including licensing data, and the measurement of such information against the VEU authorization criteria. Given the thorough nature of the review, and in light of the parallels between the VEU application review process and the review of license applications, public comment on this authorization and subsequent amendments prior to publication is unnecessary. Moreover, because, as noted above, the criteria and process for authorizing and administering VEUs were developed with public comments; allowing additional public comment on this amendment to individual VEU authorizations, which was determined according to those criteria, is unnecessary. Finally, allowing for prior public notice and comment is contrary to the public interest because it could cause confusion with the VEU status of the three companies identified in this rule due to the change of VEU names for two of those companies, and the items that may be exported, reexported or transferred (in-country) without a license to one of those companies.

Section 553(d) of the APA generally provides that rules may not take effect earlier than thirty (30) days after they are published in the **Federal Register.** BIS finds good cause to waive the requirement of 5 U.S.C. 553(d)(3) to delay the effectiveness of this regulation, because such a delay is unnecessary. BIS simply amends three VEU authorizations by updating the names of two end users and revising the ''Eligible items (by ECCN)'' of another end user. These changes have been made within the established regulatory framework of the Authorization VEU program. Further, this rule does not abridge the rights of the public or eliminate the public's option to export under any of the forms of authorization set forth in the EAR. Delaying this action's effectiveness could cause confusion with the VEU status of the

three companies identified in this rule due to the change of VEU names for two of those companies, and the items that may be exported, reexported or transferred (in-country) without a license to one of those companies. Accordingly, it would be unnecessary and contrary to the public interest to delay this rule's effectiveness.

No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required under the APA or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable and no regulatory flexibility analysis has been prepared.

List of Subjects in 15 CFR Part 748

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

Accordingly, Part 748 of the EAR (15 CFR parts 730–774) is amended as follows:

PART 748—[AMENDED]

■ 1. The authority citation for 15 CFR Part 748 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 12, 2011, 76 FR 50661 (August 16, 2011).

■ 2. Supplement No. 7 to Part 748 is amended in ''China (People's Republic of)'' by:

■ a. Revising the entry for ''Boeing Tianjin Composites Co. Ltd.'';

■ b. Removing the entries for ''Hynix Semiconductor China Ltd.'', and ''Hynix Semiconductor (Wuxi) Ltd.''; and

■ c. Adding new entries for ''SK hynix Semiconductor (China) Ltd.'', and ''SK hynix Semiconductor (Wuxi) Ltd.'' in alphabetical order.

The revisions and additions read as follows:

SUPPLEMENT NO. 7 TO PART 748—AUTHORIZATION VALIDATED END-USER (VEU); LIST OF VALIDATED END-USERS, RESPECTIVE ITEMS ELIGIBLE FOR EXPORT, REEXPORT AND TRANSFER, AND ELIGIBLE DESTINATIONS

Country	Validated end user	Eligible items (by ECCN)	Eligible destination	**Federal Register** citation
*	*	*	*	*
China (People's Republic of)				
*	*	*	*	*
	Boeing Tianjin Composites Co. Ltd.	1B001.f, 1D001 (limited to ''software'' specially designed or modified for the ''use'' of equipment controlled by 1B001.f), 2B001.b.2 (limited to machine tools with accuracies no better than (i.e., not less than) 13 microns), 2D001 (limited to ''software,'' other than that controlled by 2D002, specially designed or modified for the ''use'' of equipment controlled by 2B001.b.2), and 2D002 (limited to ''software'' for electronic devices, even when residing in an electronic device or system, enabling such devices or systems to function as a ''numerical control'' unit, capable of coordinating simultaneously more than 4 axes for ''contouring control'' controlled by 2B001.b.2).	Boeing Tianjin Composites Co. Ltd., No. 4–388 Hebei Road, Tanggu Tianjin, China.	72 FR 59164, 10/19/07. 74 FR 19381, 4/29/09. 77 FR 10953, 2/24/12. 77 FR [INSERT FR PAGE NUMBER], 7/9/12.
*	*	*	*	*
	SK hynix Semiconductor (China) Ltd.	3B001.a, 3B001.b, 3B001.c, 3B001.d, 3B001.e, and 3B001.f.	SK hynix Semiconductor (China) Ltd., Lot K7/K7–1, Export Processing Zone, Wuxi, Jiangsu, China.	75 FR 62462, 10/12/10. 77 FR [INSERT FR PAGE NUMBER], 7/9/12.

SUPPLEMENT NO. 7 TO PART 748—AUTHORIZATION VALIDATED END-USER (VEU); LIST OF VALIDATED END-USERS, RESPECTIVE ITEMS ELIGIBLE FOR EXPORT, REEXPORT AND TRANSFER, AND ELIGIBLE DESTINATIONS—Continued

Country	Validated end user	Eligible items (by ECCN)	Eligible destination	**Federal Register** citation
	SK hynix Semiconductor (Wuxi) Ltd.	3B001.a, 3B001.b, 3B001.c, 3B001.d, 3B001.e, and 3B001.f.	SK hynix Semiconductor (Wuxi) Ltd., Lot K7/K7–1, Export Processing Zone, Wuxi, Jiangsu, China.	75 FR 62462, 10/12/10. 77 FR [INSERT FR PAGE NUMBER], 7/9/12.
*	*	*	*	*	*	*

Dated: June 29, 2012.

Kevin J. Wolf,

Assistant Secretary for Export Administration.

[FR Doc. 2012–16724 Filed 7–6–12; 8:45 am]

BILLING CODE 3510–33–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Information Security Oversight Office

32 CFR Part 2003

[NARA–12–0003]

RIN 3095–AB76

The Interagency Security Classification Appeals Panel (ISCAP) Bylaws, Rules, and Appeal Procedures

AGENCY: Information Security Oversight Office, National Archives and Records Administration.

ACTION: Direct final rule.

SUMMARY: The Interagency Security Classification Appeals Panel (ISCAP) is a Presidential panel that decides on certain classification and declassification issues, as established in Executive Order 13526, Classified National Security Information, December 29, 2009, section 5.3(a)(1), and the E.O.'s implementing directives. Section 5.3(c) of the E.O. directs ISCAP to issue bylaws, rules, and procedures and to publish them in the **Federal Register**. ISCAP previously published its bylaws as a regulatory appendix, Classified National Security Information Directive No. 1. This rule revamps ISCAP's bylaws and appellate procedures and publishes them in their own part for easier access.

DATES: This rule is effective September 7, 2012, without further action, unless adverse comment is received by August 8, 2012. If adverse comment is received, NARA will publish a timely withdrawal of the rule in the **Federal Register**.

ADDRESSES: NARA invites interested persons to submit comments on this direct final rule. Please include ''Attn: 3095–AB76 and your name and mailing address in your comments. Comments may be submitted by any of the following methods:

- *Federal eRulemaking Portal:* Go to: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* Submit comments by facsimile transmission to 301–837–0319, attention Regulations Comments Desk.
- *Mail:* Send comments to Strategy and Policy Office (SP); Regulations Comments Desk, Room 4100; National and Archives Records Administration; ATTN: Laura McCarthy; 8601 Adelphi Road; College Park, MD 20740.
- *Hand Delivery or Courier:* Deliver comments to 8601 Adelphi Road, College Park, MD. Address them to Strategy and Policy Office (SP); Regulations Comments Desk, Room 4100, Attn: Laura McCarthy.

FOR FURTHER INFORMATION CONTACT: John P. Fitzpatrick, Director, ISOO, at 202–357–5250.

SUPPLEMENTARY INFORMATION: ISCAP is a Presidential appellate panel made up of representatives from the Departments of State, Defense, and Justice, the National Archives and Records Administration, the Office of the Director of National Intelligence, and the National Security Advisor, with an occasional representative from the Central Intelligence Agency. The director of the Information Security Oversight Office (ISOO), a unit of the National Archives and Records Administration (NARA), has been tasked by E.O. 13526 as the Panel's Executive Secretary, and the ISOO staff as the administrative staff supporting the Panel. As a result, the ISCAP bylaws and appellate procedures are published by NARA along with other ISOO regulations.

ISCAP's bylaws were previously published in 2004 as Appendix A to ISOO's Directive 1. When ISOO's directive was updated in 2009, the ISCAP bylaws were not included as an appendix again, and are now being added, along with appellate procedures, for publication as Part 2003. Publishing ISCAP's bylaws and appellate procedures in a separate part will make them easier to find and to use.

This rule is effective upon publication for good cause as permitted by the Administrative Procedure Act (5 U.S.C. 553(d)(3)). NARA believes that delaying the effective date for 30 days is unnecessary as this rule represents minor technical amendments from the previous by-laws as mandated by E.O. 13526.

This direct final rule is not a significant regulatory action for the purposes of E.O. 12866 and has [not] been reviewed by the Office of Management and Budget (OMB). The proposed amendment is also not a major rule as defined in 5 U.S.C. chapter 8, Congressional Review of Agency Rulemaking. As required by the Regulatory Flexibility Act, we certify that this rule will not have a significant impact on a substantial number of small entities because it sets out only the bylaws by which the Panel will operate and the review procedures for Federal agency declassification actions.

List of Subjects in 32 CFR Part 2003

Classified information.

For the reasons stated in the preamble, NARA adds 32 CFR part 2003, to read as follows:

PART 2003—INTERAGENCY SECURITY CLASSIFICATION APPEALS PANEL (ISCAP) BYLAWS, RULES, AND APPEAL PROCEDURES

Subpart A—Bylaws

Sec.

2003.1 Purpose (Article I).
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Authority: E.O. 13526, 75 FR 707, 75 FR 1013, 3 CFR, 2010 Comp., p. 298

Subpart A—Bylaws

§ 2003.1 Purpose (Article I).

The Interagency Security Classification Appeals Panel (hereafter ''ISCAP'' or ''the Panel'') advises and assists the President in the discharge of his constitutional and discretionary authority to protect the national security of the United States.

§ 2003.2 Authority (Article II).

ISCAP was established by, and receives its authority from, Executive Order 13526 ''Classified National Security Information'' (hereafter the ''Order''), December 29, 2009, section 5.3(a)(1), and the Order's implementing directives. Section 5.3(c) of the Order directs ISCAP to issue bylaws, rules, and procedures and to publish them in the **Federal Register**.

§ 2003.3 Functions (Article III).

In carrying out its purpose, the Panel:

(a) Decides appeals by people who have filed classification challenges under section 1.8 of the Order;

(b) Approves, denies, or amends agency exemptions from automatic declassification under section 3.3 of the Order;

(c) Decides appeals by people or entities who have filed requests for mandatory declassification review under section 3.5 of the Order; and

(d) Informs senior agency officials and the public, as appropriate, of final Panel decisions on appeals under sections 1.8 and 3.5 of the Order.

§ 2003.4 Membership (Article IV).

(a) *Member organizations and members.*

(1) The Departments of State, Defense, and Justice, the National Archives and Records Administration, the Office of the Director of National Intelligence, and the National Security Advisor each have a member on the Panel.

(2) Additionally, the Director of the Central Intelligence Agency may appoint a temporary representative, who meets the member criteria, to participate as a voting member in all Panel deliberations and associated support activities concerning classified information originated by the Central Intelligence Agency.

(b) *Alternate member.* Each member organization also designates in writing an alternate, or alternates, to represent it on all occasions when the primary member is unable to participate. When serving for a primary member, an alternate assumes all the rights and responsibilities of that primary member, including voting. The alternate member must meet the member criteria. The member organization head, or the organization's deputy or senior agency official for the Order, makes the written designation of an alternate, addressed to the ISCAP Chair.

(c) *Selection criteria for member.*

(1) Members must be senior-level agency Federal officials or employees, full-time or permanent part-time, and must be designated to serve as a member on the Panel by the respective agency head.

(2) Panel members must meet security access criteria in order to fulfill the Panel's functions.

(d) *Member vacancies.* Vacancies among the primary members must be filled as quickly as possible. The Chair, working through the Executive Secretary, takes all appropriate measures to encourage the organization to fill the vacancy quickly. In the interim, the organization's designated alternate serves as its member.

(e) *Liaisons.* Each member organization also designates in writing an individual or individuals (hereafter ''liaisons'') to serve as liaison to the Executive Secretary in support of the primary member and alternate(s). The liaisons meet at the call of the Executive Secretary. The agency head, or the deputy or senior agency official for the Order, makes the written designation, addressed to the ISCAP Chair.

(f) *Chair.* The President of the United States selects the Chair from among the primary members.

(g) *Vice Chair.* The members may elect from among the primary members a Vice Chair who:

(1) Chairs meetings that the Chair is unable to attend; and

(2) Serves as Acting Chair during a vacancy in the Chair of the ISCAP.

(h) *Executive Secretary.* The Director of the Information Security Oversight Office (ISOO), National Archives and Records Administration, is the Executive Secretary of the Panel and oversees the Panel's support staff.

§ 2003.5 Meetings (Article V).

(a) *Purpose.* The primary purpose of ISCAP meetings is to discuss and bring formal resolution to matters before the Panel and carry out the functions listed in § 2003.3, Article III, of these bylaws.

(b) *Frequency.* The Panel meets at the call of the Chair, who schedules meetings as necessary for the Panel to fulfill its functions in a timely manner. The Chair also convenes the ISCAP when requested by a majority of its member organizations.

(c) *Quorum.* Panel meetings may be held only when a quorum is present. For this purpose, a quorum requires the presence of at least five primary or alternate members.

(d) *Attendance.* As determined by the Chair, attendance at Panel meetings is limited to only the people necessary for the Panel to fulfill its functions in a complete and timely manner. The members may arrange briefings by substantive experts from individual departments or agencies, after consultation with the Chair.

(e) *Agenda.* The Chair establishes the agenda for all meetings. Any member or the Executive Secretary may submit potential items for the agenda. Acting through the Executive Secretary, the Chair distributes the agenda and supporting materials to the members as soon as possible before a scheduled meeting.

(f) *Minutes.* The Executive Secretary and staff prepare each meeting's minutes, and distribute draft minutes to each member. The minutes include a record of the members present at the meeting and the result of each vote. At each Panel meeting, the Chair reads or references the previous meeting's draft minutes. At that time the minutes are corrected, as necessary, approved by the membership, and certified by the Chair. The approved minutes are maintained among the Panel's records.

§ 2003.6 Voting (Article VI).

(a) *Motions.* When the Panel is required to make a decision or recommendation to resolve a matter before it, the Chair requests or accepts a motion for a vote. Any member, including the Chair, may make a motion for a vote. No second is required to bring any motion to a vote. A quorum must be present when a vote is taken.

(b) *Eligibility.* Only the member, including the Chair, may vote on a motion before the ISCAP, with each represented member organization having one vote.

(c) *Voting procedures at meetings.* Votes are ordinarily taken and tabulated by a show of hands.

(d) *Passing a motion.* In response to a motion, members may vote affirmatively, negatively, or abstain from voting. A motion passes when it receives a majority of affirmative votes of the members voting. In circumstances in which members abstain from voting, a Panel decision to reverse an agency's classification decision requires the affirmative vote of at least a majority of the members present.

(e) *Votes in a non-meeting context.* The Chair may call for a vote of the membership outside the context of a formal ISCAP meeting. An alternate member may also participate in such a vote if the primary member cannot be present. The Executive Secretary records and retains such votes in a documentary form and immediately reports the results to the Chair and other primary or alternate members, including all notes of concurrence or dissent. If a member expresses dissent to taking a non-meeting vote, any member may request the Chair call a meeting of the members to discuss the issue under consideration and to hold an in-person vote.

§ 2003.7 Support Staff (Article VII).

The staff of the Information Security Oversight Office (ISOO), National Archives and Records Administration, provides program and administrative support for the Panel. The Executive Secretary supervises the staff in this function pursuant to the direction of the Chair and ISCAP. On an as-needed basis, the Panel may seek detailees from agencies to augment the ISOO staff in support of the ISCAP. All staff must meet security access criteria in order to fulfill the Panel's functions.

§ 2003.8 Records (Article VIII).

(a) *Integrity of ISCAP Records.* The Executive Secretary maintains records that are produced by or presented to the ISCAP or its staff in the performance of the Panel's functions, consistent with applicable law.

(b) *Access requests or Freedom of Information Act (FOIA) requests for ISCAP records.* The Panel refers any FOIA request or other access request for information that originated within an agency other than the ISCAP to that agency for processing. The Panel processes requests for information originated by the ISCAP in accordance with 44 U.S.C. sections 2201–2207 (Presidential Records Act).

(c) *Disposition.* The Executive Secretary maintains Panel records in accordance with 44 U.S.C. sections 2201–2207 (Presidential Records Act).

§ 2003.9 Reports to the President (Article IX).

ISOO includes pertinent information and data about the activities of the Panel in ISOO's reports to the President of the United States. The Panel also includes such information in any reports it may make to the President. The Chair, in coordination with the other members of the ISCAP and the Executive Secretary, determines what information and data to include in each report.

§ 2003.10 Approval, amendment, and publication of bylaws, rules, and procedures (Article X).

Approval and amendment of Panel bylaws, rules, and procedures requires the affirmative vote of at least four members. The Executive Secretary submits approved bylaws, rules, procedures, and their amendments, for publication in the **Federal Register**.

Subpart B—Appeal Procedures

§ 2003.11 Appeals of agency decisions regarding classification challenges under section 1.8 of the Order.

Authorized holders of information who, in good faith, believe that its classification status is improper may challenge an agency's classification of the information in accordance with agency procedures. After challenging the classification at the agency level, the authorized holder may appeal the agency's decision to the ISCAP.

(a) *Jurisdiction.* The ISCAP will consider and decide appeals from classification challenges that otherwise meet the standards of the Order if:

(1) The appeal is filed in accordance with these procedures;

(2) The appellant has previously challenged the classification action at the agency that originated, or is otherwise responsible for, the information in question. The previous challenge must have followed the agency's established procedures or, if the agency has failed to establish procedures, the appellant must have filed a written challenge directly with the agency head or designated senior agency official, as defined in section 5.4(d) of the Order;

(3) The appellant has:

(i) Received a final agency decision denying his or her challenge; or

(ii) Not received—

(A) An initial written response to the classification challenge from the agency within 120 days of its filing, or

(B) A written response to an agency level appeal within 90 days of the filing of the appeal;

(4) There is no action pending in the federal courts regarding the information in question;

(5) The information in question has not been the subject of a FOIA or mandatory declassification review within the past two years; and

(6) The information in question has not been the subject of a prepublication review or other administrative process pursuant to an approved nondisclosure agreement.

(b) *Submission of appeals.* Appeals may be submitted to the Panel by email or mail. Appeals should be sent via email to: *ISCAP@nara.gov* or by mail to: Executive Secretary, Interagency Security Classification Appeals Panel; Attn: Classification Challenge Appeals; c/o Information Security Oversight Office; National Archives and Records Administration; 700 Pennsylvania Avenue NW., Room 503; Washington, DC 20408.

(1) The appeal must contain enough information for the Executive Secretary to be able to obtain all pertinent documents about the classification challenge from the affected agency.

(2) No classified information should be included within the initial appeal correspondence. The Executive Secretary will arrange for the transmittal of classified information from the agency after receiving the appeal. If it is impossible for the appellant to file an appeal without including classified information, prior arrangements must be made by contacting the Panel in one of the two methods listed above.

(c) *Timeliness of appeals.* An appeal to the ISCAP must be filed within 60 days of:

(1) The date of the final agency decision; or

(2) The agency's failure to meet the time frames established in paragraph (a)(3)(i) and (ii) of this section.

(d) *Rejection of appeals.* If the Executive Secretary determines that an appeal does not meet the requirements of the Order or these bylaws, the Executive Secretary notifies the appellant in writing that the appeal will not be considered by the ISCAP. The notification includes an explanation of why the appeal is deficient.

(e) *Preparation of appeals and creation of appeals files.* The Executive Secretary notifies the designated senior agency official, and, if applicable, the primary member, alternate, or liaison of the affected agency(ies) when an appeal is lodged. Under the direction of the ISCAP, the Executive Secretary supervises the preparation of an appeal file, pertinent portions of which are presented to the members of the Panel for review prior to a vote on the appeal.

The appeal file eventually includes all records pertaining to the appeal.

(f) *Resolution of appeals.* The Panel may vote to affirm the agency's decision, to reverse the agency's decision in whole or in part, or to remand the matter to the agency for further consideration. A decision to reverse an agency's decision requires the affirmative vote of at least a majority of the members present. In circumstances in which members abstain from voting, a Panel decision to reverse an agency's classification decision requires the affirmative vote of at least a majority of the members present.

(g) *Notification.* The Executive Secretary promptly notifies the appellant and the designated senior agency official in writing of the Panel's decision.

(h) *Agency appeals.* Within 60 days of receipt of an ISCAP decision that reverses a final agency decision, the agency head may petition the President through the National Security Advisor to overrule the Panel's decision. The information at issue remains classified until the President has issued a decision.

(i) *Protection of classified information.* All persons involved in the appeal will make every effort to minimize the inclusion of classified information in the appeal file. Any classified information contained in the appeal file is handled and protected in accordance with the Order and its implementing directives. Information being challenged for classification remains classified unless and until a final decision is made to declassify it.

(j) *Maintenance and disposition of file.* The Executive Secretary maintains the appeal file among the ISCAP's records in accordance with 44 U.S.C. 2201–2207 (the Presidential Records Act).

§ 2003.12 Review of agency exemptions from automatic declassification under section 3.3 of the Order.

All classified records that are more than 25 years old and have been determined to have permanent historical value under title 44, United States Code, are automatically declassified whether or not the records have been reviewed. However, agency heads may exempt information that would otherwise fall into this category on specific bases set out in section 3.3 of the Order. The ISCAP reviews and approves, denies, or amends agency proposals to exempt such information from automatic declassification.

(a) *Agency notification of exemptions.* The agency head or designated senior agency official notifies the Executive Secretary of proposed agency exemptions in accordance with the requirements of the Order and its implementing directives. Agencies provide any additional information or justification that the Executive Secretary believes is necessary or helpful in order for the ISCAP to review and decide on the exemption.

(b) *Preparation of the exemptions files.* The Executive Secretary notifies the Chair of an agency's submission. At the direction of the ISCAP, the Executive Secretary supervises the preparation of an exemption file, pertinent portions of which are presented to the members of the Panel for review prior to a vote on the exemptions. The exemption file eventually includes all records pertaining to the ISCAP's consideration of the agency's exemptions.

(c) *Resolution.* The Panel may vote to approve an agency exemption, to deny an agency exemption, to amend an agency exemption, or to remand the matter to the agency for further consideration. A decision to deny or amend an agency exemption requires the affirmative vote of a majority of the members present.

(d) *Notification.* The Executive Secretary promptly notifies the designated senior agency official in writing of the Panel's decision.

(e) *Agency appeals.* Within 60 days of receipt of an ISCAP decision that denies or amends an agency exemption, the agency head may petition the President through the National Security Advisor to overrule the Panel's decision.

(f) *Protection of classified information.* All persons involved in the appeal will make every effort to minimize the inclusion of classified information in the appeal file. Any classified information contained in the exemption file is handled and protected in accordance with the Order and its implementing directives. Information that the agency maintains is exempt from declassification remains classified unless and until a final decision is made to declassify it.

(g) *Maintenance and disposition of file.* The Executive Secretary maintains the exemption file among the ISCAP's records in accordance with 44 U.S.C. 2201–2207 (the Presidential Records Act).

§ 2003.13 Appeals of agency decisions denying declassification under mandatory review provisions in section 3.5 of the Order.

Section 3.5 of the Order requires agencies to conduct a mandatory declassification review, upon request, of classified information that meets the requirements set out in the Order. An agency may deny such a review for specific reasons set out in section 5.3(a) of the Order. If an agency denies a request for such review, a person may appeal the denial through the agency's appeal process. After that process, a person may further appeal to the ISCAP.

(a) *Jurisdiction.* The ISCAP considers and decides appeals from denials of mandatory review for declassification requests that otherwise meet the standards of the Order if:

(1) The appeal is filed in accordance with these procedures;

(2) The appellant has previously filed a request for mandatory declassification review at the agency that originated, or is otherwise responsible for, the information in question, and filed an appeal at the agency level. The request and appeal must have followed the agency's established procedures or, if the agency has failed to establish procedures, the appellant must have filed a written request directly with the agency head or designated senior agency official;

(3) The appellant has:

(i) Received a final agency decision denying his or her request; or

(ii) Not received—

(A) An initial decision on the request for mandatory declassification review from the agency within one year of its filing, or

(B) A final decision on an agency level appeal within 180 days of the filing of the appeal;

(4) There is no action pending in the federal courts regarding the information in question;

(5) The information in question has not been the subject of an access review by the Federal courts or the ISCAP within the past two years; and

(6) The information in question is not the subject of a prepublication review or other administrative process pursuant to an approved nondisclosure agreement.

(b) *Submission of appeals.* Appeals may be submitted to the Panel by email or mail. Appeals should be sent via email to: *ISCAP@nara.gov* or by mail to: Executive Secretary, Interagency Security Classification Appeals Panel; Attn: Mandatory Declassification Review Appeals; c/o Information Security Oversight Office; National Archives and Records Administration; 700 Pennsylvania Avenue NW., Room 503; Washington, DC 20408.

(1) The appeal must contain enough information for the Executive Secretary to be able to obtain all pertinent documents about the mandatory declassification review appeal from the affected agency.

(2) No classified information should be included within the initial appeal correspondence. The Executive Secretary will arrange for the transmittal of classified information from the agency after receiving the appeal. If it is impossible for the appellant to file an appeal without including classified information, prior arrangements must be made by contacting the Panel in one of the two methods listed above.

(c) *Timeliness of appeals.* An appeal to the ISCAP must be filed within 60 days of:

(1) The date of the final agency decision; or

(2) The agency's failure to meet the time frames established in paragraph (a)(3)(i) and (ii) of this section.

(d) *Rejection of appeals.* If the Executive Secretary determines that an appeal does not meet the requirements of the Order or these bylaws, the Executive Secretary notifies the appellant in writing that the appeal will not be considered by the ISCAP. The notification includes an explanation of why the appeal is deficient.

(e) *Preparation of appeals and creation of appeals files.* The Executive Secretary notifies the senior agency official or primary member, alternate, or liaison of the affected agency(ies) when an appeal is lodged. Under the direction of the ISCAP, the Executive Secretary supervises the preparation of an appeal file, pertinent portions of which are presented to the members of the Panel for review prior to a vote on the appeal. The appeal file eventually includes all records pertaining to the appeal.

(f) *Narrowing appeals.* To expedite the resolution of appeals and minimize backlogs, the Executive Secretary consults as relevant with appellants and agencies to narrow or prioritize the information subject to the appeal.

(g) *Resolution of appeals.* The Panel may vote to affirm the agency's decision, to reverse the agency's decision in whole or in part, or to remand the matter to the agency for further consideration. A decision to reverse an agency's decision requires the affirmative vote of at least a majority of the members present. In circumstances in which members abstain from voting, a Panel decision to reverse an agency's classification decision requires the affirmative vote of at least a majority of the members present.

(h) *Notification.* The Executive Secretary promptly notifies the appellant and designated senior agency official in writing of the Panel's decision.

(i) *Agency appeals.* Within 60 days of receipt of an ISCAP decision that reverses a final agency decision, the agency head may petition the President through the National Security Advisor to overrule the Panel's decision.

(j) *Protection of classified information.* All persons involved in the appeal will make every effort to minimize the inclusion of classified information in the appeal file. Any classified information contained in the appeal file is handled and protected in accordance with the Order and its implementing directives. Information that is subject to an appeal from an agency decision denying declassification under the mandatory review provisions of the Order remains classified unless and until a final decision is made to declassify it.

(k) *Maintenance and disposition of file.* The Executive Secretary shall maintain the appeal file among the ISCAP's records in accordance with 44 U.S.C. 2201–2207 (Presidential Records Act).

§ 2003.14 Dissemination of ISCAP decisions.

The Executive Secretary informs senior agency officials and the public of final ISCAP decisions on appeals under sections 1.8 and 3.5 of the Order.

§ 2003.15 Additional functions.

As directed by the President through the National Security Advisor, the ISCAP performs such additional advisory functions as are consistent with, and supportive of, the successful implementation of the Order.

Dated: June 25, 2012.

John P. Fitzpatrick,

Director, Information Security Oversight Office.

Approved: June 25, 2012.

David S. Ferriero,

Archivist of the United States.

[FR Doc. 2012–16655 Filed 7–6–12; 8:45 am]

BILLING CODE 7515–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2012–0592]

Drawbridge Operation Regulation; Tennessee River, Decatur, AL

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 Southern Railroad Drawbridge across the Tennessee River, mile 304.4, at Decatur, AL. The deviation is necessary to install new rail joints and perform other maintenance essential to the safe operation of the bridge. This deviation allows the bridge to be in the closed-to-navigation position.

DATES: This deviation is effective from 8:00 a.m. to noon and from 12:30 p.m. to 4:30 p.m. July 16 through July 19, 2012.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2012–0592 and are available online by going to *http://www.regulations.gov,* inserting USCG–2012–0592 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 Eric A. Washburn, Bridge Administrator, Western Rivers, Coast Guard; telephone 314–269–2378, email *Eric.Washburn@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 Norfolk Southern Railroad requested a temporary deviation for the Southern Railroad Drawbridge, across the Tennessee River, mile 304.4, at Decatur, AL.

The vertical clearance of the bridge in the closed position is 10.5 feet. The bridge opens on request or by signal as required by 33 CFR 117.5. The deviation period is from 8:00 a.m. to noon and from 12:30 p.m. to 4:30 p.m. July 16 through July 19, 2012. The Coast Guard will inform the public through broadcast notices to mariners of any changes in the schedule for this deviation. During the deviation period new rail joints will be installed which require steel cutting and welding activity on the bridge.

Vessel traffic consists of commercial tows ranging from a single barge to 15-barges and approximately six openings during the deviation period could normally occur. This deviation was coordinated with the commercial waterway users and no objections were expressed. The bridge, in the closed position, does not provide ample clearance for vessels to pass beneath

and there are no alternate routes for vessels transiting this section of the Tennessee River.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its 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 18, 2012.

Eric A. Washburn,

Bridge Administrator, Western Rivers.

[FR Doc. 2012–16620 Filed 7–6–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2012–0596]

Drawbridge Operation Regulations; Pequonnock River, Bridgeport, CT, Maintenance

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Metro North (Peck) Bridge across the Pequonnock River, mile 0.3, at Bridgeport, CT. The deviation allows the bridge to remain in the closed position to facilitate miter rail repair.

DATES: This deviation is effective from July 9, 2012 through September 30, 2012.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2012–0596 and are available online at *www.regulations.gov,* inserting USCG–2012–0596 in the ''Keyword'' 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 Ms. Judy Leung-Yee, Project Officer, First Coast Guard District, telephone (212) 668–7165, email *judy.k.leung-yee@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 Metro North (Peck) Bridge, across the Pequonnock River, mile 0.3, at Bridgeport, CT, has a vertical clearance in the closed position of 26 feet at mean high water and 32 feet at mean low water. The drawbridge operation regulations are listed at 33 CFR 117.219(b).

The operator of the bridge, Metro North Railroad, requested a temporary deviation from the regulations to facilitate bridge maintenance, miter rail repair, at the bridge. While conducting repairs during a temporary deviation from April 15, 2012 to June 30, 2012, Metro North Railroad discovered that a separate track of rail needed repair. This was unknown during the original project planning.

The waterway users are recreational vessels and commercial lobster boats. The Metro North (Peck) Bridge rarely opens for vessel traffic. The bridge has received no requests to open during the past several years except for bridge testing and repairs.

Under this temporary deviation the Metro North (Peck) Bridge may remain in the closed position from July 9, 2012 through September 30, 2012. Vessels that can pass under the bridge in the closed position may do so at all times.

The waterway users were advised of the requested bridge closure and offered no objection.

In accordance with 33 CFR 117.35(e), the bridge must return to its 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 22, 2012.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. 2012–16622 Filed 7–6–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2012–0480]

RIN 1625–AA00

Safety Zone; Conneaut 4th of July Festival, Lake Erie, Conneaut, OH

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on Lake Erie, Conneaut, OH. This safety zone is intended to restrict vessels from a portion of Lake Erie during the Conneaut 4th of July Festival Fireworks display. This temporary safety zone is necessary to protect spectators and vessels from the hazards associated with a fireworks display.

DATES: This rule will be effective between 9:45 p.m. until 11:05 p.m. on July 8, 2012.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2012–0480]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation, West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or email LT Christopher Mercurio, Chief of Waterways Management, U.S. Coast Guard Sector Buffalo; telephone 716–843–9343, email *SectorBuffaloMarineSafety@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR **Federal Register**
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable and contrary to the public interest. The final details

for this event were not known to the Coast Guard until there was insufficient time remaining before the event to publish an NPRM. Thus, delaying the effective date of this rule to wait for a comment period to run would be both impracticable and contrary to the public interest because it would inhibit the Coast Guard's ability to protect spectators and vessels from the hazards associated with a maritime fireworks display, which are discussed further below.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. For the same reasons discussed in the preceding paragraph, waiting for 30 day notice period run would be impracticable and contrary to the public interest.

B. Basis and Purpose

The legal basis for the rule is 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Public Law 107–295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1, which collectively authorizes the Coast Guard to define regulatory safety zones.

Between 10:15 p.m. and 10:45 p.m. on July 8, 2012, a fireworks display will be held on Lake Erie near Conneaut, OH. The Captain of the Port Buffalo has determined that fireworks launched proximate to a gathering of watercraft pose a significant risk to public safety and property. Such hazards include premature and accidental detonations, dangerous projectiles, and falling or burning debris.

C. Discussion of Rule

With the aforementioned hazards in mind, the Captain of the Port Buffalo has determined that this temporary safety zone is necessary to ensure the safety of spectators and vessels during the Conneaut 4th of July Festival Fireworks. This zone will be effective and enforced from 9:45 p.m. until 11:05 p.m. on July 8, 2012. This zone will encompass all waters of Lake Erie, Conneaut, OH within an 840 foot radius of position 41°58′00.43″ N and 80°33′34.93″ W (NAD 83).

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

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this rule will be relatively small and enforced for relatively short time. Also, the safety zone is designed to minimize its impact on navigable waters. Furthermore, the safety zone has been designed to allow vessels to transit around it. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This temporary final rule may affect the following entities, some of which may be small entities: the owners of operators of vessels intending to transit or anchor in a portion of Lake Erie, Conneaut, OH between 9:45 p.m. to 11:05 p.m. on July 8, 2012.

This safety zone will not have a significant economic impact on a substantial number of small entities because of the minimal amount of time in which the safety zone will be enforced. This safety zone will only be enforced for 90 minutes in a low commercial vessel traffic area. Vessel traffic can pass safely around the zone. Before the effective period, maritime advisories will be issued, which include a Broadcast Notice to Mariners.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

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

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has 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. We have analyzed this rule under that Order and have determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

This action is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded from further review, under paragraph (34)(g), of Figure 2–1 of the Commandant Instruction because it involves the establishment of a safety zone. A final environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**.

We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T09–0480 to read as follows:

§ 165.T09–0480 Safety Zone; Conneaut 4th July Festival Fireworks, Lake Erie, Conneaut, OH.

(a) *Location.* The safety zone will encompass all waters of Lake Erie, Conneaut, OH within an 840 foot radius of position 41°58′00.43″ N and 80°33′34.93″ W (NAD 83).

(b) *Effective and Enforcement Period.* This regulation is effective and will be enforced on July 8, 2012 from 9:45 p.m. until 11:05 p.m.

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

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

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

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

Dated: June 18, 2012.

S.M. Wischmann,

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

[FR Doc. 2012–16619 Filed 7–6–12; 8:45 am]

BILLING CODE 9110–04–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 202

[Docket No. 2011–5]

Deposit Requirements for Registration of Automated Databases That Predominantly Consist of Photographs

AGENCY: Copyright Office, Library of Congress.

ACTION: Final rule.

SUMMARY: The Copyright Office is amending its regulations governing the deposit requirements for applications for automated databases that consist predominantly of photographs. The amendments require that, in addition to providing material related to claimed compilation authorship, the deposits for such databases include the image of each photograph in which copyright is claimed.

DATES: *Effective Date:* This rule shall take effect August 8, 2012.

FOR FURTHER INFORMATION CONTACT: Robert Kasunic, Deputy General Counsel, Copyright GC/I&R, P.O. Box 70400, Washington, DC 20024–0400. Telephone (202) 707–8380; fax (202) 707–8366. All prior **Federal Register** notices and public comments in this docket are available at *http://www.copyright.gov/docs/databases/*.

SUPPLEMENTARY INFORMATION:

Background

The Copyright Office has long allowed photographers to register groups or collections of photographs, including groups of either published or unpublished photographs when certain requirements are met. *See* 37 CFR 202.3(b)(4)(i)(A) and (B).

Moreover, in 2001, after an extensive rulemaking proceeding, the Office adopted a group registration procedure for published photographs that complemented the existing procedure for registering a collection of unpublished works in a single registration. *See* Registration of Claims to Copyright; Group Registration of Photographs, 66 FR 37142 (July 17, 2001) (codified at 37 CFR 202.3(b)(10)). The result was a new group registration procedure permitting registration of a group of published photographs, all taken by the same photographer and published within the same calendar year, upon submission of an application for registration and a deposit consisting of each of the images covered by the registration. At the same time, the Office liberalized its requirements with respect to acceptable formats of deposits of photographs for registrations of unpublished collections, as well as for the new group registration of published photographs option. *See* 37 CFR 202.3(b)(1) and 202.20(c)(2)(xx). The 2001 regulations ensured that together, the registration record and the deposit would provide a sufficient record to identify the individual photographic works contained in the registered copyright claim.

Despite the availability of these options, however, some applicants have registered groups of photographs using the registration option for automated databases. The group database registration option was first announced in 1989. *See* Registration of Claims to Copyright Registration and Deposit of Databases, 54 FR 13177 (March 31, 1989). It has been used to register databases consisting predominantly of photographic images since at least 1997. *See, e.g.,* Registration No. VA 863–785 (Corbis Digital Online Update Group, from March 18–June 30, 1997) (effective date Nov. 6, 1997). A published database may be registered as a compilation, and the group database registration provisions permit a single registration that covers up to three months' worth of updates and revisions to an automated database if all of the updates or other revisions (1) are owned by the same copyright claimant, (2) have the same general title, (3) are similar in their general content, including their subject, and (4) are similar in their organization. 37 CFR 202.3(b)(5). Using this provision, stock photography agencies have registered all the photographs added to their databases within a three-month period when they have obtained copyright assignments from the photographers.

In the interim regulation establishing a pilot program for online applications for group registrations of databases consisting predominantly of photographic authorship, the Office included a requirement that the deposit accompanying such an online submission must include all individual photographs included in the claim. *See* Interim Rule, Registration of claims of copyright, 76 FR 4072–4076 (January 24, 2011); 37 CFR 202.20(c)(vii)(D)(8).

In addition to establishing the pilot program for online submissions, the interim rule announced that the Office would be reviewing the circumstances and conditions under which database registrations may be made and the extent to which, going forward, such registrations should continue to be deemed to cover not only the compilation authorship (*i.e.,* the authorship involved in the selection, coordination and arrangement of the data and/or works assembled in a database) but also any or all of the individual works assembled in the database.[1]

In the interest of reconciling the deposit requirements for registrations consisting predominantly of photographs, on January 28, 2011, the Office published a notice of proposed rulemaking to extend the requirement of a deposit of all of the individual images included in a claim to cases in which paper applications are used for group registration of databases consisting predominantly of photographic authorship. 76 FR 5106. The amendment would provide that, for any registration of an automated database consisting predominantly of photographs (whether the application is made by paper application or online pursuant to the Interim Regulation), the deposit shall include, in addition to the descriptive statement currently required under § 202.20(c)(2)(vii)(D)(5), all of the photographs included in the copyright claim being registered. 76 FR 5106. Identifying material would not constitute a sufficient deposit. While most applications for group registration of databases consisting predominantly of photographic authorship typically provide all of the photographs in the deposit, some submissions that comply with the current requirements for this group registration option do not include all of the photographs.

Public Comments

The Copyright Office received three comments in response to the notice of proposed rulemaking. The comments generally supported the pilot program, the opportunity to register groups of published images by electronic submission, and the requirement of a more complete deposit.

Comments submitted on behalf of the Picture Archive Council of America (PACA) and Public Knowledge both acknowledged that the proposed amendment would create a more complete public record. PACA specifically noted that a deposit of all photographs would ''avoid unnecessary disputes over whether a particular photograph is within the scope of the registration.'' Public Knowledge stated that the quick and accurate identification of a copyright owner is necessary for both the public and creators. It asserted that without this information, it is difficult to near impossible for the public to make use of the work, or for creators to be compensated for that use. Public Knowledge commented that the consequences of being unable to identify the owner of a work are ''vividly illustrated by the status of orphan works.'' Orphan works are works that may be protected by copyright, but cannot be licensed by the public because there is no way to identify or locate the actual owner of the works or the owners of particular rights.

Comments submitted on behalf of the Professional Photographers of America, the Society of Sport & Event Photographers, the Student Photographic Society, Evidence Photographers International Council, and the Stock Artists Alliance (hereinafter ''PPA comments'') supported the pilot program and electronic registration options for photographic works in general. However, their comments also expressed concern that the proposed regulation would create ''double the effort'' for professional photographers who may have ''* * * already devised an automated system for cataloguing their creative work.'' The comments stated that the new deposit requirements would not create an additional incentive to register a database of images, and that a

[1] Accordingly, and in light of the longstanding availability of the option of registering unpublished collections and the lengthy and carefully considered rulemaking that established the procedures for group registration of published photographs, the Office prefers and urges claimants to use those two options when registering groups of photographs rather than using the provisions for registration of automated databases.

photographer would be equally served to follow the existing process for registering groups of either published or unpublished work.

Some comments proposed further clarification and/or procedures to improve the registration process in general, as well as improved online searching tools for copyright records.

Discussion

Based on the reasoning expressed in the Notice of Proposed Rulemaking, and upon consideration of the public comments received, the Copyright Office concludes that when a registration is made for a database consisting predominantly of photographs, and the copyright claim extends to the individual photographs themselves, each of those photographs must be included as part of the deposit accompanying the application. As the Office has previously stated:

> [T]he Office rejects the plea of at least one commenter to permit the use of descriptive identifying material in lieu of the actual images. Although the Office had previously expressed a willingness to consider such a proposal, the most recent notice of proposed rulemaking noted that ''the Office is reluctant to implement a procedure that would permit the acceptance of deposits that do not meaningfully reveal the work for which copyright protection is claimed.'' Deposit of the work being registered is one of the fundamental requirements of copyright registration, and it serves an important purpose. As the legislative history of the Copyright Act of 1976 recognizes, copies of registration deposits may be needed for identification of the copyrighted work in connection with litigation or for other purposes. The ability of litigants to obtain a certified copy of a registered work that was deposited with the Office prior to the existence of the controversy that lead to a lawsuit serves an important evidentiary purpose in establishing the [identity] and content of the plaintiff's work.

Registration of Claims to Copyright, Group Registration of Photographs, 66 FR 3712, 37147 (July 17, 2001) (citations omitted). Identifying portions and a descriptive statement will no longer constitute a sufficient deposit. The requirement that all photographs covered by a registration are to be included as part of the deposit is in addition to the existing deposit requirements for identifying material (including a descriptive statement in the case of group registration for revised or updated versions of a database) set forth in § 202.20(c)(2)(vii)(D).

While the Copyright Office recognizes that the proposed deposit requirements for automated databases consisting predominately of photographic authorship require the submission of additional material on the part of the photographer, the Office already requires this material for the all other registration options for published and unpublished photographs, as well as for online applications to register photographic databases. Moreover, the prevailing practice with respect to almost all registrations of predominantly photographic databases has been to include all of the photographs in the deposit.[2] The regulation simply aligns the deposit requirements for paper applications to register automated databases that predominantly consist of photographs with the requirements already imposed for all other registration options for groups of photographs and with the prevailing industry practices. Moreover, it creates a better registration record by making it possible to determine which photographs are actually included in a particular group registration.

Other Issues

The Office notes the concerns expressed by commenters related to other registration and public record issues. Although they are outside the scope of the present rulemaking, the Office will take them into account as it endeavors to continue improving the copyright system for the benefit of creators and users of copyrighted works.

Claimants submitting applications for group registration of photographic and other databases that select and arrange works protected by copyright and who intend to include claims in those component works within the scope of the registration are advised that it is in their interest to specifically identify (1) the author of each of the component works, and (2) for each author, the title of each of his or her component works on the application. A number of district courts have ruled that a certificate of registration that does not identify the author and title of a particular work does not cover that particular work. *See, e.g., Alaska Stock, LLC* v. *Houghton Mifflin Harcourt Pub. Co.* 2010 WL 3785720, No. 3:09–CV–0061–HRH (D.Alaska,2010); *Bean* v. *Houghton Mifflin Harcourt Publishing Co.,* 2010 WL 3168624, No. CV10–8034–PCT–DGC, (D.Ariz.,2010); *Muench Photography, Inc.* v. *Houghton Mifflin Harcout Publishing Company, 712 F.Supp.2d 84 (S.D.N.Y.2010).* The Copyright Office is optimistic that those decisions will be overturned on appeal, but applicants who do not specifically identify each author and title run the risk that their registrations will be considered not to extend to each work in the group. And regardless of the outcome of that litigation, specific identification of each author and title creates a more accurate and informative public record. Applicants seeking guidance as to how to identify each author and title on a paper or electronic application should contact the Visual Arts Division at (202) 707–8202.

In the next year, the Office is likely to propose additional regulatory amendments relating to various group registration options, including group registrations of automated databases, in part to address some of the issues that have arisen in the recent litigation.

List of Subjects in 37 CFR Part 202

Copyright.

Amended Regulation

In consideration of the foregoing, Part 202 of Title 37 of the Code of Federal Regulations is amended to read as follows:

PART 202–PREREGISTRATION AND REGISTRATION OF CLAIMS TO COPYRIGHT

■ 1. The authority citation for part 202 continues to read as follows:

Authority: 17 U.S.C. 408, 702.

■ 2. Amend § 202.20 as follows:

■ a. In paragraph (c)(2)(vii)(D)(*5*) introductory text by removing ''electronically submitted'' after ''or in the case of'';

■ b. In paragraph (c)(2)(vii)(D)(*8*) by removing ''submitted electronically'' after ''case of an application''; and

■ c. In paragraph (c)(2)(xx) introductory text remove ''registered with an application submitted electronically'' after ''and for automated databases that consist predominantly of photographs''.

Dated: June 4, 2012.

Maria A. Pallante,

Register of Copyrights.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 2012–16723 Filed 7–6–12; 8:45 am]

BILLING CODE 1410–30–P

[2] However, a very small number of applications are submitted with deposits consisting of only the bare minimum number of photographs required by the current regulations, resulting in a woefully inadequate deposit.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2010–0805; FRL–9353–5]

Pasteuria spp. (*Rotylenchulus reniformis* nematode)—Pr3; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3 in or on all food commodities when applied as a nematicide and used in accordance with label directions and good agricultural practices. Pasteuria Bioscience, Inc. submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3 under the FFDCA.

DATES: This regulation is effective July 9, 2012. Objections and requests for hearings must be received on or before September 7, 2012, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2010–0805, is available at *http://www.regulations.gov* or at the OPP Docket in the Environmental Protection Agency Docket Center (EPA/DC), located in EPA West, Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

Some documents cited in this final rule are located in a different docket (docket ID number: EPA–HQ–OPP–2010–0808) associated with notices of receipt of applications for pesticide products containing a new active ingredient, *Pasteuria reniformis*—Pr3 (now recognized as *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3 instead), under the Federal Insecticide, Fungicide, and Rodenticide Act. Such documents include the draft Biopesticides Registration Action Document (BRAD) and environmental risk assessment listed in Unit IX. of this final rule.

FOR FURTHER INFORMATION CONTACT: Jeannine Kausch, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 347–8920; email address: *kausch.jeannine@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.* To access the OCSPP test guidelines referenced in this document electronically, please go to *http://www.epa.gov/ocspp* and select ''Test Methods and Guidelines.''

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2010–0805 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before September 7, 2012. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit a copy of your non-CBI objection or hearing request, identified by docket ID number EPA–HQ–OPP–2010–0805, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statue.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), Mail Code: 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.htm.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Background and Statutory Findings

In the **Federal Register** of February 4, 2011 (76 FR 6465) (FRL–8858–7), EPA issued a notice pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 0F7745) by Pasteuria Bioscience, Inc., 12085 Research Dr., Suite 185, Alachua, FL 32615. The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of *Pasteuria reniformis*—Pr3 [SD–5834]. This notice referenced a summary of the petition prepared by the petitioner,

Pasteuria Bioscience, Inc., which is available in the docket *via http://www.regulations.gov.* Comments were received on the notice of filing. EPA's response to these comments is discussed in Unit VII.C.

Based upon review of data and other information supporting the petition, EPA modified the active ingredient name. In addition, EPA also changed the commodity to be reflected in the tolerance expression from ''in or on all raw agricultural crops'' to ''in or on all food commodities.'' The reasons for these changes are explained in Unit VII.D.

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings but does not include occupational exposure. Pursuant to FFDCA section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in FFDCA section 408(b)(2)(C), which require EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance exemption and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue * * *.'' Additionally, FFDCA section 408(b)(2)(D) requires that EPA consider ''available information concerning the cumulative effects of [a particular pesticide's] * * * residues and other substances that have a common mechanism of toxicity.''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of a pesticide. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

III. Toxicological Profile

Consistent with FFDCA section 408(b)(2)(D), EPA reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability, and the relationship of this information to human risk. EPA also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

A. Overview of Pasteuria spp. *(Rotylenchulus reniformis nematode)—Pr3*

Pasteuria, a genus of bacteria, includes several species that have shown potential in controlling plant-parasitic nematodes that attack and cause significant damage to many agricultural crops (see, e.g., the **Federal Register** of December 28, 1994 (59 FR 66740) (FRL–4923–4), June 30, 2010 (75 FR 37734) (FRL–8831–9), and February 15, 2012 (77 FR 8736) (FRL–9337–2) for final rules that established tolerance exemptions for residues of the nematicides, *Pasteuria penetrans* (40 CFR 180.1135), *Pasteuria usgae* (40 CFR 180.1290), and *Pasteuria nishizawae*—Pn1 (40 CFR 180.1311), respectively). These gram-positive, mycelial, endospore-forming bacteria are mostly obligate parasites (i.e., organisms that depend on particular hosts to complete their own life cycle) of plant-parasitic nematodes, although one *Pasteuria* species—*Pasteuria ramosa*—is known to parasitize *Daphnia* species, which are tiny crustaceans often called ''water fleas'' due to their flea-like size and appearance (Refs. 1 and 2). *Pasteuria* species are ubiquitous in most environments and are found in nematodes in at least 80 countries on 5 continents, as well as on islands in the Atlantic, Pacific, and Indian Oceans (Refs. 1 and 2). Higher population densities often occur in areas where there is an ample supply of nematode hosts (e.g., where crops susceptible to nematodes are cultivated) (Refs. 1, 3, 4, and 5). *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3 was specifically isolated from soil samples collected in the southeastern United States (Ref. 1).

Endospores of *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3 attach to *Rotylenchulus* species nematodes at all life stages, except eggs (Ref. 1). After an endospore attaches to the cuticle of a nematode host, a germ tube penetrates the cuticle, and growth and sporogenesis begin in the pseudocoelom of the nematode (Ref. 1). The nematode is eventually filled with cells, mycelial hyphae, and sporangia, which leads to its death (Ref. 1). In light of the demonstrated nematicidal capabilities and host specificity of *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3, Pasteuria Bioscience, Inc. proposed to register pesticide products intended for use on several food and nonfood crops, primarily as seed or soil treatments, to control the reniform nematode (*Rotylenchulus reniformis*).

B. Microbial Pesticide Toxicology Data Requirements

All applicable mammalian toxicology data requirements supporting the request for an exemption from the requirement of a tolerance for residues of *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3 in or on all food commodities have been fulfilled with data submitted by the petitioner. The results of the acute dermal toxicity and primary dermal irritation tests revealed no toxicity or irritation attributed to *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3, and these studies received a Toxicity Category IV or III classification (see 40 CFR 156.62). Although infectivity and clearance of *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3 were not evaluated in the acute oral, pulmonary, and injection toxicity/pathogenicity studies, the results indicated that *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3 was not toxic and/or pathogenic via the tested routes of exposure. Finally, the petitioner has reported that no hypersensitivity incidents occurred during development and testing of this bacterium. The overall conclusions from all toxicological information submitted by the petitioner are briefly described in this unit, while more in-depth synopses of some study results can be found in the associated draft BRAD provided as a reference in Unit IX. (Ref. 1).

1. *Acute oral toxicity/pathogenicity—rat (Harmonized Guideline 885.3050; Master Record Identification Number (MRID No.) 481460–09).* A supplemental acute oral toxicity/pathogenicity study demonstrated that *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3 was not toxic and/or pathogenic to laboratory rats when administered by oral gavage in a single dose of 1.5×10^9 spores per animal.

2. *Acute pulmonary toxicity/pathogenicity—rat (Harmonized Guideline 885.3150; MRID No. 481460–10).* A supplemental acute pulmonary toxicity/pathogenicity study demonstrated that *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3 was not toxic and/or pathogenic to laboratory rats when administered by intratracheal instillation in a single dose of 1.5×10^8 spores per animal.

3. *Acute injection toxicity/pathogenicity (intravenous)—rat (Harmonized Guideline 885.3200; MRID*

No. 481460–11). A supplemental acute injection toxicity/pathogenicity study demonstrated that *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3 was not toxic and/or pathogenic to laboratory rats when administered intravenously in a single dose of 1×10^7 spores per animal.

4. *Hypersensitivity incidents (Harmonized Guideline 885.3400; MRID No. 481460–12).* The petitioner reported that no hypersensitivity incidents, including immediate-type or delayed-type reactions of humans and domestic animals, occurred during research, development, or testing of *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3.

5. *Acute dermal toxicity—rabbit (Harmonized Guideline 870.1200; MRID No. 481460–14).* An acceptable acute dermal toxicity study demonstrated that a test substance containing *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3 was not toxic to rabbits when dosed at 2,000 milligrams per kilogram (mg/kg) for 24 hours. The dermal median lethal dose, which is a statistically derived single dose that can be expected to cause death in 50% of test animals, was greater than 2,000 mg/kg for male and female rats combined (Toxicity Category III).

6. *Primary dermal irritation—rabbit (Harmonized Guideline 870.2500; MRID No. 481460–16).* An acceptable primary dermal irritation study demonstrated that a test substance containing *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3 was essentially non-irritating to the skin of rabbits (Toxicity Category IV).

IV. Aggregate Exposure

In examining aggregate exposure, FFDCA section 408 directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from ground water or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

A. Dietary Exposure

1. *Food exposure.* Dietary exposure to *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3, a naturally occurring soil bacterium (Ref. 1), is anticipated to be negligible. For optimal control of the target pest (reniform nematode), *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3 is applied in a manner that facilitates spore movement into or spore placement near the root zone of potentially affected plants. This requires that end users take certain actions, depending on the treatment type, that would inevitably minimize the amount of *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3 residues on above-ground commodities. That is, although *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3 can be applied to soil, plants, or seeds, some seeds are incorporated into the soil immediately after treatment (at-planting, hopper box, planter box, or slurry box seed treatments), and pesticide applications made to plants or the soil are always followed by irrigation to incorporate *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3 into the soil. In instances where food commodities develop underground or where treated seed is diverted for food or feed purposes or to process into oil, exposure to *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3 is a more likely scenario. Regardless of the situation, however, should residues of *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3 result in or on food when used as a pesticide in accordance with label directions and good agricultural practices, its lack of toxicity and pathogenicity (as demonstrated in the available data) indicate that no adverse effects are likely to occur with respect to any exposures to such residues (see additional discussion in Unit III.).

2. *Drinking water exposure.* Exposure to residues of *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3 in consumed drinking water is possible but not likely. The proposed use patterns for *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3 are soil directed, soil incorporated, and/or seed directed, thereby limiting contact with surface water by drift and runoff. Furthermore, ground water is not expected to have significant exposure to *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3, given that this microbial pesticide would likely be filtered out by the particulate nature of many soil types as are other microorganisms (Refs. 6, 7, and 8). If *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3 were to be transferred to surface or ground waters (e.g., through spray drift or runoff) that are intended for eventual human consumption and directed to wastewater treatment systems or drinking water facilities, it may not survive some of the conditions water is subjected to in such systems or facilities, including chlorination, pH adjustments, and filtration (Refs. 9 and 10). In the remote likelihood that *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3 is present in drinking water (e.g., water not subject to certain conditions in treatment systems and facilities), its lack of toxicity and pathogenicity demonstrated by the available data indicate that no toxicity, pathogenicity, and/or infectivity is likely to occur with respect to any exposures to residues of *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3 in drinking water that might result from pesticide applications made in accordance with label directions and good agricultural practices (see additional discussion in Unit III.).

B. Other Non-Occupational Exposure

Given *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3's natural presence in soil (Ref. 1), non-occupational exposure to the bacterium almost certainly is already occurring. Additional non-occupational exposure to *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3 due to pesticidal applications is not expected because all proposed pesticide end-use products are labeled for use in distinct agricultural settings. Even if additional non-occupational exposures were to occur (e.g., eventual expansion of use sites), the lack of toxicity, pathogenicity, and irritation demonstrated in the available data indicate that no adverse effects are likely to occur with respect to any exposures to such residues that might result from pesticide applications made in accordance with label directions and good agricultural practices (see additional discussion in Unit III.).

V. Cumulative Effects From Substances With a Common Mechanism of Toxicity

Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance exemption, EPA consider ''available information concerning the cumulative effects of [a particular pesticide's] * * * residues and other substances that have a common mechanism of toxicity.''

No mechanism of toxicity in mammals has been identified for *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3, and *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3 does not appear to produce a toxic metabolite against the target pest. For the purposes of this tolerance action, therefore, EPA has assumed that *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3 does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine chemicals that have a common mechanism of

toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

VI. Determination of Safety for U.S. Population, Infants and Children

FFDCA section 408(b)(2)(C) provides that, in considering the establishment of a tolerance or tolerance exemption for a pesticide chemical residue, EPA shall assess the available information about consumption patterns among infants and children, special susceptibility of infants and children to pesticide chemical residues, and the cumulative effects on infants and children of the residues and other substances with a common mechanism of toxicity. In addition, FFDCA section 408(b)(2)(C) provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure, unless EPA determines that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the Food Quality Protection Act Safety Factor. In applying this provision, EPA either retains the default value of 10X, or uses a different additional or no safety factor when reliable data are available to support a different additional or no safety factor.

Based on the acute toxicity and pathogenicity data discussed in Unit III.B., as well as *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3's host specificity for *Rotylenchulus* species nematodes, EPA concludes that there are no threshold effects of concern to infants, children, or adults when *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3 is used as labeled in accordance with good agricultural practices. As a result, EPA concludes that no additional margin of exposure (safety) is necessary.

Moreover, based on the same data and EPA analysis as presented in this unit, the Agency is able to conclude that there is a reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposure to the residues of *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3 when it is used as labeled and in accordance with good agricultural practices as a nematicide. Such exposure includes all anticipated dietary exposures and all other exposures for which there is reliable information. EPA has arrived at this conclusion because, considered collectively, the data and information available on *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3 do not demonstrate toxic, pathogenic, and/or infective potential to mammals, including infants and children.

VII. Other Considerations

A. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes for the reasons stated in Unit VI. and because EPA is establishing an exemption from the requirement of a tolerance without any numerical limitation.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. In this context, EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established a MRL for *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3.

C. Response to Comments

Two comments were submitted. An anonymous commenter (EPA–HQ–OPP–2010–0012–0019) generally expressed opposition to EPA granting tolerance exemptions to several petitioners, including Pasteuria Bioscience, Inc. Specifically, this commenter mentioned concern with the prevalence of many toxic chemicals in the environment and lack of information regarding how such chemicals combine. Another commenter (EPA–HQ–OPP–2010–0905–0003) also expressed opposition to granting tolerances and tolerance exemptions for several chemicals, including *Pasteuria reniformis*—Pr3 (now recognized as *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3 instead), that were described in the **Federal Register** of February 4, 2011 (76 FR 6465) (FRL–8858–7). This commenter stated that the food supply must be rigorously tested, that studies submitted by the chemical industry must be subjected to independent peer review, and that only long-term studies can provide data on the health impact of exposure to the chemicals in the February 4, 2011 Notice of Filing.

Data provided by the petitioner demonstrated that *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3 is not toxic and/or pathogenic at the doses administered orally, intratracheally, intravenously, and dermally to rats or rabbits (see Unit III.B.). Moreover, since no mechanism of toxicity in mammals has been identified for *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3, and *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3 does not appear to produce a toxic metabolite against the target pest, EPA has assumed that *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3 does not have a common mechanism of toxicity with other substances. After conducting a comprehensive assessment of the data and information submitted by the petitioner, EPA has concluded there is a reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposure to residues of *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3. Thus, under the standard in FFDCA section 408(c)(2), a tolerance exemption is appropriate.

D. Revisions to Requested Tolerance Exemption

Two modifications have been made to the requested tolerance exemption. First, after Pasteuria Bioscience, Inc. petitioned EPA to establish a tolerance exemption for *Pasteuria reniformis*—Pr3 [SD–5834], EPA reviewed the submitted product identification data and made the following determinations:

1. The active ingredient name was not included in any acceptable taxonomic scheme and

2. Insufficient information was provided to show how this taxonomic position was established as a new species (i.e., *reniformis*).

Thus, Pasteuria Bioscience, Inc. submitted additional product identification data and revised the active ingredient name from *Pasteuria reniformis*—Pr3 [SD–5834] to *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3 to accurately represent what was described in this new data (e.g., identification down to this isolate's genus and of its primary target pest, the reniform nematode). With this modification to the active ingredient name, inclusion of the American Type Culture Collection accession number (i.e., SD–5834) was also dropped

because Pasteuria Bioscience, Inc. already created a unique isolate identifier (i.e., Pr3). Use of just *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3 throughout this document, particularly in the tolerance exemption expression, is now supported by data, is consistent with the representation of this active ingredient in other associated regulatory documents, and should assist in preventing confusion regarding this active ingredient's nomenclature in the future. Second, EPA is changing ''in or on all raw agricultural crops'' to ''in or on all food commodities'' to align with the terminology the Agency currently uses when establishing tolerances or tolerance exemptions for residues of pesticide chemicals under the FFDCA.

VIII. Conclusions

EPA concludes that there is a reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposure to residues of *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3. Therefore, an exemption from the requirement of a tolerance is established for residues of *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3 in or on all food commodities when applied as labeled as a nematicide and used in accordance with good agricultural practices.

IX. References

1. U.S. EPA. 2011a. Draft *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3 Biopesticides Registration Action Document dated May 8, 2012 (available as ''Supporting & Related Material'' within docket ID number EPA–HQ–OPP–2010–0808 at *www.regulations.gov*).
2. U.S. EPA. 2011b. Environmental Risk Assessment of *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3 (PC 016456) for a Section 3 Registration of the Technical Product (EPA File Symbol 85004–U) and Two End Use Products (EPA File Symbols 85004–L and 85004–I) for Control of the Reniform Nematode. Memorandum from S. Borges to J. Kausch dated March 26, 2012 (available as ''Supporting & Related Material'' within docket ID number EPA–HQ–OPP–2010–0808 at *www.regulations.gov*).
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X. Statutory and Executive Order Reviews

This final rule establishes a tolerance exemption under section 408(d) of FFDCA in response to a petition submitted to EPA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes. As a result, this action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, EPA has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, EPA has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4).

This action does not involve any technical standards that would require EPA consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

XI. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 13, 2012.

Steven Bradbury,

Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.1316 is added to subpart D to read as follows:

§ 180.1316 Pasteuria spp. (Rotylenchulus reniformis nematode)—Pr3; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for residues of *Pasteuria* spp. (*Rotylenchulus reniformis* nematode)—Pr3 in or on all food commodities when applied as a nematicide and used in accordance with label directions and good agricultural practices.

[FR Doc. 2012–16695 Filed 7–6–12; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 76

[MB Docket No. 11–93; FCC 11–182]

Implementation of the Commercial Advertisement Loudness Mitigation (CALM) Act

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission adopts rules to implement the Commercial Advertisement Loudness Mitigation (''CALM'') Act. Among other things, the CALM Act directs the Commission to incorporate into its rules by reference and make mandatory a technical standard, developed by an industry standards development body, that is designed to prevent digital television commercial advertisements from being transmitted at louder volumes than the program material they accompany. As mandated by the statute, the rules apply to digital TV broadcasters, digital cable operators, and other digital multichannel video programming distributors (''MVPDs''). Also per the statute, the rules will take effect one year after adoption, and will therefore be effective as of December 13, 2012. The rules adopted are designed to protect viewers from excessively loud commercials and, at the same time, permit broadcasters and MVPDs to implement their obligations in a minimally burdensome manner. The Commission will require broadcast stations and MVPDs to ensure that all commercials are transmitted to consumers at the appropriate loudness level in accordance with the industry standard.

DATES: Effective December 13, 2012. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of December 13, 2012.

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact Evan Baranoff, *Evan.Baranoff@fcc.gov,* or Lyle Elder, *Lyle.Elder@fcc.gov,* of the Media Bureau, Policy Division, (202) 418–2120 or Shabnam Javid, *Shabnam.Javid@fcc.gov,* of the Engineering Division, Media Bureau at (202) 418–7000.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order* (R&O), FCC 11–182, adopted and released on December 13, 2011. The full text of this document is available electronically via ECFS at *http://fjallfoss.fcc.gov/ecfs/* or may be downloaded at *http://transition.fcc.gov/Daily_Releases/Daily_Business/2011/db1214/FCC-11-182A1.doc.* (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) This document is also available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street SW., CY–A257, Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, 445 12th Street SW., Room CY–B402, Washington, DC 20554. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to *fcc504@fcc.gov* or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Document Summary

I. Introduction

1. With this Report & Order (*R&O*), we adopt rules to implement the Commercial Advertisement Loudness Mitigation (''CALM'') Act.[1] Among other things, the CALM Act directs the Commission to incorporate into its rules by reference and make mandatory a technical standard, developed by an industry standards development body, that is designed to prevent digital television commercial advertisements from being transmitted at louder volumes than the program material they accompany.[2] As mandated by the statute, the rules apply to digital TV broadcasters, digital cable operators, and other digital multichannel video programming distributors (''MVPDs'').[3] Also per the statute, the rules will take effect one year after adoption, and will therefore be effective as of December 13, 2012.[4] The rules we adopt today are designed to protect viewers from excessively loud commercials and, at the same time, permit broadcasters and MVPDs to implement their obligations in a minimally burdensome manner. As described below, we will require broadcast stations and MVPDs to ensure that all commercials are transmitted to consumers at the appropriate loudness level in accordance with the industry standard. In the event of a pattern or trend of complaints, stations and MVPDs will be deemed in compliance with regard to their locally inserted commercials if they demonstrate that they use certain equipment in the ordinary course of business.[5] For the

[1] Public Law 111–311, 124 Stat. 3294 (2010) (codified at 47 U.S.C. 621). The CALM Act was enacted on December 15, 2010 (S. 2847, 111th Cong.). The relevant legislative history includes the Senate and House Committee Reports to bills S. 2847 and H.R. 1084, respectively, as well as the Senate and House Floor Consideration of these bills. *See* Senate Commerce, Science, and Transportation Committee Report dated Sept. 29, 2010, accompanying Senate Bill, S. 2847, 111th Cong. (2010), S. REP. 111–340 (''*Senate Committee Report to S. 2847*''); House Energy and Commerce Committee Report dated Dec. 14, 2009, accompanying House Bill, H.R. 1084, 111th Cong. (2009), H.R. REP. 111–374 (''*House Committee Report to H.R. 1084*''); Senate Floor Consideration of S. 2847, 156 Cong. Rec. S7763 (daily ed. Sept. 29, 2010) (bill passed) (''*Senate Floor Debate*''); House Floor Consideration of S. 2847, 156 Cong. Rec. H7720 (daily ed. Nov. 30, 2010) (''*House Floor Debate of S. 2847*'') and H7899 (daily ed. Dec. 2, 2010) (bill passed); House Floor Consideration of H.R. 1084, 155 Cong. Rec. H14907 (daily ed. Dec. 15, 2009). The Senate and House Committee Reports were prepared before the bill was amended to add Section 2(c) of the CALM Act (the compliance provision). *See Senate Floor Debate* at S7763–S7764 (approving ''amendment No. 4687''). *See also House Floor Debate of S. 2847* at H7720 (Rep. Eshoo stating that ''[w]ith the passage of this legislation, we will end the practice of consumers being subjected to advertisements that are ridiculously loud, and we can protect people from needlessly loud noise spikes that can actually harm their hearing. This technical fix is long overdue, and under the CALM Act, as amended by the Senate, consumers will be in the driver's seat.''). We note that our action herein satisfies the statutory mandate that the Commission adopt final rules in this proceeding on or before December 15, 2011.

[2] *See* Advanced Television Systems Committee (''ATSC'') A/85: ''ATSC Recommended Practice: Techniques for Establishing and Maintaining Audio Loudness for Digital Television,'' (July 25, 2011) (''RP'' or ''the RP''). To obtain a copy of the RP, visit the ATSC Web site: *http://www.atsc.org/cms/standards/a_85-2011a.pdf. See also* CALM Act sec. 2(a); *Senate Committee Report to S. 2847* at 1; *House Committee Report to H.R. 1084* at 1.

[3] *See* CALM Act sec. 2(a).

[4] *See* CALM Act sec. 2(b)(1).

[5] ''Locally inserted'' commercials are commercials added to a programming stream by a station or MVPD prior to or at the time of transmission to viewers. In contrast, commercials that are placed

embedded commercials that stations and MVPDs pass through from programmers, we also establish a ''safe harbor'' to demonstrate compliance through certifications and periodic testing. This regime will make compliance less burdensome for the industry while ensuring appropriate loudness for all commercials.

II. Background

2. The CALM Act was enacted into law on December 15, 2010 in response to consumer complaints about ''loud commercials.'' [6] The Commission has received complaints about loud commercials virtually since the inception of commercial television more than 50 years ago.[7] Indeed, loud commercials have been a leading source of complaints to the Commission since the FCC Consumer Call Center began reporting the top consumer complaints in 2002.[8] One common complaint is that a commercial is markedly louder than adjacent programming.[9] The problem occurs in over-the-air broadcast television programming, as well as in cable, Direct Broadcast Satellite (''DBS'') and other video programming. The text of the CALM Act provides in relevant part as follows: [10]

(2)(a) Rulemaking required. Within 1 year after the date of enactment of this Act, the Federal Communications Commission shall prescribe pursuant to the Communications Act of 1934 (47 U.S.C. 151 *et seq.*) a regulation that is limited to incorporating by reference and making mandatory (subject to any waivers the Commission may grant) the ''Recommended Practice: Techniques for Establishing and Maintaining Audio Loudness for Digital Television'' (A/85), and any successor thereto, approved by the Advanced Television Systems Committee, only insofar as such recommended practice concerns the transmission of commercial advertisements by a television broadcast station, cable operator, or other multichannel video programming distributor.[11]

(b) Implementation

(1) Effective Date. The Federal Communications Commission shall prescribe that the regulation adopted pursuant to subsection (a) shall become effective 1 year after the date of its adoption.[12]

(2) Waiver. For any television broadcast station, cable operator, or other multichannel video programming distributor that demonstrates that obtaining the equipment to comply with the regulation adopted pursuant to subsection (a) would result in financial hardship, the Federal Communications Commission may grant a waiver of the effective date set forth in paragraph (1) for 1 year and may renew such waiver for 1 additional year.[13]

(3) Waiver Authority. Nothing in this section affects the Commission's authority under section 1.3 of its rules (47 CFR 1.3) to waive any rule required by this Act, or the application of any such rule, for good cause shown to a television broadcast station, cable operator, or other multichannel video programming distributor, or to a class of such stations, operators, or distributors.[14]

(c) Compliance. Any broadcast television operator, cable operator, or other multichannel video programming distributor that installs, utilizes, and maintains in a commercially reasonable manner the equipment and associated software in compliance with the regulations issued by the Federal Communications Commission in accordance with subsection (a) shall be deemed to be in compliance with such regulations.[15]

(d) Definitions. For purposes of this section—

(1) The term ''television broadcast station'' has the meaning given such term in section 325 of the Communications Act of 1934 (47 U.S.C. 325); [16] and

(2) The terms ''cable operator'' and ''multi-channel video programming distributor'' have the meanings given such terms in section 602 of Communications Act of 1934 (47 U.S.C. 522).[17]

3. The Commission has not regulated the ''loudness'' of commercials in the past, primarily because of the difficulty of crafting effective rules due to both ''the subjective nature'' of loudness and the technical limitations of the NTSC standard used in analog television.[18] The Commission has incorporated by reference into its rules various industry standards on digital television, but these standards alone have not described a consistent method for industry to measure and control audio loudness.[19]

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into the programming stream by a third party (i.e., programmer) and passed through by the station or MVPD to viewers are referred to herein as ''embedded'' commercials. As discussed below, the RP recommends different practices for stations and MVPDs to control the loudness of commercials depending on whether the commercials are locally inserted or embedded.

[6] *See House Floor Debate of S. 2847* at H7721 (Rep. Eshoo stating that the law is in response to ''the complaints that the American people have registered with the FCC over the last 50 years'').

[7] *See 1984 Order,* FCC 84–300, 49 FR 28077, July 10, 1984 (''*1984 Order*'') (observing in 1984 that ''the Commission has received complaints of loud commercials for at least the last 30 years''). *See also* 47 CFR 73.4075; Public Notice, ''Statement of Policy Concerning Loud Commercials,'' 1 FCC 2d at para. 20(a) (1965) (unpublished) (''*1965 Policy Statement*'') (concluding that ''complaints of loud commercials are numerous enough to require corrective action by the industry and regulatory measures by the Commission'').

[8] To view the FCC's Quarterly Inquiries and Complaints Reports, visit *http://www.fcc.gov/cgb/quarter/.* According to the FCC Consumer Call Center, since January 2008, the Commission has received approximately 1,000 complaints and 5,000 inquiries from consumers about ''loud commercials.'' The average number of monthly complaints has dropped by 50 percent since 2009.

[9] *See Senate Committee Report to S. 2847* at 1–2. *See also 1965 Policy Statement,* 1 FCC 2d at para. 15 (stating that a ''common source of complaint is the contrast between loudness of commercials as compared to the volume of preceding program material—*e.g.,* soft music or dialogue immediately followed by a rapid-fire, strident commercial'').

[10] *See* 47 U.S.C. 621 (2010). *See also* 47 U.S.C. 609 (2010).

[11] *Id.* 621(a).

[12] *Id.* 621(b)(1).

[13] *Id.* 621(b)(2).

[14] *Id.* 621(b)(3).

[15] *Id.* 621(c).

[16] *Id.* 621(d)(1). Section 325 of the Communications Act defines the term ''television broadcast station'' as ''an over-the-air commercial or non-commercial television broadcast station licensed by the Commission under subpart E of part 73 of title 47, Code of Federal Regulations, except that such term does not include a low-power or translator television station.'' 47 U.S.C. 325(b)(7)(B).

[17] *Id.* 621(d)(2). Section 602 of Communications Act defines the term ''cable operator'' as ''any person or group of persons (A) who provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable system, or (B) who otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system.'' 47 U.S.C. 522(5). Section 602 of Communications Act defines the term ''multichannel video programming distributor'' as ''a person such as, but not limited to, a cable operator, a multichannel multipoint distribution service, a direct broadcast satellite service, or a television receive-only satellite program distributor, who makes available for purchase, by subscribers or customers, multiple channels of video programming.'' 47 U.S.C. 522(13).

[18] *1984 Order* at para. 14. In 1965, the Commission issued a policy statement, stating that broadcast licensees ''have an affirmative obligation to see that objectionably loud commercials are not broadcast'' and must make a ''good faith effort'' to ''prevent the presentation of commercials which are too loud.'' *See 1965 Policy Statement,* 1 FCC 2d at paras. 16–17 (1965); *republished in* Public Notice, ''Objectionably Loud Commercials,'' 54 FCC 2d 1214 (1975). As noted by H&E's comments, the Commission has imposed forfeitures for airing objectionably loud commercials. *See* H&E Comments at 1–2. However, in 1984, the Commission terminated a proceeding initiated in 1979 that considered whether to adopt rules to eliminate loud commercials, finding that new regulations were not warranted because of the advent of new technology, such as the mute button on remote controls, and noting the difficulty in crafting effective rules ''due to the subjective nature of many of the factors that contribute to loudness.'' *See 1984 Order* at para. 14. *See 1979 NOI,* 44 FR 40532, July 11, 1979. The NTSC analog television system uses conventional audio dynamic range processing at various stages of the signal path to manage audio loudness for broadcasts, a practice which compensates for limitations in the dynamic range of analog equipment. However, this practice modifies the characteristics of the original sound, altering it from what the program provider intended. *See* RP § 1.1.

[19] 47 CFR 73.682(d) incorporates by reference and requires compliance with most of the ATSC A/53 Digital Television Standard (2007 version) relating to digital broadcast television and 47 CFR 76.640(b)(1)(iii) incorporates by reference the American National Standards Institute/Society of Cable Telecommunications Engineers (''ANSI/SCTE'') Standard 54 (2003 version) relating to digital cable television. The rules do not currently incorporate by reference a standard that applies to satellite TV (''DBS'') providers. Part 5 of the ATSC Standard A/53, which includes the Dolby AC–3 DTV audio standard (a method of formatting and encoding digital multi-channel audio, used by TV broadcast stations and many traditional cable operators), has recently been updated by ATSC: In

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The loud commercial problem seems to have been exacerbated by the transition to digital television, perhaps because DTV's expanded aural dynamic range allows for greater variations in loudness for cinema-like sound quality. As a result, when content providers and/or stations/MVPDs do not properly manage DTV loudness, the resulting wide variations in loudness are more noticeable to consumers.[20] However, DTV technology also offers industry the opportunity to more easily manage loudness. We note that, because the Recommended Practice we are instructed to incorporate by reference and make mandatory is directed only at digital programming, the rules we adopt in this *R&O* deal only with commercials transmitted digitally, and do not apply to analog broadcasts or analog MVPD service.[21]

4. The television broadcast industry has recognized the importance of measuring and controlling volume in television programming, particularly in the context of the transition to digital television. In November 2009, the Advanced Television Systems Committee (''ATSC'') [22] completed and published the first version of its A/85 Recommended Practice (''the RP''),[23] which was developed to offer guidance to the digital TV industry—from content providers to distributors—regarding loudness control.[24] The RP provides detailed guidance on loudness measurement methods for different types of content (*i.e.,* short form, long form, or file-based) at different stages of distribution (*i.e.,* production, post-production and real time production).[25] It specifically provides effective loudness management solutions for ''operators'' [26] to avoid large loudness variations during transitions between different types of content.[27] If all stations/MVPDs ensure that, *inter alia,* the loudness of all content is measured using the algorithm required by the RP and transmitted correctly, then consumers will be able to set their volume controls to their preferred listening (loudness) level and will not have to adjust the volume between programs and commercials.[28] The RP, like most ATSC documents, was initially intended for over-the-air TV broadcasters, in particular for AC–3 [29] digital audio systems. However, the RP also sets forth the recommended approach that cable and DBS operators and other MVPDs that use AC–3 and non-AC–3 audio systems should employ.[30]

5. Compliance with the RP requires industry to use the International Telecommunication Union [31] Radiocommunication Sector (''ITU–R'') [32] Recommendation BS.1770 measurement algorithm.[33] The ITU–R BS.1770 measurement algorithm provides a numerical value that indicates the perceived loudness [34] of the content measured in units of ''LKFS'' [35] by averaging the loudness of

our *Video Description Order,* we updated our DTV transmission standard in Section 73.682(d) of our rules to incorporate by reference the 2010 version of Part 5 of the ATSC A/53 Digital Television Standard (relating to audio systems). *See Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010,* MB Docket No. 11–43, Report and Order, 76 FR 55585, para. 52 (2011) (''*Video Description Order*''). *See also* ATSC A/53, Part 5: 2010 ''ATSC Digital Television Standard, Part 5–AC–3 Audio System Characteristics'' (July 6, 2010) (''2010 ATSC A/53 Standard, Part 5''). We note that this rule change is consistent with the final rules adopted herein because the RP references and requires compliance with the same testing methodology adopted in the 2010 ATSC A/53 Standard, Part 5. *See, e.g.,* RP §§ 2.1 (referencing A/53) and 7.1 (stating that the RP ''identifies methods to ensure consistent digital television loudness through the proper use of dialnorm metadata for all content, and thus comply with A/53''). The previous version of the ATSC A/53 Standard, Part 5, which is incorporated by reference in Section 73.682(d), includes an outdated audio loudness measurement method. *See* ATSC A/53, Part 5: 2007 ''ATSC Digital Television Standard, Part 5—AC–3 Audio System Characteristics'' § 5.5 at 9 (Dialogue Level) (Jan. 3, 2007) (''2007 ATSC A/53 Standard, Part 5''). The 2010 ATSC A/53 Standard, Part 5, contains the new methods to measure and control audio loudness reflected in the RP. *See* 2010 ATSC A/53 Standard, Part 5 at § 2.1 at 5 (referencing the RP) and § 5.5 at 9 (Dialogue Level). Although important, the update to A/53 alone was insufficient to fully address the commercial loudness issue, because like most of the ATSC standard it deals directly with only broadcast signals. The CALM Act and the RP are broader, explicitly covering MVPDs, and ensuring that the benefits of commercial loudness mitigation will be available to all television viewers.

[20] *See* ATSC Letter by Mark Richer, ATSC President, and attached ''Executive Summary of the ATSC DTV Loudness Tutorial Presented on February 1, 2011'' (dated Apr. 8, 2011) (''*ATSC Letter* and *DTV Loudness Tutorial Summary*'') (stating ''[t]he ATSC AC–3 Digital Television Audio System has 32 times the perceived dynamic range (ratio of soft to loud sounds) than the previous NTSC analog audio system. Although this increase in dynamic range makes cinema-like sound a reality for DTV, greater loudness variation is now an unintentional consequence when loudness is not managed correctly'').

[21] 47 U.S.C. 621(a); RP § 1. *See* ACA Comments at 9 (''ATSC A/85 does not apply to analog transmissions'').

[22] ATSC is an international, non-profit organization developing voluntary standards for digital television. The ATSC member organizations represent the broadcast, broadcast equipment, motion picture, consumer electronics, computer, cable, satellite, and semiconductor industries. ATSC creates and fosters implementation of voluntary Standards and Recommended Practices to advance digital television broadcasting and to facilitate interoperability with other media. *See http://www.atsc.org/aboutatsc.html.*

[23] *See* ATSC A/85: ''ATSC Recommended Practice: Techniques for Establishing and Maintaining Audio Loudness for Digital Television,'' (Nov. 4, 2009). As noted above, the most current version of the RP, released July 25, 2011, is available at the ATSC Web site: *http://www.atsc.org/cms/standards/a_85-2011a.pdf.*

[24] *See* RP § 1. A key goal of the RP was to develop a system that would enable industry to control the variations in loudness of digital programming, while retaining the improved sound quality and dynamic range of such programming. *Id.*

[25] *See* RP § 5.

[26] The RP defines an ''operator'' as ''[a] television network, broadcast station, DBS service, local cable system, cable multiple system operator (MSO), or other multichannel video program distributor (MVPD).'' Thus, the definition includes stations and MVPDs, as well as broadcast networks and cable network programmers. *See* RP § 3.4.

[27] *See* RP § 8.

[28] *See* RP § 4. If the operators use the RP properly, the loudness will also be consistent across channels. *Id.* We note that the RP does not intend to eliminate all loudness variations, but only prevent excessive loudness variations during content transitions. The RP also contains advice for systems without metadata to achieve the same result. *See* RP at Annex K.

[29] AC–3 is one method of formatting and encoding digital multi-channel audio, used by TV broadcast stations and many traditional cable operators. The AC–3 audio system is defined in the ATSC Digital Audio Compression Standard (A/52B), which is incorporated into the ATSC Digital Television Standard (A/53). *See* ATSC A/52B: ''Digital Audio Compression (AC–3, E–AC–3) Standard, Revision B'' (June 14, 2005).

[30] *See* RP at Annex H.

[31] The International Telecommunication Union (''ITU'') is a specialized agency of the United Nations whose goal is to promote international cooperation in the efficient use of telecommunications, including the use of the radio frequency spectrum. The ITU publishes technical recommendations concerning various aspects of radiocommunication technology. These recommendations are subject to an international peer review and approval process in which the Commission participates.

[32] The ITU Radiocommunication Sector (''ITU–R'') plays a vital role in the global management of the radio-frequency spectrum and satellite orbits—limited natural resources which are increasingly in demand from a large and growing number of services such as fixed, mobile, broadcasting, amateur, space research, emergency telecommunications, meteorology, global positioning systems, environmental monitoring and communication services—that ensure safety of life on land, at sea and in the skies.

[33] *See* RP § 5 (''[t]he specified measurement techniques are based on the loudness and true peak measurements defined by ITU–R Recommendation BS.1770—'Algorithms to measure audio programme [*sic*] loudness and true-peak audio level' '').

[34] *See* RP § 3.4 (defining ITU–R BS.1770). ''Loudness'' is a subjective measure based on human perception of sound waves that can be difficult to quantify and thus to measure. The ITU utilized very extensive human testing to produce an algorithm that provides a good approximation of human loudness perception of program audio to measure the loudness of programs. ''Volume,'' in contrast to loudness, is an objective measure based on the amplitude of sound waves. *Id* (defining loudness as ''[a] perceptual quantity; the magnitude of the physiological effect produced when a sound stimulates the ear'').

[35] The measured value is presented in units of loudness K-weighted, relative to full scale (''LKFS''). LKFS units are equivalent to decibels. *See* RP § 3.3 and § 5.1.

audio signals in all channels over the duration of the content.[36] In the RP, that value is called ''dialnorm'' (short for ''Dialog Normalization'') [37] and is to be encoded as metadata [38] into the audio stream required for digital broadcast television.[39] Stations/MVPDs transmit the dialnorm to the consumer's reception equipment.[40] Specifically, the RP provides operators with three metadata management modes for ensuring that the consumer's equipment receives the correct loudness value.[41]

6. The ''golden rule'' of the RP is that the dialnorm value must correctly identify the loudness of the content it accompanies in order to prevent excessive loudness variation during content transitions on a channel (*e.g.,* TV program to commercial) or when changing channels.[42] If the dialnorm value is correctly encoded—if it matches the loudness of the content, which depends in turn on accurate loudness measurements—the consumer's receiver will adjust the volume automatically to avoid spikes in loudness.[43]

7. In addition to requiring the Commission to incorporate the RP by reference, the CALM Act requires the Commission to incorporate by reference ''any successor thereto.'' [44] After the CALM Act's enactment, the ATSC approved several relevant changes to the RP. The ATSC approved a first successor document to the RP on May 25, 2011 and approved a second on July 25, 2011.[45] The first successor added Annex J which provides guidance with respect to local insertions for operators using AC–3 audio systems.[46] The second successor added Annex K [47] which in turn provides instructions for operators using non-AC–3 audio systems.[48] The RP states that Annexes J and K ''contain all the courses of action necessary to perform effective loudness control of digital television commercial advertising.'' [49] Both Annexes state that ''[i]t is vital that, when loudness of short form content (*e.g.,* commercial advertising) is measured, it be measured in units of LKFS including all audio channels and all elements of the soundtrack over the duration of the content.'' [50] Since there is no dialnorm metadata in non-AC–3 audio systems, the operator must ensure that the loudness of content measured in LKFS matches the Target Loudness [51] of the delivery channel.[52] In the context of the Annexes, the term ''vital'' indicates a course of action to be followed strictly (no deviation is permitted).[53] Throughout the RP, the term ''should'' indicates that a certain course of action is preferred but not necessarily required,[54] and the term ''should not'' means a certain possibility or course of action is undesirable but not prohibited.[55]

III. Discussion

8. We initiated this proceeding on May 27, 2011 by issuing a Notice of Proposed Rulemaking (''NPRM'').[56] We sought comment on proposals regarding compliance, waivers, and other implementation issues. As discussed below, after reviewing the concerns expressed in the record, we seek to adopt rules that recognize the distinct role played by stations and MVPDs in the transmission of commercials under the RP. Accordingly, our rules incorporate the RP and make commercial volume management mandatory, as required by the CALM Act,[57] reduce the burden associated with demonstrating compliance in the event of complaints,[58] and reflect the practical concerns described in the rulemaking record.[59]

A. Section 2(a) and Scope

9. We hereby adopt our proposal to incorporate the RP by reference into our rules,[60] as well as our tentative conclusion that the Commission may not modify the RP or adopt other actions inconsistent with the statute's express limitations.[61] In addition, we adopt our tentative conclusion that ''*all* stations/MVPDs and not only those using AC–3 audio systems'' are subject to our rules.[62] We also tentatively concluded

[36] Loudness is measured by integrating the weighted power of the audio signals in all stereo audio channels (plus any surround-sound audio channels) over the duration of the content. *See* RP § 5.1.

[37] *See* RP § 1.1.

[38] Metadata or ''data about the (audio) data'' is instructional information that is transmitted to the home (separately, but in the same bit stream) along with the digital audio content it describes. *See* RP § 1.1. The dialnorm and other metadata parameters are integral to the AC–3 audio bit stream.

[39] Use of AC–3 audio systems is required for TV stations as a result of the Commission's incorporation by reference into its rules of the ATSC digital TV standard, A/53, but not for cable operators or MVPDs. *See* RP § 7.1. The RP addresses non-AC–3 audio systems only in new Annex K, which the ATSC approved after the CALM Act's enactment. *See id.* at Annex K.

[40] From the consumer's perspective, the dialnorm metadata parameter defines the volume level at which the sound needs to be reproduced so that the consumer will end up with a uniform loudness level across programs and commercials without a need to adjust it again. *See* RP § 1.1. *See also ATSC DTV Loudness Tutorial Summary* at 1 (''When content is measured with the ITU–R BS.1770 measurement algorithm and dialnorm metadata is transmitted that correctly identifies the loudness of the content it accompanies, the ATSC AC-audio system presents DTV sound capable of cinema's range but without loudness variations that a viewer may find annoying.''). We note, however, that compliance with the RP does not guarantee that a commercial will not seem loud to a viewer. A commercial could, for example, include loud sounds in part and softer sounds in part and overall comply with the RP. In addition, the loudness measurement algorithm does not account for all of the perceptual qualities of sound which could make a commercial seem louder to a listener.

[41] *See* RP § 7.2.

[42] *See ATSC DTV Loudness Tutorial Summary* at 1 (''An essential requirement (the golden rule) for management of loudness in an ATSC audio system is to ensure that the average content loudness in units of LKFS matches the metadata's dialnorm value in the AC–3 bit stream. If these two values do not match, the metadata cannot correctly ensure that the consumer's DTV sound level is consistently reproduced''). *See also* RP § 5. Following the golden rule can be accomplished in multiple ways under the RP, including using a real-time processor to ensure consistent loudness that matches the dialnorm value. We recognize, however, that this solution can be less desirable for industry and consumers in some cases, precisely because it reduces the dynamic range of the audio content. *See* RP § 8.1.1 (c), § 8.1.2 (c), and § 9.1.

[43] *See* RP § 1.1 and § 4.

[44] *See* CALM Act sec. 2(a).

[45] This document is available at *http://www.atsc.org/cms/standards/a_85-2011a.pdf.*

[46] *See* RP at Annex J.

[47] *See* RP at Annex K.

[48] The second successor document added Annex K for use by non-AC–3 digital audio systems, which includes many MVPDs. Non-AC–3 audio systems use different compression and coding techniques from AC–3, such as MPEG–1 Layer 2 (MP2) or Advanced Audio Coding (AAC). *See* RP at Annex K.

[49] *See* RP § J.1 and § K.1. Stating that it ''contains the courses of action necessary to perform effective loudness control * * *'' In the NPRM we asked how to apply the RP, through our rules, to non-AC–3 MVPD systems, since the RP was written with that technology as its focus. *NPRM* at para. 12. Because Annex K expressly extends the RP to non-AC–3 systems, this issue is moot, although as some commenters correctly note, these rules apply only to digital transmissions.

[50] *Id.* at J.4. The only difference between Annex J.4, quoted above, and Annex K.4 is the phrase ''short form'' before ''content'' at the end of the sentence. *Id.* at K.4.

[51] Target Loudness is a specified value, established to facilitate content exchange from a content provider to a station/MVPD. *See* RP § 3.4.

[52] *See* RP § K.5.

[53] *See* RP § 3.1.

[54] *Id.*

[55] *Id.* As discussed below, because the CALM Act makes the RP mandatory with respect to commercials transmitted by stations/MVPD, we interpret the statute to require courses of action by stations/MVPDs that are recommended but not strictly required by the RP.

[56] *Implementation of the Commercial Advertisement Loudness Mitigation (CALM) Act;* MB Docket No. 11–93, Notice of Proposed Rulemaking, 76 FR 32116, June 3, 2011 (''*NPRM*'').

[57] CALM Act at sec. 2(a).

[58] CALM Act at sec. 2(c).

[59] Issues raised by commenters include the difficulties of performing real-time corrections on embedded commercials, and the use of spot checks by large stations and MVPDs to assure compliant programming on all stations and MVPDs

[60] *Final Rules* (47 CFR 73.8000(b)(3), § 76.602(b)(10)).

[61] *See NPRM* at para. 8.

[62] *See id.* at para. 12 (reasoning that ''[t]he statute * * * expressly applies to all stations/MVPDs

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in the NPRM that ''stations/MVPDs are responsible for *all* commercials 'transmitted' by them.'' [63] We conclude that the statute makes each station/MVPD responsible for compliance with the RP as incorporated by reference in our rules with regard to all commercials it transmits to consumers, including both those it inserts and those that are ''embedded'' in programming it receives from program suppliers. As set forth below, this conclusion is consistent with the statutory language, the legislative history, and the RP.[64]

10. Our conclusion rests on our reading of the CALM Act and the RP. As set forth above, the CALM Act directs the Commission to ''incorporat[e] by reference and mak[e] mandatory'' the RP ''only insofar as'' it ''concerns the transmission of commercial advertisements by a television broadcast station, cable operator, or other multichannel video programming distributor.'' [65] As one commenter accurately observes, the RP ''relies not on a single entity to control the audio loudness, but rather on an entire 'ecosystem' of all participants to ensure that correct audio levels are maintained—ranging from when an advertisement is created through display in a consumer's home.'' [66] Consistent with the statute, however, the rules we adopt today are limited to station/MVPD responsibilities under the RP.[67] Our rules are also limited to the RP's methods for controlling the loudness of commercial advertisements—as opposed to regular programming—transmitted by stations/MVPDs to consumers.[68]

11. The RP recommends different courses of action for stations/MVPDs to control the audio loudness of commercials depending on whether they are ''inserted'' or ''embedded.'' Appendices J and K of the RP summarize station/MVPD responsibilities with regard to the former.[69] With regard to ''embedded'' content, the RP recommends ''[c]ooperation between the content supplier and recipient'' in ''fixed'' dialnorm systems in order to ''achieve successful loudness management'' and also requires that stations and MVPDs ''ensur[e] dialnorm [value] properly reflects the Dialog Level of all content.'' [70] The CALM Act requires that our rules ''mak[e] mandatory'' the RP with regard to commercials transmitted by stations/MVPDs.[71] We conclude, therefore, that the cooperative course of action the RP recommends as to embedded content ''concerns the transmission of commercial advertisements'' by stations/MVPDs and, therefore, that the CALM Act requires stations/MVPDs to take such actions.[72] As examination of the record reveals, the RP relies on such cooperation for effective loudness control; without it, transmission of ''embedded'' commercials that comport with the RP would be impractical at best.[73]

12. Our conclusion that stations/MVPDs are responsible for compliance with regard to ''embedded'' as well as ''inserted'' commercials is consistent with Congressional intent as well as the language of the statute and the RP. Examination of the legislative history reflects that Congress's purpose in regulating the volume of audio on commercials was to ''make the volume of commercials and regular programming uniform so consumers can control sound levels.'' [74] Our reading of the statute and the RP carries out this purpose by requiring that all commercials transmitted by stations/MVPDs comport with the RP, regardless of whether they are ''inserted'' or ''embedded.'' The record reflects that most commercials are not inserted in programming by stations/MVPDs, but rather upstream by broadcast or cable networks; in some cases, more than 95% of the commercials transmitted are embedded within programming when it is sent to stations/MVPDs.[75] Our interpretation carries out Congress's purpose by requiring compliance with the RP's provisions uniformly for all commercials transmitted by stations/MVPDs, not just the minority they happen to insert.

13. We find unpersuasive the arguments of some industry commenters that the responsibility of stations/MVPDS under the CALM Act and the RP is limited to ensuring that those

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regardless of the audio system they currently use. Nothing in the statutory language or legislative history suggests an intent to make an exception for MVPDs that do not use AC–3 audio systems.''). *See also* RP at Annex K (providing ''recommendations * * * based on other sections of this'' RP as to ''courses of action necessary to perform effective loudness control * * * when using non-AC–3 audio codecs'').

[63] *Id.* at para. 10.

[64] Our interpretation is also bolstered by a series of letters from Members of Congress who have written in support of the approach described in the NPRM. *See, e.g.,* Reply of Rep. Anna G. Eshoo (July 29, 2011) (''Eshoo Reply''); *Ex Parte* Comments of Sens. Sheldon Whitehouse, Sherrod Brown, Tim Johnson, Claire McCaskill, and Charles E. Schumer (September 14, 2011) (''Whitehouse Letter''); and *Ex Parte* Comments of Sen. John D. Rockefeller, IV, Chairman, Committee on Commerce, Science, and Transportation (October 3, 2011) (''Rockefeller Letter'').

[65] 47 U.S.C. 621(a). The RP defines an ''operator'' more broadly, as ''[a] television network, broadcast station, DBS service, local cable system, cable multiple system operator (MSO), or other multichannel video program distributor (MVPD).

[66] NCTA Comments at 4. *See, e.g.,* RP § 7.3.2 (''Cooperation between the content supplier and recipient is necessary to achieve successful loudness management.'').

[67] Final Rules (47 CFR 73.682(e)(1), § 76.607(a)(1)). This statutory focus is consistent with other contexts, such as commercial limits in children's programming, where Congress imposed responsibility on stations/MVPDs which, in turn, required their providers to comply through contracts. *See 1991 Children's TV Order,* FCC 91–113, 56 FR 19611, April 29, 1991 (''*1991 Children's TV Order*'') (stating an MVPD remains liable for violations of the commercial limits on cable network children's programs they carry).

[68] CALM at sec. 2(a) (requiring that the Commission make the RP mandatory ''only insofar as such recommended practice concerns the transmission of commercial advertisements''). *See also* RP § 7 and § 8.

[69] *See* RP at Annex J and Annex K. *See id.* § 8.4 (''In the case of TV station or MVPD insertion of local commercials or segments, the operator should ensure that the Dialog Level of the local insertion matches the dialnorm setting of the inserted audio stream.'').

[70] See RP § 7.3.2 (''Cooperation between content supplier and recipient is necessary to achieve successful loudness management when implementing [fixed dialnorm]''); § 7.3.4 (''To ensure the proper match between dialnorm value and loudness, the operator should make use of loudness metering during quality control, and when necessary make compensating adjustments to ensure the loudness meets the target value.''); § 8.1.1 (''Ensure that all content meets the Target Loudness''); § 8.1.2 (''Ensure that * * * content is measured (see Section 5.2) and labeled with the correct dialnorm''); § 8.3 (''1) Ensure proper targeted average loudness of content in a fixed metadata system, or 2) Ensure proper dialnorm authoring matching the measured content loudness in an agile metadata system''); § H.8 (''Key Idea: Ensure that all program and commercial audio content matches the dialnorm value''); and § K.2 (''The Operator's goal is to present to the audience consistent audio loudness'').

[71] 47 U.S.C. 621(a).

[72] *Id.*

[73] *See, e.g.,* Verizon Comments at 8; NAB Comments at 8; NCTA Comments at note 5.

[74] *See, e.g., House Floor Debate of S. 2847* at H7720 (Rep. Eshoo stating that the bill would ''make the volume of commercials and regular programming uniform so consumers can control sound levels.''); *Senate* Committee *Report to S. 2847* at 1 (stating Congress' expectation that the RP will ''moderat[e] the loudness of commercials in comparison to accompanying video programming''); *House Committee Report to H.R. 1084* at 1 (stating goal of statute is ''to preclude commercials from being broadcast at louder volumes than the program material they accompany''); *House Floor Debate of S. 2847* at H7720 (Rep. Eshoo stating that ''[w]ith the passage of this legislation, we will end the practice of consumers being subjected to advertisements that are ridiculously loud, and we can protect people from needlessly loud noise spikes that can actually harm their hearing. This technical fix is long overdue, and under the CALM Act, as amended by the Senate, consumers will be in the driver's seat.''). *See also* Eshoo Reply at 1 (''The law's intent is simple—to make the volume of commercials and programming uniform so that spikes in volume do not affect the consumer's ability to control sound.'').

[75] *See, e.g.,* ACA Comments at 32 (member cable systems insert fewer than 4 percent of transmitted commercials; *cf.* DIRECTV Comments at 19 (generally inserts 1/7 of transmitted commercials in non-broadcast programming, but no commercials in broadcast programming).

commercials they insert are set to the correct dialnorm value or meet the Target Loudness.[76] Several commenters argue that imposing responsibility on stations/MVPDs for a task the RP ''assigns'' to others would exceed our statutory authority.[77] We do not disagree. As described above, however, the ''practices'' described in the RP include actions that stations and MVPDs must take to cooperate with their content providers [78] to ensure that all of the programming they transmit conforms with the RP, including commercials that they pass through in real time.[79] Thus, our interpretation is consistent with the responsibilities set forth in the RP, as well as with the statutory focus on stations and MVPDs, and does not shift responsibilities under the RP from third parties to stations/MVPDs.

14. Some commenters also argue that stations/MVPDs can only be held responsible under the Commission's regulations for actions that the RP identifies as ''vital.'' [80] We disagree. The Annexes to the RP set forth a variety of ''practices,'' referred to variously as ''vital,'' ''preferred,'' (''should'' be followed), and ''critical,'' which apply to various industry participants.[81] Some of those industry participants are subject to the CALM Act and some are not. The statute, in turn, directs us to make the RP mandatory insofar as it ''concerns the transmission of commercial advertisements'' by stations/MVPDs.[82] The statute makes no distinction among these types of actions or between commercials ''inserted'' by stations/MVPDs and others.[83] In light of the fact that the RP covers parties and practices that are outside the scope of the statute, we must exercise considerable care in implementing the statutory directive to incorporate the RP by reference to the extent that it concerns transmission of commercials by stations/MVPDs. Based on our examination of the record, we believe that the most reasonable reading of the statutory language, together with the RP itself, is to make stations/MVPDs responsible for all of the commercials that they transmit, but to recognize that their responsibilities under the RP vary for inserted and embedded content.

15. We also reject the argument that station/MVPD responsibilities under the RP as incorporated into the Commission's rules should be limited to those set forth in Annexes J and K to the RP, adopted after passage of the CALM Act.[84] These Annexes do not purport to describe all practices that concern the transmission of commercials by a station/MVPD, nor do they do so. Rather, we read them as addressing only the actions required when entities insert commercials into programming. They do not override the RP as a whole.[85] Sections 8.1 and 8.3 of the RP, directing stations and MVPDs to themselves take various actions to ''ensure'' the proper loudness level of all the content they transmit, not just the commercials they insert, provide that such actions are ''critical'' for compliance with the RP.[86] Moreover, as set forth above, the RP as a whole depends on stations' and MVPDs' cooperation with their programming providers to ensure proper loudness control for the commercials that they transmit. Neither Annex, nor any other amendment to the RP, changes the critical nature of such cooperation.

16. We believe that our reading fulfills the statutory purpose better than the narrow one advocated by some industry commenters. Interpreting the statute such that stations'/MVPDs' responsibility to ensure that they do not transmit loud commercials applies only to those commercials that they insert would render the statute largely meaningless because consistent loudness cannot be achieved without applying the RP to all commercials. That is, commercials cannot be ''present[ed] to viewers at a consistent loudness'' if only *some*—and not all—of the commercials conform to the engineering solutions developed in the RP. Simply put, inserting properly modulated commercials next to improperly modulated ones will not solve the loudness problem, and as a practical matter, consumers neither know nor care which entity inserts commercials into the programming stream. Congress did not intend to adopt only part of the industry's technical solution or to exclude from the solution essential elements for its success. To the contrary, Congress intended the Commission to implement the engineering solution with respect to all commercials and to make stations/MVPDs responsible for achieving that solution.[87]

17. Some commenters contend that the legislative history of the CALM Act demonstrates that Congress' intent was narrow, aiming at some but not all commercials. These commenters point to earlier, unsuccessful versions of the legislation that would have granted the Commission broad authority to establish loudness standards.[88] We disagree. The ''more circumscribed language'' of the CALM Act as it was ultimately adopted does not absolve stations/MVPDs of responsibility for the vast majority of commercials they transmit.[89] The legislative history reflects a Congressional decision to require regulation in accordance with the RP in lieu of a broad grant of authority for the Commission to establish technical standards. As indicated above, however, nothing in the statutory language or legislative history reflects that Congress did not intend that the RP be applied to all commercials.[90]

[76] *See, e.g.,* Verizon Comments at 13, NCTA Comments at 9–10, AT&T Comments at 4, ACA Comments at 6, TWC Reply at 2–3, DIRECTV Comments at 12, Comcast *Ex Parte* at 1 (October 6, 2011) (Comcast *Ex Parte*). We note that none of the comments filed in response to the NPRM disputed the responsibility of stations/MVPDs under the RP to pass through the metadata inserted into programming by third parties.

[77] *See, e.g.,* NCTA Comments at 6 (stating that ''the Commission would exceed its very specific mandate to incorporate the ATSC A/85 Recommended Practice if it were to impose responsibilities on cable operators not included in that Recommended Practice.''); *Ex Parte* Presentation of the American Cable Association (October 20, 2011) (''ACA 10/20 *Ex Parte''*) (arguing that the Commission ''lacks discretion to * * * alter the balance of responsibilities concerning loudness moderation assigned in the RP''.)

[78] *See* RP § 7.3.2.

[79] *See* RP § 8.1 and § 8.3.

[80] *See, e.g.,* NAB Comments at 3; ACA Comments at 11; Reply of CenturyLink at 5 (''CenturyLink Reply'').

[81] The term ''vital'' (used only in the Annexes) indicates a course of action to be followed strictly (no deviation is permitted). The term ''should'' indicates that a certain course of action is preferred but not necessarily required. ''Critical'' elements of compliance are identified throughout the item, but the term is not defined. *See* RP § 3.1.

[82] 47 U.S.C. 621(a). *See NPRM,* 26 FCC Rcd at para. 10.

[83] 47 U.S.C. 621(a) (directing the FCC to ''incorporat[e] by reference and mak[e] mandatory'' the RP ''insofar as [it] concerns the transmission of commercial advertisements'' by stations/MVPDs). *See NPRM* at para. 10. We note that, as the time of the CALM Act's adoption, the RP made no distinction between ''vital'' and ''preferred'' actions. We also note that the RP does not address ''transmission'' separately from other aspects of the program distribution process.

[84] *See, e.g.,* NAB Comments at 3; ACA Comments at 11; Reply of CenturyLink at 5 (''CenturyLink Reply'').

[85] *See* RP § J.1 (''The recommendations in this Annex are based on other sections of this Recommended Practice.'').

[86] *Id.* at §§ 8.1 and 8.3.

[87] *See, e.g.,* CU Reply at 3 (''It now appears that some in the industry are trying to renegotiate the intent and language of the Act.''); *see also* Eshoo Reply; Whitehouse Letter; Rockefeller Letter.

[88] *See, e.g.,* Verizon Comments at 5–6, TWC Comments at 6–7.

[89] Verizon Comments at 6, 8.

[90] *See, e.g., House Floor Debate of S. 2847* at H7720 (Rep. Eshoo stating that the bill would ''eliminate the earsplitting levels of television advertisements and return control of television sound modulation to the American consumer''); *Senate Committee Report to S. 2847* at 1 (stating purpose of law); NAB Comments at 3–4; RP § H.4 (''Key Idea: Goal is to present to the viewer consistent audio loudness across commercials, programs, and channel changes.'') (*emph. in original*).

1. ''Commercial Advertisements''

18. We affirm the NPRM's tentative conclusion that non-commercial broadcast stations would be largely unaffected by this proceeding because Section 399B of the Communications Act, as amended, prohibits them from broadcasting ''advertisements.'' [91] The Commission has previously concluded that the prohibition in Section 399B does not apply to ancillary and supplementary services provided by non-commercial stations, such as subscription services provided on their DTV channels.[92] Accordingly, we find that non-commercial broadcast stations are excluded from the statute except to the extent they transmit commercial advertisements as part of an ''ancillary or supplementary service.'' [93]

19. In the NPRM, we also asked whether political advertisements were ''commercial advertisements,'' [94] and some commenters argued for their exclusion.[95] We find no basis in the statute to exclude political advertisements from the coverage of the CALM Act. The station or MVPD transmitting the political advertisement receives consideration for airing these advertisements,[96] and we are merely requiring a candidate's advertisement to comply with a technical standard applicable to all advertisements.[97] Complying with such a technical standard with respect to a political advertisement does not constitute an editorial change that would conflict with a licensee's obligations to accept political advertisements under Section 315 of the Communications Act. Based on the current record, we also find no policy or legal reason to exempt program-length commercials or commercial advertisements promoting television programming (''promos'') from the scope of the rules.[98] First, we find no basis in the statute, the legislative history, or the RP for exempting promos from the definition of commercial advertisements for the purpose of the CALM Act. Specifically, the statute does not distinguish between commercials promoting the products or services of third parties and those promoting the station's or MVPD's own commercial television programming, whether shown on the same or a different channel. The RP, which the statute directs us to incorporate by reference into our rules, likewise makes no such distinction. Instead, it distinguishes between ''short form'' or ''interstitial'' content and ''long form'' content, treating ''promotional'' material as ''short form'' content equivalent to advertisements.[99] Moreover, we do not believe that exempting promos would serve the statutory purpose of preventing commercials from being transmitted at louder volumes than the programming they accompany. From a consumer perspective, we believe that there is no difference between promos and other commercials. Were we to exclude promos, television programmers could advertise their own programming at a higher volume than surrounding programming or other commercial advertisements. Accordingly, we find that it is most consistent with the statutory language and purpose to require that the loudness of promos comply with the RP.[100] We emphasize that our determination that promos are covered by the definition of commercial advertisements is limited to the use of that term in the CALM Act and that this determination does not change how promos are categorized for any other purpose or Commission rule. We will address any other definitional issues surrounding ''commercial advertisements'' on a case-by-case basis as they arise.

2. Successor Documents

20. We observed in the NPRM that Section 2(a) mandates that the required regulation incorporate by reference and make mandatory ''any successor'' to the RP, affording the Commission no discretion in this regard.[101] Accordingly, we tentatively concluded that notice and comment would be unnecessary to incorporate successor documents into our rules.[102] On further reflection, we now conclude that, although the ''good cause'' exception excuses compliance with notice and comment requirements under these circumstances, the public interest will be better served by an opportunity for comment in most cases. Examination of the record reflects that interpretation may be required to determine how the RP successors apply to the transmission of commercial advertisements by stations/MVPDs pursuant to the CALM Act, and that interpretive work can only benefit from public input.[103] If, however, a successor is not sufficiently substantive to require interpretation or public comment, we will simply adopt the successor by Public Notice. As proposed in the *NPRM*, for the present we will incorporate by reference into our rules the current successor to the RP, adopted by ATSC prior to the adoption of this Report and Order.[104]

21. The ACA argues that the foregoing statutory mandate constitutes an improper delegation of legislative authority because it ties the Commission's hands and provides no guidance for the ATSC as to the content

[91] *NPRM* at para. 11.

[92] *Id.*

[93] *Id.*

[94] *Id.*

[95] *See, e.g.,* HBI Comments at 4–5; AT&T Comments at 6; ACA Reply at 5, n.19; NCTA Comments at 13.

[96] This is consistent with the definition of an ''advertisement'' in Section 399B of the Act. Section 399B of the Communications Act defines the term ''advertisement'' as ''any message or other programming material which is broadcast or otherwise transmitted in exchange for any remuneration, and which is intended—(1) to promote any service, facility, or product offered by any person who is engaged in such offering for profit; (2) to express the views of any person with respect to any matter of public importance or interest; or (3) to support or oppose any candidate for political office.'' *See* 47 U.S.C. 399b(a). It is also consistent with the definition of ''commercial matter'' in the children's television commercial limits rules. In the context of commercial limits during children's programming, the Commission defines ''commercial matter'' as ''airtime sold for purposes of selling a product or service and promotions of television programs or video programming services other than children's or other age-appropriate programming appearing on the same channel or promotions for children's educational and informational programming on any channel.'' *See* 47 CFR 73.670 Note 1; 47 CFR 76.225 Note. 1.

[97] *C.f. Codification of the Commission's Political Programming Policies,* MM Docket No. 91–168, Memorandum Opinion and Order, 57 FR 8278, March 9, 1992.

[98] We note that, although the Commission specifically asked about this issue in the *NPRM* at para. 11, it was not addressed at all in the comments or replies. Some *Ex Parte* filers did object to treating promotional announcements, particularly those made on premium networks, as ''commercials'' for purposes of the CALM Act. *See, e.g.,* Time Warner, Inc. *Ex Parte* (October 26, 2011), Verizon *Ex Parte* (December 6, 2011), NCTA *Ex Parte* (December 6, 2011). These *Ex Parte*s, however, provide no justification or rational basis for such a distinction, simply stating without support that ''promotion'' has alternative meanings in other contexts. We reiterate that non-commercial broadcast stations are excluded from the statute except to the extent they transmit commercial advertisements as part of an ''ancillary or supplementary service.''

[99] RP § 3.4.

[100] In this regard, we note that there is no evidence in the record that bringing ''promos'' into compliance will require any effort beyond that necessary to bring all other commercial advertisements into compliance.

[101] *NPRM* at para. 13, quoting 47 U.S.C. 621(a).

[102] *Id.,* citing 5 U.S.C. 552(b)(B) (providing that Administrative Procedure Act's notice and comment requirements do not apply when the agency for good cause finds, and incorporates the finding and a brief statement of reasons therefor in the rules issued, that notice and public procedure thereon are unnecessary).

[103] *See* ACA Comments at 17 (''By eschewing a notice and comment process, the Commission will fail to fully and properly analyze and interpret the obligations placed by any 'successor' [RP] on MVPDs and programmers.'').

[104] *See NPRM* at para. 13. As the *NPRM* indicated, we ask that the ATSC notify us whenever it approves a successor to the RP, submit a copy of it into the record of this proceeding, and send a courtesy copy to the Chief Engineer of the Media Bureau. *Id.*

of successor standards.[105] The Commission, however, ''may not ignore the dictates of the legislative branch.'' [106] Our obligation to incorporate by reference into our rules successor RPs is clear and, therefore, we do not address ACA's argument that we cannot incorporate the current version of the RP.[107] We note, however, that we disagree with ACA's unsupported contention that if the successor clause were held to be an improper delegation, it would render the entire CALM Act null and void ''since Congress clearly considered this clause an essential part of the statute.'' [108] The salient question for a court would be: '' '[w]ould Congress still have passed the valid sections had it known about the constitutional invalidity of the other portions of the statute?' '' [109] The CALM Act as a whole does not appear to us to be so dependent, conditional, or connected to the statutory clause ''and any successor thereto'' as to warrant a conclusion that Congress would not have passed the CALM Act without that clause. In any event, the severability issue makes no difference here, because the current RP is consistent with the preexisting one,[110] and our rules implement the RP both as it existed at the time of the CALM Act's enactment and in its current form. In other words, our action herein would be the same in material respects in the absence of the ATSC's post-CALM Act amendments. Thus, if a court were to conclude that the successor provision in the CALM Act was an invalid but severable delegation, it would affect only incorporation of future successor RP documents.

B. Compliance and Enforcement

22. Below, we discuss procedures stations and MVPDs may follow with regard to locally inserted commercials in order to be ''deemed in compliance'' with the rules in the event of an FCC investigation or inquiry. We then establish a ''safe harbor,'' based on a proposal by NCTA, for stations and MVPDs to demonstrate compliance with regard to embedded commercials through certifications and periodic testing. We intend to initiate an investigation when we receive a pattern or trend of consumer complaints indicating possible noncompliance.[111] Stations or MVPDs that seek to be ''deemed in compliance'' or in the ''safe harbor'' need not demonstrate, in response to an FCC enforcement inquiry, that they complied with the RP with regard to the complained-of commercial or commercials, and they will not be held liable for noncompliant commercials that they previously transmitted.[112] The procedures we adopt, however, are optional, and any station or MVPD may instead choose to demonstrate actual compliance, in response to an FCC enforcement inquiry prompted by a pattern or trend of complaints, with the requirements of the RP with regard to the commercial(s) in question, as well as certifying to the Commission that its own transmission equipment is not at fault.[113] If unable to do so, the station or MVPD may be liable for penalties or forfeitures.[114] If we find that our approach (''deemed in compliance,'' ''safe harbor,'' complaint-driven enforcement, *etc.*) does not appear to be effective in ensuring widespread compliance with the RP, we will revisit it to the extent necessary.

1. Deemed in Compliance/Safe Harbor

23. The CALM Act states that ''[a]ny broadcast television operator, cable operator, or other multichannel video programming distributor that installs, utilizes, and maintains in a commercially reasonable manner the equipment and associated software in compliance with the regulations issued by the Federal Communications Commission in accordance with subsection (a) shall be deemed to be in compliance with such regulations.'' [115] As described in the NPRM and discussed in detail below, we conclude that the scope of this provision is limited to situations in which the station or MVPD itself installs, utilizes, and maintains the equipment required to comply with the RP.[116] Stations and MVPDs use such equipment for locally inserted commercials, and could similarly be deemed in compliance under the statute for embedded commercials by performing real-time processing.[117] However, we believe that stations, MVPDs, content providers, and consumers disfavor real-time processing due to its harm to overall audio

[105] *See* ACA Comments at 17–20, citing, *inter alia, Mistretta* v. *United States,* 488 U.S. 361, 422 (1989) (''If rulemaking can be entirely unrelated to the exercise of judicial or executive powers, I foresee all manner of ''expert'' bodies, insulated from the political process, to which Congress will delegate various portions of its lawmaking responsibility * * * This is an undemocratic precedent that we set-not because of the scope of the delegated power, but because its recipient is not one of the three Branches of Government.''); (Scalia, J., dissenting); *Carter* v. *Carter Coal,* 298 U.S. 238, 311 (1936) (in concluding that delegation of authority to a subset of the mining industry to set minimum wages and maximum hours of labor violated due process).

[106] *Action for Children's Television* v. *FCC,* 932 F.2d 1504, 1509 (D.C. Cir. 1991) (recognizing ''the Commission's constraints in responding to [an] appropriations rider'' that required it to ban all radio and television broadcasts of indecent material, despite the Commission's prior view that such a ban would be unconstitutional, but explaining that the court has an ''independent duty to check the constitutional excesses of Congress.''). *See Branch* v. *FCC,* 824 F.2d 37, 47 (D.C. Cir. 1987) (''although an administrative agency may be influenced by constitutional considerations in the way it interprets or applies statutes, it does not have jurisdiction to declare statutes unconstitutional.''). *See also Hettinga* v. *United States,* 560 F.3d 498, 506 (D.C. Cir. 2009) (''As the Supreme Court has observed, it would make little sense to require exhaustion where an agency 'lacks institutional competence to resolve the particular type of issue presented, such as the constitutionality of a statute' ''), quoting *McCarthy* v. *Madigan,* 503 U.S. 140, 147–48 (1992).

[107] *See* ACA Comments at 19–20.

[108] *Id.* at 19.

[109] *Basardh* v. *Gates,* 545 F.3d 1068, 1070 (D.C. Cir. 2008), quoting *U.S.* v. *Booker,* 543 U.S. 220 (2005) (internal quotation marks omitted).

[110] For example, Appendices J and K state that they ''are based on other sections of this Recommended Practice.'' *See* RP § J.1 and § K.1.

[111] As proposed by, *e.g.,* NCTA and ACA. NCTA Comments at 15, ACA Reply at 12. Consumers Union (CU) proposed that the Commission conduct audits of programming to verify compliance. Consumers Union Reply at 5. CU argued that this would be a ''low-cost, efficient mechanism to ensure compliance,'' but since the goal of the statute is to improve the viewer experience, we find that responding directly to viewer concerns will be a more efficient and effective use of Commission resources.

[112] The record suggests that it is very difficult for stations or MVPDs to prove that an embedded commercial transmitted in the past actually complied with the RP. *See, e.g.,* NAB Comments at 6 (''Broadcast television stations currently do not measure every commercial that is transmitted, and such an approach would not be practical from a technical, administrative, or financial standpoint''). It becomes more difficult with the passage of time, although it is possible that some stations or MVPDs are capable of demonstrating past compliance based on their own records (*see, e.g.,* DIRECTV *Ex Parte* (September 16, 2011)) or by working with programmers (potentially by seeking records to compare to complaints) (*see, e.g.,* Comcast *Ex Parte* (October 6, 2011)).

[113] Final Rules (47 CFR 73.682(e)(6), § 76.607(a)(6)). As NCTA notes, analog transmissions are exempt from the coverage of these rules in all cases, and do not need the protection of a safe harbor. NCTA Comments at 18. If an entity can demonstrate that a pattern or trend of complaints relates to an analog transmission, it need take no further action under these rules.

[114] 47 U.S.C. 503. *See also* 47 U.S.C. 503(b)(1)(B) and 47 CFR 1.80(a)(2) (stating that any person who willfully or repeatedly fails to comply with the provisions of the Communications Act or the Commission's rules shall be liable for a forfeiture penalty).

[115] CALM Act at § 2(c).

[116] *See NPRM* at para. 16. Final Rules (47 CFR 73.682(e)(2), § 76.607(a)(2)).

[117] A station or MVPD can install, utilize, and maintain, in a commercially reasonable manner, a real-time or ''conventional'' processor to ensure consistent loudness by limiting dynamic range, rather than by setting the dialnorm or meeting the Target Loudness. Conventional processing ''modifies the dynamic range of the decoded content by reducing the level of very loud portions of the content to avoid annoying the viewer and by raising the level of very quiet portions of the content so that they are better adapted to the listening environment.''

quality.[118] Based on the information in the record submitted in response to the NPRM, we will establish a safe harbor for stations and MVPDs with respect to embedded commercials that does not require real-time processing.[119] The safe harbor is derived from the RP's reliance on cooperation by stations and MVPDs with upstream program providers to ensure proper loudness control of the content that is passed through to viewers in real time without additional processing by the station or MVPD.[120] Under these circumstances, the station or MVPD itself does not use the equipment necessary to encode dialnorm value into a commercial and thus does not ensure compliance through those means. This safe harbor provides a simple way for stations and MVPDs to respond to an enforcement inquiry regarding embedded commercials so as to reduce their burden of demonstrating compliance without forcing them to use equipment that distorts the audio they transmit.

24. First, it is essential that stations and MVPDs have the proper equipment to pass-through RP-compliant programming. Therefore, we conclude that all stations and MVPDs must have the equipment necessary to pass through programming compliant with the RP, and be able to demonstrate that the equipment has been properly installed, maintained, and utilized. We note that the necessary equipment will vary depending on whether a station or MVPD uses an AC–3 audio system or not, whether it needs to encode incoming program streams, and other factors.[121] MVPDs will be considered compliant with this requirement so long as the processes used for transmitting to subscribers the information contained in the transmissions of digital program networks correctly maintains the relative loudness of network commercials and long-form content consistent with the RP. This equipment is required in many cases for the provision of any audio at all, and is therefore necessary but not sufficient for parties to be ''deemed in compliance'' under Section 2(c) of the CALM Act, to enter the ''safe harbor'' we establish for embedded content, or to demonstrate actual compliance with the RP. In the context of an enforcement inquiry, any station or MVPD must be prepared to certify to the Commission that its own transmission equipment is not at fault for any pattern or trend of complaints.[122]

25. Second, we have considered proposals in the record describing how stations and MVPDs may be ''deemed in compliance'' under the statute and the Commission's rules, and, as discussed below, we have adopted or adapted many of these suggestions in crafting our rules. We note that our approach regarding embedded commercials is based in large part on an MVPD-focused proposal offered by NCTA, which NCTA described as having the support of other industry participants.[123]

26. Consistent with our conclusion above with respect to the scope of Section 2(c) of the CALM Act, the measures set forth below for safe harbor protection with regard to embedded content fall outside of the statutory ''deemed in compliance'' section because they need not involve installation, use, or maintenance of ''equipment and associated software'' by a station/MVPD.[124] Our interpretation harmonizes Section 621(c) with the statutory command to ''mak[e] mandatory'' *all* of the RP's recommendations concerning the transmission of commercials by stations/MVPDs, not just those that they insert locally. In contrast, interpreting Section 2(c) more broadly, as some industry commenters urge,[125] such that stations and MVPDs would not have to take any actions beyond those prescribed in Section 2(c) even with respect to embedded commercials, would place the majority of commercials that they transmit beyond the Commission's enforcement authority, thereby undermining the statutory purpose.

27. In the discussion below, we describe our conclusion to establish two approaches for stations and MVPDs: (1) ''Deemed in compliance'' (with regard to locally inserted commercials or with regard to all commercials where real-time processing is employed) and (2) ''safe harbor'' (with regard to embedded commercials). We emphasize, however, that following these approaches does not relieve these entities of their obligations under the CALM Act. We reiterate that all stations and MVPDs are required to comply with the RP. In response to questions raised in the NPRM,[126] the record reflects that compliance can be difficult to demonstrate retroactively. Therefore, the ''deemed in compliance'' and ''safe harbor'' approaches offer alternative methods by which stations and MVPDs may demonstrate ongoing compliance with the RP in the event of a pattern or trend of complaints that leads to a Commission inquiry. If they prefer, parties may choose to demonstrate actual compliance with the RP in response to an FCC enforcement inquiry.

a. Local Insertions

28. As noted above, the CALM Act states that ''[a]ny broadcast television operator, cable operator, or other multichannel video programming distributor that installs, utilizes, and maintains in a commercially reasonable manner the equipment and associated software in compliance with the regulations issued by the Federal Communications Commission in accordance with subsection (a) shall be deemed to be in compliance with such regulations.'' [127] Application of this standard is fairly straightforward with respect to commercial advertisements inserted into the program stream by stations or MVPDs, and we agree with NAB's argument that a station or MVPD should be deemed in compliance for these inserted commercials when it

> uses the equipment in the ordinary course of business to properly measure the loudness of the content and to ensure that the dialnorm metadata value correctly matches the loudness of the content when encoding the audio into AC–3 for transmitting the content to the consumer.[128]

As a practical matter, and as indicated by NAB, the equipment would be used by the station or MVPD prior to the

[118] Such processing can be undesirable for industry and consumers precisely because it reduces the dynamic range of the audio content.

[119] Final Rules (47 CFR 73.682(e)(3), § 76.607(a)(3)).

[120] *See* RP § 7.3.2. *But see* para. 30 (stations and MVPDs can comply with the RP by ensuring the loudness of embedded commercials is controlled by real-time processing, rather than through cooperation with program providers, but rarely do so).

[121] *See* DIRECTV and DISH Network *Ex Parte* (October 27, 2011).

[122] *See* 47 CFR 1.17. Final Rules (47 CFR 73.682(e)(2)(iv), § 76.607(a)(2)(iv); § 73.682(e)(3), § 76.607(a)(3); 47 CFR 73.682(e)(5)(ii), § 76.607(a)(5)(ii); 47 CFR 73.682(e)(6), § 76.607(a)(6)). As discussed above, stations and MVPDs not deemed in compliance must also demonstrate actual compliance with the RP.

[123] NCTA *Ex Parte* Comment (October 18, 2011).

[124] 47 U.S.C. 621(c).

[125] *See* AT&T Comments at 10, NAB Comments at 4, NCTA Comments at 9–10, Verizon Comments at 15–16.

[126] *See, e.g., NPRM* at para. 28.

[127] CALM Act at § 2(c). Final Rules (47 CFR 73.682(e)(2)(i), § 76.607(a)(2)(i)).

[128] NAB Comments at 7. This general approach will remain valid even in non-AC–3 systems that will be encoding to meet the Target Loudness of the delivery channel. *See* RP § K.5. *See also, e.g.,* AT&T Comments at 9 (''installs, utilizes, and maintains in a commercially reasonable manner' audio management systems and equipment that perform the essential functions of measuring content loudness consistent with ITU[–R] BS.1770 and transmitting normalized audio content (i.e., normalized based on the dialnorm parameter) downstream to consumers, regardless of which specific equipment and systems that station/MVPD has deployed or where in the distribution stream those functions are performed.''). Final Rules (47 CFR 73.682(e)(2)(i), § 76.607(a)(2)(i)).

insertion of each commercial to ensure that it complies with the RP.[129]

29. In response to an enforcement inquiry concerning local insertions, a station or MVPD must provide records showing the consistent and ongoing use of this equipment in the regular course of business and demonstrating that the equipment has undergone commercially reasonable periodic maintenance and testing to ensure its continued proper operation.[130] In addition, in response to such an inquiry, the station or MVPD must certify that it either has no actual knowledge of a violation of the RP, or that any such violation of which it has become aware has been corrected promptly upon becoming aware of such a violation.[131] Upon receipt of this information and certification, the station or MVPD will be deemed in compliance with the RP with respect to commercials it inserted. We note here, as guidance for stations and MVPDs, that we do not believe that a station or MVPD that has actual knowledge of a violation but fails to correct the problem has utilized the equipment used to encode the commercials in a ''commercially reasonable manner.'' Therefore, it is not entitled to ''deemed in compliance'' treatment under the statute.

b. Embedded Commercials

30. For embedded commercials, which a station or MVPD receives from an upstream programmer, we conclude that there are two options: (1) Use a real-time processor to be deemed in compliance, or (2) follow the components of the ''safe harbor'' we describe herein.[132] Stations and MVPDs are not able to modify the embedded commercials they transmit to viewers except by use of real-time processing equipment that distorts the audio.[133] Commenters report, and our engineering analysis confirms, that no equipment is currently available that stations or MVPDs can use to set the dialnorm value or meet the Target Loudness [134] in real time for embedded commercials they transmit to viewers.[135] Nor are they in direct control of the production or encoding of these commercials such that they could use their equipment to bring them into compliance with the RP prior to transmission (even if they have access to the commercials prior to transmission). Nonetheless, as explained above, the CALM Act requires stations and MVPDs to ensure the compliance of these commercials with the statute and our rules.[136]

31. Given the limitations in their options for controlling embedded commercials onsite, stations and MVPDs are likewise limited in their ability to rely exclusively on equipment to be deemed in compliance. Therefore, relying on the record and the RP, we establish a regulatory safe harbor, in which stations and MVPDs can take the steps discussed below to, first, significantly reduce the likelihood of any noncompliance with the RP, and, second, quickly resolve any problems that do arise. The safe harbor is based on a proposal filed by NCTA.[137] We largely adopt the framework of NCTA's proposal and, at the same time, modify several components in order to ensure that the goals of the statute are fully achieved.

32. To use the safe harbor, stations and MVPDs must undertake certain activities: obtain widely available certifications of compliance from programmers; conduct annual spot checks of non-certified programming to ensure compliance with the RP (for larger stations and MVPDs); [138] and conduct spot checks of specific channels in the event the Commission notifies the station or MVPD of a pattern or trend of complaints. Not all MVPDs or stations must perform an annual spot check in order to use the safe harbor. Following NCTA's proposal, we rely on the largest MVPDs and stations to perform spot checks in the specific situations discussed below. Because we anticipate that the need for annual spot checks will diminish after the first two years, due in part to the likely increase in the number of programmers that certify compliance, we terminate the requirement for annual spot checks after two years on an individual channel or program stream basis, provided no problems are found and certifications remain in force.

33. In formulating the safe harbor, we began with the proposal in the NPRM to consider contractual arrangements and quality control monitoring as a practical means to address embedded commercials.[139] For example, we asked in the NPRM whether parties should rely on contracts with programmers to ensure compliance, and if that approach had downsides for small stations and MVPDs.[140] Commenters responded with concerns about a purely contractual approach, particularly for smaller entities.[141] As a result, we have moved away from a contractual approach and adopt instead the requirement that certifications be widely available. We also asked in the NPRM ''what, if any, quality control measures [stations and MVPDs] should take to monitor the content delivered to them for

[129] *See* RP at § 8.4 (explaining that locally inserted commercials must have their loudness level matched to the dialnorm of the stream into which they are to be inserted prior to insertion). For non-AC–3 systems, *see* RP § K.5. In practice, program providers may inform stations and MVPDs ahead of time of the dialnorm/Target Loudness at which their programming will be provided, and local inserters, when they encode, set the loudness of the commercials they plan to insert according to this information. Cooperation between the program provider and the stations and MVPDs is necessary to achieve successful loudness management when implementing this practice. *See* RP § 7.3.2.

[130] Final Rules (47 CFR 73.682(e)(2)(ii), § 76.607(a)(2)(ii)).

[131] Final Rules (47 CFR 73.682(e)(2)(iii), § 76.607(a)(2)(iii)).

[132] We remind stations and MVPDs that they must always utilize their audio pass-through equipment so that it does not harm the RP-compliant programming they receive and transmit to their viewers. We note that this safe harbor is an important but severable element of our compliance and enforcement scheme. We are establishing it to simplify our enforcement process for the benefit of stations and MVPDs, but it is not so fundamental to the scheme as a whole that the CALM Act regulations adopted in the item would be unenforceable in its absence. If the safe harbor is declared invalid or unenforceable for any reason, it is our intent that the remaining CALM Act regulations shall remain in full force and effect. As mentioned above, the safe harbor does not replace the basic obligation of all stations and MVPDs to comply with the requirements of the RP. As is typical in many other areas of Commission regulation, regulated entities still could seek to demonstrate on a case-by-case basis that they have done all that is required in response to an investigation.

[133] A station or MVPD can be deemed in compliance if it ''installs, utilizes, and maintains in a commercially reasonable manner'' a real-time or ''conventional'' processor to ensure consistent loudness by limiting dynamic range, rather than by setting the dialnorm or meeting the Target Loudness. A station or MVPD relying on real-time processing must provide records showing the consistent and ongoing use of this equipment in the regular course of business and demonstrating that the equipment has undergone commercially reasonable periodic maintenance and testing to ensure its continued proper operation; certify that it either has no actual knowledge of a violation of the ATSC A/85 RP, or that any violation of which it has become aware has been corrected promptly upon becoming aware of such a violation; and certify that its own transmission equipment is not at fault for any pattern or trend of complaints. Final Rules (47 CFR 73.682(e)(4), § 76.607(a)(4)). As discussed above, conventional processing ''modifies the dynamic range of the decoded content by reducing the level of very loud portions of the content to avoid annoying the viewer and by raising the level of very quiet portions of the content so that they are better adapted to the listening environment.'' We recognize, however, that such processing can be less desirable for industry and consumers in some cases, precisely because it reduces the dynamic range of the audio content. *See* RP § 9.1.

[134] Target Loudness is a specified value established to facilitate content exchange from a content supplier to station/MVPDs. *See* RP § 3.3.

[135] NCTA Comments at 8; DIRECTV Comments at 10; ACA Comments at i; Reply of Time Warner Cable, Inc. at 6 (''TWC Reply''); *see also,* NAB Comments at 6.

[136] *Id.*

[137] NCTA *Ex Parte* (October 18, 2011).

[138] If necessary, MVPDs and stations can contract to have third parties perform the spot checks.

[139] *NPRM* at paras. 23–24.

[140] *NPRM* at paras. 24–25.

[141] *See, e.g.,* ACA Comments at 26–27.

transmission to consumers.'' [142] Commenters objected to a requirement for constant monitoring, and the safe harbor instead requires spot checks in some cases.[143] The following paragraphs describe these and other requirements for using the safe harbor.

(i) Certified Programming

34. A station or MVPD will be eligible for the safe harbor with regard to the embedded commercials in particular programming if the supplier of the programming has provided a certification that its programming is compliant with the RP, and the station or MVPD has no reason to believe the certification is false.[144] A programmer's certification must be available to all stations and MVPDs in order to count as a ''certification'' for purposes of being in the safe harbor.[145] Virtually all MVPDs receive the same programming feed of a given channel.[146] Consequently, if the programmer provides RP-compliant programming and commercials to one station or MVPD, then it should be similarly compliant for all stations and MVPDs receiving that same programming. NCTA proposed use of a widely available certification (available through a Web site, for instance) as an alternative to the NPRM proposal for contractual terms that would promise compliant commercials.[147] NCTA expressed concern about possible delays and expense to open and re-negotiate numerous individual contracts, and proposed that widely available certifications avoid these problems.[148] ACA raised similar concerns regarding the difficulty smaller operators face in getting modifications to their programming contracts, even when, as here, the changes would be costless to the programmer.[149] In addition, many programmers have corporate or financial relationships with particular MVPDs, raising the possibility that certifications might be offered only to an affiliated MVPD or provided on more favorable terms to certain MVPDs. Widely available certifications, as proposed by NCTA, solve all of these problems by obviating the need for individual contractual certifications. Because, as discussed above, the same program feed goes to all distributors, as a practical matter an individual certification would provide the same assurance as a widely available certification. Not all parties, however, would know of the existence of the certification, placing some at an unfair disadvantage because they would be unaware of something that would allow them to avoid the need for spot checks. Therefore, we require that a certification be widely available in order to qualify as a certification for purposes of being in the safe harbor.[150] We express no opinion on the appropriate duration of certifications, but in order for a station or MVPD to rely on a certification, that certification must be in effect. If a programmer terminates a certification, stations and MVPDs that are required to perform annual spot checks must begin to perform annual spot checks of the programmer's channel (as discussed immediately below) in order to continue to be in the safe harbor regarding commercials on that channel. This will be the case even if they are performing no other annual spot checks because those spot checks have ''phased-out,'' as discussed in paragraph 40, below. We encourage programmers to provide initial widely available certifications before December 13, 2012, when the rules take effect, to reduce the number of annual spot checks that stations and MVPDs would need to do to be in the safe harbor.

(ii) Non-Certified Programming: Annual Spot Checks

35. In order to be in the safe harbor regarding commercial channels and programming for which there is no programmer certification, larger MVPDs and stations must perform annual spot-checks of the non-certified commercial programming they carry.[151] Specifically, large television stations [152] and very large MVPDs [153] must annually spot check 100 percent of noncertified programming carried by the station, or by any system operated by the MVPD.[154] Large (but not ''very large'') MVPDs [155] must annually spot check 50 percent (chosen at random) of the noncertified channels carried by any system operated by the MVPD.[156] Stations and MVPDs should not count (and do not need to spot check) duplicating channels or streams unless there is some reason to believe that the audio on, for instance, an SD stream might be different (for the purposes of the RP) from the HD stream of the same programming.[157] Small stations and small MVPDs need not perform any annual spot checks to be in the safe harbor.[158] The first set of annual spot checks must be completed by December 13, 2013—that is, one year after the effective date of these rules.

36. Because small stations and MVPDs are not required to perform annual spot checks, there is no requirement that they purchase (or seek access to) loudness measurement equipment prior to a Commission inquiry. In the event of an inquiry,

[142] *NPRM* at para. 24.

[143] *See, e.g.,* NCTA Comments at 8, NAB Reply at 5.

[144] Final Rules (47 CFR 73.682(e)(3)(i)(B), § 76.607(a)(3)(i)(B)).

[145] Final Rules (47 CFR 73.682(e)(3)(i)(A), § 76.607(a)(3)(i)(A)). NCTA has suggested that these certifications could be available on Web sites, perhaps accessible only to distributors of the programming in questions. NCTA *Ex Parte* (October 18, 2011). We express no opinion on the appropriate way to make certifications widely available, so long as they are available to all stations and MVPDs that distribute the programming.

[146] NCTA *Ex Parte* at 1 (October 18, 2011).

[147] NCTA *Ex Parte* (October 18, 2011).

[148] NCTA *Ex Parte* at 4 (October 18, 2011).

[149] ACA *Ex Parte* at 3 (September 19, 2011).

[150] We note that stations and MVPDs will have a year to work with their programmers before the CALM Act rules take effect. CALM Act at § 2(B)(1).

[151] Stations and MVPDs have told us that they cannot distinguish between programming and embedded commercials. *See, e.g.,* Verizon Comments at 6. As a result, the entirety of a programming stream must be monitored in order to find any noncompliant embedded commercials. We may revisit this matter in the future if technological developments warrant, given the statute's limitation to commercials.

[152] ''Large'' television stations, for these purposes, are those not considered ''small television stations'' under the Small Business Act definition—that is, those that have more than $14.0 million in annual receipts. 13 CFR 121.201, NAICS Code 515120 (2007). To provide certainty and clarity to stations, we will consider ''large'' those stations with more than $14.0 million in annual receipts in calendar year 2011. *See, e.g.,* BIA Kelsey Inc. Media Access Pro Television Database, showing the annual receipts for 2010. We will rely on the version of this list that is based on data available as of December, 31 2011 for purposes of the rules implementing the CALM Act.

[153] ''Very large MVPDs'' are defined, for these purposes, as those with more than 10 million subscribers nationwide. To provide certainty and clarity to MVPDs, we will consider ''very large'' those MVPDs with more than 10 million subscribers as of December 31, 2011. Per NCTA, this would include the four largest MVPDs. *See http://www.ncta.com/Stats/TopMSOs.aspx* (visited November 16, 2011) showing the numbers of subscribers for the top 25 MVPDs based on 2010 data. We will rely on the version of this list that is based on data available as of December, 31 2011 for purposes of the rules implementing the CALM Act.

[154] Final Rules (47 CFR 73.682(e)(3)(ii), § 76.607(a)(3)(ii)(A)).

[155] ''Large MVPDs,'' for these purposes, are those serving more than 400,000 subscribers nationwide. This definition is derived from the Commission's definition of ''small'' cable in 47 CFR 76.901(e). To provide certainty and clarity to MVPDs, we will consider ''large'' those MVPDs with more than 400,000 but fewer than 10 million subscribers as of December 31, 2011. Per NCTA, this would include 11 MVPDs. *See http://www.ncta.com/Stats/TopMSOs.aspx* (visited November 16, 2011) showing the numbers of subscribers for the top 25 MVPDs based on 2010 data. We will rely on the the version of this list that is based on data available as of December, 31 2011 for purposes of the rules implementing the CALM Act.

[156] Final Rules (47 CFR 76.607(a)(3)(ii)(B)).

[157] This avoidance of duplication largely addresses the concerns raised by DIRECTV and DISH Network in their November 16, 2011 *Ex Parte* filing, about the number of channels they could potentially be required to spot check in the absence of certifications.

[158] Final Rules (47 CFR 73.682(e)(3)(iii), § 76.607(a)(3)(iii)).

stations and MVPDs will have 30 days to complete a spot check.[159] This will allow small entities to preserve their financial flexibility while still being in a position to address a pattern or trend of complaints brought to their attention by the Commission. We note, however, that small stations and MVPDs, just like larger ones, are required by the CALM Act and our rules to comply with the requirements of the RP. And, in the event of an enforcement inquiry, these small entities must be able to demonstrate that they have the equipment necessary to pass through programming compliant with the RP, demonstrate that the equipment has been properly installed, maintained, and utilized, and show that the equipment was not the source of any problem.[160]

37. Under our approach, we place differing obligations depending on the size of the entity. These distinctions are based on both the valid NCTA argument that, if the larger companies take care of performing spot checks and obtaining certifications, the same programming carried by smaller companies is likely to comply with the CALM Act, and on our interest in reducing burdens on small entities.[161] Each very large MVPD is required to spot check each non-certified channel on only one of its systems that carry that programming.[162] Given that all programmers, including each regional sports network, may not be carried by the top four MVPDs, we also require the middle group of MVPDs (those with more than 400,000 but fewer than 10 million subscribers) to conduct a more limited number of spot checks. We do this to increase the likelihood that all programmers will be checked and that programming provided to all geographic areas, including regional programming, will be tested. As the parties explain, requiring annual spot checks by smaller stations and MVPDs is both unnecessary and more burdensome than asking the same of larger parties.[163] Unlike larger stations and MVPDs, many smaller entities lack the necessary loudness measurement equipment, and, while it is appropriate to require smaller entities to obtain the use of such equipment in the case of complaints, there is little benefit to requiring small entities to do so simply in order to check a programming stream that is already being checked by others. Under our approach, small entities would be freed from the need to purchase loudness monitoring equipment, an additional expense that would provide insufficient countervailing benefit if mandated. As noted above, even the burden on larger entities of conducting annual spot checks is limited because the timeframe for conducting the annual spot checks is limited to the two years after the rules take effect for the MVPD or station, assuming no noncompliance is found.

38. *Definition of Spot Checks.* A ''spot check'' requires monitoring 24 uninterrupted hours of programming with an audio loudness meter employing the measurement technique specified in the RP, and reviewing the records from that monitoring to detect any commercials transmitted in violation of the RP.[164] To promote the reliability of the spot check, the station or MVPD must not provide prior notice to the programmer of the timing of the spot check. This requirement applies with respect to all spot checks (annual or in response to a Commission inquiry) on all programming, and for all stations and MVPDs—large and small. Stations (and occasionally MVPDs) may have multiple program suppliers for a single channel/stream of programming. In these cases, there may be no single 24-hour period in which all program suppliers are represented. In such cases, an annual spot check could consist of a series of loudness measurements over the course of a 7-day period, totaling no fewer than 24 hours, that measure at least one program, in its entirety, provided by each non-certified programmer that supplies programming for that channel or stream of programming.[165] To verify that the operator's system is properly passing through loudness metadata, spot checking must be conducted after the signal has passed through the operator's processing equipment (*e.g.,* at the output of a set-top box or television receiver).[166] If a problem is found, a station or MVPD may check multiple points in its reception and transmission process to determine the source of the noncompliance. For a spot check to be considered valid, a station or MVPD must be able to demonstrate appropriate maintenance records for the audio loudness meter,[167] and to demonstrate, at the time of any enforcement inquiry, that appropriate spot checks had been ongoing.[168]

39. *Exclusion of Broadcast Programming from Spot Checks.* We will not require MVPDs to include broadcast television programming in their annual spot checks. Unlike the non-broadcast programming carried by MVPDs, which is provided by third parties totally outside the scope of these rules, a significant amount of broadcast programming will already be annually spot checked by large broadcast stations pursuant to these rules. More to the point, we have explicit jurisdiction over broadcast stations themselves under the Act, and any problems arising as a result of the loudness of their commercials can be more effectively dealt with by addressing them directly with broadcast stations. This is particularly important with must-carry broadcast signals, which MVPDs are prohibited from either modifying or dropping.[169] All MVPDs are responsible for not harming the broadcast signal, however, and must properly use the necessary equipment to pass through programming compliant with the RP, such that the broadcast programming is transmitted without altering its compliance with the RP. We note that, if the Commission becomes aware of a pattern or trend of complaints about broadcast programming carried on an MVPD, while over-the-air viewers of the same programming have not filed similar complaints, that may indicate that there is a problem with the MVPD's

[159] An inquiry is unlikely to be directed to a small station or MVPD even in the event of a pattern or trend of complaints, unless the complaints have come largely or solely from viewers of the small entity in question.

[160] This equipment, fundamental to the provision of audio, is distinct from the loudness measurement equipment discussed below.

[161] NCTA *Ex Parte* (October 18, 2011).

[162] We recognize that very large MVPDs carry different programmers on different systems. They need not spot check the same programmer on more than one system, but they must utilize as many systems as necessary to be sure they spot check 100 percent of the non-certified commercial programmers. This may require running tests on more than one system, if not all non-certified channels offered by an MVPD are carried on any one system.

[163] NAB *Ex Parte* (November 9, 2011); ACA *Ex Parte* at 3–4 (November 9, 2011); NCTA *Ex Parte* (October 18, 2011).

[164] Final Rules (47 CFR 73.682(e)(3)(iv), § 76.607(a)(3)(iv)). We do not anticipate that a spot-check would require a person to monitor a channel in real-time. A possible procedure could be: (1) Connect a loudness meter conforming to the RP to the output of a set-top box, measure the long-term loudness of all the elements of the soundtrack and log the loudness of content in 1 second intervals over a 24-hour period; (2) review the logs (which could be done with an automated process) to identify any potential violations of the RP (*i.e.,* the average measured loudness exceeds the target loudness by more than 2 dB for the duration of a commercial); and (3) ascertain whether those potential violations occurred during a commercial (*e.g.,* by reviewing a recording of the monitored content or obtaining from the programmer a log of the commercials for the day that was monitored).

[165] Final Rules (47 CFR 73.682(e)(3)(iv)(C)(II), § 76.607(a)(3)(iv)(C)(II)).

[166] Final Rules (47 CFR 73.682(e)(3)(iv)(A), § 76.607(a)(3)(iv)(A)).

[167] Final Rules (47 CFR 73.682(e)(3)(iv)(B), § 76.607(a)(3)(iv)(B)).

[168] Final Rules (47 CFR 73.682(e)(3)(iv)(C)(I), § 76.607(a)(3)(iv)(C)(I)).

[169] NCTA Comments at 13.

transmission equipment, for which the MVPD will be liable.

40. *Phase-Out of Annual Spot Check Obligation.* Once a given station or MVPD has performed two consecutive annual spot checks on a given channel or program stream and encountered no evidence of noncompliance, it may cease to perform annual spot checks of that programming but continue to be in the safe harbor with respect to that programming.[170] Because this phase-out applies to individual channels or program streams, any new, non-certified channel or programming must undergo the full two years of spot checks before the requirement phases out with respect to that programming.[171] Although ''large'' MVPDs (between 400,000 and 10,000,000 subscribers) will be spot checking only 50 percent of their non-certified programming, they are also excused from continued checks after two years, except that if any annual spot check shows noncompliance, the two-year requirement for that channel or programming will be reset (that is, the two-year period will begin anew for that channel or programming until there is no noncompliance for a full two years).[172] Similarly, if a spot check undertaken in response to an enforcement inquiry in the context of a pattern or trend of complaints (discussed below) reveals noncompliance, the two-year requirement will be reset for that channel or programming even if it has been previously phased out.[173]

(iii) Pattern or Trend of Complaints: Spot Checks

41. If the Commission becomes aware of a pattern or trend of sufficiently specific complaints, it may open an enforcement inquiry with the station or MVPD in question.[174] Whether relying on a certification or not, and irrespective of size, if a station or MVPD is notified by the Commission of a pattern or trend of sufficiently specific complaints about a given channel or programming, and seeks to be or remain in the safe harbor, it must utilize its equipment to verify actual compliance with the RP by performing a spot check on that channel or programming on a going forward basis[175] within 30 days of receiving notification from the Commission.[176] Although we do not require stations and MVPDs to perform spot checks in response to complaints they receive directly, we encourage them to do so if they become aware of a pattern or trend even absent Commission action. If a Commission inquiry is opened and a station or MVPD can demonstrate that it has already performed a spot check in response to the same pattern or trend that led to the inquiry, no additional spot check will be required. We note that, as ACA explained, a pattern or trend of complaints from viewers of a single station or MVPD about programming that is being transmitted on other stations or MVPDs without triggering complaints on those other stations or MVPDs may be an indication that the problem lies with the station's or MVPD's equipment, rather than with the programming itself.[177]

42. *Financial Inability to Perform Spot Checks.* Small MVPDs and stations, as discussed above, are not required to conduct annual spot checks, and will be in the safe harbor for embedded commercials transmitted in all programming they carry, even if that programming is not certified.[178] As with larger stations and MVPDs, however, stations and MVPDs that are treated as ''small'' for purposes of the CALM Act must have the equipment necessary to pass through programming compliant with the RP, and be able to demonstrate that the equipment has been properly installed, maintained, and utilized. In the context of an enforcement inquiry, small stations and MVPDs must be prepared to certify to the Commission that their own transmission equipment is not at fault for any such pattern or trend. They must also be prepared to conduct spot checks, or contract to have spot checks done, in response to a Commission inquiry triggered by a pattern or trend of complaints. We do not require a station or MVPD to purchase the necessary equipment to conduct spot checks in response to a Commission inquiry; it may borrow or contract for use of the equipment.[179] Stations and MVPDs may seek to delay the effective date of the rules for up to two years through a financial hardship waiver and may seek general waivers (also discussed below) for non-financial reasons, as discussed below.

(iv) Outcome of Spot Checks

43. Whether performed as part of an annual audit of non-certified programming, or in response to an FCC Letter of Inquiry, spot checks will require further action only if they indicate noncompliance on the part of a programmer with respect to embedded commercials. If the spot check reveals actual compliance with the RP, then the station or MVPD continues to be in the safe harbor and need take no further action (except, where appropriate, to notify the Commission in response to the letter of inquiry).[180] If the spot check indicates noncompliance, however, then the station or MVPD has actual knowledge that the channel or programming does not comply with the RP. Within seven business days, the station or MVPD must inform the Commission and the programmer in question of the noncompliance indicated by the spot check, and direct the programmer's attention to any relevant complaints.[181] We note that noncompliance can be the result of deficiencies in the equipment the station or MVPD uses to pass through programming, rather than any problem with the commercials as provided by a

[170] Final Rules (47 CFR 73.682(e)(3)(iv)(C)(III), § 76.607(a)(3)(iv)(C)(III)). The two years runs from the effective date of the rules as to the given station or MVPD. This phase-out of annual spot checks does not affect the obligation to perform spot checks in response to an enforcement inquiry in the context of a pattern or trend of complaints, as discussed below.

[171] Final Rules (47 CFR 73.682(e)(3)(iv)(C)(IV), § 76.607(a)(3)(iv)(C)(IV)). We expect and encourage MVPDs to seek certification from new programmers as part of their carriage negotiations.

[172] Final Rules (47 CFR 73.682(e)(3)(iv)(C)(V), § 76.607(a)(3)(iv)(C)(V)).

[173] Final Rules (47 CFR 73.682(e)(3)(iv)(C)(V), § 76.607(a)(3)(iv)(C)(V)).

[174] By a ''pattern or trend'' we mean complaints sufficiently numerous and specific to justify focused review by the station/MVPD and the Commission. We decline to define what number of complaints is sufficient to constitute a pattern or trend, as this judgment will be fact-specific, based on such matters as the ratio of complaints to subscribers.

[175] Final Rules (47 CFR 73.682(e)(3)(i)(C), § 76.607(a)(3)(i)(C); 47 CFR 73.682(e)(3)(ii), § 76.607(a)(3)(ii)(A) and (B); 47 CFR 73.682(e)(3)(iii), § 76.607(a)(3)(ii)).

[176] The rule allows the Enforcement Bureau to specify a time other than 30 days, when appropriate. Final Rules, (47 CFR 73.682(e)(3)(iv)(D)(I), 76.607(a)(3)(iv)(D)(I)). A station or MVPD that is in the safe harbor need not verify whether the complained of programming was in compliance, although it may do so if it wishes (and obviate the need for a prospective spot check) by providing the necessary information to demonstrate past compliance. As noted above, a station or MVPD can contract with a third party to perform the spot check if necessary. A spot check performed in response to an FCC inquiry may not be counted toward any annual spot check obligations of a station or MVPD. A station or MVPD that opts not to conduct the prospective spot checks is no longer in the safe harbor and must respond to a Commission enforcement inquiry by demonstrating actual compliance with respect to the complaints referenced in the Letter of Inquiry and provide other information requested therein.

[177] ACA Oral *Ex Parte* (Oct. 24, 2011).

[178] If they insert commercials, they must comply with the requirements for ''Local Insertions'' or ''Third Party Local Insertions,'' as appropriate, in order to be deemed in compliance for those commercials.

[179] For example, based on a staff review of the Commission's online filing system (COALS), we know that smaller operators will often contract for technical analysis of their systems, for instance the performance of signal leakage tests.

[180] Final Rules (47 CFR 73.682(e)(3)(iv)(D)(II), § 76.607(a)(3)(iv)(D)(II)).

[181] Final Rules (47 CFR 73.682(e)(3)(iv)(E), § 76.607(a)(3)(iv)(E)).

programmer. Stations and MVPDs should be mindful of this possibility in their review of the spot check data and check their own equipment as appropriate. The station or MVPD must then re-check the noncompliant commercial programming with a follow-up spot check within 30 days of notifying the Commission and the programmer, and inform both of the result of the re-check.[182] If the station or MVPD finds no further noncompliance with the RP, then the station or MVPD will continue to be in the safe harbor.[183]

44. If, however, the re-check reveals noncompliance with the RP, then the station or MVPD, going forward, is no longer in the safe harbor for that channel or programming.[184] The station's or MVPD's actual knowledge that the commercials in the programming are not compliant with the RP means that station or MVPD is liable for future commercial loudness violations in that programming, notwithstanding any certification or previous spot check of that programming.[185]

c. Third Party Local Insertions

45. The rulemaking record evidences that some stations and MVPDs contract with a third party to handle sales of its available commercial time and encode/insert local commercials into program streams, rather than the station or MVPD handling this process itself.[186] For the reasons discussed above, if a station or MVPD does not itself install, utilize and maintain the equipment used to encode the loudness of a commercial either before or at the time of its transmission, it cannot be ''deemed in compliance'' pursuant to the CALM Act.[187] Furthermore, these third-party local insertions are unlike commercials embedded in nationally distributed programming. Third-party inserters of local commercials provide a service to stations and MVPDs and place their equipment at the station or MVPD's facilities. The third-party inserter sells commercial time to advertisers and shares the payment with the station or MVPD, thus functioning as the agent of the station or MVPD in that process.[188] The NPRM sought comment on circumstances that might pose practical problems for compliance and means of demonstrating compliance.[189] Given that the record presents this situation, which does not fall neatly into one of the situations we have described above (that is, local insertion or embedded commercial), we adopt a hybrid approach for such stations and MVPDs utilizing the same components presented in the NPRM and addressed in the comments. Specifically, we find that, in order to be in the safe harbor for the commercials inserted by these third parties, the station or MVPD, regardless of size, must acquire a certification from the third party that all commercials it is inserting comply with the RP, and that it is inserting those commercials into the programming transmitted by the station or MVPD such that they comply with the RP.[190] Just as with embedded commercials, in response to a FCC Letter of Inquiry, a station or MVPD must have no reason to believe that the certification is false, and perform a spot check of the inserted commercials without providing notice to the third-party inserter to determine, going forward, whether the inserted commercials in fact comply, and take steps to ensure that any discovered noncompliance is remedied.[191] This spot check will follow the same format as discussed above for other embedded programming. The record supports the conclusion that stations or MVPDs that use third party inserters have the ability to insist on such certifications as part of their business relationships.[192]

d. Complaints

46. As discussed above, we will rely on consumers to bring any potential noncompliance to our attention. We believe that a consumer-complaint-driven procedure, rather than an audit-driven one, is the most practical means to monitor industry compliance with our rules. In order for us to detect whether a pattern or trend of noncompliance exists and for stations and MVPDs to investigate them, it is essential that consumer complaints be specific in describing the commercials complained of, as well as identifying the station or MVPD and programming network on which the commercials appeared.[193] As a general matter, non-specific complaints will not be actionable. In addition, we note that while it may seem to some consumers that a commercial is loud, the commercial may, nevertheless, comply with the RP. As noted above, commercials, like the programming they accompany, include content covering a range of audio levels, some of which may seem loud without violating the RP.

47. *Filing a Complaint.* Consumers may file a complaint alleging a loud commercial electronically using the Commission's online complaint form (specifically Form 2000e) found at *http://esupport.fcc.gov/complaints.htm.* We have added ''loud commercials'' as a complaint category. Consumers may also file complaints by fax to 1–866–418–0232 or by letter mailed to Federal Communications Commission, Consumer & Governmental Affairs Bureau, Consumer Inquiries & Complaints Division, 445 12th Street SW., Washington, DC 20554, although we reiterate the need for detailed information. Consumers who want assistance filing their complaint may contact the Commission's Consumer Call Center by calling 1–888–CALL–FCC (1–888–225–5322) (voice) or 1–888–TELL–FCC (1–888–835–5322) (tty).[194] There is no fee for filing a consumer complaint.

48. *Complaint Details.* The only way the Commission will be in a position to detect a pattern or trend of commercial loudness complaints is if consumers include detailed information allowing us to identify the specific distributor, program at issue, and commercial. Therefore, as proposed in the *NPRM,* we will require complaints to contain detailed information, which will enable us to take appropriate action.[195] Form 2000e is designed to elicit the information that is needed for this purpose.[196] To ensure that the Commission is able to take appropriate action on a complaint, the complaint

[182] Final Rules (47 CFR 73.682(e)(3)(iv)(E), § 76.607(a)(3)(iv)(E)).

[183] Final Rules (47 CFR 73.682(e)(3)(iv)(E)(I), § 76.607(a)(3)(iv)(E)(I)).

[184] Final Rules (47 CFR 73.682(e)(3)(iv)(E)(II), § 76.607(a)(3)(iv)(E)(II)).

[185] In the context of an enforcement action the Commission can consider the specific facts and circumstances of the alleged violation, including any mitigating factors.

[186] *See, e.g.,* ACA Comments at iv; ACA *Ex Parte* at 3 (October 26, 2011).

[187] CALM Act at sec. 2(c).

[188] ACA *Ex Parte* (October 26, 2011).

[189] *NPRM* at paras. 26–32.

[190] Final Rules (47 CFR 73.682(e)(5), § 76.607(a)(5)).

[191] Final Rules (47 CFR 73.682(e)(5)(i), (iii), § 76.607(a)(5)(i), (iii)).

[192] ACA *Ex Parte* at 3 (October 26, 2011).

[193] We note that a television broadcast station must retain in its local public inspection file a copy of a complaint filed with the Commission about a loud commercial under the Commission's existing rules. *See* 47 CFR 73.3526(e)(10) (requiring commercial TV stations to retain in its local public inspection file material relating to a Commission investigation or complaint to the Commission). The rule requires a station to retain the complaint in its public file until it is notified in writing that the complaint may be discarded.

[194] We also encourage consumers to visit the Consumer & Governmental Affairs Bureau Web site at *http://www.fcc.gov/cgb/* or to visit our online Consumer Help Center at *http://reboot.fcc.gov/consumers/.*

[195] *NPRM* at para. 35.

[196] Available at *https://esupport.fcc.gov/ccmsforms/form2000.action.*

should clearly indicate that it is a ''loud commercial'' complaint and include the following information: (1) The complainant's contact information, including name, mailing address, daytime phone number, and email address if available; (2) the name and call sign of the broadcast station or the name and type of the MVPD against whom the complaint is directed; (3) the date and time the loud commercial problem occurred; (4) the channel and/or network involved; (5) the name of the television program during which the commercial was viewed; (6) the name of the commercial's advertiser/sponsor or product involved; and (7) a description of the loudness problem. We will evaluate the individual complaints we receive and track them to determine if there are patterns or trends that suggest a need for enforcement action. If we receive complaints that indicate a pattern or trend affecting multiple MVPDs or stations, we will be conscious of the greater resources available to large entities when determining where to address our initial inquiries.

C. Waivers

49. The CALM Act includes two waiver provisions: A waiver of the effective date for up to two years based on financial hardship [197] and a reservation of the Commission's general authority to grant a waiver for good cause.[198] While our goal is to provide for waivers where appropriate, this objective must be balanced against the interests of consumers in realizing the benefit of the CALM Act without undue delay. Thus, as described below, we establish standards for stations/MVPDs that face true financial hardship to seek waivers, using a streamlined process for small entities and requiring a four-part showing for larger entities. We acknowledge that a waiver for good cause may be warranted in other circumstances, and, per the CVAA, stations and MVPDs may seek waivers of these statutory requirements for good cause under Section 1.3 of our rules.[199] We conclude that the waiver process we adopt is responsive to ACA's concerns that the equipment to monitor programming is expensive and the costs are disproportionately large for MVPDs with small systems.[200] We also note that we have adopted a safe harbor approach, as discussed above, that does not require smaller MVPDs to audit programming or negotiate with contractors for certifications, thereby reducing the burden for these entities to demonstrate their compliance.

50. *Financial Hardship Waiver.* Section 2(b)(2) of the CALM Act provides that the Commission may grant a one-year waiver of the effective date of the rules implementing the statute to any station or MVPD that shows it would be a ''financial hardship'' to obtain the necessary equipment to comply with the rules, and may renew such waiver for one additional year.[201] As we stated in the *NPRM,* the legislative history indicates that Congress intended us to interpret ''financial hardship'' broadly and, in particular, recognizes ''that television broadcast stations in smaller markets and smaller cable systems may face greater challenges budgeting for the purchase of equipment to comply with the bill than television broadcast stations in larger markets or larger cable systems.'' [202]

51. We adopt the four-part test we proposed in the *NPRM* for larger stations/MVPDs [203] seeking a waiver on the grounds of financial hardship based on their need to obtain equipment to comply with the loudness requirements in the RP.[204] Specifically, to request a financial hardship waiver pursuant to Section 2(b)(2), the station/MVPD must provide: (1) Evidence of its financial condition, such as financial statements; [205] (2) a cost estimate for obtaining the necessary equipment to comply with the required regulation; (3) a detailed statement explaining why its financial condition justifies postponing compliance; and (4) an estimate of how long it will take to comply, along with supporting information. Consistent with the legislative history, we do not require waiver applicants to show negative cash flow but, instead, require only that the station or MVPD's assertion of financial hardship be reasonable under the circumstances.[206] We believe this test for a financial hardship waiver appropriately balances Congress' intent in adopting the Section 2(b)(2) waiver provision and our goal to ensure that the benefits of the CALM Act not be delayed unless financial circumstances truly warrant a waiver.[207]

52. For small stations and MVPDs, we adopt a more streamlined financial hardship waiver approach.[208] We agree with the commenters who argued that smaller stations and MVPDs may find it particularly burdensome to comply with our rules by the effective date.[209] We also agree that, because smaller entities are more likely to face financial hardship in complying with our rules, the process for smaller entities to obtain a waiver should not itself be burdensome. Accordingly, we adopt a streamlined waiver process for smaller entities that face a financial challenge in obtaining the equipment needed to comply with our rules. Specifically, a

[197] Section 2(b)(2) of the CALM Act provides as follows: ''WAIVER.—For any television broadcast station, cable operator, or other multichannel video programming distributor that demonstrates that obtaining the equipment to comply with the regulation adopted pursuant to subsection (a) would result in financial hardship, the Federal Communications Commission may grant a waiver of the effective date set forth in paragraph (1) for 1 year and may renew such waiver for 1 additional year.'' CALM Act sec. 2(b)(2).

[198] Section 2(b)(3) of the CALM Act provides as follows: ''WAIVER AUTHORITY.—Nothing in this section affects the Commission's authority under section 1.3 of its rules (47 CFR 1.3) to waive any rule required by this Act, or the application of any such rule, for good cause shown to a television broadcast station, cable operator, or other multichannel video programming distributor, or to a class of such stations, operators, or distributors.'' CALM Act sec. 2(b)(3).

[199] *See* 47 CFR 1.3. The Media Bureau has delegated authority to act on both such waiver requests. *See* 47 CFR 0.61(h).

[200] *See* ACA Reply at 6, note 25. ACA also argued that smaller MVPDs are unable to effectively negotiate with programmers to ensure they comply with the RP. *Id. See also,* ACA Comments at note 4.

[201] *See* 47 U.S.C. 621(b)(2) (codifying CALM Act § 2(b)(2)).

[202] *See NPRM* at para. 38. (citing Senate *Committee Report to S. 2847* at 4). The legislative history, in particular, states that the Commission ''should not require stations or MVPDs to demonstrate that they have negative cash flow or are in receivership for bankruptcy to be eligible for a waiver based on financial hardship.'' This appears to be a reference to the strict financial hardship standard established in 2008 for DTV station build-out extensions given the short time remaining before the DTV transition deadline. *See Third DTV Periodic Report and Order,* FCC 07–228, 73 FR 5634, January 30, 2008 (''*Third DTV Periodic Report and Order*'') (requiring a station to either (1) submit proof that they have filed for bankruptcy or that a receiver has been appointed, or (2) submit an audited financial statement for the previous three years showing negative cash flow).

[203] Smaller entities are eligible to seek a waiver under the streamlined waiver process we adopt herein.

[204] *See NPRM* at para. 39.

[205] Financial statements should be compiled according to generally accepted accounting practices (''GAAP''). Stations/MVPDs may request confidential treatment for this financial information pursuant to 47 CFR 0.459.

[206] *See NPRM* at para. 38.

[207] As directed by Section 2(b)(2), stations/MVPDs may request a waiver for one year under our waiver standard. Entities granted a waiver may request a renewal of the waiver for one additional year if they can demonstrate that circumstances continue to prevent them from obtaining the necessary equipment to comply with the CALM Act requirements.

[208] As noted above, the legislative history recognizes that obtaining the necessary equipment to comply with the rules may be a financial hardship for small broadcast stations and small cable/MVPD systems *See* Senate Committee Report to S. 2847 at 4.

[209] *See* Comments of NAB at 9–10, ACA at 31–32, NCTA at 19–20, and OPATSCO–NCTA–WTA at 2. *See also* Reply Comments of ACA at 13–15 and Letter from Jonathan Friedman, Counsel for Comcast Corporation, to Marlene Dortch, Secretary, FCC, dated October 6, 2011, at 2.

small station or MVPD (as we define below) that seeks a waiver must file with the Commission a certification that it: (1) Meets our definition of small for this purpose, and (2) needs a delay of one year to obtain specified equipment in order to avoid the financial hardship that would be imposed if it were required to obtain the equipment sooner.[210] The station or MVPD is not required to submit any proof of financial condition. Small broadcast stations and small MVPDs may consider the waiver granted when they file this information online and receive an automatic ''acknowledgement of request,'' unless the Media Bureau notifies them of a problem or question concerning the adequacy of the certification.

53. The streamlined financial hardship waiver is available to ''small broadcast stations'' and ''small MVPD systems'' that request a one-year delay in the effective date based on their need to obtain equipment to comply with the rules adopted to implement the CALM Act, including the RP incorporated by reference.[211] We define a ''small broadcast station'' for purposes of the streamlined waiver as either a station with no more than $14.0 million in annual receipts [212] or that is located in television markets 150 to 210.[213] Although we proposed in the *NPRM* to limit small market stations that would be eligible for the streamlined waiver process to those not affiliated with a top-four network (*i.e.,* ABC, CBS, Fox and NBC),[214] we are persuaded by NAB that the waiver should be available to all stations in markets 150 through 210. We agree with NAB that a station's network affiliation is not necessarily determinative of its financial ability to purchase new equipment, and even stations affiliated with a top-four network in smaller markets may be struggling as advertising revenue in those markets is more limited than in larger markets.[215] For simplicity, we combine the definition of a small station, regardless of the market size, with the definition of a small market station, and treat them both as a ''small broadcast station'' for purposes of the CALM Act financial waiver.

54. Consistent with our proposal in the *NPRM,*[216] we will define a ''small MVPD system'' eligible for the streamlined waiver process as one with fewer than 15,000 subscribers (as of December 31, 2011) that is not affiliated with a larger operator serving more than 10 percent of all MVPD subscribers.[217] We note that our definition of ''small MVPD system'' for purposes of the streamlined waiver is different from our definition of smaller MVPDs for purposes of being in the safe harbor. We are using a small MVPD system definition for purposes of the streamlined waiver because we believe that this waiver should be available only to those systems that are most likely to face financial hardships in complying with the RP. We note that stations and MVPDs that want a waiver and do not qualify under the streamlined waiver provision can apply for a waiver under the four-part waiver test described above. We disagree with ACA's proposal to use an MSO-based definition as we did in the ''bargaining agent'' condition in the Comcast-NBC Universal proceeding, which set the threshold at 1,500,000 subscribers.[218] As discussed above, we have adopted a regulatory scheme that does not require small MVPDs to audit programming and relieves them of the need to negotiate with programmers for contractual certifications. We conclude that, combined, the approach we have taken with respect to MVPD compliance with the Act, the streamlined waiver provisions we are adopting for small MVPD systems, and the four-part waiver test for larger MVPD systems, appropriately address the concerns raised by ACA.

55. We decline to adopt a ''blanket'' waiver for financial hardship, as proposed by some commenters.[219] We believe a blanket approach, which would automatically grant a waiver to all small entities without requiring an individual showing of financial hardship, would be over-inclusive of stations and MVPDs that do not actually need the additional time to obtain equipment and would unnecessarily delay the benefits of the CALM Act for their viewers. We also are not persuaded that a blanket approach would be consistent with the statute, which contemplates grant of waivers based on individual showings of financial hardship.[220] The streamlined waiver approach we are implementing is simple and straightforward and is, in fact, less burdensome than the approach suggested by some commenters.[221] Moreover, we note that stations and MVPDs seeking to be in the safe harbor are not expected to enter into contracts with program suppliers as we anticipated in the *NPRM,*[222] but instead can rely on a less burdensome certification and spot check approach, thus mooting the argument that stations/MVPDs need additional time to amend their contracts.[223] This certification and

[210] The certifying entity must identify or provide a description of the kind of equipment it intends to obtain; however, it need not specify the model number.

[211] Entities granted a waiver may request a renewal of the waiver for one additional year if they certify that (1) they meet our definition of small, and (2) financial circumstances continue to prevent them from obtaining the necessary and specified equipment to comply with the CALM Act requirements. The filing requirements to request a waiver for a second year are the same as those for the initial waiver request.

[212] This definition is consistent with the SBA's small business definition for a television broadcast station. *See also* 13 CFR 121.201, NAICS Code 515120 (2007). NAB proposed that we use this definition as one criterion to identify stations that qualify as ''small'' for purposes of the waiver. *See* NAB Comments at 9.

[213] *See* NAB Comments at 9.

[214] *See NPRM* at para. 40.

[215] *See* NAB Comments at 9–10.

[216] *See NPRM* at para. 40.

[217] *See* NCTA Comments at 19. This definition is consistent with Section 76.901(c) of our rules (defining a ''small system'' as a cable system serving 15,000 or fewer subscribers). *See* 47 CFR 76.901(c). The affiliation exclusion is consistent with our definition of a small MVPD operator in the cable carriage context, which excludes an MVPD system that was affiliated with an MVPD operator serving more than 10 percent of all MVPD subscribers. *See DTV Broadcast Carriage Signals Order,* FCC 08–193, 73 FR 61742, October 17, 2008 (holding that ''cable systems that either have 2,500 or fewer subscribers and are not affiliated with a large cable operator serving more than 10 percent of all MVPD customers * * * are exempt from the requirement to carry high definition versions of broadcast signals for three years following the [DTV] Transition'').

[218] *See* ACA Reply Comments at 6, note 25 (citing In the Matter of Applications of Comcast Corporation, General Electric Company, and NBC Universal, Inc. For Consent to Assign Licenses and Transfer Control of Licenses, Memorandum Opinion and Order, 26 FCC Rcd 4238 (2011)), Appendix A.

[219] *See* Comments of ACA at 32 (supporting a blanket financial hardship waiver for small MVPDs) and NAB at 9–10 (supporting a blanket waiver for stations that are ''small businesses''). *See also* Comments of NCTA at 19–20 (supporting waiver of the rules for small MVPD systems ''as a class'') and OPATSCO–NCTA–WTA at 4–5 (supporting a streamlined waiver provision for small MVPDs, MVPDs using older equipment or alternative technologies, and rural LEC-affiliated MVPDs).

[220] *See* 47 U.S.C. 621(b)(2) (''For any television broadcast station, cable operator, or other multichannel video programming distributor that demonstrates that obtaining the equipment to comply with the regulation adopted pursuant to subsection (a) would result in financial hardship, the [FCC] may grant a waiver of the effective date set forth in paragraph (1) for 1 year and may renew such waiver for 1 additional year.'').

[221] For example, OPATSCO–NCTA–WTA would have required small MVPDs to describe the equipment purchases needed to comply with the RP and an estimate of the costs associated with the purchase, installation, and maintenance of that equipment. *See* OPATSCO–NCTA–WTA Comments at 4. We also note that, while we do not adopt the blanket financial hardship waiver proposed by ACA, our streamlined waiver approach is less burdensome than the approach ACA recommended as an alternative to a blanket waiver. *See* ACA Comments at 32 and ACA Reply Comments at 14.

[222] *See NPRM,* 26 FCC Rcd at 8294–5, para. 23.

[223] *See also* Comments of NAB at 9 (noting that it can take up to a year and a half or more for a station to take the steps necessary to comply, including negotiating contracts with third-party programming providers and noting that this process

Continued

spot check procedure should prove less burdensome for all stations and MVPDs and should reduce the number of entities that need to request a waiver. We note that small stations and MVPDs are not required to perform annual spot checks, and therefore would only need equipment to perform a spot check if the FCC initiates an inquiry.[224]

56. *General Waiver.* Section 2(b)(3) of the CALM Act provides that the statute does not affect the Commission's authority to waive any rule required by the CALM Act, or the application of any such rule, for good cause shown with regard to any station/MVPD or class of stations/MVPDs under Section 1.3 of the Commission's rules.[225] We will use our general waiver authority, consistent with Section 2(b)(3), for waivers necessitated by unforeseen circumstances as well as for MVPDs that demonstrate they cannot implement the RP because of the technology they use.[226] Several commenters noted that some entities might face particular difficulty complying with the RP because of the outdated or alternative technology they employ.[227] Grant of a waiver under such circumstances would be more likely to be in the public interest if the waiver recipient can demonstrate that it, by some other means, will be able to prevent the transmission of loud commercials, as intended by the CALM Act.

57. *Filing Deadline.* Absent extraordinary circumstances, the deadline for filing a waiver request pursuant to either Section 2(b)(2) of the CALM Act or Section 1.3 of the Commission's rules will be 60 days before the effective date of the rules. While we proposed a deadline of 180 days before the effective date in the *NPRM,*[228] we agree with NAB that a 60-day deadline is more practical and will still afford the Media Bureau enough time to consider these requests before our rules take effect.[229] Requests for waiver renewals must be filed at least 60 days before the waiver expires.

58. *Filing Requirements.* A station or MVPD must file a financial hardship or general waiver request electronically into this docket through the Commission's Electronic Comment Filing System (''ECFS'') using the Internet by accessing the ECFS: *http://www.fcc.gov/cgb/ecfs/.* The filing must be clearly designated as a ''financial hardship'' or ''general'' waiver request and must clearly reference this proceeding and docket number. Requests for ''general'' waiver must comply with Section 1.3 of our rules.[230] All filers will receive a confirmation online after their waiver has been successfully submitted through ECFS. It is recommended that applicants for a streamlined waiver retain this confirmation for their records. We will not impose a filing fee for waiver requests pursuant to the waiver provisions of the CALM Act.[231]

IV. Conclusion

59. The CALM Act directs us to incorporate by reference into our rules and make mandatory the RP to ''make the volume of commercials and regular programming uniform so consumers can control sound levels.'' To achieve this directive, we incorporate the RP into our rules, establish a consumer-complaint-driven process to identify genuine instances of noncompliance, and specify the means by which all regulated parties may be ''deemed in compliance'' with our regulations or enter the safe harbor depending on the content involved. These rules implement the statute as Congress intended for the benefit of consumers while limiting the compliance burden on stations and MVPDs.

V. Procedural Matters

A. Final Regulatory Flexibility Act Analysis

60. As required by the Regulatory Flexibility Act of 1980, as amended (''RFA'')[232] an Initial Regulatory Flexibility Analysis (''IRFA'') was incorporated in the *Notice of Proposed Rule Making* in this proceeding.[233] The Commission sought written public comment on the proposals in the *NPRM,* including comment on the IRFA. The Commission received no comments on the IRFA. This present Final Regulatory Flexibility Analysis (''FRFA'') conforms to the RFA.[234]

1. Need for, and Objectives of, the Report and Order

61. This Report and Order (''*R&O*'') adopts rules to implement the Commercial Advertisement Loudness Mitigation (CALM) Act.[235] Among other things, the CALM Act directs the Commission to incorporate into its rules by reference and make mandatory a technical standard developed by an industry standard-setting body that is designed to prevent television commercial advertisements from being transmitted at louder volumes than the program material they accompany.[236] Specifically, the CALM Act requires the Commission to incorporate by reference the ATSC A/85 Recommended Practice (''the RP'' or ''RP'')[237] and make it mandatory ''insofar as such recommended practice concerns the transmission of commercial advertisements by a television broadcast station, cable operator, or other multichannel video programming

will be particularly burdensome for small businesses and small stations in small markets); Comments of AT&T at 11–13 (noting that it will take up to eight years to add indemnification provisions to all existing contracts assuming they are added to agreements as they come up for renewal).

[224] For small MVPD systems, most of the steps they must take to comply with the RP may be taken on their behalf by a third-party programmer providing embedded commercials or third-party contractors providing local insertions. Consequently, we expect that small MVPDs will be less likely to need to obtain equipment, and, therefore, less likely to need a waiver to delay the effective date of the rule. In the event they are going to obtain monitoring equipment to conduct spot checks, or equipment to insert local commercials themselves, they may need the additional time afforded by the waiver, and we intend to grant waivers to small MVPDs in these circumstances.

[225] *See* 47 U.S.C. 621(b)(3) (codifying CALM Act § 2(b)(3)). *See* 47 CFR 1.3 (the Commission's rules ''may be suspended, revoked, amended, or waived for good cause shown, in whole or in part, at any time by the Commission'' and ''[a]ny provision of the rules may be waived by the Commission on its own motion or on petition if good cause therefore is shown.'').

[226] *See NPRM* at para. 41.

[227] *See, e.g.,* Comments of OPASTCO–NCTA–WTA at 2–5 (stating that it is expensive for MVPDs that provide service via coaxial cable systems or Internet protocol television (''IPTV''), and that often utilize older equipment, to upgrade to comply with the RP).

[228] *See NPRM* at para. 43.

[229] *See* NAB Comments at 10–11. The 60 day requirement provides the Media Bureau with adequate time to contact the waiver applicant in the event of a question regarding its certification.

[230] *See* 47 CFR 1.3.

[231] ''Financial hardship'' or ''general'' waiver requests filed by cable operators pursuant to CALM Act secs. 2(b)(2) and 2(b)(3) and 47 CFR 1.3 are not ''Cable Special Relief Petitions'' under § 76.7 of the Commission's rules, and are therefore not subject to a statutory filing fee. *See* 47 U.S.C. 158(g). Section 76.7(a)(1) of the rules provides, *inter alia,* that the Commission may waive ''any provision of this part 76'' in response to a petition by a cable operator. Requests by cable operators for CALM Act relief pursuant to CALM Act secs. 2(b)(2) and (2)(b)(3) and § 1.3 of the Commission's rules would not involve waiver of any part 76 provisions, so the general procedures in § 76.7 would be inapplicable.

[232] *See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (''SBREFA''), Public Law 104–121, Title II, 110 Stat. 847 (1996). The SBREFA was enacted as Title II of the Contract With America Advancement Act of 1996 (''CWAAA'').

[233] *See NPRM.*

[234] *See* 5 U.S.C. 604.

[235] The Commercial Advertisement Loudness Mitigation (''CALM'') Act, Public Law 111–311, 124 Stat. 3294 (2010) (codified at 47 U.S.C. 621).

[236] *See* CALM Act sec. 2(a); *Senate Committee Report to S. 2847* at 1; *House Committee Report to H.R. 1084* at 1.

[237] *See* ATSC A/85: ''ATSC Recommended Practice: Techniques for Establishing and Maintaining Audio Loudness for Digital Television,'' (May 25, 2011) (''RP'' or ''the RP''). To obtain a copy of the RP, visit the ATSC Web site: *http://www.atsc.org/cms/standards/a_85-2011a.pdf.*

distributor.'' [238] This *R&O* incorporates the RP by reference, and, pursuant to the statute, makes stations and MVPDs fully responsible for all commercial advertisements they transmit.

62. Commission enforcement actions will be based on a pattern or trend of complaints. Stations and MVPDs may demonstrate actual compliance in response to such an inquiry by providing records of the audio levels of the complained-of programming. However, the statute recognizes, and the rulemaking record confirms, that such demonstrations can be impractical and difficult. Therefore, the R&O provides two methods by which entities may more easily demonstrate ongoing compliance. First, with respect to locally inserted commercials, stations and MVPDs may demonstrate that they install, utilize, and maintain, in a commercially reasonable manner, equipment and software to comply with the RP. Second, for embedded commercials, the R&O provides an alternative ''safe harbor'' approach. Under this approach, stations and MVPDs can rely on widely-available certifications, or annual spot checks of non-certified programming by large entities, to enter the safe harbor,[239] and can remain there by conducting a spot check of programming containing commercials that are the subject of a pattern or trend of complaints, and thereby demonstrate ongoing compliance. If any spot check demonstrates noncompliance, the station or MVPD must re-check the noncompliant commercial programming with a follow-up spot check. If the re-check reveals noncompliance with the RP, then the station or MVPD, going forward, is no longer in the safe harbor for that channel or programming.

63. Based on statutory provisions, the R&O also provides for financial hardship waivers which will allow all stations or MVPDs, large or small, to delay the effective date of the rules. This waiver is easier for smaller stations and MVPD systems to obtain. The R&O also provides for general waivers for unforeseen circumstances, as well as for stations or MVPDs that demonstrate they cannot strictly implement the RP because of the technology they use and propose to use an alternative approach to achieving the same goals. The CALM Act requires the Commission to adopt these rules on or before December 15, 2011,[240] and they will take effect one year after adoption.[241]

2. Legal Basis

64. The authority for the action taken in this rulemaking is contained in the Commercial Advertisement Loudness Mitigation Act of 2010, Pub. L. 111–311, 124 Stat. 3294, and Sections 1, 2(a), 4(i) and (j), and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i) and (j), 303 and 621.

3. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

65. No comments were filed in response to the IRFA.

4. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

66. The RFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the rules adopted.[242] The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction'' [243] In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act.[244] A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).[245] The final rules adopted herein will directly affect small television broadcast stations and small MVPD systems, which include cable operators and satellite video providers. A description of these small entities, as well as an estimate of the number of such small entities, is provided below.

67. *Wired Telecommunications Carriers.* The 2007 North American Industry Classification System (''NAICS'') defines ''Wired Telecommunications Carriers'' as follows: ''This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services; wired (cable) audio and video programming distribution; and wired broadband Internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.'' [246] The SBA has developed a small business size standard for wireline firms within the broad economic census category, ''Wired Telecommunications Carriers.'' [247] Under this category, the SBA deems a wireline business to be small if it has 1,500 or fewer employees. Census data for 2007, which supersede data from the 2002 Census, show that 3,188 firms operated in 2007 as Wired Telecommunications Carriers. 3,144 had 1,000 or fewer employees, while 44 operated with more than 1,000 employees.[248]

68. *Wireless Telecommunications Carriers (except Satellite).* Since 2007, the Census Bureau has placed wireless firms within this new, broad, economic census category.[249] Prior to that time, such firms were within the now-superseded categories of ''Paging'' and ''Cellular and Other Wireless Telecommunications.'' [250] Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees.[251] For the category of

[238] *See* CALM Act sec. 2(a).

[239] This process is simplified further for smaller entities.

[240] *See* CALM Act sec. 2(a).

[241] *See* CALM Act § 2(b)(1).

[242] 5 U.S.C. 603(b)(3).

[243] 5 U.S.C. 601(b).

[244] 5 U.S.C. 601(3) (incorporating by reference the definition of ''small-business concern'' in the Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.''

[245] 15 U.S.C. 632.

[246] U.S. Census Bureau, 2007 NAICS Definitions, ''517110 Wired Telecommunications Carriers''; *http://www.census.gov/naics/2007/def/ND517110.HTM#N517110.*

[247] 13 CFR 121.201 (NAICS code 517110).

[248] *http://factfinder.census.gov/servlet/IBQTable?_bm=y&-geo_id=&-_skip=600&-ds_name=EC0751SSSZ5&-_lang=en.*

[249] U.S. Census Bureau, 2007 NAICS Definitions, 517210 Wireless Telecommunications Categories (Except Satellite), *http://www.census.gov/naics/2007/def/ND517210.HTM#N517210.*

[250] U.S. Census Bureau, 2002 NAICS Definitions, 517211 Paging, *http://www.census.gov/epcd/naics02/def/NDEF517.HTM;* U.S. Census Bureau, 2002 NAICS Definitions, ''517212 Cellular and Other Wireless Telecommunications''; *http://www.census.gov/epcd/naics02/def/NDEF517.HTM.*

[251] 13 CFR 121.201, NAICS code 517210 (2007 NAICS). The now-superseded, pre-2007 CFR

Continued

Wireless Telecommunications Carriers (except Satellite), Census data for 2007 shows that there were 1,383 firms that operated that year.[252] Of those 1,383, 1,368 had fewer than 100 employees, and 15 firms had more than 100 employees. Thus under this category and the associated small business size standard, the majority of firms can be considered small. Similarly, according to Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (''PCS''), and Specialized Mobile Radio (''SMR'') Telephony services.[253] Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees.[254] Consequently, the Commission estimates that approximately half or more of these firms can be considered small. Thus, using available data, we estimate that the majority of wireless firms can be considered small.

69. *Television Broadcasting.* The SBA defines a television broadcasting station as a small business if such station has no more than $14.0 million in annual receipts.[255] Business concerns included in this industry are those ''primarily engaged in broadcasting images together with sound.'' [256] The Commission has estimated the number of licensed commercial television stations to be 1,390.[257] According to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) as of January 31, 2011, 1,006 (or about 78 percent) of an estimated 1,298 commercial television stations [258] in the United States have revenues of $14 million or less and, thus, qualify as small entities under the SBA definition. The Commission has estimated the number of licensed noncommercial educational (''NCE'') television stations to be 391.[259] We note, however, that, in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations [260] must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. The Commission does not compile and otherwise does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities.

70. In addition, an element of the definition of ''small business'' is that the entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply do not exclude any television station from the definition of a small business on this basis and are therefore over-inclusive to that extent. Also, as noted, an additional element of the definition of ''small business'' is that the entity must be independently owned and operated. We note that it is difficult at times to assess these criteria in the context of media entities and our estimates of small businesses to which they apply may be over-inclusive to this extent.

71. *Direct Broadcast Satellite (''DBS'') Service.* DBS service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic ''dish'' antenna at the subscriber's location. DBS, by exception, is now included in the SBA's broad economic census category, ''Wired Telecommunications Carriers,'' [261] which was developed for small wireline firms. Under this category, the SBA deems a wireline business to be small if it has 1,500 or fewer employees.[262] To gauge small business prevalence for the DBS service, the Commission relies on data currently available from the U.S. Census for the year 2007. According to that source, there were 3,188 firms that in 2007 were Wired Telecommunications Carriers. Of these, 3,144 operated with less than 1,000 employees, and 44 operated with more than 1,000 employees. However, as to the latter 44 there is no data available that shows how many operated with more than 1,500 employees. Based on this data, the majority of these firms can be considered small.[263] Currently, only two entities provide DBS service, which requires a great investment of capital for operation: DIRECTV and EchoStar Communications Corporation (''EchoStar'') (marketed as the DISH Network).[264] Each currently offers subscription services. DIRECTV [265] and EchoStar [266] each report annual revenues that are in excess of the threshold for a small business. Because DBS service requires significant capital, we believe it is unlikely that a small entity as defined by the SBA would have the financial wherewithal to become a DBS service provider.

72. *Fixed Microwave Services.* Microwave services include common carrier,[267] private-operational fixed,[268]

citations were 13 CFR 121.201, NAICS codes 517211 and 517212 (referring to the 2002 NAICS).

[252] U.S. Census Bureau, 2007 Economic Census, Sector 51, 2007 NAICS code 517210 (rel. Oct. 20, 2009), *http://factfinder.census.gov/servlet/IBQTable?_bm=y&-geo_id=&-fds_name=EC0700A1&-_skip=700&-ds_name=EC0751SSSZ5&-_lang=en.*

[253] *See Trends in Telephone Service,* at table 5.3.

[254] *Id.*

[255] *See* 13 CFR 121.201, NAICS Code 515120 (2007).

[256] *Id.* This category description continues, ''These establishments operate television broadcasting studios and facilities for the programming and transmission of programs to the public. These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studios, from an affiliated network, or from external sources.'' Separate census categories pertain to businesses primarily engaged in producing programming. *See* Motion Picture and Video Production, NAICS code 512110; Motion Picture and Video Distribution, NAICS Code 512120; Teleproduction and Other Post-Production Services, NAICS Code 512191; and Other Motion Picture and Video Industries, NAICS Code 512199.

[257] *See* News Release, ''Broadcast Station Totals as of December 31, 2010,'' 2011 WL 484756 (F.C.C.) (dated Feb. 11, 2011) (''*Broadcast Station Totals*''); also available at *http://www.fcc.gov/Daily_Releases/Daily_Business/2011/db0211/DOC-304594A1.pdf.*

[258] We recognize that this total differs slightly from that contained in *Broadcast Station Totals,* however, we are using BIA's estimate for purposes of this revenue comparison.

[259] *See Broadcast Station Totals.*

[260] ''[Business concerns] are affiliates of each other when one concern controls or has the power to control the other or a third party or parties controls or has the power to control both.'' 13 CFR 121.103(a)(1).

[261] *See* 13 CFR 121.201, NAICS code 517110 (2007). The 2007 NAICS definition of the category of ''Wired Telecommunications Carriers'' is in paragraph 7, above.

[262] 13 CFR 121.201, NAICS code 517110 (2007).

[263] *See http://www.factfinder.census.gov/servlet/IBQTable?_bm=y&-geo_id=&-fds_name=EC0700A1&-_skip=600&-ds_name=EC0751SSSZ5&-_lang=en.*

[264] *See Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming,* Thirteenth Annual Report, 24 FCC Rcd 542, 580, para. 74 (2009) (''*13th Annual Report*''). We note that, in 2007, EchoStar purchased the licenses of Dominion Video Satellite, Inc. (''Dominion'') (marketed as Sky Angel). *See* Public Notice, ''Policy Branch Information; Actions Taken,'' Report No. SAT–00474, 22 FCC Rcd 17776 (IB 2007).

[265] As of June 2006, DIRECTV is the largest DBS operator and the second largest MVPD, serving an estimated 16.20 percent of MVPD subscribers nationwide. *See 13th Annual Report,* 24 FCC Rcd at 687, Table B–3.

[266] As of June 2006, DISH Network is the second largest DBS operator and the third largest MVPD, serving an estimated 13.01 percent of MVPD subscribers nationwide. *Id.* As of June 2006, Dominion served fewer than 500,000 subscribers, which may now be receiving ''Sky Angel'' service from DISH Network. *See id.* at 581, ¶ 76.

[267] 47 CFR part 101 *et seq.* (formerly, part 21 of the Commission's rules) for common carrier fixed microwave services (except MDS).

[268] Persons eligible under parts 80 and 90 of the Commission's rules can use Private-Operational Fixed Microwave services. *See* 47 CFR parts 80 and 90. Stations in this service are called operational-fixed to distinguish them from common carrier and

and broadcast auxiliary radio services.[269] At present, there are approximately 31,549 common carrier fixed licensees and 89,633 private and public safety operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services. Microwave services include common carrier,[270] private-operational fixed,[271] and broadcast auxiliary radio services.[272] They also include the Local Multipoint Distribution Service (LMDS),[273] the Digital Electronic Message Service (DEMS),[274] and the 24 GHz Service,[275] where licensees can choose between common carrier and non-common carrier status.[276] The Commission has not yet defined a small business with respect to microwave services. For purposes of the FRFA, the Commission will use the SBA's definition applicable to Wireless Telecommunications Carriers (except satellite)—i.e., an entity with no more than 1,500 persons is considered small.[277] For the category of Wireless Telecommunications Carriers (except Satellite), Census data for 2007, which supersede data contained in the 2002 Census, show that there were 1,383 firms that operated that year.[278] Of those 1,383, 1,368 had fewer than 100 employees, and 15 firms had more than 100 employees. Thus under this category and the associated small business size standard, the majority of firms can be considered small. The Commission notes that the number of firms does not necessarily track the number of licensees. The Commission estimates that virtually all of the Fixed Microwave licensees (excluding broadcast auxiliary licensees) would qualify as small entities under the SBA definition.

73. *Cable and Other Program Distribution.* Since 2007, these services have been defined within the broad economic census category of Wired Telecommunications Carriers; that category is defined as follows: ''This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies.'' [279] The SBA has developed a small business size standard for this category, which is: All such firms having 1,500 or fewer employees.[280] According to Census Bureau data for 2007, there were a total of 955 firms in the subcategory of Cable and Other Program Distribution that operated for the entire year.[281] Of this total, 939 firms had employment of 999 or fewer employees, and 16 firms had employment of 1,000 employees or more.[282] Accordingly, The Commission believes that a majority of firms operating in this industry were small.

74. *Cable Companies and Systems.* The Commission has also developed its own small business size standards, for the purpose of cable rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers, nationwide.[283] Industry data indicate that, of 1,076 cable operators nationwide, all but eleven are small under this size standard.[284] In addition, under the Commission's rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers.[285] Industry data indicate that, of 6,635 systems nationwide, 5,802 systems have under 10,000 subscribers, and an additional 302 systems have 10,000–19,999 subscribers.[286] Thus, under this second size standard, most cable systems are small.

75. *Cable System Operators.* The Act also contains a size standard for small cable system operators, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' [287] The Commission has determined that an operator serving fewer than 677,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate.[288] Industry data indicate that, of 1,076 cable operators nationwide, all but ten are small under this size standard.[289] We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million,[290] and therefore we are unable to estimate more accurately the number of cable system operators that would qualify as small under this size standard.

76. *Open Video Services.* Open Video Service (OVS) systems provide subscription services.[291] The open video

public fixed stations. Only the licensee may use the operational-fixed station, and only for communications related to the licensee's commercial, industrial, or safety operations.

[269] Auxiliary Microwave Service is governed by Part 74 and Part 78 of Title 47 of the Commission's Rules. Available to licensees of broadcast stations, cable operators, and to broadcast and cable network entities. Auxiliary microwave stations are used for relaying broadcast television signals from the studio to the transmitter, or between two points such as a main studio and an auxiliary studio. The service also includes TV pickup and CARS pickup, which relay signals from a remote location back to the studio.

[270] *See* 47 CFR part 101, subparts C and I.

[271] *See* 47 CFR part 101, subparts C and H.

[272] Auxiliary Microwave Service is governed by Part 74 of Title 47 of the Commission's Rules. *See* 47 CFR part 74. Available to licensees of broadcast stations and to broadcast and cable network entities, broadcast auxiliary microwave stations are used for relaying broadcast television signals from the studio to the transmitter or between two points such as a main studio and an auxiliary studio. The service also includes mobile TV pickups, which relay signals from a remote location back to the studio.

[273] *See* 47 CFR part 101, subpart L.

[274] *See* 47 CFR part 101, subpart G.

[275] *See id.*

[276] *See* 47 CFR 101.533, 101.1017.

[277] 13 CFR 121.201, NAICS code 517210.

[278] U.S. Census Bureau, 2007 Economic Census, Sector 51, 2007 NAICS code 517210 (rel. Oct. 20, 2009), *http://factfinder.census.gov/servlet/IBQTable?_bm=y&-geo_id=&-fds_name=EC0700A1&-_skip=700&-ds_name=EC0751SSSZ5&-_lang=en.*

[279] U.S. Census Bureau, 2007 NAICS Definitions, ''517110 Wired Telecommunications Carriers'' (partial definition), *http://www.census.gov/naics/2007/def/ND517110.HTM#N517110.*

[280] 13 CFR 121.201, NAICS code 517110 (2007).

[281] U.S. Census Bureau, 2007 Economic Census, Subject Series: Information, Table 5, Employment Size of Firms for the United States: 2007, NAICS code 5171102 (located at *http://factfinder.census.gov/servlet/IBQTable?_bm=y&-geo_id=&-_skip=600&-ds_name=EC0751SSSZ5&-_lang=en*).

[282] *See id.*

[283] 47 CFR 76.901(e). The Commission determined that this size standard equates approximately to a size standard of $100 million or less in annual revenues. *Implementation of Sections of the 1992 Cable Act: Rate Regulation,* Sixth Report and Order and Eleventh Order on Reconsideration, 10 FCC Rcd 7393, 7408 (1995).

[284] These data are derived from: R.R. Bowker, *Broadcasting & Cable Yearbook 2006,* ''Top 25 Cable/Satellite Operators,'' pages A–8 & C–2 (data current as of June 30, 2005); Warren Communications News, *Television & Cable Factbook 2006,* ''Ownership of Cable Systems in the United States,'' pages D–1805 to D–1857.

[285] 47 CFR 76.901(c).

[286] Warren Communications News, *Television & Cable Factbook 2008,* ''U.S. Cable Systems by Subscriber Size,'' page F–2 (data current as of Oct. 2007). The data do not include 851 systems for which classifying data were not available.

[287] 47 U.S.C. 543(m)(2); *see also* 47 CFR 76.901(f) & nn.1–3.

[288] 47 CFR 76.901(f); *see FCC Announces New Subscriber Count for the Definition of Small Cable Operator,* Public Notice, 16 FCC Rcd 2225 (Cable Services Bureau 2001).

[289] These data are derived from R.R. Bowker, Broadcasting & Cable Yearbook 2006, ''Top 25 Cable/Satellite Operators,'' pages A–8 & C–2 (data current as of June 30, 2005); Warren Communications News, Television & Cable Factbook 2006, ''Ownership of Cable Systems in the United States,'' pages D–1805 to D–1857.

[290] The Commission does receive such information on a case-by-case basis if a cable operator appeals a local franchise authority's finding that the operator does not qualify as a small cable operator pursuant to § 76.901(f) of the Commission's rules.

[291] *See* 47 U.S.C. 573.

system (''OVS'') framework was established in 1996, and is one of four statutorily recognized options for the provision of video programming services by local exchange carriers.[292] The OVS framework provides opportunities for the distribution of video programming other than through cable systems. Because OVS operators provide subscription services,[293] OVS falls within the SBA small business size standard covering cable services, which is ''Wired Telecommunications Carriers.'' [294] The SBA has developed a small business size standard for this category, which is: All such firms having 1,500 or fewer employees. To gauge small business prevalence for the OVS service, the Commission relies on data currently available from the U.S. Census for the year 2007. According to that source, there were 3,188 firms that in 2007 were Wired Telecommunications Carriers. Of these, 3,144 operated with less than 1,000 employees, and 44 operated with more than 1,000 employees. However, as to the latter 44 there is no data available that shows how many operated with more than 1,500 employees. Based on this data, the majority of these firms can be considered small.[295] In addition, we note that the Commission has certified some OVS operators, with some now providing service.[296] Broadband service providers (''BSPs'') are currently the only significant holders of OVS certifications or local OVS franchises.[297] The Commission does not have financial or employment information regarding the entities authorized to provide OVS, some of which may not yet be operational. Thus, at least some of the OVS operators may qualify as small entities. The Commission further notes that it has certified approximately 45 OVS operators to serve 75 areas, and some of these are currently providing service.[298] Affiliates of Residential Communications Network, Inc. (''RCN'') received approval to operate OVS systems in New York City, Boston, Washington, DC, and other areas. RCN has sufficient revenues to assure that they do not qualify as a small business entity. Little financial information is available for the other entities that are authorized to provide OVS and are not yet operational. Given that some entities authorized to provide OVS service have not yet begun to generate revenues, the Commission concludes that up to 44 OVS operators (those remaining) might qualify as small businesses.

5. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

77. These rules impose new reporting, recordkeeping and/or other compliance requirements on small television broadcast stations and small MVPDs. Small stations and MVPDs must be prepared to demonstrate compliance with the RP in the event of an enforcement inquiry, including demonstrating in every circumstance that the equipment necessary to pass through programming compliant with the RP has been properly installed, maintained, and utilized.[299] The R&O does not, however, mandate the method by which compliance is demonstrated. It does provide optional methods to demonstrate compliance by being ''deemed in compliance'' or in a ''safe harbor.'' For locally inserted commercials, a small station or MVPD must provide records showing the consistent and ongoing use of equipment to properly measure the loudness of the content and to ensure that the dialnorm metadata value correctly matches the loudness of the content when encoding the audio into AC–3 for transmitting the content to the consumer in the regular course of business and demonstrating that the equipment has undergone commercially reasonable periodic maintenance and testing to ensure its continued proper operation. It must also certify that it either has no actual knowledge of a violation of the ATSC A/85 RP, or that any violation of which it has become aware has been corrected promptly upon becoming aware of such a violation.[300] For embedded commercials, a small station or MVPD must perform a 24-hour spot check on programming containing complained-of commercials, and report the results to the Commission, and, if they show noncompliance, to the programmer.[301] In the event of a failed spot check, the station or MVPD must re-check the noncompliant commercial programming, and if the re-check reveals noncompliance with the RP, then the station or MVPD has actual knowledge of noncompliance and, going forward, is no longer in the safe harbor for that channel or programming.[302]

6. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

78. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.[303]

79. The express language of the statute requires that the RP be incorporated into the rules and made mandatory for all stations and MVPDs, regardless of size.[304] As a result, these rules may have a significant economic impact in some cases, and that impact may affect a substantial number of small entities, although, as discussed below, the streamlined waiver process for small entities will relieve much of this impact. Nonetheless, the R&O makes significant strides to minimize the economic impact of the rules on small entities. The ''safe harbor'' we adopt simplifies the process by which small stations and MVPDs may demonstrate compliance with the RP, by eliminating the need for retroactive demonstrations of compliance. Larger stations and MVPDs must either seek certifications that programming is compliant with the RP, or perform annual spot checks of programming that has not been certified.[305] Smaller entities, however, are required only to install, maintain, and utilize the equipment necessary to comply, and in the case of an enforcement inquiry triggered by a pattern or trend of complaints regarding embedded commercials, to demonstrate ongoing compliance via means of a spot check.[306] This gives smaller entities the choice to demonstrate compliance via

[292] 47 U.S.C. 571(a)(3)–(4). *See 13th Annual Report,* 24 FCC Rcd at 606, para. 135.

[293] *See* 47 U.S.C. 573.

[294] U.S. Census Bureau, 2007 NAICS Definitions, ''517110 Wired Telecommunications Carriers''; *http://www.census.gov/naics/2007/def/ND517110.HTM#N517110.*

[295] *See http://factfinder.census.gov/servlet/IBQTable?_bm=y&-fds_name=EC0700A1&-geo_id=&-_skip=600&-ds_name=EC0751SSSZ5&-_lang=en.*

[296] A list of OVS certifications may be found at *http://www.fcc.gov/mb/ovs/csovscer.html.*

[297] *See 13th Annual Report,* 24 FCC Rcd at 606–07, ¶ 135. BSPs are newer firms that are building state-of-the-art, facilities-based networks to provide video, voice, and data services over a single network.

[298] *See http://www.fcc.gov/mb/ovs/csovscer.html* (current as of February 2007).

[299] R&O at para. 24.

[300] R&O at para 29.

[301] R&O at paras. 41–42.

[302] R&O at paras. 43–44.

[303] 5 U.S.C. 603(c)(1)–(c)(4).

[304] *See* 47 U.S.C. 621(a).

[305] R&O at para. 32.

[306] R&O at paras. 36–37, 41–42.

an approach which creates minimal economic impact on those entities.

80. The smaller entities eligible for this simplified process are broadcast stations with less than $14 Million in annual receipts, and MVPDs with 400,000 or fewer subscribers, as of December 2011. The R&O adopts the SBA size standard for stations, under which, as discussed above, approximately 78 percent of television broadcast stations are small. The MVPD size standard adopted by the R&O is based on the Commission's definition of a ''small cable company,'' allowing us to apply a relevant and easily-measurable size standard to all MVPDs. SBA considers MVPDs to be either Wired or Wireless Telecommunications Carriers, both of which use a 1,500 employee size standard. That standard, however, is less relevant than a subscriber-based measure to the goal of ensuring that the channels most subscribers watch are either certified or annually spot-checked, because the number of people employed by an MVPD does not necessarily directly correlate to the number of subscribers it reaches. Although the rules adopted in this R&O will look to MVPD size as of December 2011, we note that as of June 2011 all but 15 MVPDs are small.[307] Because the same program streams are provided to smaller and larger entities, spot checks by even a small number of large entities should ensure compliance for all while reducing the burden on smaller stations and MVPDs.

81. Furthermore, the statute provides that the Commission may grant a one-year waiver of the effective date of the rules implementing the statute to any station/MVPD that shows it would be a ''financial hardship'' to obtain the necessary equipment to comply with the rules, and may renew such waiver for one additional year.[308] To request a financial hardship waiver, a larger station or MVPD must provide: (1) Evidence of its financial condition, such as financial statements; (2) a cost estimate for obtaining the necessary equipment to comply with the required regulation; (3) a detailed statement explaining why its financial condition justifies postponing compliance; and (4) an estimate of how long it will take to comply, along with supporting information. We do not require waiver applicants to show negative cash flow but, instead, require only that the station/MVPD's assertion of financial hardship be reasonable under the circumstances.[309] For small stations/MVPDs that face a financial challenge in obtaining the equipment needed to comply with our rules, we adopt a particularly streamlined financial hardship waiver approach.[310] Specifically, a small station or MVPD that seeks a waiver must file with the Commission a certification that it: (1) meets our definition of small for this purpose, and (2) needs a delay of one year to obtain specified equipment in order to avoid the financial hardship that would be imposed if it were required to obtain the equipment sooner. The station or MVPD is not required to submit any proof of financial condition. Small broadcast stations and small MVPDs may consider the waiver granted when they file this information online and receive an automatic ''acknowledgement of request,'' unless the Media Bureau notifies them of a problem or question concerning the adequacy of the certification.[311]

82. This streamlined process is available to stations with no more than $14.0 million in annual receipts or that are located in television markets 150 to 210. With respect to the latter, the legislative history of the CALM Act specifically expressed concern about the difficulties faced by broadcasters in smaller markets, where the advertising revenue base is much more limited than in larger markets. Unlike small MVPD systems, most of the steps small broadcasters must take to comply with the RP must be undertaken internally, rather than by a third party programmer providing embedded commercials or third party contractors providing local insertions. Consequently, we expect that small broadcast stations will be more likely to need to obtain equipment, and, therefore, more likely to need a waiver to delay the effective date of the rule. We will therefore allow all of these stations to use the streamlined process. The streamlined process is also available to MVPD systems with fewer than 15,000 subscribers (as of December 31, 2011) that are not affiliated with a larger operator serving more than 10 percent of all MVPD subscribers. Our definition of ''small MVPD system'' for purposes of the streamlined waiver is different from our definition of smaller MVPD operators for purposes of being in the safe harbor.[312] While the waiver is available to all systems likely to face financial hardships in complying with the RP, we believe that only the smallest need an expedited process, and as discussed above, many of the steps small MVPD systems must take to comply with the RP may be undertaken by a third party.

83. Finally, Section 2(b)(3) of the CALM Act provides that the statute does not affect the Commission's authority to waive any rule required by the CALM Act, or the application of any such rule, for good cause shown with regard to any station/MVPD or class of stations/MVPDs under Section 1.3 of the Commission's rules. We will use our general waiver authority, consistent with Section 2(b)(3), for waivers necessitated by unforeseen circumstances as well as for MVPDs that demonstrate they cannot implement the RP because of the technology they use.[313]

7. Report to Congress

84. The Commission will send a copy of the *Report and Order,* including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act.[314] In addition, the Commission will send a copy of the *Report and Order,* including this FRFA, to the Chief Counsel for Advocacy of the SBA. The *Report and Order* and FRFA (or summaries thereof) will also be published in the **Federal Register**.[315]

B. Final Paperwork Reduction Act of 1995 Analysis

85. We analyzed this Report and Order with respect to the Paperwork Reduction Act of 1995 (''PRA'')[316] and it contains new and modified information collection requirements.[317] It will be submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA.[318] The Commission, as part of its continuing effort to reduce paperwork burdens, invites OMB, the general public, and other interested parties to comment on the information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business

[307] These fifteen MVPDs include DIRECTV, DISH Network, AT&T, and Verizon, along with more traditional cable companies like Time Warner and Suddenlink. *See http://www.ncta.com/Stats/TopMSOs.aspx* (visited November 16, 2011).

[308] R&O at para. 50.

[309] R&O at para. 51.

[310] R&O at para. 52.

[311] *Id.*

[312] R&O at paras. 35–36.

[313] R&O at para. 56.

[314] *See* 5 U.S.C. 801(a)(1)(A).

[315] *See* 5 U.S.C. 604(b).

[316] The Paperwork Reduction Act of 1995 (''PRA''), Public Law 104–13, 109 Stat 163 (1995) (codified in Chapter 35 of title 44 U.S.C.).

[317] We modify existing information collection requirements relating to the Commission's online complaint form (the Form 2000 series). *See* OMB Control No. 3060–0874 (preapproved July 19, 2011). We also create a new information collection requirement to cover the filing of financial hardship and general waiver requests pursuant to Sections 2(b)(2) and 2(b)(3) of the CALM Act. *See* OMB Control No. 3060–1154 (preapproved July 15, 2011).

[318] 44 U.S.C. 3507(d).

Paperwork Relief Act of 2002,[319] we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.[320] We did not receive any comments on this issue. We have assessed the effects of our rules that might impose information collection burdens on small business concerns, and find no results specific to businesses with fewer than 25 employees.

VI. Ordering Clauses

86. Accordingly, *it is ordered* that pursuant to the Commercial Advertisement Loudness Mitigation Act of 2010, Pub. L. 111–311, 124 Stat. 3294, and Sections 1, 2(a), 4(i), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i) and (j), 303(r), and 621, this Report and *order is adopted.*

87. *It is further ordered* that the rules adopted herein *will become effective* December 13, 2012. We note that these rules contain new information collection requirements subject to the Paperwork Reduction Act and will be submitted to the Office of Management and Budget for review. These requirements will not become effective until after OMB approval. The Commission will publish a notice in the **Federal Register** announcing such approval.

88. *It is further ordered* that we delegate authority to the Media Bureau to consider waiver requests filed under these rules and pursuant to Sections 2(b)(2) and 2(b)(3) of the CALM Act.

89. *It is further ordered* that, pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A), the Commission *will send* a copy of this Report and Order in a report to Congress and the General Accounting Office.

90. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, WILL SEND a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Parts 73 and 76

Cable television, Digital television, Incorporation by reference, and Satellite television.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 73 and 76 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

■ 2. Amend § 73.682 by adding paragraph (e) and *Note to § 73.682* to read as follows:

§ 73.682 TV transmission standards.

* * * * *

(e) *Transmission of commercial advertisements by television broadcast station.* (1) *Mandatory compliance with ATSC A/85 RP.* Effective December 13, 2012, television broadcast stations must comply with the ATSC A/85 RP incorporated by reference, see § 73.8000), insofar as it concerns the transmission of commercial advertisements.

(2) *Commercials inserted by station.* A television broadcast station that installs, utilizes, and maintains in a commercially reasonable manner the equipment and associated software to comply with ATSC A/85 RP shall be deemed in compliance with respect to locally inserted commercials, which for the purposes of this provision are commercial advertisements added to a programming stream by a station prior to or at the time of transmission to viewers. In order to be considered to have installed, utilized and maintained the equipment and associated software in a commercially reasonable manner, a television broadcast station must:

(i) Install, maintain and utilize equipment to properly measure the loudness of the content and to ensure that the dialnorm metadata value correctly matches the loudness of the content when encoding the audio into AC–3 for transmitting the content to the consumer;

(ii) Provide records showing the consistent and ongoing use of this equipment in the regular course of business and demonstrating that the equipment has undergone commercially reasonable periodic maintenance and testing to ensure its continued proper operation;

(iii) Certify that it either has no actual knowledge of a violation of the ATSC A/85 RP, or that any violation of which it has become aware has been corrected promptly upon becoming aware of such a violation; and

(iv) Certify that its own transmission equipment is not at fault for any pattern or trend of complaints.

(3) *Embedded commercials—safe harbor.* With respect to embedded commercials, which, for the purposes of this provision, are those commercial advertisements placed into the programming stream by a third party (i.e., programmer) and passed through by the station to viewers, a television broadcast station must certify that its own transmission equipment is not at fault for any pattern or trend of complaints, and may demonstrate compliance with the ATSC A/85 RP through one of the following methods:

(i) Relying on a network's or other programmer's certification of compliance with the ATSC A/85 RP with respect to commercial programming, provided that:

(A) The certification is widely available by Web site or other means to any television broadcast station, cable operator, or multichannel video programming distributor that transmits that programming; and

(B) The television broadcast station has no reason to believe that the certification is false; and

(C) The television broadcast station performs a spot check, as defined in § 73.682(e)(3)(iv)(A), (B), (D), and (E), on programming in response to an enforcement inquiry concerning a pattern or trend of complaints regarding commercials contained in that programming.

(ii) If transmitting any programming that is not certified as described in § 73.682(e)(3)(i), a television broadcast station that had more than $14,000,000 in annual receipts for the calendar year 2011 must perform annual spot checks, as defined in § 73.682(e)(3)(iv)(A), (B), (C), and (E), of all the non-certified commercial programming it receives from a network or other programmer and perform a spot check, as defined in § 73.682(e)(3)(iv)(A), (B), (D), and (E), on programming in response to an enforcement inquiry concerning a pattern or trend of complaints regarding commercials contained in that programming;

(iii) A television broadcast station that had $14,000,000 or less in annual receipts for the year 2011 need not perform annual spot checks but must perform a spot check, as defined in § 73.682(e)(3)(iv)(A), (B), (D), and (E), on programming in response to an enforcement inquiry concerning a pattern or trend of complaints regarding commercials contained in that programming.

[319] The Small Business Paperwork Relief Act of 2002 (''SBPRA''), Public Law 107–198, 116 Stat 729 (2002) (codified in Chapter 35 of title 44 U.S.C.); *see* 44 U.S.C. 3506(c)(4).

[320] *NPRM* at para. 48.

(iv) For purposes of this section, a ''spot check'' of embedded commercials requires monitoring 24 uninterrupted hours of programming with an audio loudness meter employing the measurement technique specified in the ATSC A/85 RP, and reviewing the records from that monitoring to detect any commercials transmitted in violation of the ATSC A/85 RP. The television broadcast station must not inform the network or programmer of the spot check prior to performing it.

(A) Spot-checking must be conducted after the signal has passed through the television broadcast station's processing equipment (e.g., at the output of a television receiver). If a problem is found, the television broadcast station must determine the source of the noncompliance.

(B) To be considered valid, the television broadcast station must demonstrate appropriate maintenance records for the audio loudness meter.

(C) With reference to the annual ''safe harbor'' spot check in § 73.682(e)(3)(ii):

(*1*) To be considered valid, the television broadcast station must demonstrate, at the time of any enforcement inquiry, that appropriate spot checks had been ongoing.

(*2*) If there is no single 24 hour period in which all programmers of a given program stream are represented, an annual spot check may consist of a series of loudness measurements over the course of a 7 day period, totaling no fewer than 24 hours, that measure at least one program, in its entirety, provided by each non-certified programmer that supplies programming for that program stream.

(*3*) If annual spot checks are performed for two consecutive years without finding evidence of noncompliance with the ATSC A/85 RP, no further annual spot checks are required to remain in the safe harbor for existing programming.

(*4*) Non-certified program streams must be spot-checked annually using the approach described in this section. If annual spot checks of the program stream are performed for two consecutive years without finding evidence of noncompliance with the ATSC A/85 RP, no further annual spot checks are required to remain in the safe harbor for that program stream.

(*5*) Even after the two year period for annual spot checks, if a spot check shows noncompliance on a non-certified program stream, the station must once again perform annual spot checks of that program stream to be in the safe harbor for that programming. If these renewed annual spot checks are performed for two consecutive years without finding additional evidence of noncompliance with the ATSC A/85 RP, no further annual spot checks are required to remain in the safe harbor for that program stream.

(D) With reference to the spot checks in response to an enforcement inquiry pursuant to § 73.682(e)(3)(i)(C), (2), or (*3*):

(*1*) If notified of a pattern or trend of complaints, the television broadcast station must perform the 24-hour spot check of the program stream at issue within 30 days or as otherwise specified by the Enforcement Bureau; and

(*2*) If the spot check reveals actual compliance, the television broadcast station must notify the Commission in its response to the enforcement inquiry.

(E) If any spot check shows noncompliance with the ATSC A/85 RP, the television station must notify the Commission and the network or programmer within 7 days, direct the programmer's attention to any relevant complaints, and must perform a follow-up spot check within 30 days of providing such notice. The station must notify the Commission and the network or programmer of the results of the follow-up spot check. Notice to the Federal Communications Commission must be provided to the Chief, Investigations and Hearings Division, Enforcement Bureau, or as otherwise directed in a Letter of Inquiry to which the station is responding.

(*1*) If the follow-up spot check shows compliance with the ATSC A/85 RP, the station remains in the safe harbor for that program stream.

(*2*) If the follow-up spot check shows noncompliance with the ATSC A/85 RP, the station will not be in the safe harbor with respect to commercials contained in the program stream for which the spot check showed noncompliance until a subsequent spot check shows that the program stream is in compliance.

(4) *Use of a real-time processor.* A television broadcast station that installs, maintains and utilizes a real-time processor in a commercially reasonable manner will be deemed in compliance with the ATSC A/85 RP with regard to any commercial advertisements on which it uses such a processor, so long as it also:

(i) Provides records showing the consistent and ongoing use of this equipment in the regular course of business and demonstrating that the equipment has undergone commercially reasonable periodic maintenance and testing to ensure its continued proper operation;

(ii) Certifies that it either has no actual knowledge of a violation of the ATSC A/85 RP, or that any violation of which it has become aware has been corrected promptly upon becoming aware of such a violation; and

(iii) Certifies that its own transmission equipment is not at fault for any pattern or trend of complaints.

(5) *Commercials locally inserted by a station's agent—safe harbor.* With respect to commercials locally inserted, which for the purposes of this provision are commercial advertisements added to a programming stream for the television broadcast station by a third party after it has been received from the programmer but prior to or at the time of transmission to viewers, a station may demonstrate compliance with the ATSC A/85 RP by relying on the third party local inserter's certification of compliance with the ATSC A/85 RP, provided that:

(i) The television broadcast station has no reason to believe that the certification is false;

(ii) The television broadcast station certifies that its own transmission equipment is not at fault for any pattern or trend of complaints; and

(iii) The television broadcast station performs a spot check, as defined in § 73.682(e)(3)(iv)(A), (B), (D), and (E), on the programming at issue in response to an enforcement inquiry concerning a pattern or trend of complaints regarding commercials inserted by that third party.

(6) Instead of demonstrating compliance pursuant to paragraphs (e)(2) through (5) of this section, a station may demonstrate compliance with paragraph (e)(1) of this section in response to an enforcement inquiry prompted by a pattern or trend of complaints by demonstrating actual compliance with ATSC A/85 RP with regard to the commercial advertisements that are the subject of the inquiry, and certifying that its own transmission equipment is not at fault for any such pattern or trend of complaints.

Note to § 73.682: For additional information regarding this requirement, *see* Implementation of the Commercial Advertisement Loudness Mitigation (CALM) Act, FCC 11–182.

■ 3. Amend § 73.8000 by revising paragraph (b) introductory text and adding paragraph (b)(5) to read as follows:

§ 73.8000 Incorporation by reference.

* * * * *

(b) The following materials are available from Advanced Television Systems Committee (ATSC), 1776 K Street NW., 8th Floor, Washington, DC 20006; or at the ATSC Web site: *http://www.atsc.org/standards.html.*

* * * * *

(5) ATSC A/85:2011 ''ATSC Recommended Practice: Techniques for Establishing and Maintaining Audio Loudness for Digital Television,'' (July 25, 2011) (''ATSC A/85 RP''), IBR approved for § 73.682.

* * * * *

PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

■ 4. The authority citation for part 76 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 302, 302a, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 339, 340, 341, 503, 521, 522, 531, 532, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, 573.

■ 5. Revise § 76.602 to read as follows:

§ 76.602 Incorporation by reference.

(a) The materials listed in this section are incorporated by reference in this part. These incorporations by reference were approved by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist on the date of the approval, and notice of any change in these materials will be published in the **Federal Register**. The materials are available for inspection at the Federal Communications Commission, 445 12th. St. SW., Reference Information Center, Room CY–A257, Washington, DC 20554 and at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(b) The following materials are available from Advanced Television Systems Committee (ATSC), 1776 K Street NW., 8th Floor, Washington, DC 20006; phone: 202–872–9160; or online at *http://www.atsc.org/standards.html.*

(1) ATSC A/65B: ''ATSC Standard: Program and System Information Protocol for Terrestrial Broadcast and Cable (Revision B),'' March 18, 2003, IBR approved for § 76.640.

(2) ATSC A/85:2011 ''ATSC Recommended Practice: Techniques for Establishing and Maintaining Audio Loudness for Digital Television,'' (July 25, 2011) (''ATSC A/85 RP''), IBR approved for § 76.607.

(c) The following materials are available from Consumer Electronics Association (CEA), 1919 S. Eads St., Arlington, VA 22202; phone: 866–858–1555; or online at *http://www.ce.org/standards.*

(1) CEA–542–B, ''CEA Standard: Cable Television Channel Identification Plan,'' July 2003, IBR approved for § 76.605.

(2) CEA–931–A, ''Remote Control Command Pass-through Standard for Home Networking,'' 2003, IBR approved for § 76.640.

(d) The following materials are available from Society of Cable Telecommunications Engineers (SCTE), 140 Philips Road Exton, PA 19341–1318; phone: 800–542–5040; or online at *http://www.scte.org/standards/Standards_Available.aspx.*

(1) ANSI/SCTE 26 2001 (formerly DVS 194): ''Home Digital Network Interface Specification with Copy Protection,'' 2001, IBR approved for § 76.640.

(2) SCTE 28 2003 (formerly DVS 295): ''Host-POD Interface Standard,'' 2003, IBR approved for § 76.640.

(3) SCTE 40 2003 (formerly DVS 313), ''Digital Cable Network Interface Standard,'' 2003, IBR approved for § 76.640.

(4) SCTE 41 2003 (formerly DVS 301): ''POD Copy Protection System,'' 2003, IBR approved for § 76.640.

(5) ANSI/SCTE 54 2003 (formerly DVS 241), ''Digital Video Service Multiplex and Transport System Standard for Cable Television,'' 2003, IBR approved for § 76.640.

(6) ANSI/SCTE 65 2002 (formerly DVS 234), ''Service Information Delivered Out-of-Band for Digital Cable Television,'' 2002, IBR approved for § 76.640.

(e) Some standards listed above are also available for purchase from the following sources:

(1) American National Standards Institute (ANSI), 25 West 43rd Street, 4th Floor, New York, NY 10036; phone: 212–642–4980; or online at *http://webstore.ansi.org/.*

(2) Global Engineering Documents (standards reseller), 15 Inverness Way East, Englewood, CO 80112; phone: 800–854–7179; or online at *http://global.ihs.com.*

■ 6. Add § 76.607 to subpart K to read as follows:

§ 76.607 Transmission of commercial advertisements.

(a) *Transmission of commercial advertisements by cable operator or other multichannel video programming distributor.* (1) *Mandatory compliance with ATSC A/85 RP.* Effective December 13, 2012, cable operators and other multichannel video programming distributors (MVPDs), as defined in 47 U.S.C. 522, must comply with ATSC A/85 RP (incorporated by reference, see § 76.602), insofar as it concerns the transmission of commercial advertisements.

(2) *Commercials inserted by cable operator or other MVPD.* A cable operator or other multichannel video programming distributor that installs, utilizes, and maintains in a commercially reasonable manner the equipment and associated software to comply with ATSC A/85 RP shall be deemed in compliance with respect to locally inserted commercials, which for the purposes of this provision are commercial advertisements added to a programming stream by a cable operator or other MVPD prior to or at the time of transmission to viewers. In order to be considered to have installed, utilized and maintained the equipment and associated software in a commercially reasonable manner, a cable operator or other MVPD must:

(i) Install, maintain and utilize equipment to properly measure the loudness of the content and to ensure that the dialnorm metadata value correctly matches the loudness of the content when encoding the audio into AC–3 for transmitting the content to the consumer;

(ii) Provide records showing the consistent and ongoing use of this equipment in the regular course of business and demonstrating that the equipment has undergone commercially reasonable periodic maintenance and testing to ensure its continued proper operation;

(iii) Certify that it either has no actual knowledge of a violation of the ATSC A/85 RP, or that any violation of which it has become aware has been corrected promptly upon becoming aware of such a violation; and

(iv) Certify that its own transmission equipment is not at fault for any pattern or trend of complaints.

(3) *Embedded commercials—safe harbor.* With respect to embedded commercials, which, for the purposes of this provision, are those commercial advertisements placed into the programming stream by a third party (*i.e.,* programmer) and passed through by the cable operator or other MVPD to viewers, a cable operator or other MVPD must certify that its own transmission equipment is not at fault for any pattern or trend of complaints, and may demonstrate compliance with the ATSC A/85 RP through one of the following methods:

(i) Relying on a network's or other programmer's certification of compliance with the ATSC A/85 RP with respect to commercial programming, provided that:

(A) The certification is widely available by Web site or other means to

any television broadcast station, cable operator, or multichannel video programming distributor that transmits that programming; and

(B) The cable operator or other MVPD has no reason to believe that the certification is false; and

(C) The cable operator or other MVPD performs a spot check, as defined in § 76.607(a)(3)(iv)(A), (B), (D), and (E), on the programming in response to an enforcement inquiry concerning a pattern or trend of complaints regarding commercials contained in that programming;

(ii) If transmitting any programming that is not certified as described in § 76.607(a)(3)(i):

(A) A cable operator or other MVPD that had 10,000,000 subscribers or more as of December 31, 2011 must perform annual spot checks, as defined in § 76.607(a)(3)(iv)(A), (B), (C), and (E), of all the non-certified commercial programming it receives from a network or other programmer that is carried by any system operated by the cable operator or other MVPD, and perform a spot check, as defined in § 76.607(a)(3)(iv)(A), (B), (D), and (E), on programming in response to an enforcement inquiry concerning a pattern or trend of complaints regarding commercials contained in that programming; and

(B) A cable operator or other MVPD that had fewer than 10,000,000 but more than 400,000 subscribers as of December 31, 2011, must perform annual spot checks, as defined in § 76.607(a)(3)(iv)(A), (B), (C), and (E), of a randomly chosen 50 percent of the non-certified commercial programming it receives from a network or other programmer that is carried by any system operated by the cable operator or other MVPD, and perform a spot check, as defined in § 76.607(a)(3)(iv)(A), (B), (D), and (E), on programming in response to an enforcement inquiry concerning a pattern or trend of complaints regarding commercials contained in that programming; or

(iii) A cable operator or other MVPD that had fewer than 400,000 subscribers as of December 31, 2011, need not perform annual spot checks but must perform a spot check, as defined in § 76.607(a)(3)(iv)(A), (B), (D), and (E), on programming in response to an enforcement inquiry concerning a pattern or trend of complaints regarding commercials contained in that programming.

(iv) For the purposes of this section, a ''spot check'' of embedded commercials requires monitoring 24 uninterrupted hours of programming with an audio loudness meter compliant with the ATSC A/85 RP's measurement technique, and reviewing the records from that monitoring to detect any commercials transmitted in violation of the ATSC A/85 RP. The cable operator or other MVPD must not inform the network or programmer of the spot check prior to performing it.

(A) Spot-checking must be conducted after the signal has passed through the cable operator or other MVPD's processing equipment (*e.g.,* at the output of a set-top box). If a problem is found, the cable operator or other MVPD must determine the source of the noncompliance.

(B) To be considered valid, the cable operator or other MVPD must demonstrate appropriate maintenance records for the audio loudness meter.

(C) With reference to the annual ''safe harbor'' spot check in § 76.607(a)(3)(ii):

(*1*) To be considered valid, the cable operator or other—MVPD must demonstrate, at the time of any enforcement inquiry, that appropriate spot checks had been ongoing.

(*2*) If there is no single 24 hour period in which all programmers of a given channel are represented, an annual spot check could consist of a series of loudness measurements over the course of a 7 day period, totaling no fewer than 24 hours, that measure at least one program, in its entirety, provided by each non-certified programmer that supplies programming for that channel.

(*3*) If annual spot checks are performed for two consecutive years without finding evidence of noncompliance with the ATSC A/85 RP, no further annual spot checks are required to remain in the safe harbor for existing programming.

(*4*) Newly-added (or newly de-certified) non-certified channels must be spot-checked annually using the approach described in this section. If annual spot checks of the channel are performed for two consecutive years without finding evidence of noncompliance with the ATSC A/85 RP, no further annual spot checks are required to remain in the safe harbor for that channel.

(*5*) Even after the two year period, if a spot check shows noncompliance on a non-certified channel, the cable operator or other MVPD must once again perform annual spot checks of that channel to be in the safe harbor for that programming. If these renewed annual spot checks are performed for two consecutive years without finding additional evidence of noncompliance with the ATSC A/85 RP, no further annual spot checks are required to remain in the safe harbor for that channel.

(D) With reference to the spot checks in response to an enforcement inquiry pursuant to § 76.607(a)(3)(i)(C), (ii), or (iii):

(*1*) If notified of a pattern or trend of complaints, the cable operator or other MVPD must perform the 24-hour spot check of the channel or programming at issue within 30 days or as otherwise specified by the Enforcement Bureau; and

(*2*) If the spot check reveals actual compliance, the cable operator or other MVPD must notify the Commission in its response to the enforcement inquiry.

(E) If any spot check shows noncompliance with the ATSC A/85 RP, the cable operator or other MVPD must notify the Commission and the network or programmer within 7 days, direct the programmer's attention to any relevant complaints, and must perform a follow-up spot check within 30 days of providing such notice. The cable operator or other MVPD must notify the Commission and the network or programmer of the results of the follow-up spot check. Notice to the Federal Communications Commission must be provided to the Chief, Investigations and Hearings Division, Enforcement Bureau, or as otherwise directed in a Letter of Inquiry to which the cable operator or other MVPD is responding.

(*1*) If the follow-up spot check shows compliance with the ATSC A/85 RP, the cable operator or other MVPD remains in the safe harbor for that channel or programming.

(*2*) If the follow-up spot check shows noncompliance with the ATSC A/85 RP, the cable operator or other MVPD will not be in the safe harbor with respect to commercials contained in programming for which the spot check showed noncompliance until a subsequent spot check shows that the programming is in compliance.

(4) *Use of a real-time processor.* A cable operator or other MVPD that installs, maintains and utilizes a real-time processor in a commercially reasonable manner will be deemed in compliance with the ATSC A/85 RP with regard to any commercial advertisements on which it uses such a processor, so long as it also:

(i) Provides records showing the consistent and ongoing use of this equipment in the regular course of business and demonstrating that the equipment has undergone commercially reasonable periodic maintenance and testing to ensure its continued proper operation;

(ii) Certifies that it either has no actual knowledge of a violation of the ATSC A/85 RP, or that any violation of which it has become aware has been

corrected promptly upon becoming aware of such a violation; and

(iii) Certifies that its own transmission equipment is not at fault for any pattern or trend of complaints.

(5) *Commercials locally inserted by a cable operator or other MVPD's agent—safe harbor.* With respect to commercials locally inserted, which for the purposes of this provision are commercial advertisements added to a programming stream for the cable operator or other MVPD by a third party after it has been received from the programmer but prior to or at the time of transmission to viewers, a cable operator or other MVPD may demonstrate compliance with the ATSC A/85 RP by relying on the third party local inserter's certification of compliance with the ATSC A/85 RP, provided that:

(i) The cable operator or other MVPD has no reason to believe that the certification is false;

(ii) The cable operator or other MVPD certifies that its own transmission equipment is not at fault for any pattern or trend of complaints; and

(iii) The cable operator or other MVPD performs a spot check, as defined in § 76.607(a)(3)(iv)(A), (B), (D), and (E), on the programming at issue in response to an enforcement inquiry concerning a pattern or trend of complaints regarding commercials inserted by that third party.

(6) Instead of demonstrating compliance pursuant to paragraphs (a)(2) through (5) of this section, a cable operator or other MVPD may demonstrate compliance with paragraph (a)(1) of this section in response to an enforcement inquiry prompted by a pattern or trend of complaints by demonstrating actual compliance with ATSC A/85 RP with regard to the commercial advertisements that are the subject of the inquiry, and certifying that its own transmission equipment is not at fault for any such pattern or trend of complaints.

Note to § 76.607(a): For additional information regarding this requirement, *see* Implementation of the Commercial Advertisement Loudness Mitigation (CALM) Act, FCC 11–182.

(b) [Reserved]

[FR Doc. 2012–16165 Filed 7–6–12; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE TREASURY

48 CFR Parts 1002, 1032, and 1052

RIN 1505–AC41

Department of the Treasury Acquisition Regulation; Internet Payment Platform

AGENCY: Office of the Procurement Executive, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury is amending the Department of the Treasury Acquisition Regulation (DTAR) to implement use of the Internet Payment Platform, a centralized electronic invoicing and payment information system, and to change the definition of bureau to reflect the consolidation on July 21, 2011 of the Office of Thrift Supervision with the Office of the Comptroller of the Currency. This final rule follows publication of a February 23, 2012, notice of proposed rulemaking. After careful consideration of the public comments, the Department is adopting the proposed rulemaking without change.

DATES: *Effective date:* August 8, 2012.

FOR FURTHER INFORMATION CONTACT: Ronald Backes, Director, Acquisition Management, Office of the Procurement Executive, at (202) 622–5930.

SUPPLEMENTARY INFORMATION:

I. Background and Proposed Rule

The Federal Acquisition Regulation (FAR) sets forth the uniform regulation for the procurement of supplies and services by Federal departments and agencies (title 48, chapter 1, of the Code of Federal Regulations (CFR)). The Department of the Treasury Acquisition Regulations, which supplement the FAR, are codified at 48 CFR chapter 10.

On July 5, 2011, the Department announced that it will implement the Internet Payment Platform (IPP) no later than the end of fiscal year 2012; with all new payment requests in FY2013 processed using the IPP. The Internet Payment Platform (IPP) is a secure Web-based electronic invoicing and payment system that processes vendor payment data electronically, either through a Web-based portal or electronic submission, and automates the routing and approval workflow within an agency.

The IPP is provided by the Department of the Treasury's Financial Management Service through its fiscal agent, the Federal Reserve Bank of Boston at no cost to vendors or government departments and agencies adopting the platform. The IPP benefits agencies by eliminating the need to file and store paper payment documentation; reducing the time of agency personnel researching and answering payment status questions by providing vendor and department-wide visibility into contract payments.

IPP benefits vendors by reducing time to payment, creating a standard set of electronic data to submit payment requests to the Federal government; reducing costs from having multiple processes and requirements; reducing paper and postage costs, improving cash management by eliminating the time delays associated with submitting and routing paper; and increasing transparency in the payment processes.

The Department will support vendor transition from paper-based payment processes to IPP through a series of webinar and video training on various aspects of the application, including how to view purchase orders, submit invoices, retrieve payment information, set notification preferences, and add users to IPP accounts. The IPP application includes a ''Collector User Guide'' on vendor landing page. Treasury also operates customer support services email and toll free numbers during business hours, Monday through Friday 8 a.m.–6:30 p.m. Eastern Time.

On February 23, 2012 (77 FR 10714) the Department published a proposed rule that would add a new subpart 1032.70—Electronic Submission and Processing of Payment Requests to establish the IPP. The Department published a correction to the proposed rule on March 5, 2012 (77 FR 13069). The proposed rule prescribed policies and procedures for electronic submission and processing of payment requests. With limited exceptions, the proposed provisions would establish that after October 1, 2012, Treasury will require and contractors will submit payment requests electronically. The rule also proposed a waiver of its provisions and proposed the text of the IPP contract clause.

This proposed rule also included nonsubstantive, technical changes to update the DTAR definition of ''bureau'' and would add ''IPP'' to the DTAR list of abbreviations.

II. This Final Rule

In its February 23, 2012, proposed rule, the Department solicited public comments on all aspects of the proposal. The comment period closed on April 23, 2012 and eight comments were received. All of the comments were from private citizens and law school students. This section sets out significant comments raised by the

commenters and the Department's responses to these comments. As set forth below, the Department has considered the comments and is adopting the proposed rule without change.

Public Comments and Department Response

One commenter suggested that the Department should make electronic submission of payments optional for a period of one to two years in order to assess its impact on supplier diversity. The commenter asserted that this would enable the Department to conduct targeted outreach and to take remedial steps before mandating electronic submission, in the event a negative effect on supplier diversity is observed. Another commenter suggested extending the compliance date of the rule until 2013.

The potential exists that, for unforeseen reasons, there may be a small number of entities that may be unable to utilize the IPP upon implementation. For this reason, the Department included the waiver provisions, which will provide ample opportunity for impacted businesses to seek a waiver and if granted, to continue paper-based invoicing procedures. Therefore, the Department is not adopting this change.

Another commenter stated that the IPP should support a longer payment history than 18 months. The commenter noted that the IPP should maintain payment data for at least two years based on the need for contractors to retain records for tax purposes.

The payment history feature in IPP is intended to provide a convenient reference, not to relieve contractors of existing record keeping requirements. IPP permits contractors to download records for this purpose. The Department considers an 18 month payment history sufficient to fulfill the purpose for which the feature is provided, and therefore is not adopting this change.

One commenter opined that the adoption of the IPP needs to be accompanied by an increase in funding for and focus on cyber security. That commenter further stated that the nature of the IPP's format for data transfer makes the need for proper cyber security to be in place before the widespread implementation of the IPP even more critical. The commenter also inquired about the source code for the IPP.

The Department shares the commenter's concerns about cyber security and affirms that it is committed to making every effort to protect the integrity of the information in the system. The commenter's suggestions, however, are outside of the scope of this rulemaking and cannot be addressed in this final rule.

Another commenter suggested that the Department should further support its conclusion that the impact on small entities will be minimal. This commenter stated that the Department should undertake further analysis about the economic impact on small entities before proceeding with the rulemaking.

In the February 23, 2012, proposed rule, pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Department certified that the rule, if adopted, would not have a significant economic impact on a substantial number of small entities and solicited comments on the impact that the rule would have on small entities. No comments were received about the impact of the rule on entities of any size. Notwithstanding the commenter's suggestion that further analysis be undertaken, the Department continues to believe that the IPP implementation does not have a significant economic impact on small entities. As explained in section III of this preamble, the move from manual, paper-based processing to electronic processing will not require significant costs. The IPP only requires a computer and Internet access, which all entities that seek to contract with the Treasury Department must use in order to learn of contracting opportunities and obtain solicitations. In addition, the Department expects that small entities that have been using paper-based processing will benefit from the speed and efficiency of the IPP. Therefore, in the absence of any comments that address the impact or demonstrate a significant economic impact of the rule, the Department is not conducting further analysis at this time.

One commenter suggested that the rule should specify what constitutes an ''undue burden'' sufficient to waive its provisions. Another commenter suggested that the undue burden waiver provides an amorphous standard that may undermine the objectives of the rule.

The Department considers the implementation of the waiver provisions, including time to transition to electronic payment and undue burden, to allow ample opportunity for impacted businesses to make a case for continuing paper-based invoicing procedures. Indeed, the Department does not expect that transition to the IPP will impose an undue burden on any contractor, but has included the waiver provision to provide for any unforeseen difficulties that might occur. Because the Department cannot predict what circumstances, if any, might create the need for waiver, it cannot articulate a more specific waiver standard. If the Department in fact receives a significant number of waiver requests, it will determine if additional changes need to be implemented in the system or in the policy. If appropriate, the Department may provide further clarification about the circumstances and criteria for waiver provisions, including time to transition to electronic payment and undue burden. For these reasons, the Department is not adopting the suggestions to revise the waiver provision.

One commenter suggested that the rule should provide for the clear preservation of IPP-generated electronic records, so that they will be available in the event of a Freedom of Information Act request. Specifically, the commenter suggested that the rule be amended to include either: A provision requiring agencies to preserve IPP-generated electronic records for a set period of time; a provision requiring agency heads to include IPP-generated electronic records within their required record management plans under the Federal Records Act; or a provision requiring the National Archives and Records Administration to amend 36 CFR part 1236 to clearly require that IPP-generated documents be preserved under agency record management plans.

The Department appreciates the commenter's interest in preserving federal records, and notes that the Federal Records Act requires it to retain IPP records regardless of whether or not they are covered by 36 CFR part 1236. The suggestions, however, are outside the scope of this rulemaking and are not adopted in this final rule.

Accordingly, the Department is adopting the proposed rule, as corrected, without further change.

III. Other Matters

Regulatory Planning and Review

This rule is not a significant regulatory action as defined in section 3(f) of Executive Order 12866. Therefore a regulatory assessment is not required.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. chapter 6) generally requires agencies to conduct an initial regulatory flexibility analysis and a final regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

It is hereby certified that this rule will not have a significant economic impact on a substantial number of small entities. The IPP will benefit vendors by reducing time to payment, creating a standard set of electronic data to submit payment requests to the federal government; reducing costs associated with adhering to multiple processes and requirements for different federal agencies; reducing paper and postage costs, improving cash management by eliminating the time delays associates with submitting and routing paper; and increasing transparency in the payment processes. The rule is intended to support the implementation of the IPP to streamline the payment processes associated with government contracts and agreements.

Treasury contracts with more than 4,000 small businesses annually. This rule is expected to impact all small businesses that contract with Treasury. While Treasury anticipates that a significant number of small businesses will be impacted, the economic impact is minimal, and outweighed by the economic benefits of IPP. An initial cost to small businesses in terms of changes to manual, paper-based invoicing processes is expected to be recouped by small businesses within a short-term through more efficient submission and reporting of invoices and payments and more timely payments. No additional reporting or recordkeeping requirements for small businesses result from this rule. Staff experienced with the submission of paper-based payment requests will need to learn the process for submitting electronic payment requests. New compliance and reporting requirements are not anticipated, as government and vendor staff will be able to access data and reports directly through the IPP.

This rule is related to, but not in conflict with, following federal rules:

- 31 CFR part 208 requires that most federal payments be made electronically, subject to certain waivers established in the rule.
- The Prompt Payment rule at 5 CFR part 1315 requires vendors to submit Electronic Funds Transfer (EFT) information and a Taxpayer Identification Number (TIN) as part of a proper invoice, unless agency procedures provide otherwise. Late interest penalties do not apply if the vendor has failed to submit this information.
- 48 CFR parts 13, 15, 32 and 52, addresses the use of EFT for federal contract payments and also provides for the collection of banking information from vendors. In particular, the FAR EFT rule provides EFT contract clauses that agencies should use in their contracts with government vendors requiring them to receive payments electronically.

This rule would be implemented in such a manner to complement these rules. One comment was received that suggested that further analysis is necessary, however no comments were received that suggested the economic impact would be significant (see section II.) Accordingly, the undersigned hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The information collections contained in this rule have been previously approved by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*) and assigned OMB control numbers 1505–0081; 1505–0080; and 1505–0107. Under the Paperwork Reduction Act, 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 OMB control number.

Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532 (UMRA), requires that the agency prepare a budgetary impact statement before promulgating any rule likely to result in a federal mandate that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of UMRA also requires the agency to identify and consider a reasonable number of regulatory alternatives before promulgating the rule. It has been determined that the rule will not result in expenditures by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year.

List of Subjects in 48 CFR Parts 1002, 1032, and 1052

Government procurement.

Accordingly, the Department of the Treasury amends 48 CFR chapter 10 as follows:

PART 1002—DEFINITIONS OF WORDS AND TERMS

■ 1. The authority citation for part 1002 continues to read as follows:

Authority: 41 U.S.C. 418b.

■ 2. Section 1002.101 is revised to read as follows:

1002.101 Definitions.

Bureau means any one of the following Treasury organizations:

(1) Alcohol and Tobacco Tax and Trade Bureau (TTB);
(2) Bureau of Engraving & Printing (BEP);
(3) Bureau of Public Debt (BPD);
(4) Departmental Offices (DO);
(5) Financial Crimes Enforcement Network (FinCEN);
(6) Financial Management Service (FMS);
(7) Office of the Inspector General (OIG);
(8) Internal Revenue Service (IRS);
(9) Office of the Comptroller of the Currency (OCC);
(10) Special Inspector General for the Troubled Asset Relief Program (SIGTARP);
(11) Treasury Inspector General for Tax Administration (TIGTA); or
(12) United States Mint.

■ 3. Section 1002.70 is amended by adding the abbreviation of *IPP* in alphabetical order to read as follows:

1002.70 Abbreviations.

* * * * *

IPP Internet Payment Platform

* * * * *

PART 1032—CONTRACT FINANCING

■ 4. The authority citation for part 1032 continues to read as follows:

Authority: 41 U.S.C. 418b.

■ 5. Add subpart 1032.70 to read as follows:

Subpart 1032.70—Electronic Submission and Processing of Payment Requests

Sec.
1032.7000 Scope of subpart.
1032.7001 Definitions.
1032.7002 Policy.
1032.7003 Contract clause.

Subpart 1032.70—Electronic Submission and Processing of Payment Requests

1032.7000 Scope of subpart.

This subpart prescribes policies and procedures for electronic submission and processing of payment requests.

1032.7001 Definitions.

''Payment request,'' as used in this subpart, is defined in the clause at 1052.232–7003, Electronic Submission of Payment Requests.

1032.7002 Policy.

(a) Contracts awarded after October 1, 2012, shall require the electronic submission of payment requests, except for—

(1) Purchases paid for with a Government-wide commercial purchase card;

(2) Classified contracts or purchases when electronic submission and processing of payment requests could compromise classified information or national security;

(b) Where a contract otherwise requires the electronic submission of invoices, the Contracting Officer may authorize alternate procedures only if the Contracting Officer makes a written determination that:

(1) The Department of the Treasury is unable to receive electronic payment requests or provide acceptance electronically;

(2) The contractor has demonstrated that electronic submission would be unduly burdensome; or

(3) The contractor is in the process of transitioning to electronic submission of payment requests, but needs additional time to complete such transition. Authorizations granted on this basis must specify a date by which the contractor will transition to electronic submission.

(c) Except as provided in paragraphs (a) and (b) of this section, Treasury officials shall process electronic payment submissions through the Treasury Internet Payment Platform or successor system.

(d) If the requirement for electronic submission of payment requests is waived under paragraph (a)(2) or paragraph (b) of this section, the contract or alternate payment authorization, as applicable, shall specify the form and method of payment request submission.

1032.7003 Contract clause.

Except as provided in 1032.7002(a), use the clause at 1052.232–7003, Electronic Submission of Payment Requests—Internet Payment Platform, in solicitations issued and contracts awarded after October 1, 2012.

PART 1052—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 6. The authority citation for part 1052 continues to read as follows:

Authority: 41 U.S.C. 418b.

■ 7. Add section 1052.232–7003 to read as follows:

1052.232–7003 Electronic submission of payment requests.

As prescribed in 1032.7003, use the following clause:

ELECTRONIC SUBMISSION OF PAYMENT REQUESTS (DATE TBD)

(a) *Definitions.* As used in this clause—

(1) ''*Payment request*'' means a bill, voucher, invoice, or request for contract financing payment with associated supporting documentation. The payment request must comply with the requirements identified in FAR 32.905(b), ''Payment documentation and process'' and the applicable Payment clause included in this contract.

(2) [Reserved]

(b) Except as provided in paragraph (c) of this clause, the Contractor shall submit payment requests electronically using the Internet Payment Platform (IPP). Information regarding IPP is available on the Internet at *www.ipp.gov.* Assistance with enrollment can be obtained by contacting the IPP Production Helpdesk via email *ippgroup@bos.frb.org* or phone (866) 973–3131.

(c) The Contractor may submit payment requests using other than IPP only when the Contracting Officer authorizes alternate procedures in writing.

(d) If alternate payment procedures are authorized, the Contractor shall include a copy of the Contracting Officer's written authorization with each payment request.

(End of clause)

Dated: June 12, 2012.

Thomas A. Sharpe, Jr.,

Senior Procurement Executive, Office of the Procurement Executive.

[FR Doc. 2012–16407 Filed 7–6–12; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 111207737–2141–02]

RIN 0648–XC093

Fisheries of the Exclusive Economic Zone Off Alaska; Pelagic Shelf Rockfish in the Western Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for pelagic shelf rockfish in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2012 total allowable catch (TAC) of pelagic shelf rockfish in the Western Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 5, 2012, through 2400 hrs, A.l.t., December 31, 2012.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7269.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2012 TAC of pelagic shelf rockfish in the Western Regulatory Area of the GOA is 409 metric tons (mt) as established by the final 2012 and 2013 harvest specifications for groundfish of the GOA (77 FR 15194, March 14, 2012).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2012 TAC of pelagic shelf rockfish in the Western Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 389 mt, and is setting aside the remaining 20 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for pelagic shelf rockfish in the Western Regulatory Area of the GOA.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) will apply at all times during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. 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 impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest because it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of directed fishing for pelagic shelf rockfish in the Western Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of June 29, 2012.

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). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: July 2, 2012.

Emily H. Menashes,

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

[FR Doc. 2012–16716 Filed 7–3–12; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 77, No. 131
Monday, July 9, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0620; Directorate Identifier 2007–NM–357–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: We are revising an earlier proposed airworthiness directive (AD) for certain The Boeing Company Model 747–400, –400D, and –400F series airplanes. That NPRM proposed to require repetitive operational tests of the engine fuel suction feed of the fuel system, and other related testing if necessary. That NPRM was prompted by reports of two in-service occurrences on Model 737–400 airplanes of total loss of boost pump pressure of the fuel feed system, followed by loss of fuel system suction feed capability on one engine, and in-flight shutdown of the engine. This action revises that NPRM by proposing to require repetitive operational tests and corrective actions if necessary. We are proposing this supplemental NPRM to detect and correct loss of the engine fuel suction feed capability of the fuel system, which in the event of total loss of the fuel boost pumps could result in dual engine flameout, inability to restart the engines, and consequent forced landing of the airplane. Since these actions impose an additional burden over that proposed in the previous NPRM, we are reopening the comment period to allow the public the chance to comment on these proposed changes.

DATES: We must receive comments on this supplemental NPRM by August 23, 2012.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

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

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Sue Lucier, Aerospace Engineer, Propulsion Branch, ANM–140S, 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–917–6438; fax: 425–917–6590; email: *suzanne.lucier@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2008–0620; Directorate Identifier 2007–NM–357–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We issued an NPRM to amend 14 CFR part 39 to include an AD that would apply to certain The Boeing Company Model 747–400, –400D, and –400F series airplanes. That NPRM published in the **Federal Register** on June 6, 2008 (73 FR 32248). That NPRM proposed to require performing repetitive operational tests of the engine fuel suction feed of the fuel system, and other related testing if necessary, according to a method approved the FAA.

Actions Since Previous NPRM (73 FR 32248, June 6, 2008) Was Issued

Since we issued the previous NPRM (73 FR 32248, June 6, 2008), we have received comments from operators indicating a high level of difficulty performing the actions in the previous NPRM during maintenance operations.

Relevant Service Information

We reviewed Boeing Alert Service Bulletin 747–28A2330, dated April 2, 2012. This service information describes procedures for repetitive operational tests of the engine fuel suction feed of the fuel system, and corrective actions if necessary. The corrective actions include isolating the cause of any leakage and repairing the leak.

Comments

We gave the public the opportunity to comment on the previous NPRM (73 FR 32248, June 6, 2008). The following presents the comments received on the previous NPRM and the FAA's response to each comment.

Requests To Issue Certification Maintenance Requirement (CMR) Task Instead of NPRM

Japan Airlines (JAL) and Qantas Airways Ltd. (Qantas) requested that we withdraw the previous NPRM (73 FR 32248, June 6, 2008). JAL asked that instead of issuing an NPRM, we issue a CMR task. JAL stated that the requirements in the previous NPRM should not be addressed as an AD. JAL did not provide a reason for this request.

We do not agree with the commenters' request. CMRs are developed by the Certification Maintenance Coordination Committee (CMCC) during the type certification process. The CMCC is made up of manufacturer representatives (typically maintenance, design, and safety engineering personnel); operator representatives designated by the Industry Steering Committee chairperson; Aircraft Certification Office specialists, and the Maintenance Review Board (MRB) chairperson. CMRs developed during this process become a part of the certification basis of the airplane upon issuance of the type certificate. We do not have a process for convening the CMCC outside of the type certification process; based on this, the CMR is not an option for replacing this AD. Regardless, the airworthiness limitations (ALI) were not in the maintenance program at the time the previous NPRM was issued; therefore, an AD is required to accomplish the ALI task.

Qantas stated that maintenance review board report (MRBR) Task 28–022–04 was added to the Model 747–400 MRBR in May 2006, and contains failure effect category (FEC) 8, meaning that it is a hidden safety derived task. Qantas added that this task has been adequately addressed in the MRBR and related maintenance planning document (MPD). Qantas stated that there are over 200 FEC 5 and 8 safety-related tasks in the Model 747–400 MRBR which could result in adverse safety outcomes if not addressed, and most of these tasks are not the subject of ADs. Qantas added that issuing the previous NPRM (73 FR 32248, June 6, 2008) will generate an added administrative burden on operators, with no benefit derived. Qantas concluded that the previous NPRM is not necessary, but added that if the ACO does not agree, consideration should be given to the CMR approach.

We do not agree with the commenter's request. We have determined that the latent failure of the fuel system suction feed system identified in this AD is an unsafe condition that requires issuance of an AD. In reference to FEC 5 and 8 safety-related tasks in Section 5.4 of FAA Advisory Circular 121–22B, ''Maintenance Review Board Report (MRBR) Maintenance Type Board, and OEM/TCH Inspection Program Procedures,'' dated October 29, 2010; FAA Advisory Circular 121–22B, Section 5.4, specifies ''Operators of the aircraft type should implement the Initial MRBR in accordance with established procedures. The MRBR requirements are not an operator maintenance program. After FAA approval, the requirements become a baseline or framework, around which each operator can develop its own individual aircraft maintenance program. The FAA recommends the operator's program incorporate MRBR revisions associated with type design changes * * *'' This task was not included in the initial MRBR for Model 747–400 airplanes as a safety-related task; therefore, incorporating the FEC 8 task would be an option for operators, but not a requirement until the AD is published. We have made no change to the supplemental NPRM in this regard.

Requests To Revise Compliance Time

Lufthansa Technik AG (Lufthansa) and KLM Royal Dutch Airlines (KLM) asked that we change the compliance time for the initial and repetitive operational test interval required by paragraph (f) of the previous NPRM (73 FR 32248, June 6, 2008). KLM asked that we change the compliance time of ''30,000 flight hours'' to ''45,000 flight hours or 1 D.'' KLM stated that if an aircraft does not pass the operational test then a tank entry is required, which has an impact on the currently scheduled downtime requirements for the C-checks. Lufthansa asked that we change the compliance time to ''35,000 flight hours.'' Lufthansa stated that it is performing the operational test at a 1–D interval that corresponds to up to 33,000 flight hours.

We do not agree with the requests that the compliance time be changed. In developing an appropriate compliance time for the actions specified in paragraph (f) of this supplemental NPRM, we considered the safety implications and normal maintenance schedules for the timely accomplishment of the specified actions. We have determined that the proposed compliance time will ensure an acceptable level of safety and allow the actions to be done during scheduled maintenance intervals for most affected operators. However, affected operators may request an alternative method of compliance (AMOC) to request an extension of the repetitive operational test interval under the provisions of paragraph (h) of this AD by submitting data substantiating that the change would provide an acceptable level of safety. We have made no change to the supplemental NPRM in this regard.

Request To Clarify the Reason for the Unsafe Condition

Boeing and Northwest Airlines (NWA) asked that we clarify the reason for the unsafe condition identified in the previous NPRM (73 FR 32248, June 6, 2008), by including all relevant information. Boeing stated that the description of a report of in-service occurrences of loss of fuel system suction feed capability results from reports of two in-service engine flameout events while operating on suction feed with undetected air leak failures on Model 737–400 airplanes. Boeing added that there are no known reports of any engine flameout related events in the Model 747 fleet. Boeing noted that undetected air leaks could exist and the subject maintenance procedure is a proactive measure to ensure engine flameout will not occur due to air leaks while on suction feed operation.

NWA asked for an explanation of what caused the failure that resulted in issuance of the previous NPRM (73 FR 32248, June 6, 2008), and stated that failure analysis could indicate different action than the one proposed. NWA added that the events occurred on twin engine airplanes, and requested that we provide the basis for the conclusion that Model 747–400 airplanes have the same or greater risk for this unsafe condition to occur as twin engine airplanes.

We agree that the reason for the unsafe condition should be clarified for the reasons provided. We have changed the language in the reason for the unsafe condition identified in the Summary section and paragraph (e) of this supplemental NPRM to specify that the previous NPRM (73 FR 32248, June 6, 2008) ''* * * was prompted by reports of two in-service occurrences on Model 737–400 airplanes of total loss of boost pump pressure of the fuel feed system, followed by loss of fuel system suction feed capability on one engine, and in-flight shutdown of the engine.'' Also, we have determined that Model 747–400, –400D, and –400F series airplanes are affected by the identified unsafe condition. The cause of the failure is identified in the failure analysis done by Boeing, and incorporates a four engine airplane in place of a twin engine airplane. We have made no change to the supplemental NPRM in this regard.

Request To Revise Costs of Compliance Section

NWA stated that the cost estimate specified in the previous NPRM (73 FR 32248, June 6, 2008) is too low, and asked that it be changed. NWA stated that the cost of fuel is not included in the cost estimate and should be included due to the high cost of fuel.

We acknowledge the commenter's request. Although fuel is used during the operational test, we have not received data on the amount of fuel used during the test. In addition, fuel costs vary among operators. Therefore, we do not have definitive data that would enable us to provide a cost estimate for the fuel costs. In any case, we have determined that direct and incidental costs are still outweighed by the safety benefits of the AD. We have made no change to the supplemental NPRM in this regard.

FAA's Determination

We are proposing this supplemental NPRM because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design. Certain changes described above expand the scope of the previous NPRM (73 FR 32248, June 6, 2008). As a result, we have determined that it is necessary to reopen the comment period to provide additional opportunity for the public to comment on this supplemental NPRM.

Proposed Requirements of the Supplemental NPRM

This supplemental NPRM revises the previous NPRM (73 FR 32248, June 6, 2008) by proposing repetitive operational tests of the engine fuel suction feed of the fuel system, and corrective actions if necessary.

Costs of Compliance

We estimate that this proposed AD would affect 79 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Cost per product	Cost on U.S. operators
Operational Test	3 work hours × $85 per hour = $255 per engine, per test.	$1,020	$80,580, per test.

We have received no definitive data that would enable us to provide a cost estimate for the on-condition actions specified in this AD.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2008–0620; Directorate Identifier 2007–NM–357–AD.

(a) Comments Due Date

We must receive comments by August 23, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 747–400, –400D, and –400F series airplanes, certificated in any category; as identified in Boeing Alert Service Bulletin 747–28A2330, dated April 2, 2012.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 2800, Aircraft Fuel System.

(e) Unsafe Condition

This AD was prompted by reports of two in-service occurrences on Model 737–400 airplanes of total loss of boost pump pressure of the fuel feed system, followed by loss of fuel system suction feed capability on one engine, and in-flight shutdown of the engine. We are issuing this AD to detect and correct loss of the engine fuel suction feed capability of the fuel system, which in the event of total loss of the fuel boost pumps could result in dual engine flameout, inability to restart the engines, and consequent forced landing of the airplane.

(f) Compliance

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

(g) Operational Test and Corrective Actions

Within 30,000 flight hours after the effective date of this AD: Perform an operational test of the engine fuel suction feed of the fuel system, and all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert

Service Bulletin 747–28A2330, dated April 2, 2012. Do all applicable corrective actions before further flight. Repeat the operational test thereafter at intervals not to exceed 30,000 flight hours. Thereafter, except as provided in paragraph (h) of this AD, no alternative procedures or repeat test intervals will be allowed.

(h) Alternative Methods of Compliance (AMOCs)

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

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

(i) Related Information

(1) For more information about this AD, contact Sue Lucier, Aerospace Engineer, Propulsion Branch, ANM–140S, 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–917–6438; fax: 425–917–6590; email: *suzanne.lucier@faa.gov*.

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

Issued in Renton, Washington, on June 27, 2012.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–16668 Filed 7–6–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Chapter 1

[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; Correction

AGENCY: Federal Aviation Administration (FAA).

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

SUMMARY: The Federal Aviation Administration is correcting a document published on June 26, 2012 (77 FR 38016). That document extended 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. This document revises the **SUPPLEMENTARY INFORMATION** section of that document. Due to a clerical error, language from a prior document was inadvertently included; this correction is made to provide clarity. Also, this document corrects the Authority cite.

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:

Corrections

In FR Doc. 2012–15339 published on June 26, 2012, on page 38016, in the third column and page 38017 in the first column, revise the paragraphs in **SUPPLEMENTARY INFORMATION** to read as follows:

The FAA published a notice in the **Federal Register** on February 9, 2012 (77 FR 6694), proposing to clarify its policy regarding the registration of aircraft to U.S. citizen trustees in situations involving non-U.S. citizen trustors and beneficiaries. The notice requested that interested parties submit written comments on the proposed policy clarification by March 31, 2012. In a notice published on March 14, 2012 (77 FR 15180), the FAA scheduled a public meeting on the proposed policy clarification for June 6, 2012, in Oklahoma City, Oklahoma, and extended the deadline for written comments until July 6, 2012.

During the June 6 public meeting, among the comments received were several suggestions that additional time would be needed to prepare comprehensive written comments on the FAA's proposed policy clarification. The FAA agrees that additional time for the submission of comments would be helpful, and therefore has decided to extend the comment period until August 17, 2012. The FAA expects that the comments received through the end of the extended comment period and during the public meeting will enable it to determine what steps it should take next in addressing the trust registration issue, including the development of a final policy clarification.

Comments should be sent by email to *ladeana.peden@faa.gov*. Comments received by FAA 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/*.

Authority: 49 U.S.C. 106(g), 40113, 44102, 44103.

Issued in Oklahoma City, Oklahoma on June 29, 2012.

Joseph R. Standell,

Aeronautical Center Counsel.

[FR Doc. 2012–16719 Filed 7–6–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 232

[Docket No. FR–5537–P–01]

RIN–2502–AJ04

Federal Housing Administration (FHA) Section 232 Healthcare Mortgage Insurance Program: Partial Payment of Claims

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the regulations governing FHA's Section 232 Healthcare Mortgage Insurance program (Section 232 program). The Section 232 program insures mortgage loans to facilitate the construction, substantial rehabilitation, purchase, and refinancing of nursing homes, intermediate care facilities, board and care homes, and assisted-living facilities. The amendments proposed by this rule would reduce risk to the FHA insurance fund by establishing the criteria and process by which FHA will accept and pay a partial payment of the claim under the FHA mortgage insurance contract. Through acceptance and payment of a partial payment of claim, FHA pays the lender a portion of the unpaid principal balance and recasts a portion of the mortgage under terms and conditions determined by FHA, as an alternative to the lender assigning the entire mortgage to HUD. Partial payment of claim would also allow FHA insured healthcare projects to continue operating and providing services.

DATES: *Comment Due Date:* September 7, 2012.

ADDRESSES: Interested persons are invited to submit comments regarding

this proposed rule to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500. Communications must refer to the above docket number and title. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. *Submission of Comments by Mail.* Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500.

2. *Electronic Submission of Comments.* Interested persons may submit comments electronically through the Federal eRulemaking Portal at *www.regulations.gov.* HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the *www.regulations.gov* Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the rule.

No Facsimile Comments. Facsimile (FAX) comments are not acceptable.

Public Inspection of Public Comments. All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an appointment to review the public comments must be scheduled in advance by calling the Regulations Division at 202–708–3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Relay Service at 800–877–8339. Copies of all comments submitted are available for inspection and downloading at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Roger E. Miller, Deputy Assistant Secretary, Office of Healthcare Programs, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 6264, Washington, DC 20410–8000; telephone 202–708–0599 (this is not a toll-free number). Persons with hearing or speech disabilities may access this number through TTY by calling the toll-free Federal Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

FHA's Section 232 program insures mortgage loans to facilitate the construction, substantial rehabilitation, purchase, and refinancing of nursing homes, intermediate care facilities, board and care homes, and assisted-living facilities. A project may include more than one type of facility and financing, and a combination of these uses is acceptable. The Section 232 program is authorized under the National Housing Act (12 U.S.C. 1715w). HUD's regulations for the Section 232 program are codified in 24 CFR part 232. While many aspects of HUD's healthcare facility operations, including the basic contract and eligibility requirements, are governed by the regulations applicable to HUD's multifamily mortgage insurance programs, separate healthcare regulations have been adopted to address program operations specific to healthcare facilities, such as state licensing requirements.[1]

One process well-established and long used in HUD's multifamily housing programs is acceptance of partial payment of claims (PPCs). Under the PPC process, FHA pays the mortgagee a portion of the unpaid principal balance and recasts a portion of the mortgage under terms and conditions determined by the FHA Commissioner (the Commissioner), as an alternative to assigning the entire mortgage. Prior to processing the PPC, the mortgagee must voluntarily agree to accept a partial payment of the insurance claim in accordance with the terms and conditions established by the Commissioner. The mortgagee must also waive any prepayment and lock out provisions in the mortgage.

Congress granted FHA authority to allow PPCs for subsidized insured multifamily properties in the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z–11). The legislative history reflects that a mortgagee's participation in a partial payment was voluntary and based on its own determination that such an arrangement would be in the mortgagee's own best interests.[2] In the Housing and Community Development Act of 1980 (12 U.S.C. 1701z–11), Congress expanded FHA's authority to allow partial payments of claims beyond subsidized projects to nonsubsidized multifamily rental housing project insured under the National Housing Act. In the Multifamily Housing Property Disposition Reform Act of 1994 (12 U.S.C. 1735f–19), a statute primarily directed to a broad overhaul of multifamily program operations, Congress clarified the voluntary nature of the PPC process and the program coverage. The regulations implementing the statutory authority to accept PPCs, which FHA adopted in 1985, and which are codified in § 207.258b, specifically excluded FHA's Section 232 program from the multifamily PPC process. (See 24 CFR 232.251(a).)

In 1997, Congress specifically authorized PPCs for the Section 232 program. (See 12 U.S.C. 1735f–19.) However, the regulatory provisions governing the multifamily programs, which predated the 1997 statutory amendments, were not revised to reflect the statutory authority to use PPCs for healthcare facilities. Thus, the current regulations for the multifamily programs establishing the procedures and criteria for partial payments of claims for properties insured under other FHA programs are not applicable to the Section 232 program.

II. This Proposed Rule

This proposed rule would provide, in regulation, the procedures and criteria for FHA to determine when PPCs should be considered and paid for healthcare facilities. To date, HUD has accepted PPCs in the Section 232 program on a periodic basis, but HUD has concluded that the criteria and procedures for granting PPCs in the Section 232 program should be established and codified in regulation.

In developing regulations governing PPCs in the Section 232 program, the current regulations governing PPCs, codified at 24 CFR 207.258b, for the multifamily programs serve as a helpful starting base. Additionally, this proposed rule is informed by FHA's experience implementing the PPC process in its multifamily housing programs, and FHA's experience in utilizing PPCs in the Section 232

[1] The regulations codified at 24 CFR part 200 (entitled ''Introduction to FHA programs'') set forth, in a single location of the Code of Federal Regulations, requirements that are generally applicable to FHA programs. The regulations at 24 CFR 232.2 require that facilities meet state licensing requirements.

[2] Legislative History (H. Rep. No. 95–1792, 95th Congress, 2nd session) cited the preamble to the final rule establishing the regulations for PPCs. The cited preamble language is found at 50 FR 38784 (September 24, 1985).

program on a periodic and temporary basis.

This proposed rule adds a new § 232.882, entitled ''Partial Payment of Claims,'' to the Section 232 program regulations in 24 CFR part 232. This new section provides that if the mortgagee elects to assign a mortgage to the Commissioner, under certain circumstances the Commissioner may request the mortgagee to accept a partial payment of the claim. The proposed PPC regulations for the Section 232 program differ from the current regulations establishing the PPC process for the multifamily programs primarily because the focus of the Section 232 program is on healthcare facilities. While FHA must make a finding for multifamily programs that the project is, or potentially could serve as, a low- and moderate-income housing resource, the proposed PPC regulations for the Section 232 program provide for FHA to review, in its underwriting evaluation, the continued viability of the healthcare-specific aspects of the project. FHA must find that the project meets community healthcare needs, and will have sound management and project operation. Under the statute, FHA must make a determination that a PPC would be less costly to the government than other reasonable alternatives and would keep the healthcare facility operational to serve community needs.[3] The proposed rule specifies that requirement in § 232.882.

In addition, in an effort to ensure that the project will continue to be viable, and therefore beneficial to accept and pay the PPC, the proposed rule provides for certain determinations to be made. Specifically, FHA must find, as provided in proposed § 232.882(b)(4), that the current or proposed operator of the facility is satisfactory, as demonstrated by past experience in operating similar type healthcare facilities and by state regulatory performance evaluations. An example of the type of information that FHA may require is surveys/assessments by the state regulatory agency regarding the subject facility's performance. If there are outstanding deficiencies identified by the state regulatory authority or the Centers for Medicare and Medicaid Services, then FHA anticipates that an applicant would provide materials to FHA clearly establishing how those matters would be fully resolved.

In addition, FHA must determine that the default under the insured mortgage was beyond the control of the borrower and/or operator, or, in the case of a transfer of physical assets, the proposed borrower or operator, unless FHA determines that any borrower/operator deficiencies giving rise to the default have clearly been addressed. (See proposed § 232.882(b)(5).) For a new operator, for example, FHA would review information about the entity's experience and performance.

It should be noted that FHA's partial payment of claim is made pursuant to the contract of mortgage insurance between FHA and the mortgage lender, which are the only parties to the contract. Borrowers and operators are neither parties to the contract of insurance, nor are they third-party beneficiaries, and thus they do not have any rights or expectations in regard to any decision made by FHA to accept or reject a mortgagee's request for a partial payment of claim.

Further, FHA must specifically find that the project is serving or potentially could serve as a needed nursing home, intermediate care facility, board and care home, or assisted living facility. (See proposed § 232.882(b)(6).) Such a finding might be supported by a review of, for example, a market-need study or a project comprehensive needs assessment.

Other requirements specified in the proposed rule mirror the requirements for PPCs for multifamily projects. The proposed rule provides that FHA must find that:

- The mortgagee is entitled, after a default, to assign the mortgage in exchange for the payment of insurance benefits (see proposed § 232.882(b)(1));
- The relief resulting from partial payment, when considered with other resources available to the project, would be sufficient to restore the financial viability of the project (see proposed § 232.882(b)(2));
- The project is or can (at reasonable cost) be made structurally sound (see proposed § 232.882(b)(3));
- The default under the insured mortgage was beyond the control of the owner (see proposed § 232.882(b)(5));
- The property covered by the mortgage is free and clear of all liens other than the insured first mortgage and other liens approved by the Commissioner (see proposed § 232.882 (c)(1));
- The mortgagee has voluntarily agreed to accept a PPC under the mortgage insurance contract and to recast the remaining mortgage amount under terms and conditions prescribed by the Commissioner (see proposed § 232.882(c)(2)); and
- The owner has agreed to repay to the FHA Commissioner an amount equal to the partial payment, with the obligation secured by a second mortgage on the project containing terms and conditions prescribed by the FHA Commissioner. The terms of the second mortgage will be case-specific to ensure that the estimated project income will be sufficient to cover estimated operating expenses and debt service on the recast insured mortgage (see proposed § 232.882(c)(3)).

By establishing a standard process and criteria for acceptance and payment of PPCs in the Section 232 program, partial payment of claims may occur more frequently than they do now in the Section 232 program, not only resulting in savings to the FHA insurance fund, but helping to restore a project to financial stability.

III. Costs and Benefits of Rule

In providing mortgage insurance for skilled nursing, intermediate care, assisted living, and board and care facilities, as compared to multifamily residential or other commercial properties, FHA's Section 232 program poses a significantly different risk to FHA because these facilities are designed specifically for healthcare use and may not retain the mortgaged value at resale due to a lack of alternative uses. Thus, when HUD becomes the mortgagee following a claim, the recovery rate—the sales price as a percentage of the unpaid balance—may be lower for healthcare facilities than for other types of properties.

HUD is proposing in this rule to establish standards for the use of PPC to minimize losses in the Section 232 program. Rather than paying the full claim to the lender, a PPC involves FHA and the lender restructuring the unpaid mortgage balance and accrued interest into two mortgages: One held by the lender and the second held by HUD. The lender's modified FHA-insured mortgage would range from 50 percent to 75 percent of the remaining unpaid principal balance. HUD's loan would include the remainder of the unpaid balance and the accrued interest.

The lenders, FHA, and the facility owners each benefit from the use of PPCs. The lender receives a portion of the unpaid balance, the full unpaid interest, and a performing loan. This is a method of curing the default with FHA rather than the borrower paying the lender. FHA avoids a full claim payment and sale of the mortgage and is entitled to be repaid the partial claim payment with interest. The facility owners receive restructured debt and are able to continue operating the

[3] See section 210 of the Department of Veterans Affairs and Housing and Urban Development Act of 1998. Public Law 105–65, approved October 27, 1997.

facility, which is also beneficial to the community that the facility serves.

The accompanying more detailed cost-benefit analysis is based on the Section 232 current portfolio, and based on the characteristics of the portfolio and the few cases where PPC was used in the program. FHA expects the typical mortgage accepted for PPC would range from $5 million to $20 million (original amount) and would occur 3 to 7 years after origination, following 10 to 30 months of delinquency. The savings to HUD equals the difference between the full claim amount and the partial claim paid, minus the discounted amount HUD receives from the HUD-held post-PPC mortgage.

Use of PPC also allows an assisted living, skilled nursing, board and care, or intermediate care facility to remain open to serve its residents and community. The extent of this benefit varies with the local market for long-term care. In smaller, less competitive markets, the facility may be the only option for its residents. In this case, if the facility were to close, residents and their families will have higher search and relocation costs, since local options would be limited, possibly requiring residents to have to relocate to another city or state. However, in larger, more competitive markets, residents may be able to find an alternative facility of similar cost and quality in the same community. In any event, residents will face relocation costs and possibly higher room rates or end up in a lower-quality facility.

The benefits of allowing PPC in the Section 232 program total $891,000 per facility, which stem from avoided costs of moving by the facility's residents. Transfers totaling $2.874 million occur from FHA and lenders that opt for PPC to FHA borrowers, as the avoided costs allow FHA premiums to not increase. FHA expects approximately five PPCs annually in the section 232 program. Aggregating these effects produces annual benefits of $4.455 million and annual transfers of $14.369 million. For the full cost-benefit analysis, please see HUD's docket on *www.regulations.gov* under the docket number of FR–5537–P–01.

IV. Findings and Certifications

Information Collection Requirements

The information collection requirements contained in this proposed rule have been submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). In accordance with the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection displays a currently valid OMB control number.

The burden of the information collections in this proposed rule is estimated as follows:

REPORTING AND RECORDKEEPING BURDEN

Section reference	Number of respondents	Number of responses per respondent	Estimated average time for requirement (in hours)	Estimated annual burden (in hours)
24 CFR 232.882	10	1	100	1,000
Totals	10	1	100	1,000

In accordance with 5 CFR 1320.8(d)(1), HUD is soliciting comments from members of the public and affected agencies concerning this collection of information to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

Interested persons are invited to submit comments regarding the information collection requirements in this rule. Comments must refer to the proposal by name and docket number (FR–5537–P–01) and be sent to:

HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Fax number: 202–395–6947, and

Reports Liaison Officer, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 9116, Washington, DC 20410–8000.

Interested persons may submit comments regarding the information collection requirements electronically through the Federal eRulemaking Portal at *http://www.regulations.gov.* HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the *http://www.regulations.gov* Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

This rule is directed to strengthening HUD's Section 232 program by establishing a process and criteria by which the FHA may allow partial payment of claims for Section 232 projects. Establishment of this process also opens up another means by which healthcare project owners can restore troubled projects to financial stability. Acceptance of PPCs helps healthcare project owners and operators to lower project debt, and continue to provide valued healthcare services to the communities they serve. This established process for acceptance of PPCs will help all healthcare project owners, large and small. Accordingly, the undersigned certifies that this rule will not have a significant economic

impact on a substantial number of small entities.

Notwithstanding HUD's determination that this rule will not have a significant effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made, in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). That finding is available for public inspection between the hours of 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the finding by calling the Regulations Division at 202–402–3055 (this is not a toll-free number).

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This rule will not have federalism implications and would not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C.1531–1538) (UMRA) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments, and on the private sector. This proposed rule does not impose any federal mandates on any state, local, or tribal governments, or on the private sector, within the meaning of UMRA.

Catalogue of Federal Domestic Assistance

The Catalogue of Federal Domestic Assistance Number for the Mortgage Insurance Nursing Homes, Intermediate Care Facilities, Board and Care Homes, and Assisted Living Facilities program is 14.129.

List of Subjects in 24 CFR Part 232

Fire prevention, Health facilities, Loan programs—health, Loan programs—housing and community development, Mortgage insurance, Nursing homes, Reporting and recordkeeping requirements.

Accordingly, for the reasons cited in the preamble, HUD proposes to amend part 232 of title 24 of the Code of Federal Regulations as follows:

PART 232—MORTGAGE INSURANCE FOR NURSING HOMES, INTERMEDIATE CARE FACILITIES, BOARD AND CARE HOMES, AND ASSISTED LIVING FACILITIES

1. The authority citation for 24 CFR part 232 is revised to read as follows:

Authority: 12 U.S.C. 1715b, 1715w, 1735f–19; 42 U.S.C. 3535(d).

2. Add § 232.882 to read as follows:

§ 232.882 Partial payment of claims.

(a) When a lender for a loan on a healthcare project becomes eligible to file an insurance claim and to assign the mortgage to the Commissioner pursuant to § 232.865, the Commissioner may request the lender, in lieu of assignment, to accept a partial payment of the claim under the mortgage insurance contract and to recast the mortgage, under such terms and conditions as the Commissioner may determine.

(b) The Commissioner may request the lender to participate in a partial payment of claim in lieu of assignment only after a determination that partial payment would be less costly to the Federal Government than other reasonable alternatives for maintaining the project and would keep the healthcare facility operational to serve community needs. In addition to any findings that may be provided in other guidance, the Commissioner shall base the determination on the findings listed below:

(1) The lender is entitled, after a default as defined in § 232.830, to assign the mortgage in exchange for the payment of insurance benefits;

(2) The relief resulting from partial payment when considered with other resources available to the project would be sufficient to restore the financial viability of the project;

(3) The project is or can (at reasonable cost) be made physically sound;

(4) The current or proposed operator of the facility is satisfactory to the Commissioner, as demonstrated by past experience in operating similar type healthcare facilities and by state regulatory performance;

(5) The default under the insured mortgage was beyond the control of the borrower and/or operator, or in the case of a transfer of physical assets (TPA), the proposed borrower or operator, unless the Commissioner determines that any borrower/operator deficiencies giving rise to the default have clearly been addressed; and

(6) The project is serving as, or potentially could serve as, a needed nursing home, intermediate care facility, or board and care home, or assisted living facility.

(c) Partial payment of a claim under this section shall be made only when:

(1) The property covered by the mortgage is free and clear of all liens other than the insured first mortgage and such other liens as the Commissioner may have approved;

(2) The lender has voluntarily agreed to accept a PPC under the mortgage insurance contract and to recast the remaining mortgage amount under terms and conditions prescribed by the Commissioner; and

(3) The borrower has agreed to repay to the Commissioner an amount equal to the partial payment, with the obligation secured by a second mortgage on the project containing terms and conditions prescribed by the Commissioner. The terms of the second mortgage will be determined on a case-by-case basis to ensure that the estimated project income will be sufficient to cover estimated operating expenses and debt service on the recast insured mortgage. The Commissioner may provide for postponed amortization of the second mortgage.

(d) Payment of insurance benefits under this section shall be in cash.

(e) A lender receiving a partial payment of claim, following the Commissioner's endorsement of the mortgage for full insurance under 24 CFR part 252, will pay HUD a fee in an amount set forth through **Federal Register** notice. HUD, in its discretion, may collect this fee or deduct the fee from any payment it makes in the claim process.

Dated: June 28, 2012.

Carol J. Galante,

Acting Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 2012–16559 Filed 7–6–12; 8:45 am]

BILLING CODE 4210–67–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2011–1025, FRL–9696–9]

Approval and Promulgation of Air Quality Implementation Plans; Colorado; Revisions to New Source Review Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing approval of revisions adopted by the State of Colorado on December 15, 2005, to Regulation No. 3 (Stationary Source Permitting and Air Pollutant Emission Notice Requirements.) Colorado submitted the request for approval of these rule revisions into the State Implementation Plan (SIP) on August 21, 2006. The revisions remove repealed provisions in Regulation No. 3 that pertain to the issuance of Colorado air quality permits; the revisions also implement other minor administrative changes and renumbering. The intended effect of this action is to propose to approve the rules that are consistent with the Clean Air Act (CAA.) This action is being taken under section 110 of the CAA.

DATES: Comments must be received on or before August 8, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2011–1025, by one of the following methods:

- *www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Email: leone.kevin@epa.gov.*
- *Fax:* (303) 312–6064 (please alert the individual listed in **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).
- *Mail:* Carl Daly, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129.
- *Hand Delivery:* Carl Daly, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129. Such deliveries are only accepted Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R08–OAR–2011–1025. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through w*ww.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA, without going through *www.regulations.gov*, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.* For additional instructions on submitting comments, go to Section I. General Information of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly-available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kevin Leone, Air Program, Mailcode 8P–AR, Environmental Protection Agency, Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6227, or *leone.kevin@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background for This Action
II. What are the changes EPA is proposing to approve?
III. What action is EPA taking today?
IV. Statutory and Executive Order Reviews

Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

(i) The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.

(ii) The words *EPA*, *we*, *us* or *our* mean or refer to the United States Environmental Protection Agency.

(iii) The initials *SIP* mean or refer to State Implementation Plan.

(iv) The words *State* or *Colorado* mean the State of Colorado, unless the context indicates otherwise.

I. Background for This Action

On December 31, 2002, EPA published revisions to the federal Prevention of Significant Deterioration (PSD) and non-attainment New Source Review (NSR) regulations. These revisions are commonly referred to as ''NSR Reform'' and became effective nationally in areas not covered by a SIP on March 3, 2003. The NSR Reform revisions included provisions for baseline emissions determinations, actual-to-future actual methodology, plantwide applicability limits (PALs), clean units, and pollution control projects (PCPs). On June 24, 2005, the United States Court of Appeals for the District of Columbia Circuit issued its decision and opinion in the case of *New York* v. *U.S. Environmental Protection Agency,* 413 F.3d 3 (D.C. Cir. 2005). The court concluded that, regarding the clean unit exemption from NSR, the plain language of the Clean Air Act indicated that Congress intended to apply NSR to changes that increase actual emissions instead of potential or allowable emissions. As a result, the court vacated the clean units portions of the NSR Reform rule. The court also concluded that EPA lacks the authority to create PCP exemptions from NSR and vacated the PCP portions of both the 1992 WEPCO Rule and the 2002 NSR Reform rule. By vacating those portions of the NSR Reform rule, the court terminated those exemptions to new

source review. The court also remanded back to EPA the ''reasonable possibility'' standard for when a source must keep certain project related records.

The State of Colorado submitted a formal SIP revision on July 11, 2005 followed by a supplemental submittal on October 25, 2005. These submittals requested approval for regulations to implement the NSR Reform provisions that were not vacated or remanded by the June 24, 2005 court decision; the submittals also included renumbering, reorganizing, and revised definitions. On April 10, 2012 (77 FR 21453), EPA published a notice of final rulemaking for the July 11, 2005 and October 25, 2005 submittals. In that action, EPA approved renumbering, reorganizing and portions of Colorado's revisions to the Stationary Source Permitting and Air Pollutant Emission Notice Requirements (Regulation No. 3) that incorporate EPA's December 31, 2002 NSR Reform; however, EPA considered as withdrawn the portions of the submittals that implemented the clean unit and PCP exemptions. EPA also approved a version of the recordkeeping requirements that removed the ''reasonable possibility'' standard.

Colorado adopted revisions on December 15, 2005, and submitted these revisions, which we are addressing in this action, on August 21, 2006. These revisions reflect the removal of references to clean units, pollution control projects, and the ''reasonable possibility'' standard from the State's rules. As a result of the deletion of these references, many provisions were renumbered and references to them updated. The submittal also included other minor administrative changes to Regulation No. 3. EPA is taking proposed action on these revisions in this notice.

II. What are the changes EPA is proposing to approve?

EPA is proposing to approve all revisions to Regulation No. 3 as submitted on August 21, 2006 which were not acted on in 77 FR 21453, April 10, 2012, relating to the removal of provisions that were vacated or remanded in the June 24, 2005 court decision, as well as renumbering and minor administrative changes.

In view of the D.C. Circuit court's June 24, 2005, decision, EPA concludes that there is no basis to retain the clean unit and PCP provisions in Regulation No. 3. The NSR Reform rule no longer allows operators to use those provisions to determine applicability of NSR to the source and Colorado law and the Colorado State Implementation Plan should be conformed to Federal law in this instance.

As part of the NSR Reform rule, EPA allowed sources to calculate their actual and projected actual emissions to determine whether a modification will trigger NSR. If a source concludes that there is no ''reasonable possibility'' that emissions from a project will trigger NSR, the source is not required to keep records substantiating that calculation. However, the data and records would necessarily be generated by the owner or operator to calculate its emissions.

Colorado did not follow the NSR Reform rule in this regard. In Section I.B.5., Colorado imposes a requirement that owners or operators using the actual-to-projected-actual applicability test for a project that requires a minor source permit or modification [pursuant to Part A, Section I.B.26.; Part C, Section I.A.3.; or Part C, Section X.; or any minor source permit under any provisions of Part B], submit an otherwise required permit application and include documentation adequate to substantiate calculations made for the test.

The D.C. Circuit court also addressed the recordkeeping and reporting requirements related to the ''reasonable possibility'' portions of the NSR Reform rule. The NSR Reform rule excused a source from maintaining records of the information and calculations used in the actual-to-projected actual applicability test if the source determined that there was no ''reasonable possibility'' that the modification would trigger NSR. These are the same records necessary to substantiate calculations made for the applicability test. The court concluded that lack of evidence, in the form of data and records, could inhibit enforceability of the NSR program in this context. The court remanded this part of the rule. On December 12, 2007, EPA published a final rule in response to the D.C. Circuit Court's remand of the recordkeeping provisions of EPA's 2002 NSR Reform Rules (see 72 FR 70607) in which EPA clarified what constitutes ''reasonable possibility''. 72 FR 70607 established a ''percentage increase trigger'' by which there is a reasonable possibility that a change would result in a significant emissions increase if the projected emissions increase of a pollutant—determined by comparing baseline actual emissions to projected actual emissions—equaled or exceeded fifty percent of the applicable NSR significant level for that pollutant.

The State of Colorado requires sources retain records that, among other things, are essential to substantiate sources' calculations using the actual-to-projected-actual applicability test. Colorado also requires that a source submit its data and calculations along with a permit application that would otherwise be required for the physical or operational change. Colorado reviews the data and calculations only to confirm a source's conclusions whether it triggers NSR. The information submitted is then included in a non-enforceable appendix to a source's Title V Permit or as a permit note in the source's construction permit. Accordingly, Colorado elected not to modify Part D, Section I.B.5. and to modify Part D, Sections V.A.7.c. and VI.B.5. in a manner that maintains consistency with Section I.B.5. Part D, Sections V.A.7.c. and VI.B.5 were previously approved in 77 FR 21453. EPA proposes to find that the current Regulation No. 3 recordkeeping requirements are at least as stringent as in 72 FR 70607.

III. What action is EPA taking today?

Based on the above discussion, EPA proposes to find that removing vacated and remanded provisions from the June 24, 2005 court decision, renumbering, and other minor administrative changes meet applicable requirements of the Act; and thus, the revisions are approvable under CAA section 110. Therefore, we propose to approve Colorado's Regulation No. 3 revisions as submitted on August 21, 2006. Specifically, we propose to approve the deletion of the following sections from Regulation No. 3 and the renumbering associated with the deletion:

Part A, Section V.E.10.
Part A, Section V.E.11.
Part C, Section I.A.7.j.

EPA is acting only on the renumbering resulting from the deletion of the following provisions, as these provisions were considered withdrawn by the state in the 77 FR 21453 final rulemaking and were not approved into the SIP:

Part D, Section II.A.23.d.(viii)
Part D, Section II.A.27.c.(iv)
Part D, Section II.A.27.g.(v)
Part D, Section I.B.3.
Part D, Section I.B.4. (second sentence)
Part D, Section I.D.
Part D, Section II.A.11.
Part D, Section II.A.35.
Part D, Section XV.
Part D, Section XVI.

EPA is also approving the renumbering of Regulation No. 3, Part D, as submitted on August 21, 2006, including changes to references. These changes are detailed in the August 21, 2006 submittal (see docket.)

We are also affirming that the recordkeeping provisions in Regulation

No. 3 are at least as stringent as those required in the December 21, 2007, ''Reasonable Possibility'' rule.

IV. Statutory and Executive Order Reviews

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

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

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

List of Subjects in 40 CFR Part 52

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

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

Dated: June 25, 2012.

Howard M. Cantor,

Acting Regional Administrator, Region 8.

[FR Doc. 2012–16721 Filed 7–6–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2012–0021; FRL–9696–8]

Approval, Disapproval and Promulgation of Air Quality Implementation Plans; Arizona; Regional Haze State and Federal Implementation Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; announcement of public hearing.

SUMMARY: EPA is announcing that a public hearing will be held on July 31, 2012 for the proposed rule, ''Approval, Disapproval and Promulgation of Air Quality Implementation Plans; Arizona; Regional Haze State and Federal Implementation Plans'', which will be posted on EPA's Web site by July 5, 2012.

DATES: The public hearing will be held on July 31, 2012. See the Supplementary Information section for further details about the public hearing.

ADDRESSES: See the **SUPPLEMENTARY INFORMATION** section for hearing location.

FOR FURTHER INFORMATION CONTACT: If you have questions about the public hearing, please contact Thomas Webb, U.S. EPA, Region 9, phone (415) 947–4139, email *webb.thomas@epa.gov*. If you are a person with a disability under the ADA and require a reasonable accommodation for this event, please contact Philip Kum at *kum.philip@epa.gov* or at (415) 947–3566 by July 15, 2012.

SUPPLEMENTARY INFORMATION: Section 169A of the Clean Air Act (CAA) establishes as a national goal the ''prevention of any future, and the remedying of any existing, impairment of visibility in mandatory Class I Federal areas which impairment results from manmade air pollution.'' Arizona has twelve mandatory Class I areas; several Class I areas in other states are also affected by emissions from Arizona facilities.

Regional haze is visibility impairment caused by the cumulative air pollutant emissions from numerous sources over a wide geographic area. EPA's proposed Regional Haze Federal Implementation Plan (FIP) for Arizona will address the requirements of the CAA and EPA's regional haze regulations pertaining to Best Available Retrofit Technology (BART) for three electric generating stations in Arizona: Apache Generating Station, Cholla Power Plant and Coronado Generating Station. EPA will propose to address other facilities and other elements of the Arizona SIP in a later action. The proposed rule, ''Approval, Disapproval and Promulgation of Air Quality Implementation Plans; Arizona; Regional Haze State and Federal Implementation Plans'', will be available by July 5, 2012 on the following Web site: *http://www.epa.gov/region9/air/actions/arizona.html* and will subsequently be published in the **Federal Register**.

The proposed rule and information on which the proposed rule relies will also be available in the docket for this action. Generally, documents in the docket will be available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at *www.regulations.gov,* some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., Confidential Business Information). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

Public hearing: EPA will hold a public hearing at the following date, time and location to accept oral and written comments into the record:

Date: July 31, 2012.

Time: Open House: 4:00–5:00 p.m.

Public Hearing: 6:00–8:00 p.m.

Location: Sandra Day O'Connor Federal Courthouse, in the atrium and juror room, 401 W. Washington Street, Phoenix, AZ 85003–2118.

To provide an opportunity for questions and discussion, EPA will hold an open house prior to the public hearing. During this open house, EPA staff will be available to informally answer questions on our proposed rule. Any comments made to EPA staff during the open house must still be provided formally in writing or orally during the public hearing in order to be considered in the record.

The public hearing will provide the public with an opportunity to present data, views, or arguments concerning the proposed Regional Haze action for Arizona. EPA may ask clarifying questions during the oral presentations, but will not respond to the presentations at that time. Simultaneous translation in Spanish will be available during the public hearing. Written statements and supporting information submitted during the comment period will be considered with the same weight as any oral comments and supporting information presented at the public hearing. Please consult the proposed rule for guidance on how to submit written comments to EPA.

At the public hearing, the hearing officer may limit the time available for each commenter to address the proposal to five minutes or less if the hearing officer determines it is appropriate. Any person may provide written or oral comments and data pertaining to our proposal at the public hearing. We will include verbatim transcripts, in English, of the hearing and written statements in the rulemaking docket.

List of Subjects in 40 CFR Part 52

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

Dated: June 27, 2012.

Deborah Jordan,

Air Division Director, Region IX.

[FR Doc. 2012–16705 Filed 7–6–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–2011–0647; FRL–9697–5]

RIN 2050–AD75

Availability of Addendum to Documentation Supporting the Proposal of the Leeds Metal Site to the National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; notice of data availability.

SUMMARY: This Notice provides an opportunity to comment on the EPA's revised Hazard Ranking System (HRS) scoring for the Leeds Metal site in Leeds, Maine. The site was proposed to the National Priorities List (NPL) on September 16, 2011.

DATES: Comments must be submitted (postmarked) on or before August 8, 2012.

ADDRESSES: Submit your comments, identified by Docket number EPA–HQ–SFUND–2011–0647, by one of the following methods:

- *www.regulations.gov:* Follow the online instructions for submitting comments.
- *Email: superfund.docket@epa.gov.*
- *Mail:* Mail comments (no facsimiles or tapes) to Docket Coordinator, Headquarters; U.S. Environmental Protection Agency; CERCLA Docket Office; (Mail Code 5305T); 1200 Pennsylvania Avenue NW.; Washington, DC 20460.
- *Hand Delivery or Express Mail:* Send comments (no facsimiles or tapes) to Docket Coordinator, Headquarters; U.S. Environmental Protection Agency; CERCLA Docket Office; 1301 Constitution Avenue NW.; EPA West, Room 3334, Washington, DC 20004. Such deliveries are accepted only during the Docket's normal hours of operation (8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays).

Instructions: Direct your comments to Docket number EPA–HQ–SFUND–2011–0647. The EPA's policy is that all comments received will be included in the public Docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system; that means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public Docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *www.regulations.gov index.* Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the EPA Headquarters CERCLA Docket Office, 1301 Constitution Avenue NW.; EPA West, Room 3334, Washington, DC 20004. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Headquarters CERCLA Docket Office is (202) 566–0276. Comments must be submitted to the EPA Headquarters as detailed at the beginning of this preamble in the ''Addresses'' section. Please note that the mailing addresses differ according to method of delivery. There are two different addresses that depend on whether comments are sent by express mail or by postal mail.

FOR FURTHER INFORMATION CONTACT: Terry Jeng, phone: (703) 603–8852, email: *jeng.terry@epa.gov,* Site Assessment and Remedy Decisions Branch, Assessment and Remediation Division, Office of Superfund Remediation and Technology Innovation (Mail Code 5204P), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION:

Site Scoring Information

The Leeds Metal HRS site score at the time of proposal to the National Priorities List was based on an observed release to ground water of tetrachloroethylene (PCE) and trichloroethylene (TCE) attributable to waste piles and contaminated soil at the Leeds Metal facility resulting in a likelihood of release factor category value of 550. The waste characteristics factor category value of 56 at proposal was based on a hazardous waste quantity for TCE of 10,000, a toxicity value for TCE of 10,000 and a mobility factor for TCE of 1. The TCE toxicity value was based on the most recent health effects data review by the EPA at the time of proposal (76 FR 57702, September 16, 2011).

The targets factor category value was 176.4 at proposal based on populations relying on contaminated drinking water supplies with either PCE or TCE levels above HRS health-based benchmarks (i.e., Level I concentrations). Seven residential wells were documented to contain Level I concentrations of TCE based on the lowest benchmark value for TCE for ground water. One of these seven wells was also documented to contain Level I concentrations of PCE based on the lowest benchmark value for TCE for ground water. The lowest benchmark for TCE was the cancer slope screening concentration (0.21 µg/L) and the lowest benchmark for PCE was also the cancer slope screening concentration (1.6 µg/L) based on the most recent health effects data review by the EPA at the time of proposal. Seventeen residents were documented to drink the water from the seven wells with Level I concentrations. The likelihood of release, waste characteristics and targets factor category values resulted in a ground water migration pathway score of 100.00 and an HRS site score of 50.00 at proposal (see 76 FR 57702, September 16, 2011).

Background on TCE and PCE Benchmarks and Toxicity Values

Following the September 16, 2011, proposal of the Leeds Metal site to the National Priorities List, the toxicity and benchmark values for PCE and TCE used in HRS scoring were updated to reflect the EPA's most recent health effects evaluations on these two substances. The revisions for these two substances were made available to the public on March 31, 2012 (see *http://www.epa.gov/superfund/sites/npl/hrsres/tools/scdm.htm*). Among the factors that changed, which affect the toxicity and drinking water benchmarks, are the oral reference dose (RfD) and the oral cancer slope factors. Using the HRS methods for determining toxicity and benchmarks (see HRS Sections 2.4.1.1 and 2.5.2), the toxicity for TCE has changed from 10,000 to 1,000, however the toxicity for PCE remains the same at 100. When recalculating the drinking water benchmarks for TCE, the lowest TCE benchmark value for drinking water remains based on the cancer slope screening concentrations; the recalculated TCE benchmark value changes from 0.21 µg/L to 1.0 µg/L. The lowest drinking water benchmark for PCE changes from 1.6 µg/L to 5.0 µg/L.

Background on Targets Factor Category Value

Based on the changes to the TCE and PCE benchmarks, two drinking water wells within the 4-mile target distance limit have TCE concentrations above its lowest benchmark and no well had PCE concentrations above its lowest benchmark. Thus, now only two wells and the population using these wells are considered Level I.

The Leeds Metal site's potential population factor value has been updated to reflect those people utilizing drinking water not currently found to be contaminated due to this site, but that for HRS purposes are considered potentially threatened. The basic information supporting the calculation of this value was presented in Reference 11 which was available to the public at the time of NPL proposal; however, the factor value was not included in the HRS documentation record at that time. Populations utilizing either public or private water supplies have been incorporated into the HRS evaluation based on the information in Reference 11 to the HRS documentation record at proposal, which relied on 1990 and 2000 census data and 2009 population data from the State of Maine. The impact on eligibility of the site to qualify for the NPL has been confirmed based on the most current information, including updated census data (2010) and 2012 well use information.

New Benchmarks, Toxicities, Targets and Site Score

Due to the revised toxicity values and the update to the evaluation of the potential targets, the likelihood of release factor category value remains 550, the same as at proposal; the waste characteristics factor category value, which was 100 at proposal, drops to 56 due to the changes in the Level I wells; the potential population factor value, the applicable targets factor category value, changes from 220 to 176.4. As a result of these updates, the HRS ground water migration pathway score changes from 100.00 to 65.85; and the HRS site score changes from 50.00 to 32.92. The NPL listing decision is not changed by this updated information and scoring.

The updated HRS scoring documentation is available in *www.regulations.gov* under docket number EPA–HQ–SFUND–2011–0647.

List of Subjects in 40 CFR 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: June 29, 2012.

James E. Woolford,

Director, Office of Superfund Remediation and Technology Innovation.

[FR Doc. 2012–16692 Filed 7–6–12; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 77, No. 131

Monday, July 9, 2012

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

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

July 2, 2012.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: Treatment of Fruits and Vegetables.

OMB Control Number: 0579–0281.

Summary of Collection: Under the Plant Protection Act (7 U.S.C. 7701 *et seq.*) the Secretary of Agriculture is authorized to regulate the importation of plants, plant product, and other articles to prevent the introduction of injurious plant pests. The Phytosanitary treatments regulations contained in Title 7 of the Code of Federal Regulations (CFR) Part 305 set out standards and schedules for treatments required in 7 CFR parts 301, 318, and 319 for articles whose importation could introduce plant pests or noxious weeds into the United States or whose interstate movement could spread plant pests or noxious weeds within the United States. The fruits and vegetables regulations list the approved doses for irradiation treatment of imported fruits and vegetables including a minimum generic dose for the fruit fly family, the minimum dose of irradiation for some specific fruit fly species, and provides for the use of irradiation as a treatment for cut flowers and foliage.

Need and Use of the Information: Certain fruits and vegetables moved interstate from Hawaii, Puerto Rico, and the U.S. Virgin Islands must undergo irradiation treatment. These requirements involve information collection activities, including the use of permits, certificates, request for facility approval, and package marking. If this information were not collected, it would seriously affect APHIS' ability to ensure that certain fruit and vegetables entering the United States from numerous countries do not harbor fruit flies or other insect pests that could cause serious damage to American agriculture.

Description of Respondents: Business or other for-profit; Federal Government.

Number of Respondents: 23.

Frequency of Responses: Reporting; On occasion.

Total Burden Hours: 6.

Animal and Plant Health Inspection Service

Title: Importation of Baby Corn and Baby Carrots from Zambia.

OMB Control Number: 0579–0284.

Summary of Collection: Under the Plant Protection Act (PPA) (7 U.S.C. 7701—*et seq.*) the Secretary of Agriculture is authorized to carry out operations or measures to detect, eradicate, suppress, control, prevent, or retard the spread of plant pests new to the United States or not known to be widely distributed throughout the United States. Regulations authorized by the PPA concerning the importation of fruits and vegetables into the United States from certain parts of the world are contained in ''Subpart Fruits and Vegetables'' (7 CFR 319.56–8 through 319.56–50).

The Animal and Plant Health Inspection Service (APHIS) regulations allow the importation into the continental United States of fresh, dehusked immature (baby) sweet corn and fresh baby carrots from Zambia. As a condition of entry, both commodities are subject to inspection at the port of first arrival and must be accompanied by a phytosanitary certificate with an additional declaration stating that the commodity has been inspected and found free of the quarantine pest listed in the certificate.

Need and Use of the Information: APHIS requires that some plants or plant products are accompanied by a photosanitary inspection certificate that is completed by plant health officials in the originating or transiting country. APHIS uses the information on the certificate to determine the pest condition of the shipment at the time of inspection in the foreign country. This information is used as a guide to the intensity of the inspection APHIS conducts when the shipment arrives. Without this information, all shipments would need to be inspected very thoroughly, thereby requiring considerably more time.

Description of Respondents: Federal Government.

Number of Respondents: 1.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 1.

Animal and Plant Health Inspection Service

Title: Importation of Small Lots of Seeds Without Phytosanitary Certificates.

OMB Control Number: 0579–0285.

Summary of Collection: Under the Plant Protection Act (PPA) (7 U.S.C.

7701–7772), the Secretary of Agriculture is authorized to prohibit or restrict the importation, entry, or movement of plants and plant pests to prevent the introduction of plant pests into the United States or their dissemination within the United States. The regulations contained in ''Subpart-Plants for Planting'' (7 CFR 319.37–1 through 319.37–14) prohibit or restrict, among other things, the importation of living plants, plant parts, and seed for propagation. These regulations allow small lots of seed to be imported into the United States under an import permit with specific conditions, including seed packet labeling, as an alternative to a phytosanitary certificate requirement.

Need and Use of the Information: APHIS' Plant Protection and Quarantine program will issue a permit indicating the applicable conditions for importation if, after reviewing the application, the articles are deem eligible to be imported into the United States under the conditions specified in the permit. Permits would be issued at the discretion of APHIS to any importer, whether an individual or an organization, who would then send the permit to the overseas supplier. A certificate of inspection in the form of a label is required to be attached to each carton of the articles and to an airway bill of lading or delivery tick accompanying the articles. Each seed packet must be clearly labeled with the name of the collector/shipper, the country or origin, and the scientific name at least to the genus level, and preferably to the species level. Without the information APHIS could not verify that imported nursery stock does not present significant risk of introducing plant pests and plant disease into the United States.

Description of Respondents: Individuals or households; Business or other for-profit.

Number of Respondents: 1,600.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 740.

Animal and Plant Health Inspection Service

Title: Special Needs Request Under the Plant Protection Act.

OMB Control Number: 0579–0291.

Summary of Collection: The Plant Protection Act (PPA) (7 U.S.C. 7701 *et seq.*) gives authority to the Secretary of Agriculture to prohibit or restrict the importation, entry, exportation, or movement in interstate commerce of any plant, plant product, biological control organism, noxious weed, article, or means of conveyance if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction of plant pests or noxious weed into the United States. The Secretary has delegated this authority to the Administrator of the Animal and Plant Health Inspection Service (APHIS), which administers regulations to implement the PPA. Regulations governing the interstate movement of plants, plant products, and other articles are contained in 7 CFR part 301, ''Domestic Quarantine Notices.'' The domestic quarantine regulations is a process by which a State or political subdivision of a State can request approval to impose prohibitions or restrictions on the movement in interstate commerce of specific articles that are in addition to the prohibitions and restrictions imposed by APHIS.

Need and Use of the Information: APHIS believes that specific information, which would be considered along with more general information available to APHIS, would be necessary for the Administrator to be able to determine whether to grant or deny a request for a special need exemption. The administrator's determination would be based upon his or her review of the information submitted by the State or political subdivision in support of its request and would take into account any comments received.

Description of Respondents: State, Local or Tribal Government.

Number of Respondents: 1.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 160.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2012–16607 Filed 7–6–12; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

July 2, 2012.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Rural Business-Cooperative Service

Title: 1890 Land Grant Institutions: Rural Entrepreneurial Program Outreach Initiative.

OMB Control Number: 0570–0041.

Summary of Collection: Rural Business Service's mission is to encourage 1890 Institutions to improve the quality of life in rural America by financing community facilities and businesses, providing technical assistance and creating effective strategies for rural development. Funding has been allocated to support the Outreach Initiative developed to help future entrepreneurs and businesses in rural communities that have the most economic need. Funds are awarded on a competitive basis using specific selection criteria.

Need and Use of the Information: The information collected will be used to determine (1) eligibility; (2) the specific purpose for which the funds will be utilized; (3) time frames or dates by which activities surrounding the use of funds will be accomplished; (4) feasibility of the project; (5) applicants' experience in managing similar activities; and (6) the effectiveness and innovation used to address critical issues vital to the development and sustainability of businesses. Without

this information there would be no basis on which to award funds.

Description of Respondents: Business or other for-profit; Farms; State, Local or Tribal Government.

Number of Respondents: 18.

Frequency of Responses: Reporting: Quarterly.

Total Burden Hours: 728.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2012–16609 Filed 7–6–12; 8:45 am]

BILLING CODE 3410–XT–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2012–0052]

Oral Rabies Vaccine Trial; Availability of an Environmental Assessment

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability and request for comments.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has prepared an environmental assessment relative to an oral rabies vaccination field trial in New Hampshire, New York, Ohio, Vermont, and West Virginia. The environmental assessment analyzes the use of an experimental rabies vaccine in field safety and immunogenicity trials in portions of New Hampshire, New York, Ohio, Vermont, and West Virginia. The proposed field trial is necessary to evaluate a wildlife rabies vaccine that will produce sufficient levels of population immunity in raccoons and striped skunks. We are making the environmental assessment available to the public for review and comment.

DATES: We will consider all comments that we receive on or before August 8, 2012.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!documentDetail;D=APHIS-2012-0052-0001.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2012–0052, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

The environmental assessment and any comments we receive may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0052* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

This notice and the environmental assessment are also posted on the APHIS Web site at *http://www.aphis.usda.gov/regulations/ws/ws_nepa_environmental_documents.shtml.*

FOR FURTHER INFORMATION CONTACT: Mr. Richard Chipman, Acting Rabies Program Coordinator, Wildlife Services, APHIS, 59 Chennell Drive, Suite 7, Concord, NH 03301; (603) 223–9623. To obtain copies of the environmental assessment, contact Ms. Beth Kabert, Environmental Coordinator, Wildlife Services, 140–C Locust Grove Road, Pittstown, NJ 08867; (908) 735–5654, fax (908) 735–0821, email: *beth.e.kabert@aphis.usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Wildlife Services (WS) program in the Animal and Plant Health Inspection Service (APHIS) cooperates with Federal agencies, State and local governments, and private individuals to research and implement the best methods of managing conflicts between wildlife and human health and safety, agriculture, property, and natural resources. Wildlife-borne diseases that can affect domestic animals and humans are among the types of conflicts that APHIS–WS addresses. Wildlife is the dominant reservoir of rabies in the United States.

One of the activities undertaken by APHIS–WS to address rabies is an Oral Rabies Vaccination (ORV) program involving the distribution of baits containing vaccinia-rabies glycoprotein (V–RG) vaccine to stop the spread of specific raccoon (eastern States), coyote (Texas), and gray fox (Texas, New Mexico, and Arizona) rabies virus variants to new areas. While this vaccine has proven to be orally effective in raccoons, coyotes, and foxes, it does not produce detectable levels of population immunity in striped skunks. Because skunks infected with raccoon rabies likely serve as a source of perpetuating and maintaining this rabies virus variant (i.e., raccoon rabies), they may compromise the effectiveness of our ORV program.

APHIS–WS is the lead agency regarding a proposed action that will test the safety and immunogenicity of a new human adenovirus type 5-rabies glycoprotein recombinant virus (AdRG1.3) rabies vaccine in an effort to find a rabies vaccine that will be safe and immunogenic in a variety of animal species including raccoons, skunks, foxes, and coyotes. The proposed field trial would take place within approximately 10,483 square miles of portions of New Hampshire, New York, Ohio, Vermont, and West Virginia, including portions of the U.S. Department of Agriculture Forest Service National Forest System lands, excluding Wilderness Areas. The proposed field trial is a collaborative effort among APHIS–WS; the Centers for Disease Control and Prevention; the vaccine manufacturer (Artemis Inc.); the appropriate agriculture, health, and wildlife agencies for the states of New Hampshire, New York, Ohio, Vermont, and West Virginia; the Ontario Ministry of Natural Resources; and the Quebec Ministry of Natural Resources and Wildlife.

APHIS' review and analysis of the proposed action are documented in detail in an environmental assessment (EA) titled ''Field Trial of an Experimental Rabies Vaccine, Human Adenovirus Type 5 Vector in New Hampshire, New York, Ohio, Vermont, and West Virginia'' (May 2012). The EA analyzes a number of environmental issues or concerns with the oral rabies vaccine and activities associated with ORV field trials, such as capture and handling animals for monitoring and surveillance purposes. The EA also analyzes alternatives to the proposed action, including no action (continuation of the current program, which involves field trials in West Virginia only) and no ORV field trials. We are making the EA available to the public for review and comment. We will consider all comments that we receive on or before the date listed under the heading DATES at the beginning of this notice.

The EA may be viewed on the Regulations.gov Web site or in our reading room (see **ADDRESSES** above for instructions for accessing Regulations.gov and information on the location and hours of the reading room). In addition, paper copies may be obtained by calling or writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

The EA has been 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).

Done in Washington, DC, this 29th day of June 2012.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2012–16799 Filed 7–6–12; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Request Revision and Extension of a Currently Approved Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the National Agricultural Statistics Service (NASS) to request revision and extension of a currently approved information collection, the Mink Survey. Revision to burden hours will be needed due to changes in the size of the target population and/or questionnaire length. The target population will be pulled from positive historical data, trade magazines, or grower's association's lists. The questionnaire that NASS is planning to use is the same as what was used in previous years. Any changes to the questionnaire would result from requests by industry data users.

DATES: Comments on this notice must be received by September 7, 2012 to be assured of consideration.

ADDRESSES: You may submit comments, identified by docket number 0535–0212, by any of the following methods:

- *Email: omboffice@nass.usda.gov.* Include docket number above in the subject line of the message.
- *Fax:* (202) 720–6396.
- *Mail:* Mail any paper, disk, or CD–ROM submissions to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW., Washington, DC 20250–2024.
- *Hand Delivery/Courier:* Hand deliver to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW., Washington, DC 20250–2024.

FOR FURTHER INFORMATION CONTACT: Joseph T. Reilly, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–4333.

SUPPLEMENTARY INFORMATION:

Title: Mink Survey.

OMB Control Number: 0535–0212.

Expiration Date of Approval: October 31, 2012.

Type of Request: Intent to Seek Approval to Revise and Extend an Information Collection for 3 years.

Abstract: The primary objective of the National Agricultural Statistics Service is to prepare and issue State and national estimates of crop and livestock production, prices, and disposition. The Mink Survey collects data on the number of mink pelts produced, the number of females bred, and the number of mink farms. Mink estimates are used by the federal government to calculate total value of sales and total cash receipts, by State governments to administer fur farm programs and health regulations, and by universities in research projects. The current expiration date for this docket is October 31, 2012. NASS intends to request that the Mink Survey be approved for another 3 years.

Authority: These data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985 as amended, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents. This Notice is submitted in accordance with the Paperwork Reduction Act of 1995, (44 U.S.C. 3501, *et seq.*) and Office of Management and Budget regulations at 5 CFR part 1320.

NASS also complies with OMB Implementation Guidance, ''Implementation Guidance for Title V of the E-Government Act, Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA),'' 72 FR 33362, Jun. 15, 2007.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 10 minutes per response. NASS plans to mail out publicity materials with the questionnaires to inform producers of the importance of this survey. NASS will also use multiple mailings, followed up with phone and personal enumeration to increase response rates and to minimize data collection costs.

Respondents: Farmers and ranchers.

Estimated Number of Respondents: 350.

Estimated Total Annual Burden on Respondents: 90 hours.

Copies of this information collection and related instructions can be obtained without charge from David Hancock, NASS Clearance Officer, at *omboffice@nass.usda.gov* or at (202) 690–2388.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, through the use of appropriate automated, electronic, mechanical, technological, or other forms of information technology collection methods.

All responses to this notice will become a matter of public record and be summarized in the request for OMB approval.

Signed at Washington, DC, June 19, 2012.

Joseph T. Reilly,

Associate Administrator.

[FR Doc. 2012–16673 Filed 7–6–12; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Invitation for Nominations to the Advisory Committee on Agriculture Statistics

AGENCY: National Agricultural Statistics Service (NASS), USDA.

ACTION: Solicitation of Nominations to the Advisory Committee on Agriculture Statistics.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App. 2, this notice announces an invitation from the Office of the Secretary of Agriculture for nominations to the Advisory Committee on Agriculture Statistics.

On June 5, 2012, the Secretary of Agriculture renewed the Advisory Committee charter for a two-year term to expire on June 5, 2014. The purpose of the Committee is to advise the Secretary of Agriculture on the scope, timing, content, etc., of the periodic censuses and surveys of agriculture, other related surveys, and the types of information to obtain from respondents concerning agriculture. The Committee also prepares recommendations regarding the content of agriculture reports and presents the views and needs for data of major suppliers and users of agriculture statistics.

DATES: Written nominations must be received on or before July 27, 2012.

ADDRESSES: You may submit nominations by any of the following methods:

- *Email:* Scan the completed form and email to: *hq_dapp@nass.usda.gov.*
- *Fax:* (202) 690–1311.
- *Mail:* Nominations should be mailed to Hubert Hamer, Chair, Agricultural Statistics Board, National Agricultural Statistics Service, U.S. Department of Agriculture, 1400 Independence Avenue SW., Room 5029 South Building, Washington, DC 20250–2010.
- *Hand Delivery/Courier:* Hand deliver to: Hubert Hamer, Chair, Agricultural Statistics Board, National Agricultural Statistics Service, U.S. Department of Agriculture, 1400 Independence Avenue SW., Room 5029 South Building, Washington, DC 20250–2010.

FOR FURTHER INFORMATION CONTACT: Hubert Hamer, Chair, Agricultural Statistics Board, National Agricultural Statistics Service, (202) 690–8141.

SUPPLEMENTARY INFORMATION: Each person nominated to serve on the committee is required to submit the following form: AD–755 (Advisory Committee Membership Background Information, OMB Number 0505–0001), available on the Internet at *http://www.usda.gov/documents/OCIO_AD_755_Master_2012.pdf*. This form may also be requested by telephone, fax, or email using the information above. Completed forms may be faxed to the number above, mailed, or completed and emailed directly from the Internet site.

For more information on the Advisory Committee on Agriculture Statistics, see the NASS Web site at *http://www.nass.usda.gov*. Along the top of the homepage click on the tab titled ''About NASS''. The ''Advisory Committee on Agricultural Statistics'' button is along the right column.

The Committee draws on the experience and expertise of its members to form a collective judgment concerning agriculture data collected and the statistics issued by NASS. This input is vital to keep current with shifting data needs in the rapidly changing agricultural environment and keeps NASS informed of emerging issues in the agriculture community that can affect agriculture statistics activities.

The Committee, appointed by the Secretary of Agriculture, consists of 20 members representing a broad range of disciplines and interests, including, but not limited to, producers, representatives of national farm organizations, agricultural economists, rural sociologists, farm policy analysts, educators, State agriculture representatives, and agriculture-related business and marketing experts.

Members serve staggered 2-year terms, with terms for half of the Committee members expiring in any given year. Nominations are being sought for 20 open Committee seats. Members can serve up to 3 terms for a total of 6 consecutive years. The Chairperson of the Committee shall be elected by members to serve a 1-year term.

Equal opportunity practices, in line with USDA policies, will be followed in all membership appointments to the Committee. To ensure that the recommendations of the Committee have taken into account the needs of the diverse groups served by USDA, membership will include to the extent possible, individuals with demonstrated ability to represent the needs of all racial and ethnic groups, women and men, and persons with disabilities.

The duties of the Committee are solely advisory. The Committee will make recommendations to the Secretary of Agriculture with regards to the agricultural statistics programs of NASS, and such other matters as it may deem advisable, or which the Secretary of Agriculture; Under Secretary for Research, Education, and Economics; or the Administrator of NASS may request. The Committee will meet at least annually. All meetings are open to the public. Committee members are reimbursed for official travel expenses only.

Send questions, comments, and requests for additional information to the email address, fax number, or address listed above.

Signed at Washington, DC, June 22, 2012.

Joseph T. Reilly,

Associate Administrator, National Agricultural Statistics Service.

[FR Doc. 2012–16671 Filed 7–6–12; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Information Collection Activity; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended), the Rural Utilities Service (RUS) invites comments on this information collection for which approval from the Office of Management and Budget (OMB) will be requested.

DATES: Comments on this notice must be received by September 7, 2012.

FOR FURTHER INFORMATION CONTACT: Michele Brooks, Director, Program Development and Regulatory Analysis, USDA Rural Utilities Service, 1400 Independence Ave. SW., STOP 1522, Room 5162, South Building, Washington, DC 20250–1522. Telephone: (202) 690–1078. FAX: (202) 720–8435. Email: *michele.brooks@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an information collection that RUS is submitting to OMB for extension.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Michele Brooks, Director, Program Development and Regulatory Analysis, USDA Rural Utilities Service, STOP 1522, 1400 Independence Ave. SW., Washington, DC 20250–1522. FAX: (202) 720–8435. Email: *michele.brooks@wdc.usda.gov.*

Title: Lien Accommodations and Subordinations, 7 CFR 1717, Subparts R & S.

OMB Control Number: 0572–0100.

Type of Request: Revision of a currently approved collection.

Abstract: The Rural Electrification Act of 1936 (RE Act), as amended (7 U.S.C. 901 *et seq.*), authorizes and empowers the Administrator of Rural Utilities Service to make loans in the several United States and Territories of the United States for rural electrification and the furnishing of electric energy to

persons in rural areas who are not receiving central station service. The RE Act also authorizes and empowers the Administrator of the Agency to provide financial assistance to borrowers for purposes provided in the RE Act by accommodating or subordinating loans made by the national Rural Utilities Cooperative Finance Corporation, the Federal Financing Bank, and other lending agencies. Title 7 CFR part 1717, subparts R & S sets forth policy and procedures to facilitate and support borrowers' efforts to obtain private sector financing of their capital needs, to allow borrowers greater flexibility in the management of their business affairs without compromising RUS loan security, and to reduce the cost to borrowers, in terms of time, expenses and paperwork, of obtaining lien accommodations and subordinations. The information required to be submitted is limited to necessary information that would allow the Agency to make a determination on the borrower's request to subordinate and accommodate their lien with other lenders.

Estimate of Burden: Public Reporting burden for this collection of information is estimated to average 19 hours per response.

Respondents: Not-for-profit institutions; Business or other for profit.

Estimated Number of Respondents: 21.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 290 hours.

Copies of this information collection can be obtained from Michele Brooks, Program Development and Regulatory Analysis, at (202) 690–1078. FAX: (202) 720–8435. Email: *michele.brooks@wdc.usda.gov.*

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: July 2, 2012.

Jonathan Adelstein,

Administrator, Rural Utilities Service.

[FR Doc. 2012–16686 Filed 7–6–12; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the North Dakota Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, and the Federal Advisory Committee Act (FACA), that a planning meeting of the North Dakota Advisory Committee to the Commission will convene at 2 p.m. (CDT) on Tuesday, July 24, 2012, at the River Room, Fargo City Hall, 200 N. 3rd Street, Fargo, ND 58102.

The purpose of the planning meeting is to discuss civil rights issues in the state and to select a project topic.

Members of the public are entitled to submit written comments; the comments must be received in the regional office within 30 days of the meeting. Written comments may be mailed to the Rocky Mountain Regional Office, U.S. Commission on Civil Rights, 999 18th Street, Suite 1380 South, Denver, CO 80202. They may be faxed to (303) 866–1050 or emailed to *ebohor@usccr.gov.* Persons who desire additional information may contact the Rocky Mountain Regional Office at (303) 866–1040.

Records generated from this meeting may be inspected and reproduced at the Rocky Mountain Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *www.usccr.gov,* or to contact the Rocky Mountain Regional Office at the above email or street address.

Deaf or hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Rocky Mountain Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission and FACA.

Dated in Washington, DC, on July 3, 2012.

Peter Minarik,

Acting Chief, Regional Programs Coordination Unit.

[FR Doc. 2012–16714 Filed 7–6–12; 8:45 am]

BILLING CODE 6335–01–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: National Oceanic and Atmospheric Administration (NOAA).

Title: Report of Whaling Operations.

OMB Control Number: 0648–0311.

Form Number(s): NA.

Type of Request: Regular submission (extension of a current information collection).

Number of Respondents: 51.

Average Hours per Response: Captains' reports, 30 minutes; whaling commission reports, 35 minutes.

Burden Hours: 45.

Needs and Uses: This request is for extension of a current information collection.

Native Americans may conduct certain aboriginal subsistence whaling in accordance with the provisions of the International Whaling Commission (IWC). In order to respond to obligations under the International Convention for the Regulation of Whaling, and the IWC, captains participating in these operations must submit certain information to the relevant Native American whaling organization about strikes on and catch of whales. Anyone retrieving a dead whale is also required to report. Captains must place a distinctive permanent identification mark on any harpoon, lance, or explosive dart used, and must also provide information on the mark and self-identification information. The relevant Native American whaling organization receives the reports, compiles them, and submits the information to NOAA.

The information is used to monitor the hunt and to ensure that quotas are not exceeded. The information is also provided to the IWC, which uses it to monitor compliance with its requirements.

Affected Public: Individuals or households.

Frequency: Annually, monthly and on occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: *OIRA_Submission@omb.eop.gov.*

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 *OIRA_Submission@omb.eop.gov.*

Dated: July 3, 2012.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2012–16633 Filed 7–6–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

International Trade Administration

Executive-Led Infrastructure Business Development Mission Statement November 11–17, 2012, Indonesia and Vietnam

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

Mission Description

The United States Department of Commerce, International Trade Administration (ITA), U.S. and Foreign Commercial Service (US&FCS) is organizing an executive-led trade mission to Indonesia and Vietnam. The proposed trade mission, scheduled for November 11–17, 2012, will visit two of Southeast Asia's most dynamic markets and will help participants gain first-hand market knowledge and establish business contacts with senior decision makers.

Southeast Asia offers one of the world's largest and most dynamic markets for American exporters. The 10 member states comprising the Association of Southeast Asian Nations (ASEAN) represent a market of 609 million people that received over $76 billion of merchandise exports from the United States in 2011. Collectively, these member states have, a collective GDP of nearly $2.2 trillion. ASEAN's total merchandise trade has skyrocketed, rising from around $400 billion a year in 1993 to $2.0 trillion in 2010. This trade mission will also serve as a follow-up to Secretary Locke's June 2010 Clean Energy mission, which included a stop in Indonesia.

The purpose of the mission is to inform U.S. firms about opportunities in Southeast Asia's rapidly expanding market and to position U.S. companies to seize infrastructure-related export opportunities in Southeast Asia. The trade mission will be comprised of representatives from U.S. companies that provide state-of-the-art market services and technology to sectors critical to infrastructure development. The mission will visit Hanoi, Ho Chi Minh City (HCMC), and Jakarta. In each city, participants will receive market briefings and meet with key government decision makers and prospective private sector partners during customized, one-on-one meetings.

Top infrastructure sectors include:

- Energy
- Aviation
- Environmental Technology
- Architecture, Construction and Engineering

Commercial Setting

Indonesia

Indonesia Market Information

Energy—Electrical Power Generation and Transmission; Energy Management Services and Products; and Energy Efficiency

The electric power generation sector in Indonesia has experienced a high growth in demand averaging seven to nine percent per annum during the last five years. However, due to lack of generating capacity, Indonesia still faces a power shortage in many parts of the country outside of Java and Bali. The overall electrification rate in Indonesia was 70.4% in 2011, one of the lowest rates in the region, affecting an estimated 80 million Indonesians.

As Indonesia develops, the government-owned electricity company, PLN, is under significant pressure to build additional power generating capacity and to upgrade the current generation and transmission infrastructure. Construction of power plants, transmission and distribution lines in Indonesia may offer significant commercial opportunities for U.S. companies that supply engineering services and equipment such as turbines, substations, transmission, transformers and distribution equipment. There are also growing opportunities to upgrade underperforming installations built in the last decade.

Demand-side power management concepts are just being introduced into Indonesia. There are likely to be growing opportunities for U.S. firms to offer energy efficiency solutions to new commercial facilities and retrofitting opportunities to some older industrial locations. Indonesia has one of the most significant natural endowments of biomass resources of any country in the world. Current projects only tap 1% of the available resource. Feed-in tariffs for biomass, biogas, and waste-to-energy encourage small-scale production and create opportunities for U.S. companies to invest or to offer a wide range of new technologies. The Indonesian government also promotes conversion of biomass to biofuels, which may result in opportunities for innovative U.S. technologies.

Aviation—Airports, Ground Support and Logistics

With a population of more than 240 million spread over 17,000 islands, Indonesia presents an enormous aviation opportunity and one of the fastest-growing domestic air traffic markets in the world. Nationally, the number of airline passengers is projected to reach 143 million in 2012 while passenger traffic at Jakarta's Sukarno Hatta increased from 43.8 million in 2009 to 58.9 million in 2011, ranking as the 12th busiest airport globally. The Directorate General of Civil Aviation, Ministry of Transportationannounced that it will complete its National Airport Master Plan in the second half of 2012 and that master planning projects will move ahead in the first half of 2013. Indonesia currently has 25 airport projects planned for upgrade and expansion by 2014 and two new green field airports as well as expansions and upgrades of another 45 smaller DGCA-run airports over the next decade. Given the large number of new aircraft coming into the fleets of Lion Air and Garuda Indonesia, and that major airports are already operating far beyond capacity, airport expansion is a top priority infrastructure sector. The Ministry of Transportation estimates project spending needs at $3.5 billion over 4 years. Buyers will include the two SOE airport operators, Angkasa Pura 1 and 2, DGCA for smaller airports, and new joint venture companies building new airport projects.

Significant opportunities exist along all subsectors, especially in the areas of airport planning and design, ground support equipment and logistical infrastructure. As a result of surging demand created by an emerging middle class and a large population, spread over an archipelago the width of the United States, Indonesia's private airlines are looking to compete in mid-markets, necessitating significant and concurrent development of airport infrastructure in many regions.

Specifically, there are pressing needs for air traffic control systems, airport ground support equipment, safety and security equipment, IT infrastructure and services, and engineering and logistics surrounding the airport supply chain. Indonesia is regarded by both industry and the U.S. Government as a market well-positioned to accept Next Generation Air Transportation System (NextGen) technologies, particularly given the capacity enhancements derived from NextGen that would alleviate much the country's air system

constraints. Indonesia also plans to establish its new SOE for flight navigation services by the end of 2012.

Environmental Technology—Water Resource Management and Pollution Control Equipment/Solid Waste Treatment and Disposal Technologies

Indonesia faces a constant struggle to provide adequate clean water and sanitation for its rapidly growing population. Similarly, demand for clean water is steadily increasing due to economic activity in urban and rural areas, and the rapid growth of the middle class. While access to clean water will reach near 50% in 2012, it is still far below Millennium Development Goals (MDGs) for clean-water access.

The Government of Indonesia (GOI) faces many challenges in providing clean-water supply such as scarcity of raw water resources, water leakage problems (average of 33% of non-revenue water), and poor management of water companies. U.S. firms have significant opportunities to advise on the process at multiple levels, and have a good reputation for quality and advanced technology in the field of water and wastewater treatment. Although the market is price sensitive, U.S. products are strong competitors in water filtration, water purification equipment and control systems, water treatment chemicals, positive displacement pumps, valves and meters. There are also growing opportunities in wastewater treatment for industrial facilities, especially for large-scale new petrochemical and chemical facilities and new power generation plants. There are also significant specialized opportunities in water treatment/waste management for major mining projects.

In regard to solid waste, many areas in Indonesia, especially the Special Capital District of Jakarta are increasingly facing issues in managing solid waste as the urban population continues to rise, and property development and urbanization reach to all corners of the archipelago. U.S. firms have opportunities in introducing low-cost technology and solutions for waste disposal, and Waste-to-Energy (WtE) technology.

Architecture, Construction and Engineering—Port Infrastructure and Major Projects

Infrastructure development in Indonesia is guided by the Master Plan for the Acceleration and Expansion of Indonesian Economic Development (MP3EI), issued by the GOI in May 2011. A total of 367 infrastructure projects with a projected value of an estimated $440 billion (if actually constructed) are showcased in the Master Plan, with the majority of these projects in transport (i.e., toll roads, airports, railway, and ports). The recent approval of the land acquisition bill in December 2011 is expected to speed up the implementation of these projects, especially roads, toll roads and railways. The GOI-owned company Pelindo 2 plans to begin the process for bidding on a multi-billion dollar project for Jakarta's Kalibaru 2 13mn TEU terminal project expansion. The GOI is still targeting port development as a priority, as five out of the country's six largest container ports are currently over-congested and an estimated 15mn TEUs of extra capacity are required by 2020. Currently, the GOI is seeking assistance to rapidly construct three new ports in Jakarta, Batam and Papua. Opportunities exist for U.S. companies with experience in port architecture, construction and engineering, IT systems as well as logistics and container management.

Vietnam

Ho Chi Minh City and Hanoi

Energy—Power Generation, Efficiency Grid Transmission and Distribution Modernization

Electricity of Vietnam (EVN) forecasts 12% annual electricity demand growth over the next 15 years. Significant demand exists for design engineering services; project management; engineering, procurement, and construction (EPC); and hardware for power generation projects. Low efficiency in energy transmission and usage due to high wastage means great opportunities for providers of grid modernization technology. Mission participants will also have the opportunity attend a regional ASEAN Smart Grid and Power Workshop in Hanoi, organized by the U.S. Trade and Development Agency.

Aviation—Airports, Ground Support and Logistics

The Civil Aviation Authority of Vietnam estimates that Vietnam would require about $15 billion in investment to achieve its development plan for the aviation sector by 2020, of which $8 billion will be for aircraft fleet expansion, $5 billion for constructing and upgrading airports and $2 billion for airport operation and air traffic management. According to the International Air Transport Association (IATA), by 2014, Vietnam will become the world's third fastest-growing market for international passengers and freight, and the second-fastest in the number of domestic passengers.

At present, the government budget can only meet about 20 percent of the total investment required for airport development. Raising sufficient funds for this development is an immense challenge for Vietnam now and in the future. The plan for the period 2010–2015 calls for investment of more than US$1.3 billion in airport modernization and expansion and rehabilitation in order to accomplish an efficient network of 20 airports in operation. In particular, Long Thanh International Airport (LTIA), which is planned to be Vietnam's largest international airport, is scheduled to be constructed in 2015 and become operational by 2020. With an estimated investment of more than US$10 billion and covering more than 5,000ha, LTIA is expected to serve 100 million passengers and 5 million tons of cargo per year at its full capacity. Funding for the airport construction is expected to come from Government bonds, Official Development Assistance (ODA) and private sources.

In keeping with Vietnam's growing aviation market and air system modernization plans, vendors of NextGen technologies and services can offer the state-of-the-art solutions that increase efficiency, improve safety, and reduce overall costs.

Environmental Technology—Water Resource Management and Pollution/Disposal Technologies

The lack of clean water is one of Vietnam's most pressing environmental concerns. At present, it is estimated that only about 70 percent of the Vietnamese population has access to potable water. A high rate of water loss, 32 percent, further aggravates the problem. In addition to water supply, one of the most pressing environmental concerns is drainage and sewage. Due to rapid and ongoing urbanization and industrialization, improved municipal and industrial wastewater treatment has emerged as a critical need. Funding for water supply and wastewater projects comes from various sources within the state budget, as well as ODA loans and grants and from the World Bank and Asian Development Bank (ADB).

In 2011, ADB has approved Multi-tranche Financing Facility (MFF) in water supply and sanitation sector with total amount of one billion USD within the next ten years. This investment program will help water supply companies in Viet Nam to improve their performance. It will support capital investment in water companies and co-finance the National Nonrevenue Water (NRW) Program. The program will utilize an MFF to provide longer-term support for institutional reform in the

Viet Nam water sector until 2020. The MFF will be used as seed money to leverage parallel co-financing and, importantly, gain access to commercial finance and increased private sector participation. Four pilot cities—Da Nang, Hai Phong, Ho Chi Minh City (HCMC), and Hue—were identified for project preparation in 2008. The first periodic financing request (PFR) will cover HCMC. Subsequent tranches will finance part of the National NRW Program and investment subprograms consisting of water supply infrastructure for provincial water companies, duplicating the model established with HCMC in PFR1. Several cities have initiated discussions with the government to finance future tranches totaling over $300 million for water production plants, transmission and distribution networks.

Architecture, Construction and Engineering

While Vietnam's real estate market has slowed in the last year, long-term prospects for architecture, construction and engineering services continue as Vietnam develops its built environment and invests in much-need infrastructure throughout the country. Architecture services, concept design, construction management, project management, and new building technologies represent the best opportunities for U.S. firms. Specific prospects include high-end hotels and resorts, retail and mixed-use projects, many of which are foreign invested and require high-quality design and construction. Awareness of sustainable and ''green'' buildings is just beginning to emerge, but is expected to grow. Other prospects include: landscape architecture, water features and swimming pools, hotel and restaurant interiors, town planning/master planning, green design/building materials (energy efficient, HVAC, lighting and building controls), airport design, healthcare design, and use of high-end architectural interior products and designs.

Mission Goals

The goal of the mission is to provide U.S. participants with first-hand market information, access to Indonesian and Vietnamese government decision makers and one-on-one meetings with business contacts, including potential agents, distributors, and partners, so that they can position themselves to enter the Vietnamese or Indonesian market or expand their business presence in Southeast Asia. Thus, the mission seeks to:

- Improve U.S. companies' understanding of commercial opportunities in Indonesia and Vietnam
- Facilitate business meetings between U.S. and host country businesses to promote the development of U.S. commercial opportunities in Indonesia and Vietnam
- Introduce U.S. industry representatives to the Southeast Asian business community and government leaders
- Provide policymakers with U.S. industry feedback on the direction of its commercial reforms

Mission Scenario

The business development mission will take place in Indonesia and Vietnam. Participants will meet with leaders in the public and private sector, learn about the market by participating in Embassy briefings, and explore additional opportunities at networking receptions. Activities will include one-on-one meetings with pre-screened business prospects

Proposed Timetable

Travel time—Hanoi (Nov 9 & 10)—Travel Time—(approx 32 hours).

Day One—Hanoi (Sunday Nov 11)

Arrive Hanoi
Delegation welcome/embassy briefing

Day Two—Hanoi (Monday Nov 12)

Government meetings
Luncheon event
One-on-one business appointments
Prime Minister meeting
Ambassador reception

Day Three—Hanoi (Tuesday, Nov 13)

One-on-one business appointments
TDA Smart Grid Conference (if applicable) (Smart grid companies would not go to HCM)
Travel to HCMC—afternoon
Consulate briefing
Consulate reception

Day Four—HCMC (Wednesday, Nov 14)

One-on-one business appointments
Industry sector briefing
Luncheon
Travel to Singapore—overnight only

Day Five—Singapore–Jakarta (Thursday, Nov 15)

Arrive in Jakarta—late morning
Embassy briefing
Government meetings
Ambassador reception

Day Six—Jakarta (Friday, Nov 16)

Breakfast event
One-on-one meetings
No-host conclusion dinner—mission completed

Day Seven—Jakarta (Saturday, Nov 17)

Travel to U.S.

Participation Requirements

This business development mission is designed for a maximum of 15 qualified companies and can accommodate a maximum of 25 participants from the companies accepted. All parties interested in participating in this business development mission to Indonesia and Vietnam, must submit a completed application package for consideration by the U.S. Department of Commerce. All applicants will be evaluated on their ability to meet certain conditions and to best satisfy the selection criteria as outlined below. U.S. companies already doing business in the target sectors as well as U.S. companies seeking to enter this market for the first time are encouraged to apply.

Fees and Expenses

After a company has been selected to participate in the mission, a payment to the U.S. Department of Commerce in the form of a participation fee is required. The participation fee is $6,208 for a single participant for a small- or medium-sized enterprise (SME) [1] and $8,700 for a single participant for a large firm. Participants per company will be limited due to space constraints. The fee for each additional participant is $1,000. Applicants are encouraged to provide a clear business purpose and clarification of role of any additional participants proposed to participate in the mission.

Interpretation services for official activities are included in the fee. Expenses for travel, lodging, meals, and incidentals will be the responsibility of each mission participant.

Conditions for Participation

- An applicant must submit a completed and signed mission application and supplemental application materials, including information on the company's products and/or services, primary market objectives, and goals for participation. If the U.S. Department of Commerce receives an incomplete application, the Department may reject the application, request additional information, or take the lack of information into account when evaluating the application.

[1] An SME is defined as a firm with 500 or fewer employees or that otherwise qualifies as a small business under SBA regulations. *See http://www.sba.gov/contractingopportunities/owners/basics/whatismallbusiness/index.html.* Parent companies, affiliates, and subsidiaries will be considered when determining business size. The dual pricing reflects the Commercial Service's user fee schedule that became effective May 1, 2008. *See http://www.export.gov/newsletter/march2008/initiatives.html.*

• Each applicant must also certify that the products and services it seeks to export through the mission are either produced in the United States, or, if not, marketed under the name of a U.S. firm and have at least fifty-one percent U.S. content.

Selection Criteria for Participation

Selection will be based on the following criteria:

- Suitability of the company's products or services to the mission goals.
- Applicant's potential for business in Indonesia and Vietnam.
- Consistency of the applicant's goals and objectives with the stated scope of the mission.

(Additional factors, such as diversity of company, size, type and location, may be considered during the selection process.)

Referrals from political organizations and any documents containing references to partisan political activities (including political contributions) will be removed from an applicant's submission and will not be considered during the selection process.

Timeframe for Recruitment and Applications

Mission recruitment will be conducted in an open and public manner, including posting on the U.S. Department of Commerce trade missions calendar—*http://export.gov/trademissions/*—and other Internet Web sites, publication in domestic trade publications and association newsletters, direct outreach to the Department's clients and distribution lists, publication in the **Federal Register**, and announcements at industry meetings, symposia, conferences, and trade shows.

Recruitment for the mission will begin immediately and conclude no later than August 31, 2012, by the close of business. Applications received after August 31, 2012, will be considered only if space and scheduling constraints permit. Applications will be vetted on a rolling basis starting July 5, 2012.

Disclaimer, Security, and Transportation

Business development mission members participate in the mission and undertake related travel at their own risk and are advised to obtain insurance accordingly. Any question regarding insurance coverage must be resolved by the participant. The U.S. Government does not make any representations or guarantees as to the safety or security of participants.

For More Information and an Application Packet Contact

U.S. Commercial Service Domestic Contact

Ms. Jessica Arnold, International Trade Specialist, U.S. Commercial Service, Washington, DC, Tel: 202–482–2026, *indoviet2012@trade.gov.*

Contact CS Jakarta

Mr. Jesse Lapierre, Deputy Senior Commercial Officer, Jakarta, U.S. Commercial Center, Tel: 62–21 526–2850, *Jesse.lapierre@trade.gov.*

Contact CS Hanoi

Ms. Sarah Kemp, Senior Commercial Officer—Hanoi, U.S. Embassy Hanoi, Tel: 84–4–3850–5000, Ext. 5070S, *Sarah.Kemp@trade.gov.*

Contact CS HCMC

Mr. Frank Joseph, Commercial Officer—Ho Chi Minh City, *Frank.Joseph@trade.gov.*

Elnora Moye,

Trade Program Assistant.

[FR Doc. 2012–16728 Filed 7–6–12; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

International Trade Administration

U.S. Renewable Energy Trade Mission Philippines and Thailand, Manila, Philippines and Bangkok, Thailand, September 17–20, 2012

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

Mission Description

The United States Department of Commerce International Trade Administration's (ITA) U.S. and Foreign Commercial Service (US&FCS), in conjunction with USFCS staff in Manila and USFCS staff in Bangkok is organizing a Renewable Energy Trade Mission to Manila, Philippines and Bangkok, Thailand, September 17–20, 2012.

The Renewable Energy Trade Mission will offer U.S. companies a timely and cost-effective way to engage with key stakeholders, government officials and potential partners in an effort to enter the promising Philippines and Thailand markets. Target sectors for potential U.S. exports include:

- Biomass/Waste-to-Energy/Biogas.
- Geothermal.
- Hydropower.
- Wind power.
- Solar power.

Both Thailand and the Philippines rank high on ITA's Renewable Energy Best Prospects Study which identifies those markets with good potential for U.S. exports of renewable energy goods and services. By targeting these markets, the Renewable Energy Trade Mission will not only advance the President's National Export Initiative and his goal of positioning the U.S. as the leading exporter of renewable energy technology, it will also support the ITA Energy Team, and the Renewable Energy and Energy Efficiency Export Initiative's (RE4I) goals by promoting export opportunities for U.S. companies active in the renewable sector. With a focus on connecting U.S. companies with key players and decision makers in the Philippines and Thailand, this mission will provide critical market information and access to help participants establish the necessary public and private sector contacts to thrive. The five-day mission will include meetings with high-level national government officials, one-on-one meetings with potential partners and industry leaders, briefings on the Philippine and Thailand markets, site visits, and additional meetings with members of the Asia Development Bank.

The delegation will be comprised of at least 10 U.S. firms and a maximum of 20, representing a cross-section of U.S. industries that have developed products and services for the renewable energy industry.

Commercial Setting

As Thailand imports over half of its energy supply, in order to reduce reliance on foreign energy sources, the Government of Thailand has set a sustainable, renewable energy development plan to increase alternative energy consumption to 25% by 2022. With abundant natural resources, the Philippines also intends to increase renewable energy (RE) production through the National Renewable Energy (RE) Program to 15,304 MW by the year 2030 from 5,438 MW in 2010. With each country looking to reach its respective renewable energy goals, U.S. suppliers and manufacturers are in an excellent position to capitalize on these growing markets.

Philippine Market Breakdown

With abundant renewable energy resources, the Philippines is already considered a world leader in renewable energy. One third of its total electric power needs are met through resources such as solar, wind energy, hydro and biomass resources. Total installed capacity of the Philippines' power

generating plants is recorded at 15,937 MW.

Currently, 26% and 23% of power generation is by coal-fired and oil-based power plants, respectively; however, renewable sources contribute as well, with hydro and geothermal accounting for 21%, and 12% respectively. Wind and solar-based sources are also expected to increase their 1% share as well. The National Renewable Energy Program 2011–2013, launched by the Department of Energy, has plans to increase renewable energy based power capacity to as much as 15,300 MW by 2030 from 5,438 MW in 2010.

Market Demand

According to the World Fact book, energy use per capita was 423.57 KG for 2009 with 39.57% being Energy Imports. The Philippines Renewable Energy Act of 2008 provides the following benefits to developers of renewable energy:

- Seven year income tax holiday.
- Carbon credits generated from renewable energy sources will be free from taxes. A 10% corporate income tax, as against the regular 30%, is also provided once the income tax holiday expires.
- Promoting energy self-sufficiency to 60% by 2010 from 56.6% in 2005, by using resources like solar, wind, hydropower, ocean and biomass energy.
- Renewable energy facilities will also be given a 1.5% realty tax cap on original cost of equipment and facilities to produce renewable energy.
- The bill also prioritizes the purchase, grid connection and transmission of electricity generated by companies from renewable energy sources.
- Power generated from renewable energy sources will be value added tax exempt.
- A net metering scheme will give capable consumers the option to generate their own power. Net metering will allow renewable energy producers to earn from the power they contribute to the grid, and are also charged for electricity drawn from the grid

Hydropower, geothermal, solar, wind and biomass account for nearly 39%of the Philippines' energy requirements. The United States Department of Energy has assessed the country's total wind potential at 76,000 MW (across an 11,000 sq km area). Other estimates of renewable energy potential include: 147 MW from hydro applications in Visayas Islands; 4.41 GW from geothermal energy; an annual potential average of 5.0–5.1 kWh/m2/day from solar power, and 1.78 GW from mini-hydro plants from 888 sites.

Thailand Market Breakdown

Thailand has set a sustainable energy plan to address the country's short and long-term supply and demand issues, and to secure Thailand's future energy sufficiency. Renewable Energy makes up 4.7% of Thailand's energy usage. In order to ensure energy security, the Thai government has encouraged the development of alternative and renewable energy. According to the (2012–2021) renewable energy development plan, the Ministry of Energy aims to increase the proportion of alternative energy from 4.7% up to 25 percent of the total energy consumption by 2021. The plan represents 9,208 MW of renewable electricity generation as well. The Thai government anticipates private and public investment over this time period to be U.S. $14.6 billion. Thailand still relies a great deal on imported technologies and expertise. Areas of opportunities for American companies are mainly biogas, biomass, solar, and waste-to-energy.

Market Demand

After Indonesia, Thailand is the second largest energy consumer in Southeast Asia. Thailand imports over half of its energy supply. Although 81% of energy demand is supplied by natural gas and crude oil, renewable energies and alternative energies will play a greater role in power generation for Thailand. To encourage more renewable energy projects, the government has put in place various support schemes. The government initiated the ''adder tariff'' or a special rate that state utilities pay for power from renewable sources. Renewable energy is regarded as a priority activity by the Board of Investment. Promoted projects will obtain an 8-year corporate income tax holiday and an extra 5 years of 50 percent tax reduction. Projects are also exempted from the import duty for machinery. Low interest loans are also offered for certain projects. The maximum amount granted is 50 million Thai baht (USD $1.5 million).

Best Prospects

U.S. manufacturers are considered competitive on quality, efficiency and after-sale support, and may want to concentrate their marketing efforts on the larger project developers and owners who have the financial resources to ''do the job right.'' Below are a few types of equipment where quality and efficiency are important:

- Inverters for solar PV power projects.
- Wind turbines and blades.
- Gas engines for syngas and biogas.
- Small gas turbines for syngas and biogas.
- Gas filtration and cleaning equipment for syngas and biogas.
- Control and monitoring systems/automation.
- Emissions control equipment.
- Heat exchangers and heat recovery boilers for cogeneration or tri-generation.
- New technologies from the U.S. such as plasma gasification for municipal waste.

In addition, opportunities may exist for engineering service providers, particularly for larger-scale solar and other projects where there is not as yet much local experience. Also, there is no local expertise in effectively integrating distributed and small-scale generation of multiple renewable energy generation providers into the overall power system.

Mission Goals

The mission will help U.S. companies increase their export potential to the Southeast Asian region by identifying project and sales distribution opportunities in the Philippine and Thailand renewable energy market. As such, the mission will focus on helping U.S. companies gain market intelligence, create government and business relationships, identify specific projects, and learn about financing tools offered by the Asia Development Bank, as well as have discussions regarding additional financing tools offered by the Export-Import Bank, Overseas Private Investment Corporation, the U.S. Trade & Development Agency as well as the Small Business Administration.

The mission's goals include:

- Facilitating briefings, meetings and exposure to government officials in Thailand and the Philippines, private sector contacts, as well as potential in-country partners;
- Promoting the U.S. renewable energy industry by connecting delegates of U.S. renewable companies with partners, government entities and financing opportunities;
- Helping companies receive valuable exposure to the rapidly growing, and important, renewable energy market in each country; and
- Assisting U.S. businesses increase their international reach, thus, resulting in a greater capacity to increase jobs at home to keep up with demand, thereby furthering the goals of President Obama's National Export Initiative.

Mission Scenario

Participants will attend country briefings, meet with government officials, have specialized one-on-one meetings with in-country partners,

participate in meetings with local utilities, and be briefed on the programs and opportunities with the Asia Development Bank.

The precise agenda will depend upon the availability of local government and private sector officials, as well as on the specific goals and makeup of the mission participants.

Mission Timetable

Monday, September 17, 2012—Bangkok, Thailand

Morning

—Country briefing by U.S. Embassy staff on programs and opportunities in the Thailand renewable energy sector.
—Meetings with Thailand government officials to discuss market potential and opportunities for U.S. companies.
—Briefing and meetings with Thai utility to discuss business opportunities and regulations.

Afternoon

—Pre-arranged one-on-one meetings with potential partners and government officials to discuss market opportunities.

Tuesday, September 18, 2012—Bangkok, Thailand and Manila, Philippines

—One-on-one follow-up meetings if necessary.
—Depart for Manila, Philippines

Wednesday, September 19, 2012—Manila, Philippines

—Country briefing by U.S. Embassy staff on programs and opportunities in the Philippine renewable energy sector.
—Meetings with Philippine government officials to discuss market potential and opportunities for U.S. companies.
—Briefing and meetings with officials from the Asia Development Bank to discuss programs for U.S. companies.
—Potential meetings with Philippine utility groups.
—Potential site visit.

Thursday, September 20, 2012—Manila, Philippines

—Pre-arranged one-on-one meetings with potential partners and government officials to discuss market opportunities.
—Potential site visit.

Participation Requirements

All parties interested in participating in the trade mission must complete and submit an application package for consideration by the Department of Commerce. All applicants will be evaluated, on a rolling basis, on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. A minimum of 10 and maximum of 20 companies will be selected to participate in the mission from the applicant pool.

Fees and Expenses

After a company or organization has been selected to participate on the mission, a payment to the Department of Commerce in the form of a participation fee is required. The participation fee for the Trade Mission will be $2,130.00 for a small or medium-sized firm (SME),[1] and $3,835.00 for large firms. The fee for each additional firm representative (large firm or SME/trade organization) is $850.00. Expenses for travel, lodging, meals, and incidentals will be the responsibility of each mission participant. Delegation members will be able to take advantage of U.S. Embassy rates for hotel rooms.

Exclusions

The mission fee does not include any personal travel expenses such as lodging, most meals, some local ground transportation and air transportation from the U.S. to the mission sites and return to the United States. Business visas may be required. Government fees and processing expenses to obtain such visas are also not included in the mission costs. However, the U.S. Department of Commerce will provide instructions to each participant on the procedures required to obtain necessary business visas.

Conditions for Participation

An applicant must submit a completed and signed mission application and supplemental application materials, including adequate information on the company's products and/or services, primary market objectives, and goals for participation. If the Department of Commerce receives an incomplete application, the Department may reject the application, request additional information, or take the lack of information into account when evaluating the applications.

Each applicant must also certify that the products and services it seeks to export through the mission are either produced in the United States, or, if not, marketed under the name of a U.S. firm and have at least 51 percent U.S. content of the value of the finished product or service.

Selection Criteria for Participation

- Suitability of the company's products or services to the market.
- Applicant's potential for business in Philippines and Thailand, including likelihood of exports resulting from the mission.
- Consistency of the applicant's goals and objectives with the stated scope of the mission.

Referrals from political organizations and any documents containing references to partisan political activities (including political contributions) will be removed from an applicant's submission and not considered during the selection process.

Timeline for Recruitment and Applications

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade mission calendar (*http://export.gov/trademissions*) and other Internet web sites, press releases to general and trade media, direct mail, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows. Recruitment for the mission will begin immediately and conclude no later than July 13, 2012. The U.S. Department of Commerce will review applications and make selection decisions on a rolling basis beginning in June 2012. Applications received after July 13, 2012 will be considered only if space and scheduling constraints permit.

CONTACT

Ryan Hollowell,
International Trade Specialist,
U.S. Department of Commerce,

Kornluck Tantisaeree,
Energy Commercial Specialist,
U.S. Department of Commerce,

[1] An SME is defined as a firm with 500 or fewer employees or that otherwise qualifies as a small business under SBA regulations (see *http://www.sba.gov/services/contracting opportunities/sizestandardstopics/index.html*). Parent companies, affiliates, and subsidiaries will be considered when determining business size. The dual pricing reflects the Commercial Service's user fee schedule that became effective May 1, 2008 (see *http://www.export.gov/newsletter/march2008/initiatives.html* for additional information).

CONTACT—Continued

New York USEAC, 33 Whitehall Street, 22nd Floor, New York, NY, Tel: 212–809–2678, Email: *Ryan.Hollowell@trade.gov.*	U.S. Embassy—Bangkok, Thailand, Tel: 662–205–5242, Email: *Kornluck.Tantisaeree@trade.gov.* Thess Sula, Energy Commercial Specialist, U.S. Department of Commerce, U.S. Embassy—Manila, Philippines, Tel: (632) 844–3393, Email: *Thess.Sula@trade.gov.*

Frank Spector,

Senior International Trade Specialist.

[FR Doc. 2012–16595 Filed 7–6–12; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Request for Nominations for Members To Serve on National Institute of Standards and Technology Federal Advisory Committees

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice.

SUMMARY: The National Institute of Standards and Technology (NIST) invites and requests nomination of individuals for appointment to eight existing Federal Advisory Committees: Board of Overseers of the Malcolm Baldrige National Quality Award, Judges Panel of the Malcolm Baldrige National Quality Award, Information Security and Privacy Advisory Board, Manufacturing Extension Partnership Advisory Board, National Construction Safety Team Advisory Committee, Advisory Committee on Earthquake Hazards Reduction, NIST Smart Grid Advisory Committee, and Visiting Committee on Advanced Technology. NIST will consider nominations received in response to this notice for appointment to the Committees, in addition to nominations already received. Registered Federal lobbyists may not serve on NIST Federal Advisory Committees.

DATES: Nominations for all committees will be accepted on an ongoing basis and will be considered as and when vacancies arise.

ADDRESSES: See below.

SUPPLEMENTARY INFORMATION:

Board of Overseers of the Malcolm Baldrige National Quality Award

Addresses: Please submit nominations to Harry Hertz, Director, Baldrige Performance Excellence Program, NIST, 100 Bureau Drive, Mail Stop 1020, Gaithersburg, MD 20899–1020. Nominations may also be submitted via fax to 301–975–4967. Additional information regarding the Committee, including its charter, current membership list, and executive summary, may be found at: *http://www.nist.gov/baldrige/community/overseers.cfm.*

For Further Information Contact: Harry Hertz, Director, Baldrige Performance Excellence Program and Designated Federal Officer, NIST, 100 Bureau Drive, Mail Stop 1020, Gaithersburg, MD 20899–1020; telephone 301–975–2361; fax 301–975–4967; or via email at *harry.hertz@nist.gov.*

Committee Information

The Board of Overseers of the Malcolm Baldrige National Quality Award (Board) was established in accordance with 15 U.S.C. 3711a(d)(2)(B), pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Objectives and Duties

1. The Board shall review the work of the private sector contractor(s), which assists the Director of the National Institute of Standards and Technology (NIST) in administering the Malcolm Baldrige National Quality Award (Award). The Board will make such suggestions for the improvement of the Award process as it deems necessary.

2. The Board shall make an annual report on the results of Award activities to the Director of NIST, along with its recommendations for the improvement of the Award process.

3. The Board will function solely as an advisory committee under the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

4. The Board will report to the Director of NIST.

Membership

1. The Board will consist of approximately eleven members selected on a clear, standardized basis, in accordance with applicable Department of Commerce guidance, and for their preeminence in the field of organizational performance excellence. There will be a balanced representation from U.S. service and manufacturing industries as well as from education, health care, and nonprofit. The Board will include members familiar with the quality improvement operations and competitiveness issues of manufacturing companies, service companies, small businesses, health care providers, and educational institutions. Members will also be chosen who have broad experience in for-profit and nonprofit areas.

2. Board members will be appointed by the Secretary of Commerce for three-year terms and will serve at the discretion of the Secretary. All terms will commence on March 1 and end on February 28 of the appropriate year.

Miscellaneous

1. Members of the Board shall serve without compensation, but may, upon request, be reimbursed travel expenses, including per diem, as authorized by 5 U.S.C. 5701 *et seq.*

2. The Board will meet annually, except that additional meetings may be called as deemed necessary by the NIST Director or by the Chairperson. Meetings are usually one day in duration. Historically, the Board has met twice per year.

3. Board meetings are open to the public. Board members do not have access to classified or proprietary information in connection with their Board duties.

Nomination Information

1. Nominations are sought from the private and public sector as described above.

2. Nominees should have established records of distinguished service and shall be familiar with the quality improvement operations of manufacturing companies, service companies, small businesses, educational institutions, health care providers, and nonprofits. The category (field of eminence) for which the

candidate is qualified should be specified in the nomination letter. Nominations for a particular category should come from organizations or individuals within that category. A summary of the candidate's qualifications should be included with the nomination, including (where applicable) current or former service on Federal advisory boards and Federal employment. In addition, each nomination letter should state that the person agrees to the nomination, acknowledges the responsibilities of serving on the Board, and will actively participate in good faith in the tasks of the Board. Besides participation at meetings, it is desired that members be able to devote the equivalent of seven days between meetings to either developing or researching topics of potential interest, and so forth, in furtherance of their Board duties.

3. The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad-based and diverse Board membership.

Judges Panel of the Malcolm Baldrige National Quality Award

Addresses: Please submit nominations to Harry Hertz, Director, Baldrige Performance Excellence Program, NIST, 100 Bureau Drive, Mail Stop 1020, Gaithersburg, MD 20899–1020. Nominations may also be submitted via fax to 301–975–4967. Additional information regarding the Committee, including its charter, current membership list, and executive summary, may be found at: *http://patapsco.nist.gov/BoardofExam/Examiners_Judge2.cfm.*

For Further Information Contact: Harry Hertz, Director, Baldrige Performance Excellence Program and Designated Federal Official, NIST, 100 Bureau Drive, Mail Stop 1020, Gaithersburg, MD 20899–1020; telephone 301–975–2361; fax 301–975–4967; or via email at *harry.hertz@nist.gov.*

Committee Information

The Judges Panel of the Malcolm Baldrige National Quality Award (Panel) was established in accordance with 15 U.S.C. 3711a(d)(1) and the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Objectives and Duties

1. The Panel will ensure the integrity of the Malcolm Baldrige National Quality Award (Award) selection process. Based on a review of results of examiners' scoring of written applications, Panel members will vote on which applicants merit site visits by examiners to verify the accuracy of quality improvements claimed by applicants.

2. The Panel will ensure that individual judges will not participate in the review of applicants as to which they have any potential conflict of interest. The Panel will also review recommendations from site visits, and recommend Award recipients.

3. The Panel will function solely as an advisory body, and will comply with the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

4. The Panel will report to the Director of NIST.

Membership

1. The Panel is composed of approximately nine, and not more than twelve, members selected on a clear, standardized basis, in accordance with applicable Department of Commerce guidance. There will be a balanced representation from U.S. service, manufacturing, nonprofit, education, and health care industries. The Panel will include members familiar with the quality improvement operations and competitiveness issues of manufacturing companies, service companies, small businesses, health care providers, and educational institutions. Members will also be chosen who have broad experience in for-profit and nonprofit areas.

2. Panel members will be appointed by the Secretary of Commerce for three-year terms and will serve at the discretion of the Secretary. All terms will commence on March 1 and end on February 28 of the appropriate year.

Miscellaneous

1. Members of the Panel shall serve without compensation, but may, upon request, be reimbursed travel expenses, including per diem, as authorized by 5 U.S.C. 5701 *et seq.*

2. The Panel will meet three times per year. Additional meetings may be called as deemed necessary by the NIST Director or by the Chairperson. Meetings are usually one to four days in duration. In addition, each Judge must attend an annual three-day Examiner training course.

3. When approved by the Department of Commerce Chief Financial Officer and Assistant Secretary for Administration, Panel meetings are closed to the public.

Nomination Information

1. Nominations are sought from all U.S. service and manufacturing industries, education, health care, and nonprofits as described above.

2. Nominees should have established records of distinguished service and shall be familiar with the quality improvement operations of manufacturing companies, service companies, small businesses, educational institutions, health care providers, and nonprofit organizations. The category (field of eminence) for which the candidate is qualified should be specified in the nomination letter. Nominations for a particular category should come from organizations or individuals within that category. A summary of the candidate's qualifications should be included with the nomination, including (where applicable) current or former service on federal advisory boards and federal employment. In addition, each nomination letter should state that the person agrees to the nomination, acknowledges the responsibilities of serving on the Panel, and will actively participate in good faith in the tasks of the Panel. Besides participation at meetings, it is desired that members be either developing or researching topics of potential interest, reading Baldrige applications, and so forth, in furtherance of their Panel duties.

3. The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad-based and diverse Panel membership.

Information Security and Privacy Advisory Board (ISPAB)

Addresses: Please submit nominations to Annie Sokol, NIST, 100 Bureau Drive, Mail Stop 8930, Gaithersburg, MD 20899–8930. Nominations may also be submitted via fax to 301–975–8670, Attn: ISPAB Nominations. Additional information regarding the ISPAB, including its charter and current membership list, may be found on its electronic home page at: *http://csrc.nist.gov/ispab/.*

For Further Information Contact: Annie Sokol, ISPAB Designated Federal Official, NIST, 100 Bureau Drive, Mail Stop 8930, Gaithersburg, MD 20899–8930; telephone 301–975–2006; fax: 301–975–8670; or via email at *annie.sokol@nist.gov.*

Committee Information

The ISPAB was originally chartered as the Computer System Security and Privacy Advisory Board (CSSPAB) by the Department of Commerce pursuant to the Computer Security Act of 1987 (Pub. L. 100–235). The Federal Information Security Management Act of 2002 (Pub. L. 107–347, Title III), amended Section 21 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–4), including

changing the committee's name, and the charter was amended accordingly.

Objectives and Duties

The objectives and duties of the ISPAB are:

1. To identify emerging managerial, technical, administrative, and physical safeguard issues relative to information security and privacy.
2. To advise NIST, the Secretary of Commerce, and the Director of the Office of Management and Budget on information security and privacy issues pertaining to Federal government information systems, including thorough review of proposed standards and guidelines developed by NIST.
3. To annually report its findings to the Secretary of Commerce, the Director of the Office of Management and Budget, the Director of the National Security Agency, and the appropriate committees of the Congress.
4. To function solely as an advisory body, in accordance with the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Membership

The Director of NIST will appoint the members of the ISPAB, and members serve at the discretion of the Secretary of Commerce. Members will be selected on a clear, standardized basis, in accordance with applicable Department of Commerce guidance. The ISPAB is comprised of twelve members, in addition to the Chairperson. The membership of the Board includes:

1. Four members from outside the Federal Government eminent in the technology industries, at least one of whom is representative of small or medium sized companies in such industries.
2. Four members from outside the Federal Government who are eminent in the field of information technology, or related disciplines, but who are not employed by or representative of a producer of information technology; and
3. Four members from the Federal Government who have information system management experience, including experience in information security and privacy, at least one whom shall be from the National Security Agency.

Miscellaneous

Members of the ISPAB who are not full-time employees of the Federal Government are not paid for their service, but will, upon request, be allowed travel expenses in accordance with 5 U.S.C. 5701 *et seq.,* while otherwise performing duties at the request of the ISPAB Chairperson, while away from their homes or a regular place of business.

Meetings of the ISPAB are usually two to three days in duration and are usually held quarterly. ISPAB meetings are open to the public and members of the press usually attend. Members do not have access to classified or proprietary information in connection with their ISPAB duties.

Nomination Information

Nominations are being accepted in all three categories described above.

Nominees should have specific experience related to information security or privacy issues, particularly as they pertain to Federal information technology. Letters of nomination should include the category of membership for which the candidate is applying and a summary of the candidate's qualifications for that specific category. Also include (where applicable) current or former service on Federal advisory boards and any Federal employment. Each nomination letter should state that the person agrees to the nomination, acknowledges the responsibilities of serving on the ISPAB, and that they will actively participate in good faith in the tasks of the ISPAB.

Besides participation at meetings, it is desired that members be able to devote a minimum of two days between meetings to developing draft issue papers, researching topics of potential interest, and so forth in furtherance of their ISPAB duties.

Selection of ISPAB members will not be limited to individuals who are nominated. Nominations that are received and meet the requirements will be kept on file to be reviewed as ISPAB vacancies occur.

Nominees must be U.S. citizens.

The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad-based and diverse ISPAB membership.

Manufacturing Extension Partnership (MEP) Advisory Board

Addresses: Please submit nominations to Ms. Karen Lellock, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 4800, Gaithersburg, MD 20899–4800. Nominations may also be submitted via fax to 301–963–6556. Additional information regarding the Board, including its charter may be found on its electronic home page at: *http://www.nist.gov/mep/advisory-board.cfm.*

For Further Information Contact: Ms. Karen Lellock, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 4800, Gaithersburg, MD 20899–4800; telephone 301–975–4269, fax 301–963–6556; or via email at *karen.lellock@nist.gov.*

Committee Information

The MEP Advisory Board (Board) is authorized under Section 3003(d) of the America COMPETES Act (Pub. L. 110–69) in accordance with the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Objectives and Duties

1. The Board will provide advice on MEP programs, plans, and policies.
2. The Board will assess the soundness of MEP plans and strategies.
3. The Board will assess current performance against MEP program plans.
4. The Board will function solely in an advisory capacity, and in accordance with the provisions of the Federal Advisory Committee Act.
5. The Board shall transmit an annual report through the NIST Director to the Secretary of Commerce for transmittal to Congress within 30 days after the submission to Congress of the President's annual budget request each year. The report will address the status of the MEP and comment on the relevant sections of the programmatic planning document and updates thereto transmitted to Congress by the Director under 15 U.S.C. 278i(c) and (d).

Membership

1. The Board shall consist of 10 members, broadly representative of stakeholders, appointed by the NIST Director. At least 2 members shall be employed by or on an advisory board for the MEP Centers, and at least 5 other members shall be from U.S. small businesses in the manufacturing sector. No member shall be an employee of the Federal Government.
2. The Director of the National Institute of Standards and Technology (NIST) shall appoint the members of the Board. Members shall be selected on a clear, standardized basis, in accordance with applicable Department of Commerce guidance. Members serve at the discretion of the NIST Director.
3. Committee members from the manufacturing industry and those representing specific stakeholder groups shall serve in a representative capacity. Committee members from the academic community shall serve as experts, will be considered Special Government Employees (SGEs), and will be subject to all ethical standards and rules applicable to SGEs.
4. The term of office of each member of the Board shall be three years, except that vacancy appointments shall be for the remainder of the unexpired term of

the vacancy. Any person who has completed two consecutive full terms of service on the Board shall be ineligible for a third term during the one year period following the expiration of the second term.

Miscellaneous

1. Members of the Board will not be compensated for their services but will, upon request, be allowed travel and per diem expenses as authorized by 5 U.S.C. 5701 *et seq.,* while attending meetings of the Board or subcommittees thereof, or while otherwise performing duties at the request of the Chair, while away from their homes or regular places of business.

2. The Board will meet at least two times a year. Additional meetings may be called by the NIST Director.

3. Committee meetings are open to the public.

Nomination Information

Nominations are being accepted in all categories described above.

Nominees should have specific experience related to manufacturing and industrial extension services. Letters of nomination should include the category of membership for which the candidate is applying and a summary of the candidate's qualifications for that specific category. Each nomination letter should state that the person agrees to the nomination and acknowledges the responsibilities of serving on the MEP Advisory Board.

Selection of MEP Advisory Board members will not be limited to individuals who are nominated. Nominations that are received and meet the requirements will be kept on file to be reviewed as Board vacancies occur.

The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad-based and diverse MEP Advisory Board membership.

National Construction Safety Team Advisory Committee

Addresses: Please submit nominations to Eric Letvin, National Construction Safety Team Advisory Committee, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 8611, Gaithersburg, MD 20899–8611. Nominations may also be submitted via fax to 301–975–4032. Additional information regarding the committee, including its charter may be found on its electronic home page at: *http://www.nist.gov/el/disasterstudies/ncst.*

For Further Information Contact: Eric Letvin, National Construction Safety Team Advisory Committee, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 8611, Gaithersburg, MD 20899–8611, telephone 301–975–5412, fax 301–975–4032; or via email at *eric.letvin@nist.gov.*

Committee Information

The National Construction Safety Team Advisory Committee (Committee) was established in accordance with the National Construction Safety Team Act, Pub. L. 107–231 and the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Objectives and Duties

1. The Committee shall advise the Director of the National Institute of Standards and Technology (NIST) on carrying out the National Construction Safety Team Act (Act), review and provide advice on the procedures developed under section 2(c)(1) of the Act, and review and provide advice on the reports issued under section 8 of the Act.

2. The Committee functions solely as an advisory body, in accordance with the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

3. The Committee shall report to the Director of NIST.

4. On January 1 of each year, the Committee shall transmit, through the Director of the NIST Engineering Laboratory (EL) and the Director of NIST to the Secretary of Commerce, for submission to the Committee on Science and Technology of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate a report that includes: (1) An evaluation of National Construction Safety Team activities, along with recommendations to improve the operation and effectiveness of National Construction Safety Teams, and (2) an assessment of the implementation of the recommendations of the National Construction Safety Teams and of the advisory committee.

Membership

1. The Committee shall consist of not fewer than five nor more than ten members. Members shall reflect a balance of the wide diversity of technical disciplines and competencies involved in the National Construction Safety Teams investigations. Members shall be selected on the basis of established records of distinguished service in their professional community and their knowledge of issues affecting the National Construction Safety Teams.

2. The Director of the NIST shall appoint the members of the Committee, and they will be selected on a clear, standardized basis, in accordance with applicable Department of Commerce guidance.

Miscellaneous

1. Members of the Committee will not be compensated for their services but will be reimbursed, upon request, for travel and per diem expenses in accordance with 5 U.S.C. 5701 *et seq.,* while attending meetings of the Committee or of its subcommittees, or while otherwise performing duties at the request of the Chair, while away from their homes or a regular place of business.

2. Members of the Committee shall serve as Special Government Employees (SGEs), will be subject to the ethics standards applicable to SGEs, and are required to file an annual Executive Branch Confidential Financial Disclosure Report.

3. The Committee shall meet at least once per year at the call of the Chair. Additional meetings may be called whenever one-third or more of the members so request it in writing or whenever the Chair or the Director of NIST requests a meeting.

Nomination Information

1. Nominations are sought from industry and other communities having an interest in the National Construction Safety Teams investigations.

2. Nominees should have established records of distinguished service. The field of expertise that the candidate represents should be specified in the nomination letter. Nominations for a particular field should come from organizations or individuals within that field. A summary of the candidate's qualifications should be included with the nomination, including (where applicable) current or former service on federal advisory boards and federal employment. In addition, each nomination letter should state that the nominee agrees to the nomination, acknowledges the responsibilities of serving on the Committee, and will actively participate in good faith in the tasks of the Committee.

3. The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad-based and diverse Committee membership.

Advisory Committee on Earthquake Hazards Reduction (ACEHR)

Addresses: Please submit nominations to Tina Faecke, Management and Program Analyst, National Earthquake Hazards Reduction Program, National

Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 8604, Gaithersburg, MD 20899–8604. Nominations may also be submitted via fax to 301–975–4032 or email at *tina.faecke@nist.gov.* Additional information regarding the Committee, including its charter and executive summary may be found on its electronic home page at: *http://www.nehrp.gov.*

For Further Information Contact: Jack Hayes, Director, National Earthquake Hazards Reduction Program, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 8604, Gaithersburg, MD 20899–8604, telephone 301–975–5640, fax 301–975–4032; or via email at *jack.hayes@nist.gov.*

Committee Information

The Advisory Committee on Earthquake Hazards Reduction (Committee) was established on June 27, 2006 in accordance with the National Earthquake Hazards Reduction Program Reauthorization Act, Public Law 108–360 and the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Objectives and Duties

1. The Committee will act in the public interest to assess trends and developments in the science and engineering of earthquake hazards reduction, effectiveness of the National Earthquake Hazards Reduction Program in carrying out the activities under section (a)(2) of the Earthquake Hazards Reduction Act of 1977, as amended, (42 U.S.C. 7704(b)(a)(2)), the need to revise the Program, the management, coordination, implementation, and activities of the Program.

2. The Committee will function solely as an advisory body, in accordance with the provisions of the Federal Advisory Committee Act.

3. The Committee shall report to the Director of NIST.

4. Not later than one year after the date of enactment of the National Earthquake Hazards Reduction Program Reauthorization Act of 2004, and at least once every two years thereafter, the Committee shall report to the Director of NIST, on its findings of the assessments and its recommendations for ways to improve the Program. In developing recommendations, the Committee shall consider the recommendations of the United States Geological Survey (USGS) Scientific Earthquake Studies Advisory Committee (SESAC).

Membership

1. The Committee shall consist of not fewer than 11, nor more than 17 members. Members shall reflect the wide diversity of technical disciplines, competencies, and communities involved in earthquake hazards reduction. Members shall be selected on the basis of established records of distinguished service in their professional community and their knowledge of issues affecting the National Earthquake Hazards Reduction Program.

2. The Director of NIST shall appoint the members of the Committee. Members shall be selected on a clear, standardized basis, in accordance with applicable Department of Commerce guidance.

3. The term of office of each member of the Committee shall be three years, except that vacancy appointments shall be for the remainder of the unexpired term of the vacancy and that members shall have staggered terms such that the Committee will have approximately one-third new or reappointed members each year.

4. No Committee member may be an ''employee'' as defined in subparagraphs (A) through (F) of section 7342(a)(1) of Title 5 of the United States Code.

Miscellaneous

1. Members of the Committee shall not be compensated for their services, but may, upon request, be allowed travel and per diem expenses in accordance with 5 U.S.C. 5701 *et seq.,* while attending meetings of the Committee or of its subcommittees thereof, or while otherwise performing duties at the request of the Chair, while away from their homes or regular places of business.

2. Members of the Committee shall serve as Special Government Employees (SGEs), will be subject to the ethics standards applicable to SGEs, and are required to file an annual Executive Branch Confidential Financial Disclosure Report.

3. The Committee shall meet face-to-face at least once per year. Additional meetings may be called whenever requested by the NIST Director or the Chair; such meetings may be in the form of telephone conference calls and/or videoconferences.

4. Committee meetings are open to the public.

Nomination Information

1. Nominations are sought from industry and other communities having an interest in the National Earthquake Hazards Reduction Program, such as, but not limited to, research and academic institutions, industry standards development organizations, state and local government bodies, and financial communities, who are qualified to provide advice on earthquake hazards reduction and represent all related scientific, architectural, and engineering disciplines.

2. Nominees should have established records of distinguished service. The field of expertise that the candidate represents should be specified in the nomination letter. Nominations for a particular field should come from organizations or individuals within that field. A summary of the candidate's qualifications should be included with the nomination, including (where applicable) current or former service on federal advisory boards and federal employment. In addition, each nomination letter should state that the nominee agrees to the nomination, acknowledges the responsibilities of serving on the Committee, and will actively participate in good faith in the tasks of the Committee.

3. The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad-based and diverse Committee membership.

NIST Smart Grid Advisory Committee

Addresses: Please submit nominations to Dr. George W. Arnold, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 8200, Gaithersburg, MD 20899–8200. Nominations may also be submitted via email to *nistsgfac@nist.gov.* Information about the committee may be found at: *http://www.nist.gov/smartgrid/committee.cfm.*

For Further Information Contact: Dr. George W. Arnold, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 8200, Gaithersburg, MD 20899–8200; telephone 301–975–2232, fax 301–975–4091; or via email at nistsgfac@nist.gov.

Committee Information

The Smart Grid Advisory Committee (Committee) was established in accordance with the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Objectives and Duties

1. The Committee shall advise the Director of the National Institute of Standards and Technology (NIST) on carrying out duties authorized by section 1305 of the Energy Independence and Security Act of 2007 (Pub. L. 110–140).

2. The Committee functions solely as an advisory body in accordance with the provisions of the Federal Advisory Committee Act.

3. The Committee shall report to the Director of NIST.

4. The Committee shall provide input to NIST on the Smart Grid Standards, Priorities, and Gaps. The Committee shall provide input on the overall direction, status and health of the Smart Grid implementation by the Smart Grid industry, including identification of issues and needs. The Committee shall provide input to NIST on Smart Grid Interoperability Panel activities and on the direction of research and standards activities.

5. Upon request of the Director of NIST, the Committee will prepare reports on issues affecting Smart Grid activities.

Membership

1. The Committee shall consist of no less than 10 and no more than 15 members. Members shall reflect the wide diversity of technical disciplines and competencies involved in the Smart Grid deployment and operations and will come from a cross section of organizations. Members shall be selected on the basis of established records of distinguished service in their professional community and their knowledge of issues affecting Smart Grid deployment and operations.

2. The Director of NIST shall appoint the members of the Committee, and they will be selected on a clear, standardized basis, in accordance with applicable Department of Commerce guidance.

Miscellaneous

1. Members of the Committee shall not be compensated for their services, but will, upon request, be allowed travel and per diem expenses, in accordance with 5 U.S.C. 5701 *et seq.,* while attending meetings of the Committee or subcommittees thereof, or while otherwise performing duties at the request of the Chair, while away from their homes or regular places of business.

2. The Committee shall meet approximately two times per year at the call of the Designated Federal Officer (DFO). Additional meetings may be called by the DFO whenever one-third or more of the members so request in writing or whenever the Director of NIST requests a meeting.

Nomination Information

1. Nominations are sought from all fields involved in issues affecting the Smart Grid.

2. Nominees should have established records of distinguished service. The field of expertise that the candidate represents should be specified in the nomination letter. Nominations for a particular field should come from organizations or individuals within that field. A summary of the candidate's qualifications should be included with the nomination, including (where applicable) current or former service on federal advisory boards and federal employment. In addition, each nomination letter should state that the person agrees to the nomination, acknowledges the responsibilities of serving on the Committee, and will actively participate in good faith in the tasks of the Committee. The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad-based and diverse Committee membership.

Authority: Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Visiting Committee on Advanced Technology (VCAT or Committee)

Addresses: Please submit nominations to Gail Ehrlich, Executive Director, Visiting Committee on Advanced Technology, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 1060, Gaithersburg, MD 20899–1060. Nominations may also be submitted via fax to 301–216–0529 or via email at *gail.ehrlich@nist.gov.* Additional information regarding the Committee, including its charter, current membership list, and executive summary may be found on its electronic homepage at: *http://www.nist.gov/director/vcat/vcat.htm.*

For Further Information Contact: Gail Ehrlich, Executive Director, Visiting Committee on Advanced Technology, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 1060, Gaithersburg, MD 20899–1060, telephone 301–975–2149, fax 301–216–0529; or via email at *gail.ehrlich@nist.gov.*

Committee Information

The VCAT was established in accordance with 15 U.S.C. 278 and the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Objectives and Duties

1. The Committee shall review and make recommendations regarding general policy for NIST, its organization, its budget, and its programs, within the framework of applicable national policies as set forth by the President and the Congress.

2. The Committee will function solely as an advisory body, in accordance with the provisions of the Federal Advisory Committee Act.

3. The Committee shall report to the Director of NIST.

4. The Committee shall provide an annual report, through the Director of NIST, to the Secretary of Commerce for submission to the Congress not later than 30 days after the submittal to Congress of the President's annual budget request in each year. Such report shall deal essentially, though not necessarily exclusively, with policy issues or matters which affect NIST, or with which the Committee in its official role as the private sector policy advisor of NIST is concerned. Each such report shall identify areas of program emphasis for NIST of potential importance to the long-term competitiveness of the United States industry. Each such report shall identify areas of program emphasis for NIST of potential importance to the long-term competitiveness of United States industry. Such report also shall comment on the programmatic planning document and updates thereto submitted to Congress by the Director under subsections (c) and (d) of section 23 of the NIST Act (15 U.S.C. 278i). The Committee shall submit to the Secretary and Congress such additional reports on specific policy matters as it deems appropriate.

Membership

1. The Committee shall consist of fifteen members. Members shall be selected solely on the basis of established records of distinguished service; shall provide representation of a cross-section of traditional and emerging United States industries; and shall be eminent in such fields as business, research, new product development, engineering, labor, education, management consulting, environment, and international relations. No employee of the Federal Government shall serve as a member of the Committee.

2. The Director of the NIST shall appoint the members of the Committee. Members shall be selected on a clear, standardized basis, in accordance with applicable Department of Commerce guidance.

3. The term of the office of each member of the Committee shall be three years, except that vacancy appointments shall be for the remainder of the unexpired term of the vacancy.

Miscellaneous

1. Members of the VCAT will not be compensated for their services, but will, upon request, be allowed travel expenses in accordance with 5 U.S.C. 5701 *et seq.,* while attending meetings of the Committee or of its subcommittees, or while otherwise performing duties at the request of the

chairperson, while away from their homes or a regular place of business.

2. Members of the Committee shall serve as Special Government Employees (SGEs) and will be subject to the ethics standards applicable to SGEs. As SGEs, the members are required to file an annual Executive Branch Confidential Financial Disclosure Report.

3. Meetings of the VCAT usually take place at the NIST headquarters in Gaithersburg, Maryland, and may be held periodically at the NIST site in Boulder, Colorado. Meetings are usually two days in duration and are held at least twice each year.

4. Generally, Committee meetings are open to the public.

Nomination Information

1. Nominations are sought from all fields described above.

2. Nominees should have established records of distinguished service and shall be eminent in fields such as business, research, new product development, engineering, labor, education, management consulting, environment and international relations. The category (field of eminence) for which the candidate is qualified should be specified in the nomination letter. Nominations for a particular category should come from organizations or individuals within that category. A summary of the candidate's qualifications should be included with the nomination, including (where applicable) current or former service on federal advisory boards and federal employment. In addition, each nomination letter should state that the candidate agrees to the nomination, acknowledges the responsibilities of serving on the VCAT, and will actively participate in good faith in the tasks of the VCAT. Besides participation in two-day meetings held at least twice each year, it is desired that members be able to devote the equivalent of two days between meetings to either developing or researching topics of potential interest, and so forth in furtherance of the Committee duties.

3. The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad-based and diverse VCAT membership.

Dated: July 2, 2012.

Willie E. May,

Associate Director for Laboratory Programs.

[FR Doc. 2012–16722 Filed 7–6–12; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 120608158–2158–01]

Announcing Revised Draft Federal Information Processing Standard (FIPS) 201–2, Personal Identity Verification (PIV) of Federal Employees and Contractors, Request for Comments, and Public Workshop on Revised Draft FIPS 201–2

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice and request for comments.

SUMMARY: The National Institute of Standards and Technology (NIST) announces the Revised Draft Federal Information Processing Standard (FIPS) Publication 201–2, ''Personal Identity Verification of Federal Employees and Contractors,'' for public review and comment. The draft standard, designated ''Revised Draft FIPS 201–2,'' is proposed to supersede FIPS 201–1. NIST will hold a public workshop at NIST in Gaithersburg, Maryland, to present the Revised Draft FIPS 201–2. Please see admittance instructions in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Comments must be received by Friday, August 10, 2012. The public workshop will be held on Wednesday, July 25, 2012. Preregistration must be completed by 5:00 p.m. Eastern Time on Wednesday, July 18, 2012.

ADDRESSES: Written comments may be sent to: Chief, Computer Security Division, Information Technology Laboratory, ATTN: Comments on Revised Draft FIPS 201–2, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 8930, Gaithersburg, MD 20899–8930. Electronic comments may be sent to: *piv_comments@nist.gov*. Anyone wishing to attend the workshop in person, must pre-register at *http://www.nist.gov/allevents.cfm*. Additional workshop details and webcast will be available on the NIST Computer Security Resource Center Web site at *http://csrc.nist.gov*.

FOR FURTHER INFORMATION CONTACT: Hildegard Ferraiolo, (301) 975–6972, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 8930, Gaithersburg, MD 20899–8930, email: *hildegard.ferraiolo@nist.gov,* or David Cooper, (301) 975–3194, email: *david.cooper@nist.gov*.

SUPPLEMENTARY INFORMATION: FIPS 201 was issued on April 8, 2005 (70 FR 17975), and in accordance with NIST policy was due for review in 2010. In consideration of technological advancement over the last five years and specific requests for changes from United States Government (USG) stakeholders, NIST determined that a revision of FIPS 201–1 (version in effect) was warranted. NIST received numerous change requests, some of which, after analysis and coordination with Office of Management and Budget (OMB) and USG stakeholders, were incorporated in the Draft FIPS 201–2. Other change requests incorporated in the Draft FIPS 201–2 resulted from the 2010 Business Requirements Meeting held at NIST. The meeting focused on business requirements of federal departments and agencies. On March 8, 2011, a notice was published in the **Federal Register** (76 FR 12712), soliciting public comments on a proposed revision of FIPS 201–1 (hereafter referred to as the ''2011 Draft''). During the public comment period, a public workshop was held at NIST on April 18–19, 2011, in order to present the 2011 Draft. NIST developed the Revised Draft FIPS 201–2 that is announced in this notice using the comments received in response to the March 8, 2011, notice.

Comments and questions regarding the 2011 Draft were submitted by 46 entities, composed of 25 U.S. federal government organizations, two state government organizations, one foreign government organization, 16 private sector organizations, and two private individuals. These comments have all been made available by NIST at *http://csrc.nist.gov*. None of the commenters opposed the approval of a revised standard. Some commenters asked for clarification of the text of the standard and/or recommended editorial and/or formatting changes. Other commenters suggested modifying the requirements. All of the suggestions, questions, and recommendations within the scope of this FIPS were carefully reviewed, and changes were made to the standard, where appropriate. Some commenters submitted questions or raised issues that were related but outside the scope of this FIPS. Comments that were outside the scope of this FIPS, but that were within the scope of one of the related Special Publications, were deferred for later consideration in the context of the revisions to the supporting Special Publications. The disposition of each comment that was received has been provided along with the comments at *http://csrc.nist.gov*.

The following is a summary and analysis of the comments received during the public comment period and NIST's responses to them:

Comment: Seven commenters stated that the document should be reorganized since it includes logical card characteristics in the section on physical card characteristics and it does not describe the requirements for the collection of biometric data until long after references to the biometric data are first made.

Response: Requirements for the collection of biometric data and recommendations for the maintenance of a chain-of-trust have been moved from Section 4 to the beginning of Section 2. Section 4 has also been reorganized to separate the requirements for the logical card characteristics from the requirements for the physical card characteristics.

Comment: The 2011 Draft proposed a secure messaging capability. Six commenters indicated that the proposed secure messaging capability needs to be enhanced in order to permit all functionality of the PIV Card to be accessible over the contactless interface of the card.

Response: The Revised Draft FIPS 201–2 introduces the concept of a *virtual contact interface,* over which all functionality of the PIV Card is accessible.

Comment: Seven commenters indicated that the standard needs to accommodate the Federal Government's movement towards mobile devices and permit the issuance of PIV Cards that have form factors other than the current International Organization for Standardization (ISO)/International Electrotechnical Commission (IEC) 7810 (credit-card) form factor.

Response: The Revised Draft FIPS 201–2 continues to require every cardholder to be issued an ISO/IEC 7810 form factor PIV Card, but it introduces the ability to issue PIV derived credentials, which may be provisioned to devices other than an ISO/IEC 7810 form factor.

Comment: The 2011 Draft introduced iris images as an alternative to fingerprints for individuals from whom fingerprints cannot be collected. Three commenters suggested that the use of iris as an alternative is an undue burden. Six commenters noted that the 2011 Draft is unclear about how to address applicants from whom neither fingerprints nor iris images can be obtained.

Response: The Revised Draft FIPS 201–2 makes collection of iris images optional. During PIV Card issuance and maintenance processes a one-to-one biometric match is required. However, the Revised Draft FIPS 201–2 permits the use of automated iris or facial image matching when fingerprints are unavailable. In cases where iris or facial image data is not available or where the issuer does not support automated biometric comparison based on these types of biometrics, identity source documents may be used to verify the identity of the applicant or cardholder.

Comment: Twelve comments addressed the Lightweight Directory Access Protocol (LDAP) as a means to distribute certificates and Certificate Revocation Lists (CRLs). These comments indicated that LDAP is not used and the Hypertext Transfer Protocol (HTTP) is now considered the preferred option to distribute certificates and Certificate Revocation Lists (CRLs).

Response: The Revised Draft FIPS 201–2 removes the requirement to distribute certificates and CRLs via LDAP, but continues to require conformance to the ''X.509 Certificate and Certificate Revocation List (CRL) Extensions Profile for the Shared Service Provider (SSP) Program,'' which can be updated as necessary to account for changes in technology.

Comment: Ten comments indicated that the requirements for issuing PIV Cards to applicants during the grace period are unclear and appear to conflict with guidance from the Office of Personnel Management (OPM) with respect to requirements for background re-investigations.

Response: The section describing the grace period has been rewritten to clarify the requirements and to make it clear that background re-investigations only need to be performed if required, in accordance with OPM guidance.

Comment: Twelve commenters noted that the difference between reissuance and renewal of PIV Cards is unclear.

Response: The Revised Draft FIPS 201–2 indicates that PIV Card renewal applies when a valid PIV Card is replaced with a new card and that PIV Card reissuance applies when a new PIV Card is issued to replace a lost, stolen, or damaged card. PIV Card reissuance also applies when a card is replaced because one or more of its logical credentials have been compromised.

Comment: Four commenters indicated that Federal agencies should be able to perform Personal Identification Number (PIN) resets without requiring cardholders to appear in person before a card issuer. It is unclear whether remote resets are permitted in the 2011 Draft.

Response: The requirements for resetting PINs have been rewritten in the Revised Draft FIPS 201–2. The Revised Draft FIPS 201–2 specifies different requirements for resetting a PIN depending on whether the PIN is reset in-person at an issuer's facility, at an unattended issuer-operated kiosk, or remotely from a general computing platform (e.g., desktop or laptop).

Comment: FIPS 201–1 and the 2011 Draft describe two very weak authentication mechanisms as providing some assurance in the identity of the cardholder: Visual inspection of the PIV Card by a human guard (VIS) and reading the cardholder unique identifier from the card (CHUID). Fifteen comments were received about the CHUID and VIS authentication mechanisms indicating that the use of these two authentication mechanisms should be deprecated.

Response: The Revised Draft FIPS 201–2 states that the VIS and CHUID authentication mechanisms provide little or no assurance in the identity of the cardholder. The Revised Draft FIPS 201–2 also deprecates the use of the CHUID authentication mechanism.

Comment: The 2011 Draft defines some authentication mechanisms that may be difficult or impossible for individuals with certain disabilities to perform. Three commenters noted that the 2011 Draft does not clearly indicate what departments and agencies need to do to accommodate individuals with disabilities.

Response: The processes for issuing, reissuing, renewing, and resetting PIV Cards have been updated to include new options for authenticating the cardholder in the case that authentication cannot be performed using a match of either fingerprints or iris images. While Revised Draft FIPS 201–2 describes authentication mechanisms that can be implemented using the PIV Card, which may be used to authenticate individuals who are attempting to gain physical access to federally controlled facilities or logical access to federally controlled information systems, it is the responsibility of departments and agencies developing access control systems to choose the authentication mechanisms that are appropriate for their systems. The Revised Draft FIPS 201–2 includes a reminder to departments and agencies that when implementing PIV systems they should consider provisions to accommodate employees and contractors with disabilities in accordance with Section 508 of the Rehabilitation Act.

Comment: Information about card topography is currently split between the 2011 Draft and NIST Special Publication 800–104, *A Scheme for PIV Visual Card Topography*. Three

commenters noted that it would be clearer if all of this information is consolidated in one document.

Response: All of the information from Special Publication 800–104 has been incorporated into the Revised Draft FIPS 201–2, and Special Publication 800–104 will be withdrawn after FIPS 201–2 has been approved. As a result of incorporating Special Publication 800–104 into Revised Draft FIPS 201–2, the employee affiliation color-coding and the large expiration date in the upper right-hand corner of the card are now mandatory. Revised Draft FIPS 201–2 also now states that the ''Federal Emergency Response Official'' indicator or country of citizenship information, when present, shall be indicated at the bottom of the card.

Comment: Three commenters noted that there is no information on adoption/migration between versions of FIPS 201 and that guidance is needed to distinguish which version of FIPS 201 was used to issue a given card. Seven commenters also pointed out that guidance is needed on the adoption/migration of new features.

Response: The version management for PIV Cards and middleware will be addressed in revisions to Special Publication 800–73, *Interfaces for Personal Identity Verification*. New features of FIPS 201–2 that depend upon the release of new or revised NIST Special Publications are effective immediately upon final publication of the supporting Special Publication. A timetable to achieve compliance with FIPS 201–2 has been coordinated with OMB and is included in the Revised Draft FIPS 201–2.

Comment: One commenter noted that the chain-of-trust introduces a new requirement that is cost-prohibitive to implement.

Response: The chain-of-trust is optional in the Revised Draft FIPS 201–2. The concept of chain-of-trust was requested by federal agencies as a cost savings measure that streamlines current practices for issuance, reissuance, and renewal procedures. Agencies can use their internally defined enrollment data records as the means to implement the chain-of-trust. The Revised Draft FIPS 201–2 only requires specific formats and structures for the import and export of chain-of-trust records for agencies choosing to implement interagency transfer of enrollment data records.

Comment: Six commenters noted that it is unclear what type of data is part of the chain-of-trust records.

Response: In the Revised Draft FIPS 201–2, the section describing the chain-of-trust includes recommendations for the type of data to be collected and included in the chain-of-trust.

Comment: Five commenters noted that in addition to printing the facial image on the card, most issuers today also store the facial image electronically in the chip on the card. FIPS 201–2 should make this mandatory in order to provide a low cost alternative for cardholder identification and authentication.

Response: As requested by federal agencies, Revised Draft FIPS 201–2 defines the facial image as part of HSPD–12 ''common identification'' credential by including it as one of the core mandatory logical credentials of the PIV Card. The digital signature key and key management key are also included as core mandatory credentials of the PIV card. These additional changes were requested by OMB in order to align the Revised Draft FIPS 201–2 with the *Federal Identity, Credential, and Access Management (FICAM) Roadmap and Implementation Guidance*.

Comment: Seven commenters requested that the Universally Unique Identifier (UUID) be made mandatory for interoperability between PIV and PIV-Interoperable (PIV–I) ecosystems.

Response: In response to the many similar comments, the Revised Draft FIPS 201–2 specifies the UUID as a mandatory unique identifier for the PIV Card, in addition to the Federal Agency Smart Credential Number (FASC–N).

Comment: Many federal employees and contractors prefer to be known by a professional name that is different from the name used in personal lives. Three commenters requested that FIPS 201–2 permit the cardholder's professional name to be printed on the PIV Card rather than the name appearing on the cardholder's identity source documents.

Response: NIST raised this issue with OMB, which is responsible for making decisions on this type of issue. Because the PIV card is an official USG issued card, OMB determined that the name that appears on the PIV Card must be the name that has been verified through identity source documents.

Comment: One commenter requested that the Revised Draft FIPS 201–2 should reaffirm that PIV Card Issuers' self-accreditation as specified in SP 800–79, *Guidelines for the Accreditation of Personal Identity Verification Card Issuers,* remains in effect.

Response: The Revised Draft FIPS 201–2 clarifies that self-accreditation as per SP 800–79 continues to be acceptable, so long as it is supplemented by a third-party accreditation review.

Comment: Three commenters stated that requiring a biometric match between the full set of fingerprints collected for law enforcement checks and the two fingerprints collected for placement on the PIV Card is an undue burden since these two sets of fingerprints are commonly collected on two different systems that are not integrated.

Response: The Revised Draft FIPS 201–2 makes it clear that a biometric match is only required if the two sets of fingerprints are collected on separate occasions, and is not required if the two sets are collected at the same time on different systems. The Revised Draft FIPS 201–2 also clarifies that a full set of fingerprints does not need to be collected from an applicant if a completed and favorably adjudicated National Agency Check with Written Inquiries (NACI) (or equivalent or higher) or Tier 1 or higher federal background investigation can be located and referenced for the individual.

Comment: Four commenters noted that Federal agencies should be permitted to register PIV-Interoperable (PIV–I) credentials in lieu of issuing PIV credentials provided that attributes such as successful completion of a NACI can be electronically validated.

Response: HSPD–12 specifies that agencies shall use ''secure and reliable forms of identification issued by the Federal Government to its employees and contractors (including contractor employees).'' The use of an externally issued credential, such as a PIV–I credential, as an alternative to issuing a PIV Card, would not be consistent with HSPD–12.

FIPS 201–1 and Revised Draft FIPS 201–2 are available electronically from the NIST Web site at: *http://csrc.nist.gov/publications/fips/index/html*.

Public Workshop: NIST will hold a public workshop on Revised Draft FIPS 201–2 on Wednesday, July 25, 2012, at NIST in Gaithersburg, Maryland. The workshop may also be attended remotely via webcast. The agenda, webcast, and related information for the public workshop will be available before the workshop on the NIST Computer Security Resource Center Web site at *http://csrc.nist.gov*. This workshop is not being held in anticipation of a procurement activity. Anyone wishing to attend the workshop in person must pre-register at *http://www.nist.gov/allevents.cfm* by 5:00 p.m. Eastern Time on July 18, 2012, in order to enter the NIST facility and attend the workshop.

Authority: In accordance with the Information Technology Management Reform

Act of 1996 (Pub. L. 104–106) and the Federal Information Security Management Act of 2002 (FISMA) (Pub. L. 107–347), the Secretary of Commerce is authorized to approve Federal Information Processing Standards (FIPS). Homeland Security Presidential Directive (HSPD) 12, entitled ''Policy for a Common Identification Standard for Federal Employees and Contractors,'' dated August 27, 2004, directed the Secretary of Commerce to promulgate, by February 27, 2005, ''* * * a Federal standard for secure and reliable forms of identification (the 'Standard') * * *,'' and further directed that the Secretary of Commerce ''shall periodically review the Standard and update the Standard as appropriate in consultation with the affected agencies.''

E.O. 12866: This notice has been determined to be not significant for purposes of E.O. 12866.

Dated: July 2, 2012.

Willie E. May,

Associate Director for Laboratory Programs.

[FR Doc. 2012–16725 Filed 7–6–12; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Application for Appointment in the NOAA Commissioned Officer Corps

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before September 7, 2012.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Eric Johnson, (301) 713–7727 or *NOAACorps.recruiting@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for extension of a currently approved information collection. The NOAA Commissioned Corps is the uniformed component of the National Oceanic and Atmospheric Administration (NOAA), a bureau of the Department of Commerce. Officers serve under Senate-confirmed appointments and Presidential commissions (33 U.S.C. chapter 17, subchapter 1, sections 853 and 854). The NOAA Corps provides a cadre of professionals trained in engineering, earth sciences, oceanography, meteorology, fisheries science, and other related disciplines, who are dedicated to the service of their country and optimization of NOAA's missions to ensure the economic and physical well-being of the Nation. NOAA Corps officers serve in assignments throughout NOAA, as well as in each of NOAA's Line Offices (National Environmental Satellite, Data, and Information Service, National Marine Fisheries Service, National Ocean Service, National Weather Service, Office of Oceanic and Atmospheric Research, and Office of Program, Planning, and Integration).

Persons wishing to be considered for a NOAA Corps Commission must submit a complete application package, including NOAA Form 56–42, at least three letters of recommendation, and official transcripts. A personal interview must also be conducted. Eligibility requirements include a bachelor's degree with at least 48 credit hours of science, engineering, or other disciplines related to NOAA's missions (including either calculus or physics), excellent health, normal color vision with uncorrected visual acuity no worse than 20/400 in each eye (correctable to 20/20), and ability to complete 20 years of active duty commissioned service prior to their 62nd birthday.

II. Method of Collection

Applicants must utilize the E-recruit electronic application process (*https://cpc.omao.noaa.gov/erecruit/login.jsp*) and then submit paper forms via mail. An in-person interview is also required.

III. Data

OMB Control Number: 0648–0047.

Form Number: NOAA 56–42, 56–42A.

Type of Review: Regular submission (extension of a currently approved collection).

Affected Public: Individuals or households.

Estimated Number of Respondents: 1,800.

Estimated Time per Response: written applications, 2 hours; interviews, 5 hours; references, 15 minutes.

Estimated Total Annual Burden Hours: 2,475.

Estimated Total Annual Cost to Public: $21,750 in recordkeeping/reporting and travel costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: July 2, 2012.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2012–16608 Filed 7–6–12; 8:45 am]

BILLING CODE 3510–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC084

Fisheries of the Exclusive Economic Zone Off Alaska; Notice of Public Workshop for Bering Sea and Aleutian Islands Crab Economic Data Reports

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

ACTION: Notice of public workshop.

SUMMARY: NMFS and the Alaska Fishery Science Center (AFSC) will hold a public workshop in Seattle, WA, to review draft revisions to the Bering Sea and Aleutian Islands (BSAI) Crab Economic Data Reports (EDR) currently required from catcher vessels, catcher/processors, shoreside processors, and stationary floating crab processors participating in the BSAI Crab Rationalization Program.

DATES: The workshop will be held on Friday, July 20, 2012, from 9 a.m. to 5 p.m. Pacific Daylight Time.

ADDRESSES: The workshop will be held in the Nordby Conference Room, Fisherman's Terminal, 3919 18th Avenue West, Seattle, WA 98119–1679.

FOR FURTHER INFORMATION CONTACT: Dr. Brian Garber-Yonts, AFSC, (206) 526–6301 or Karen Palmigiano, NMFS Alaska Region, at 907–586–7240.

SUPPLEMENTARY INFORMATION: The workshop is being held to review preliminary draft EDR forms for catcher vessels, catcher/processors, shoreside crab processors, and stationary floating crab processors participating in the Crab Rationalization Program fisheries, as well as Registered Crab Receivers that participate in the fisheries as non-processing crab buyers. The preliminary draft EDR forms are intended to implement changes to the crab EDR requirements recommended by the North Pacific Fishery Management Council (Council) on February 4, 2012.

The Council's preferred alternative for crab EDR revisions eliminates redundant data reporting by removing requirements to report data that is collected through other sources. It also eliminates data inaccuracies in order to reduce the cost of collecting the data, and clarifies EDR form instructions to reduce the burden on those required to complete the forms. More information on the Council recommendation and a description of the preferred alternative, Modified Alternative 3, can be accessed at the link below.

The workshop is intended to gather input from participants on the preliminary draft EDR forms. Feedback received during the workshop will also be used by NMFS to develop the proposed rule to implement the Council's preferred alternative. Other topics to be addressed at the workshop include general planning for administration of the EDR process by NMFS' Data Collection Agent (Pacific States Marine Fisheries Commission [PSMFC]), future potential for online reporting, and the development of the draft proposed rule implementing the Council's preferred alternative to revise the EDR requirements.

Documents describing the draft revised EDR reporting instructions and forms for catcher vessels, catcher/processors, shoreside crab processors, and stationary floating crab processors can be downloaded at *http://www.alaskafisheries.noaa.gov/sustainablefisheries/crab/rat/edr/.* The Council motion and description of the preferred alternative to revise crab EDR requirements, can be downloaded at *http://www.alaskafisheries.noaa.gov/npfmc/PDFdocuments/catch_shares/Crab/CrabEDR_Motion212.pdf,* and the Public Review Draft Regulatory Impact Review/Initial Regulatory Flexibility Analysis for Modification of Economic Data Reports can be downloaded at *http://www.alaskafisheries.noaa.gov/npfmc/PDFdocuments/catch_shares/Crab/CrabEDR212.pdf.*

Special Accommodations

These workshops are physically accessible to people with disabilities. Requests for special accommodations should be directed to Brian Garber-Yonts (see **FOR FURTHER INFORMATION CONTACT**) at least 5 working days before the workshop date.

Dated: July 2, 2012.

Emily Menashes,

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

[FR Doc. 2012–16717 Filed 7–6–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. PTO–P–2012–0025]

Extension of the Full First Action Interview Pilot Program and Request for Comments

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice and request for comments.

SUMMARY: The United States Patent and Trademark Office (Office) is extending the First Action Interview (FAI) Pilot Program while completing a comprehensive review of the program, deciding what, if any, adjustments should be made to the program, and whether the program should be extended further or made permanent. The program is intended to expedite disposition of an application by enhancing communication between an applicant and an examiner at the beginning of the examination process. Specifically, the program allows an applicant to conduct an interview with an examiner prior to the issuance of an Office action, but after receiving the examiner's search results and initially identified issues. During its review, the Office will consider feedback from both internal and external stakeholders. Accordingly, in addition to announcing the extension of the program, the Office is requesting comments on the program.

DATES: *Comment Deadline Date:* Written comments must be received on or before August 8, 2012. No public hearing will be held.

Extension Date: The Office has extended the FAI Pilot Program until August 16, 2012. Notice of this extension was placed on the USPTO's Web site just after expiration of the prior extension.

ADDRESSES: Comments should be sent by electronic mail message over the Internet addressed to: *first.action.interview@uspto.gov.* Comments may also be submitted by postal mail addressed to: United States Patent and Trademark Office, Mail Stop Comments—Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313–1450, marked to the attention of Joseph F. Weiss, Jr. Although comments may be submitted by postal mail, the Office prefers to receive comments by electronic mail message over the Internet in order to facilitate posting on the Office's Internet Web site.

The comments will be available for public inspection at the Office of the Commissioner for Patents, located at Madison Building East, Tenth Floor, 600 Dulany Street, Alexandria, Virginia. Comments also will be available for viewing via the Office's Internet Web site (*http://www.uspto.gov*). Because comments will be made available for public inspection, information that is not desired to be made public, such as an address or phone number should not be included in the comments.

FOR FURTHER INFORMATION CONTACT: Joseph F. Weiss, Jr., Legal Advisor (telephone (571) 272–7759; email *joseph.weiss@uspto.gov*), of the Office of the Deputy Commissioner for Patent Examination Policy. Alternatively, mail may be addressed to Mr. Weiss at Commissioner for Patents, Attn.: FFAIPP, P.O. Box 1450, Alexandria, VA, 22313–1450.

SUPPLEMENTARY INFORMATION:

Background: The Office published a notice implementing the Full FAI Pilot Program in 2011, which expanded the eligibility criteria to all utility applications of the previous Enhanced FAI Pilot Program. *See Full First Action Interview Pilot Program,* 1367 Off. Gaz. Pat. Office 42 (June 7, 2011). *See also Enhanced First Action Interview Pilot Program,* 1347 Off. Gaz. Pat. Office 173 (October 20, 2009). Under the program, participants are permitted to conduct an interview with the examiner after reviewing a Pre-Interview Communication providing the results of a prior art search conducted by the examiner.

Since the date the pilot was expanded, the Office has received over 2,100 requests to participate in the program. Of the applications that have been taken up for examination since the expansion, the Office has allowed over 35% on first action. Participants in the

program have experienced several benefits including: (1) Effectively advancing prosecution of an application before issuance of an Office action; (2) enhanced interaction between the applicant and the examiner before issuance of an Office action; (3) resolving patentability issues one-on-one with the examiner at the beginning of the prosecution process, rather than after a first Office action; and (4) expedited allowance of an application, relative to standard examination, due to the program's enhanced communication and shorter time periods for response.

Extension: The Office is extending the FAI Pilot Program until August 16, 2012, while it completes its evaluation of the program. During this time, the Office will be gathering and analyzing relevant information, including comments from external and internal participants in order to determine what, if any, adjustments should be made to the program and whether the program will become permanent or be further extended.

Request for Comments: The Office is seeking comments on the FAI Pilot Program. The Office is interested in receiving feedback as to whether the program is meeting the needs of its applicants, and whether any aspects of the program cause applicants to not participate. The following questions have been provided to help elicit the types of information the Office is interested in receiving. However, the list of questions below is not exhaustive and responses do not need to be limited to only information that answers these questions.

(1) *Based on your use of the program, did you experience the benefits of the FAI program set out above? Did you experience additional benefits?*

(2) *Did the Pre-Interview Communication provide you with sufficient, meaningful information to conduct an effective interview?*

(3) *How productive is the interview before first action in advancing prosecution?*

(4) *How would you rate the extent/utility of the information provided in the Pre-Interview Communication and subsequent Office action?*

(5) *What changes would you make to the FAI program? How would these changes improve the program?*

(6) *For any application in which you decided that the FAI program would not meet your needs, what aspect of the program made the program unsuitable for the application?*

(7) *Do you consider the FAI program to be more efficient (or otherwise beneficial) as compared to traditional prosecution?*

(8) *Should the Office make the FAI program permanent?*

Dated: June 29, 2012.

David J. Kappos,

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

[FR Doc. 2012–16596 Filed 7–6–12; 8:45 am]

BILLING CODE 3510–16–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds products and services to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Effective Date:* 8/9/2012.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia, 22202–3259.

FOR FURTHER INFORMATION CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On 5/4/2012 (77 FR 26520–26521) and 5/11/2012 (77 FR 27737–27738), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and services and impact of the additions on the current or most recent contractors, the Committee has determined that products and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. The action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the products and services proposed for addition to the Procurement List.

End of Certification

Accordingly, the following products and services are added to the Procurement List:

Products

Steel Roller Mop and Refill

NSN: 7920–01–383–7927—Refill, Sponge Head
NSN: 7920–01–383–7799—Roller Mop, Industrial Steel, 12'' Head
NPA: Industries for the Blind, Inc., West Allis, WI
Contracting Activity: GENERAL SERVICES ADMINISTRATION, FORT WORTH, TX
Coverage: B–List for the Broad Government Requirement as aggregated by the General Services Administration.

Nuts, Flexible Packaging

NSN: 8925–01–E62–1745—Almonds, Shelled, Sliced, Natural (2lb bag)
NSN: 8925–01–E62–1746—Almonds, Shelled, Sliced, Blanched (2lb bag)
NSN: 8925–01–E62–1747—Almonds, Shelled, Slivered, Blanched (2lb bag)
NSN: 8925–01–E62–1748—Walnuts, English, Shelled, Halves and Pieces (2lb bag)
NSN: 8925–01–E62–1749—Walnuts, English, Shelled, Halves and Pieces (2.5lb bag)
NPA: DePaul Industries, Portland, OR
Contracting Activity: Defense Logistics Agency Troop Support, Philadelphia, PA
Coverage: C-List for 100% of the requirement of the Department of Defense, as aggregated by the Defense Logistics Agency Troop Support, Philadelphia, PA.

A comment was received from a contractor inferring that his company currently furnishes products to the Government that are the same or similar to the product specified in this proposal and the addition of the product to the Procurement List will adversely affect their business.

The Committee for Purchase From People Who Are Blind or Severely Disabled (Committee) operates pursuant to statutory and regulatory requirements. Committee regulations state that a commodity is not suitable for the Procurement List if there is ''severe adverse impact on the current contractor for the specific commodity or service.''

Information the Committee received from the contracting activity revealed that the contractor submitting the comment is not a current contractor providing this product to the Government. Consequently, in this instance, there is no severe adverse impact and the Committee can properly determine if this product is suitable for addition to the Procurement List.

Services

Service Type/Location: Custodial Services, Caribou-Targhee National Forest, St. Anthony Supervisor's Office, U.S. Forest Service, 499 N 2400 E St., St. Anthony, ID.
NPA: Development Workshop, Inc., Idaho Falls, ID.
Contracting Activity: Dept. of Agriculture, Forest Service, Caribou-Targhee National Forest, Idaho Falls, ID.
Service Type/Location: Custodial Service, Child Care Facilities, Buildings 615, 616 and 9625, Fort Leonard Wood, MO.
NPA: Challenge Unlimited, Inc., Alton, IL.
Contracting Activity: Dept. of the Army, W6QM MICC–Ft Leonard Wood, Fort Leonard Wood, MO.
Service Type/Location: Document Destruction Service, U.S. Department of Agriculture, 6200 Jefferson St. NE., Albuquerque, NM.
NPA: Adelante Development Center, Inc., Albuquerque, NM.
Contracting Activity: Department of Agriculture, Natural Resources Conservation Service, Soil Conservation Service, Albuquerque, NM.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2012–16700 Filed 7–6–12; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletion

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to and Deletion from the Procurement List.

SUMMARY: The Committee is proposing to add a product and services to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities and to delete a service previously provided by such agency.

DATES: *Comments Must Be Received On or Before:* 8/9/2012.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia, 22202–3259.

For Further Information or To Submit Comments Contact: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the product and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the product and services to the Government.

2. If approved, the action will result in authorizing small entities to furnish the product and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the product and services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following product and services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Product

NSN: 8140–00–NSH–0014—Tube, Cardboard, Grenade, 155 mm Projectile
NPA: SVRC Industries, Inc., Saginaw, MI
Contracting Activity: Dept of the Army, W4MM USA Joint Munitions CMD, Rock Island, IL
Coverage: C–List for 100% of the requirement of the Crane Army Ammunition Activity, as aggregated by the USA Joint Munitions Command, Army Contracting Command—Rock Island, Rock Island, IL.

Services

Service Type/Location: Contact Center Services, Defense Manpower Data Center, Defense Human Resource Center, Alexandria, VA (CONUS).
Contracting Activity: Defense Human Resource Center, Alexandria, VA
NPAs: (Only one of the listed Nonprofit Agencies will be designated by the Commission to perform.)
Project HIRED, San Jose, CA.
ReadyOne Industries, Inc., El Paso, TX.
Peckham, Inc., Lansing, MI.
InspiriTech, Inc., Philadelphia, PA.
ServiceSource, Inc., Alexandria, VA.
Lakeview Center, Inc., Pensacola, FL.
Service Type/Location: Operations Support Services, U.S. Coast Guard Yard, Curtis Bay, 2401 Hawkins Point Road, Baltimore, MD.
NPA: DePaul Industries, Portland, OR.
Contracting Activity: Dept of Homeland Security, U.S. Coast Guard, SFLC Procurement Branch 3, Baltimore, MD.
Service Type/Location: Hospital Housekeeping Services, Winn Army Community Hospital, 1061 Harmon Avenue, Fort Stewart, GA.
NPA: Professional Contract Services, Inc., Austin, TX
Contracting Activity: Dept of the Army, W40M Southeast RGNL CONTRG OFC, Fort Gordon, GA.

Deletion

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. If approved, the action may result in authorizing small entities to provide the service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 USC 8501–8506) in connection with the service proposed for deletion from the Procurement List.

End of Certification

The following service is proposed for deletion from the Procurement List:

Service

Service Type/Location: Janitorial/Custodial, Redden U.S. Federal Courthouse: Fleet Management Center, 310 West 6th Street, Medford, OR.
NPA: Pathway Enterprises, Inc., Ashland, OR.
Contracting Activity: General Services Administration, Public Buildings

Service, Auburn, WA.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2012–16701 Filed 7–6–12; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Intent to Grant an Exclusive Patent License

AGENCY: United States Air Force, DoD.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of Part 404 of Title 37, Code of Federal Regulations, which implements Public Law 96–517, as amended; the Department of the Air Force announces its intention to grant SpiderTek, LLC, a corporation of the State of Missouri, having a place of business at 10101 Stoltz Drive, Rolla, Missouri 65401, an exclusive license in any right, title and interest the Air Force has in:

PCT Application Number PCT/US06/60039, filed on October 17, 2006, entitled ''Immunoassay for Venom Detection Including Noninvasive Sample Collection,'' by William V. Stoecker, Hernan F. Gomez, Jonathan A. Green, and David L. McGlasson;

U.S. Patent Number 7,927,828, Serial No. 11/550,130, issued on April 19, 2011, entitled ''Immunoassay for Venom Detection Including Noninvasive Sample Collection,'' by William V. Stoecker, Hernan F. Gomez, Jonathan A. Green, and David L. McGlasson;

U.S. Patent Application Number Serial No. 12/756,875, filed on April 8, 2010, entitled ''Immunoassay for Venom Detection Including Noninvasive Sample Collection,'' by William V. Stoecker, Hernan F. Gomez, Jonathan A. Green, and David L. McGlasson.

FOR FURTHER INFORMATION CONTACT: Gomez, Jonathan A. Green, and David L. McGlasson. Anyone wishing to object to the grant of this license must file a written objection along with supporting evidence within fifteen (15) days following publication of this Notice. Written objections should be sent to: Air Force Materiel Command Law Office, AFMCLO/JAZ, 2240 B Street, Rm D–14, Wright-Patterson AFB, OH 45433–7109; Facsimile: (937) 255–3733; Email: *afmclo.jaz.t2@wpafb.af.mil.*

Shannon N. Sanchez,

Acting Air Force Federal Register Liaison Officer.

[FR Doc. 2012–16683 Filed 7–6–12; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of the Availability of Record of Decision for the Final Supplemental Environmental Impact Statement for Disposal and Reuse of Hunters Point Naval Shipyard, San Francisco, CA

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy (DoN), after carefully weighing the environmental consequences of the proposed action, announces its decision to dispose of the Hunters Point Shipyard in a manner consistent with the San Francisco Redevelopment Agency's Hunters Point Shipyard Redevelopment Plan, as amended August 3, 2010. This Record of Decision (ROD) amends the DoN's previous ROD for the Disposal and Reuse of the Hunters Point Annex to the Naval Station Treasure Island, Formerly Hunters Point Naval Shipyard, San Francisco, California, November 20, 2000 (65 FR 69744).

SUPPLEMENTARY INFORMATION: The complete text of the ROD and the Final Supplemental Environmental Impact Statement (SEIS) for the Disposal and Reuse of Hunters Point Shipyard, San Francisco, California, March 2012 is available for public viewing at the DoN Base Realignment and Closure (BRAC) Program Management Office (PMO) Web site (*http://www.bracpmo.navy.mil/*). The ROD and Final SEIS are also available for viewing at the:

1. San Francisco Main Library, 100 Larkin Street, San Francisco, CA 94102;
2. San Francisco State University Library, 1360 Holloway Avenue, San Francisco, CA 94132;
3. Hastings Law Library, UC Hastings College of the Law, 200 McAllister Street, 4th Floor, San Francisco, CA 94102;
4. Jonsson Library of Government Documents, Cecil H. Green Library, Bing Wing, Stanford, CA 94305;
5. Institute of Governmental Studies Library, UC Berkeley, 109 Moses Hall #2370, Berkeley, CA 94720;
6. City Planning Department (By Appointment), 1650 Mission Street, Fourth Floor, San Francisco, CA 94103.

Single copies of the ROD will be made available upon request by contacting: Director, BRAC PMO West, Attention: Mr. Ronald Bochenek, 1455 Frazee Road, Suite 900, San Diego, California 92108–4310, telephone number: 619–532–0906, email: *ronald.bochenek.ctr@navy.mil.*

Dated: June 27, 2012.

L.R. Almand,

Judge Advocate General's Corps, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 2012–16646 Filed 7–6–12; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Proposed Agency Information Collection

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

ACTION: Notice and request for comments.

SUMMARY: The Department of Energy (DOE) is submitting to the Office of Management and Budget (OMB) for clearance a proposal for collection of information under the provisions of the Paperwork Reduction Act of 1995. The proposed collection will support a National Evaluation of DOE's American Recovery and Reinvestment Act (ARRA) funded Energy Efficiency and Conservation Block Grant program.

A 60-day notice and request for comments was published in the **Federal Register** on February 15, 2012 (77 FR 8852). No comments were received in response to this Notice.

This subsequent 30-day notice allows public comment on the final version of the information collection request. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. Information about the outcomes of the program, including energy and cost savings, the net number of jobs created or retained, and gross reductions in carbon emissions, is needed for a comprehensive evaluation of the program.

DATES: Comments regarding this proposed information collection must

be received on or before August 8, 2012 If you anticipate difficulty in submitting comments within that period, contact the person listed in **ADDRESSES** as soon as possible.

ADDRESSES: Written comments may be sent to Colleen Rizy, Environmental Sciences Division, Oak Ridge National Laboratory, P.O. Box 2008, MS–6036, Oak Ridge, TN 37831–6036; *rizycg@ornl.gov*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to: Colleen Rizy, Environmental Sciences Division, Oak Ridge National Laboratory, P.O. Box 2008, MS–6036, Oak Ridge, TN 37831–6036; *rizycg@ornl.gov.*

The detailed technical evaluation plan for this information collection can be found at: *http://weatherization.ornl.gov/eecbg.shtml.* The survey/data collection instrument that composes this information collection request can be found at this same Web site.

SUPPLEMENTARY INFORMATION: This information collection request contains:

(1) *OMB No:* New.

(2) *Information Collection Request Title:* National Evaluation of the United States Department of Energy's Energy Efficiency and Conservation Block Grant Program.

(3) *Type of Request:* New.

(4) *Purpose:* The Department of Energy is conducting an evaluation of the Energy Efficiency and Conservation Block Grant Program (EECBG), a national program providing over $2.7 billion in grants to approximately 2,350 cities, counties, States, territories, and Indian Tribes. Grants could be used for energy efficiency and conservation efforts, building code support, renewable energy installations, distributed energy technologies, transportation activities, recycling and waste management efforts, and other activities approved by DOE.

The EECBG Program, authorized in Title V, Subtitle E of the Energy Independence and Security Act and signed into law on December 19, 2007, was funded for the first time by the ARRA of 2009. The Funding Opportunity Announcement for Formula Grants was issued on June 25, 2009 and closed on June 25, 2010.

The scope of the National Evaluation of EECBG involves a combination of careful reviews of grant status reports and applications (''engineering desk reviews''), conversations with DOE project officers, and in-depth interviews with grant managers to assemble critical data for answering the three questions of interest:

1. What is the total magnitude of energy and cost savings, and other key outcomes, such as gross carbon emissions reduction and the net number of jobs created or retained, achieved in Broad Program Areas that cumulatively account for approximately 80 percent of total Formula Grant expenditures in the 2009–2011 program years?

2. What is the magnitude of outcomes achieved by each of the most heavily-funded Broad Program Areas within the EECBG portfolio?

3. What are the key factors influencing the magnitude of EECBG outcomes?

These questions will be answered by evaluating a sample of 350 grant activity examples from a pool of direct grants and State sub-grants, all issued as part of the EECBG program.

Scale of the Information Collection

The DOE formula grants are well-defined and were further scrutinized by the Oak Ridge National Laboratory (ORNL)/DOE and its contractors for categorization into Broad Program Areas and activities. The evaluation team will complete the process of counting and categorizing the State sub-grants. From these combined lists of grants, sorted by Broad Program Area, sub-area, and activity, and from a set of criteria developed by ORNL/DOE and its contractors, a sampling approach will be applied to select 350 grants for study. That random sample of projects will be taken from the six Broad Program Areas that, in combination, account for over 80 percent of total EECBG Formula Grant expenditures, which will allow valid inferences to be drawn for each Broad Program Area examined.

Data collection will begin with a combination of careful reviews of the DOE program databases, grant status reports and applications (''engineering desk reviews''), and conversations with DOE Project Officers and Regional and State Coordinators. After this extensive preliminary data collection effort, interviews will be conducted with individuals responsible for managing the specific grant activities selected in the sample (''Grant Activity Managers''). The 60-day notice proposed two survey instruments for data collection: 1. Grant Activity-Level Contact (now titled ''Grant Activity Manager Survey'') and 2. Performance Indicators Survey. Since the submittal of the 60-day notice, the evaluation team conducted an extensive review of DOE's Performance and Accountability for Grants in Energy system demonstrating that the majority of information sought in the Performance Indicators Survey is already readily available. In order to reduce the data collection burden, the Performance Indicators Survey is no longer a separate instrument. The limited number of questions that cannot be answered through database research and other methods are now included in the Grant Activity Manager Survey.

Grant Activity Manager Survey

Verifies activities performed, measures installed, measure level data, and other relevant project information necessary to calculate program impacts and other metrics. Also contains a series of questions related to grant performance not already available in DOE program databases. Approximately 350 interviews will take place to complete the survey instrument.

The survey instrument consists of a core set of questions to be posed to all 350 respondents, after which branching occurs into separate modules of the survey addressing the specific types of projects undertaken. Respondents are only asked those questions relevant to their specific activity, skipping any modules or sets of questions that do not apply; no respondent will be subject to the entire battery of questions.

This survey will involve 350 respondents and entail a total burden of 438 hours. This calculation is based on the assumption that the Grant Activity Manager Survey will require an average of 75 minutes, depending on the details of the specific activity being evaluated and its complexity.

This evaluation approach will not include any data collection from individual service recipients to estimate savings or outcomes. This study will use data from the above-mentioned interviews plus additional information that can be obtained from program records and secondary sources, as well as engineering-based analytical methods, to produce energy savings and outcome estimates.

The above-described data collection instrument will be supplemented by additional records research and database review activities provided by the Grant Program Managers and Local Grant Activity Managers. These general recordkeeping activities will require an estimated 496 hours. Combining the burden hours associated with telephone surveys (438 hours) with the burden hours associated with general records review (496 hours) produces a total estimated burden of 934 hours.

Two key steps are being taken to avoid duplicating the efforts of any concurrent evaluations of EECBG activities: (1) Identifying results from any EECBG grant evaluation efforts taking place at the State level; and (2) coordinating with the Better Buildings

Program evaluation concerning any data collection already taking place during the same time period that addresses EECBG grant activities.

The sample selection of Broad Program Areas and specific programmatic activities within each Broad Program Area is scheduled to be completed in May 2012. Data collection and calculation of outcomes are scheduled to be completed by October 2012.

The detailed study design and work plan for the EECBG evaluation has been available for public review since January 2012 at *http://weatherization.ornl.gov/eecbg.shtml.*

(5) *Annual Estimated Number of Respondents:* 350.

(6) *Annual Estimated Number of Total Responses:* 350.

(7) *Annual Estimated Total Number of Burden Hours (Interview and Record Review):* 934.

Statutory Authority: Title V, Subtitle E of the Energy Independence and Security Act of 2007, codified at 42 U.S.C. 17151–17158.

Issued in Washington, DC, on June 7, 2012.

David T. Danielson,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 2012–16663 Filed 7–6–12; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC12–9–000]

Commission Information Collection Activities (FERC–552); Comment Request

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Comment request.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(a)(1)(D), the Federal Energy Regulatory Commission (Commission or FERC) is submitting the information collection FERC Form 552 (Annual Report of Natural Gas Transactions) to the Office of Management and Budget (OMB) for review of the information collection requirements. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission issued a Notice in the **Federal Register** (77 FR 19009, 3/29/2012) requesting public comments. FERC received no comments on the FERC–552 and is making this notation in its submittal to OMB.

DATES: Comments on the collection of information are due by August 8, 2012.

ADDRESSES: Comments filed with OMB, identified by the OMB Control No. 1902–0242, should be sent via email to the Office of Information and Regulatory Affairs: *oira_submission@omb.gov.* Attention: Federal Energy Regulatory Commission Desk Officer. The Desk Officer may also be reached via telephone at 202–395–4718.

A copy of the comments should also be sent to the Federal Energy Regulatory Commission, identified by the Docket No. IC12–9–000, by either of the following methods:

- *eFiling at Commission's Web Site: http://www.ferc.gov/docs-filing/efiling.asp.*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance contact FERC Online Support by email at *ferconlinesupport@ferc.gov*, or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* by telephone at (202) 502–8663, and by fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Title: FERC Form 552, Annual Report of Natural Gas Transactions.

OMB Control No.: 1902–0242.

Type of Request: Three-year extension of the FERC–552 information collection requirements with no changes to the reporting requirements.

Abstract: The Commission uses the information collected within the FERC–552 to provide greater transparency concerning the use of indices to price natural gas and how well index prices reflect market forces. The collection also includes transactions that contribute to, or may contribute to natural gas price indices. Many market participants rely on indices as a way to reference market prices without taking on the risks of active trading.

FERC–552 had its genesis in the Energy Policy Act of 2005,[1] which added section 23 of the Natural Gas Act (NGA). Section 23 of the NGA, among other things, directs the Commission ''to facilitate price transparency in markets for the sale or transportation of physical natural gas in interstate commerce, having due regard for the public interest, the integrity of those markets, and the protection of consumers.'' [2]

Type of Respondents: Wholesale natural gas market participants.

Estimate of Annual Burden [3]*:* The Commission estimates the total Public Reporting Burden for this information collection as:

FERC–552 (IC12–9–000): ANNUAL REPORT OF NATURAL GAS TRANSACTIONS

	Number of respondents (A)	Number of responses per respondent (B)	Total number of responses (A) × (B) = (C)	Average burden hours per response (D)	Estimated total annual burden (C) × (D)
Wholesale natural market participants	691	1	691	10	6,910

The total estimated annual cost burden to respondents is $476,857 [6,910 hours ÷ 2,080 [4] hours/year = 3.32212 * $143,540/year [5] = $476,857].

The estimated annual cost of filing the FERC–552 per response is $690

[1] Public Law 109–58.

[2] 15 U.S.C. 717t–2.

[3] Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, reference 5 Code of Federal Regulations 1320.3.

[4] 2080 hours = 40 hours/week * 52 weeks (1 year).

[5] Average annual salary per employee in 2012.

[$476,857 ÷ 691 responses = $690/ response].

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: June 28, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–16630 Filed 7–6–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC12–15–000]

Commission Information Collection Activities (FERC–546); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A), the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection, FERC–546, Certificated Filings: Gas Pipeline Rates.

DATES: Comments on the collection of information are due September 7, 2012.

ADDRESSES: You may submit comments (identified by Docket No. IC12–15–000) by either of the following methods:

- *eFiling at Commission's Web Site: http://www.ferc.gov/docs-filing/efiling.asp.*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov*, telephone at (202) 502–8663, and fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Title: FERC–546, Certificated Filings: Gas Pipeline Rates.

OMB Control No.: 1902–0155.

Type of Request: Three-year extension of the FERC–546 information collection requirements with no changes to the current reporting requirements.

Abstract: The Commission reviews the FERC–546 materials to decide whether to determine an initial rate associated with an application for a certificate under NGA Section 7(c). It reviews FERC–546 materials in 4(f) storage applications to evaluate market power and decide whether to grant, deny, or condition market based rate authority for the applicant. The Commission uses the FERC–546 information to monitor jurisdictional transportation, natural gas storage, and unbundled sales activities of interstate natural gas pipelines and Hinshaw [1] pipelines. In addition to fulfilling the Commission's obligations under the NGA, the FERC–546 enables the Commission to monitor the activities and evaluate transactions of the natural gas industry, ensure competitiveness, and improved efficiency of the industry's operations. In summary, the Commission uses the FERC–546 information to:

- Ensure adequate customer protections under section 4(f) of the NGA;
- Review rate and tariff changes by natural gas companies for the transportation of gas, natural gas storage services;
- Provide general industry oversight;
- And supplement documentation during its audits process.

Failure to collect this information would prevent the Commission from being able to monitor and evaluate transactions and operations of interstate pipelines and perform its regulatory functions.

Type of Respondents: Pipeline companies and storage operators.

Estimate of Annual Burden [2]*:* The Commission estimates the total Public Reporting Burden for this information collection as:

FERC–546: CERTIFICATED RATE FILINGS

[Gas Pipeline Rates]

	Number of respondents (A)	Number of responses per respondent (B)	Total number of responses (A) × (B) = (C)	Average burden hours per response (D)	Estimated total annual burden (C) × (D)
Pipeline companies	11	1	11	40	440
Storage operators	2	1	2	350	700
Total	13	2	13	N/A	1,140

[1] Hinshaw pipelines are those that receive all out-of-state gas from entities within or at the boundary of a state if all the natural gas so received is ultimately consumed within the state in which it is received, 15 U.S.C. 717(c). Congress concluded that Hinshaw pipelines are ''matters primarily of local concern,'' and so are more appropriately regulated by pertinent state agencies rather than by FERC. The Natural Gas Act section 1(c) exempts Hinshaw pipelines from FERC jurisdiction. A Hinshaw pipeline, however, may apply for a FERC certificate to transport gas outside of state lines.

[2] Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, reference 5 Code of Federal Regulations 1320.3.

The total estimated annual cost burden to respondents is $78,669.97 [1,140 hours ÷ 2,080[3] hours/year = 0.54807 * $143,540/year[4] = $78,669.97].

The estimated annual cost of filing the FERC–546 per response is $6,051.54 [$78,669.97 ÷ 13 responses = $6,051.54/ response].

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: June 28, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–16631 Filed 7–6–12; 8:45 am]

BILLING CODE 6717–01–P

[3] 2080 hours = 40 hours/week * 52 weeks (1 year).

[4] Average annual salary per employee in 2012.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14404–000]

Calleguas Municipal Water District; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, Protests, Recommendations, and Terms and Conditions

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

a. *Type of Application:* Conduit Exemption.

b. *Project No.:* 14404–000.

c. *Date filed:* May 4, 2012.

d. *Applicant:* Calleguas Municipal Water District.

e. *Name of Project:* Grandsen Hydroelectric Generating Station.

f. *Location:* The proposed Grandsen Hydroelectric Generating Station Project would be located in the City of Moorpark, California.

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

h. *Applicant Contacts:* Ms. Kristine McCaffrey, Callegaus Municipal Water District, 2100 E. Olsen Road, Thousand Oaks, CA 91360, (805) 579–7173; Mr. Lon W. House, Water and Energy Consulting, 4901 Flying C Road, Cameron Park, CA 95682, (530) 676–8956.

i. *FERC Contact:* Alyssa Dorval, (212) 273–5955, *alyssa.dorval@ferc.gov.*

j. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

k. *Deadline for filing responsive documents:* Due to the small size of the proposed project, as well as the resource agency consultation letters filed with the application, the 60-day timeframe specified in 18 CFR 4.34(b) for filing all comments, motions to intervene, protests, recommendations, terms and conditions, and prescriptions is shortened to 30 days from the issuance date of this notice. All reply comments filed in response to comments submitted by any resource agency, Indian tribe, or person, must be filed with the Commission within 45 days from the issuance date of this notice.

Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under *http://www.ferc.gov/docs-filing/efiling.asp.* The Commission strongly encourages electronic filings.

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 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, it must also serve a copy of the document on that resource agency.

l. *Description of Project:* The Grandsen Hydroelectric Generating Station Project would consist of: (1) A powerhouse containing two proposed generating units, each with an installed capacity of 180 kilowatts; and (2) appurtenant facilities. The applicant estimates the project would have an average annual generation of 2,620,000 kilowatt-hours.

m. This filing is available for review and reproduction at the Commission in the Public Reference Room, Room 2A, 888 First Street NE., Washington, DC 20426. The filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number, P–14404, in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for review and reproduction at the address in item h above.

n. *Development Application*—Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified deadline date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified deadline date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

o. *Notice of Intent*— A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit a competing development application. A notice of intent must be served on the applicant(s) named in this public notice.

p. *Protests or Motions to Intervene*—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

q. All filings must (1) bear in all capital letters the title ''PROTEST'', ''MOTION TO INTERVENE'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''COMMENTS'', ''REPLY COMMENTS,'' ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS;'' (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, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain

copies of the application directly from the applicant. Any of these documents must be filed by providing the original and seven copies to: The Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Office of Energy Projects, Federal Energy Regulatory Commission, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. 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.

r. *Waiver of Pre-filing Consultation:* On August 4, 2011, the applicant requested the agencies to support the waiver of the Commission's consultation requirements under 18 CFR 4.38(c). On September 23, 2011, the U.S. Fish and Wildlife Service (FWS) requested additional information. The applicant provided the additional information on November 21, 2011. On August 26, 2011, the California Department of Public Health (CDPH) requested additional information. The applicant provided the additional information on October 7, 2011, and the CDPH provided additional comments confirming the request for the waiver on October 12, 2011. No other comments regarding the request for waiver were received. Therefore, we intend to accept the consultation that has occurred on this project during the pre-filing period and we intend to waive pre-filing consultation under section 4.38(c), which requires, among other things, conducting studies requested by resource agencies, and distributing and consulting on a draft exemption application.

Dated: June 28, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–16627 Filed 7–6–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP12–820–000.
Applicants: Texas Gas Transmission, LLC.
Description: Demand Charge Credits filing to be effective 8/1/2012.
Filed Date: 6/27/12.
Accession Number: 20120627–5033.
Comments Due: 5 p.m. ET 7/9/12.

Docket Numbers: RP12–822–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Tenaska 39395–3 Amendment to Neg Rate Agmt to be effective 7/1/2012.
Filed Date: 6/28/12.
Accession Number: 20120628–5032.
Comments Due: 5 p.m. ET 7/10/12.

Docket Numbers: RP12–823–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Tenaska 39396–3 Amendment to Neg Rate Agmt to be effective 7/1/2012.
Filed Date: 6/28/12.
Accession Number: 20120628–5033.
Comments Due: 5 p.m. ET 7/10/12.

Docket Numbers: RP12–824–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Devon 34694–36 Amendment to Neg Rate Agmt to be effective 7/1/2012.
Filed Date: 6/28/12.
Accession Number: 20120628–5034.
Comments Due: 5 p.m. ET 7/10/12.

Docket Numbers: RP12–825–000.
Applicants: Gulf South Pipeline Company, LP.
Description: HK 37731 to Sequent 39986 Cap Rel Neg Rate Agmt filing to be effective 7/1/2012.
Filed Date: 6/28/12.
Accession Number: 20120628–5042.
Comments Due: 5 p.m. ET 7/10/12.

Docket Numbers: RP12–826–000.
Applicants: Gulf South Pipeline Company, LP.
Description: HK 37733 to Texla 39987 Cap Rel Neg Rate Agmt filing to be effective 7/1/2012.
Filed Date: 6/28/12.
Accession Number: 20120628–5043.
Comments Due: 5 p.m. ET 7/10/12.

Docket Numbers: RP12–827–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: Non-conforming Agreements Cleanup Filing—June 2012 to be effective 8/1/2012.
Filed Date: 6/28/12.
Accession Number: 20120628–5044.
Comments Due: 5 p.m. ET 7/10/12.

Docket Numbers: RP12–828–000.
Applicants: Gulf South Pipeline Company, LP.
Description: HK 37731 to Texla 39988 Cap Rel Neg Rate Agmt filing to be effective 7/1/2012.
Filed Date: 6/28/12.
Accession Number: 20120628–5045.
Comments Due: 5 p.m. ET 7/10/12.

Docket Numbers: RP12–829–000.
Applicants: Gulf South Pipeline Company, LP.
Description: HK 37731 to Texla 39989 Cap Rel Neg Rate Agmt filing to be effective 7/1/2012.
Filed Date: 6/28/12.
Accession Number: 20120628–5046.
Comments Due: 5 p.m. ET 7/10/12.

Docket Numbers: RP12–830–000.
Applicants: Dominion South Pipeline Company, LP.
Description: DSP—2012 Report of Penalty Revenues.
Filed Date: 6/29/12.
Accession Number: 20120629–5031.
Comments Due: 5 p.m. ET 7/11/12.

Docket Numbers: RP12–831–000.
Applicants: Texas Eastern Transmission, LP.
Description: EPC AUG 2012 FILING to be effective 8/1/2012.
Filed Date: 6/29/12.
Accession Number: 20120629–5033.
Comments Due: 5 p.m. ET 7/11/12.

Docket Numbers: RP12–832–000.
Applicants: ANR Pipeline Company.
Description: ANR Pipeline Company submits tariff filing per 154.601: Twin Eagle Neg Rate to be effective 7/1/2012.
Filed Date: 6/29/12.
Accession Number: 20120629–5035.
Comments Due: 5 p.m. ET 7/11/12.

Docket Numbers: RP12–833–000.
Applicants: NGO Transmission, Inc.
Description: NGO Transmission—Filing to Update Contact Information to be effective 8/1/2012.
Filed Date: 6/29/12.
Accession Number: 20120629–5037.
Comments Due: 5 p.m. ET 7/11/12.

Docket Numbers: RP12–834–000.
Applicants: Northern Natural Gas Company.
Description: 20120629 Mieco Inc Negotiated Rate to be effective 7/1/2012.
Filed Date: 6/29/12.
Accession Number: 20120629–5038.
Comments Due: 5 p.m. ET 7/11/12.

Docket Numbers: RP12–835–000.
Applicants: Equitrans, L.P.
Description: CP11–68 Sunrise Compliance Filing—Negotiated Rate Agreements to be effective 8/1/2012.
Filed Date: 6/29/12.
Accession Number: 20120629–5043.
Comments Due: 5 p.m. ET 7/11/12.

Docket Numbers: RP12–836–000.
Applicants: MarkWest Pioneer, L.L.C.
Description: MarkWest Pioneer—Update to Preliminary Statement and System Map to be effective 8/1/2012.
Filed Date: 6/29/12.
Accession Number: 20120629–5048.

Comments Due: 5 p.m. ET 7/11/12.

Docket Numbers: RP12–837–000.

Applicants: Big Sandy Pipeline, LLC.

Description: Big Sandy EPC 2012 to be effective 8/1/2012 .

Filed Date: 6/29/12.

Accession Number: 20120629–5056.

Comments Due: 5 p.m. ET 7/11/12.

Docket Numbers: RP12–838–000.

Applicants: Granite State Gas Transmission, Inc.

Description: Granite State Gas Transmission, Inc. Section 4 Rate Filing to be effective 8/1/2012.

Filed Date: 6/29/12.

Accession Number: 20120629–5057.

Comments Due: 5 p.m. ET 7/11/12.

Docket Numbers: RP12–838–000.

Applicants: Granite State Gas Transmission, Inc.

Description: Supplement filing to support proposed tariff filing made on 6/29/12 by Granite State Gas Transmission, Inc.

Filed Date: 6/29/12.

Accession Number: 20120629–5227.

Comments Due: 5 p.m. ET 7/11/12.

Docket Numbers: RP12–839–000.

Applicants: Gulf South Pipeline Company, LP.

Description: EOG 34687–9 Amendment to Neg Rate Agmt filing to be effective 7/1/2012.

Filed Date: 6/29/12.

Accession Number: 20120629–5066.

Comments Due: 5 p.m. ET 7/11/12.

Docket Numbers: RP12–840–000.

Applicants: Ruby Pipeline, L.L.C.

Description: EPC and Fuel Rate Adjustment Filing 6/28/12 to be effective 7/1/2012.

Filed Date: 6/29/12

Accession Number: 20120629–5115.

Comments Due: 5 p.m. ET 7/11/12.

Docket Numbers: RP12–842–000.

Applicants: Northwest Pipeline GP.

Description: RP12-Non-Conforming Changes, Effective August 1, 2012 to be effective 8/1/2012.

Filed Date: 6/29/12.

Accession Number: 20120629–5164.

Comments Due: 5 p.m. ET 7/11/12.

Docket Numbers: RP12–843–000.

Applicants: Columbia Gulf Transmission Company.

Description: Gas Processing to be effective 8/1/2012.

Filed Date: 6/29/12.

Accession Number: 20120629–5196.

Comments Due: 5 p.m. ET 7/11/12.

Docket Numbers: RP12–844–000.

Applicants: Gulf Crossing Pipeline Company LLC.

Description: Antero 2 to Tenaska 550 Cap Rel Neg Rate Agmt filing to be effective 7/1/2012.

Filed Date: 6/29/12.

Accession Number: 20120629–5198.

Comments Due: 5 p.m. ET 7/11/12.

Docket Numbers: RP12–845–000.

Applicants: ANR Pipeline Company.

Description: PFSA Revisions and Housekeeping to be effective 8/1/2012.

Filed Date: 6/29/12.

Accession Number: 20120629–5202.

Comments Due: 5 p.m. ET 7/11/12.

Docket Numbers: RP12–846–000.

Applicants: Colorado Interstate Gas Company LLC.

Description: Off System Receipt to Delivery Balancing to be effective 8/1/2012.

Filed Date: 6/29/12.

Accession Number: 20120629–5246.

Comments Due: 5 p.m. ET 7/11/12.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

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

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, and service 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 July 2, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary

[FR Doc. 2012–16687 Filed 7–6–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

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

Docket Numbers: ER10–1702–002; *ER10–1726–003; ER10–1671–003.*

Applicants: RRI Energy Services, LLC, GenOn Wholesale Generation, LP, Genon Power Midwest, LP.

Description: Request for Category 1 Seller Status of GenOn Energy, Inc. subsidiaries.

Filed Date: 6/28/12.

Accession Number: 20120628–5125.

Comments Due: 5 p.m. ET 7/19/12.

Docket Numbers: ER10–2497–004.

Applicants: Alliant Energy Corporate Services, Inc.

Description: Updated market power analysis for Central region of Alliant Energy Corporate Services, Inc.

Filed Date: 6/28/12.

Accession Number: 20120628–5103.

Comments Due: 5 p.m. ET 8/27/12.

Docket Numbers: ER12–1417–002.

Applicants: San Diego Gas & Electric Company.

Description: San Diego Gas & Electric Company submits tariff filing per 35: SDGE Formula Appendix X Compliance Filing to be effective 6/1/2012.

Filed Date: 6/28/12.

Accession Number: 20120628–5080.

Comments Due: 5 p.m. ET 7/19/12.

Docket Numbers: ER12–1821–001.

Applicants: Colorado Highlands Wind, LLC.

Description: COLORADO HIGHLANDS WIND, LLC submits tariff filing per 35.17(b): Colorado Highlands Wind MBR Supplemental Filing June 28, 2012 to be effective 7/20/2012.

Filed Date: 6/28/12.

Accession Number: 20120628–5078.

Comments Due: 5 p.m. ET 7/19/12.

Docket Numbers: ER12–1832–000.

Applicants: Lucky Corridor, LLC.

Description: Lucky Corridor, LLC submits additional information.

Filed Date: 6/28/12.

Accession Number: 20120628–5051.

Comments Due: 5 p.m. ET 7/5/12.

Docket Numbers: ER12–2121–000.

Applicants: Southern California Edison Company.

Description: Distribution Service Agreement with Mogul Energy, Mogul Energy Project to be effective 6/25/2012.

Filed Date: 6/28/12.

Accession Number: 20120628–5023.

Comments Due: 5 p.m. ET 7/19/12.

Docket Numbers: ER12–2122–000.

Applicants: ISO New England Inc., New England Power Pool Participants Committee.

Description: FTR Annual and Monthly Auction Changes—1 of 2 to be effective 10/1/2012.

Filed Date: 6/28/12.

Accession Number: 20120628–5031.

Comments Due: 5 p.m. ET 7/19/12.

Docket Numbers: ER12–2122–001.

Applicants: ISO New England Inc., New England Power Pool Participants Committee.

Description: ISO New England Inc. submits tariff filing per 35.17(b): FTR Annual and Monthly Auction Changes—2 of 2 to be effective 12/31/9998.

Filed Date: 6/28/12.

Accession Number: 20120628–5054.

Comments Due: 5 p.m. ET 7/19/12.

Docket Numbers: ER12–2123–000.

Applicants: Midwest Independent Transmission System Operator, Inc., ITC Midwest LLC.

Description: ITCM–NMEPC–AEC–IPL IA to be effective 8/30/2012.

Filed Date: 6/28/12.

Accession Number: 20120628–5049.

Comments Due: 5 p.m. ET 7/19/12.

Docket Numbers: ER12–2124–000.

Applicants: Westar Energy, Inc.

Description: Westar Energy, Inc. submits tariff filing per 35.37: Market-Based Rate Tariff Revision to be effective 12/31/9998.

Filed Date: 6/28/12.

Accession Number: 20120628–5056.

Comments Due: 5 p.m. ET 7/19/12.

Docket Numbers: ER12–2125–000.

Applicants: GWF Energy LLC.

Description: GWF Energy LLC submits tariff filing per 35.13(a)(2)(iii: Notice of Change to be effective 9/1/2012.

Filed Date: 6/28/12.

Accession Number: 20120628–5079.

Comments Due: 5 p.m. ET 7/19/12.

Docket Numbers: ER12–2126–000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, L.L.C. submits tariff filing per 35.13(a)(2)(iii: Original Service Agreement No. 3332; Queue No. X2–075 to be effective 6/12/2012.

Filed Date: 6/28/12.

Accession Number: 20120628–5091.

Comments Due: 5 p.m. ET 7/19/12.

Docket Numbers: ER12–2127–000.

Applicants: ITC Midwest LLC.

Description: ITC Midwest LLC submits tariff filing per 35.13(a)(2)(iii: Filing of Interchange Agreement to be effective 8/28/2012.

Filed Date: 6/28/12.

Accession Number: 20120628–5104.

Comments Due: 5 p.m. ET 7/19/12.

Docket Numbers: ER12–2128–000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, L.L.C. submits tariff filing per 35.13(a)(2)(iii: Original Service Agreement No. 3344; Queue No. X1–088 to be effective 6/18/2012.

Filed Date: 6/28/12.

Accession Number: 20120628–5111.

Comments Due: 5 p.m. ET 7/19/12.

Docket Numbers: ER12–2129–000.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 06–28–12 Schedule 1 Revisions to be effective 7/1/2012.

Filed Date: 6/28/12.

Accession Number: 20120628–5112.

Comments Due: 5 p.m. ET 7/19/12.

Docket Numbers: ER12–2130–000.

Applicants: Consolidated Edison Company of New York, Inc.

Description: Consolidated Edison Company of New York, Inc. submits tariff filing per 35.13(a)(2)(iii: Attachment P—Recharge NY Agreement to be effective 7/1/2012.

Filed Date: 6/28/12.

Accession Number: 20120628–5113.

Comments Due: 5 p.m. ET 7/19/12.

Docket Numbers: ER12–2131–000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, L.L.C. submits tariff filing per 35.13(a)(2)(iii: Original Service Agreement No. 3343; Queue No. X1–005 to be effective 6/18/2012.

Filed Date: 6/28/12.

Accession Number: 20120628–5121.

Comments Due: 5 p.m. ET 7/19/12.

Docket Numbers: ER12–2132–000.

Applicants: ITC Midwest LLC.

Description: ITC Midwest LLC submits tariff filing per 35.13(a)(2)(iii: Filing of Duane Arnold Energy Center Agreement to be effective 8/28/2012.

Filed Date: 6/28/12.

Accession Number: 20120628–5122.

Comments Due: 5 p.m. ET 7/19/12.

Docket Numbers: ER12–2134–000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, L.L.C. submits tariff filing per 35.13(a)(2)(iii: Original Service Agreement No. 3342; Queue No. W1–122 to be effective 6/18/2012.

Filed Date: 6/28/12.

Accession Number: 20120628–5128.

Comments Due: 5 p.m. ET 7/19/12.

Docket Numbers: ER12–2135–000.

Applicants: Orange and Rockland Utilities, Inc.

Description: Orange and Rockland Utilities, Inc. submits tariff filing per 35.13(a)(2)(iii: Attachment K—Recharge NY Operating Agreement and Retail Transmission to be effective 7/1/2012.

Filed Date: 6/28/12.

Accession Number: 20120628–5136.

Comments Due: 5 p.m. ET 7/19/12

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

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

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

Dated: June 28, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–16690 Filed 7–6–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

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

Docket Numbers: ER10–2331–007; ER10–2343–007; ER10–2319–006; ER10–2320–006; ER10–2317–005; ER10–2322–007; ER10–2324–006; ER10–2325–005; ER10–2332–006; ER10–2326–007; ER10–2327–008; ER10–2328–006; ER11–4609–005; ER10–2898–006.

Applicants: J.P. Morgan Ventures Energy Corporation, Triton Power Michigan LLC, BE Allegheny LLC, BE CA LLC, BE Ironwood LLC, BE KJ LLC, BE Rayle LLC, BE Alabama LLC, BE Louisiana LLC, Cedar Brakes I, L.L.C., Utility Contract Funding, L.L.C., Central Power & Lime LLC, Cedar Brakes II, L.L.C., J.P. Morgan Commodities Canada Corporation.

Description: Central Region of J.P. Morgan Ventures Energy Corporation LLC *et al.* submits its Updated Market Power Analysis pursuant to Order No. 697 Compliance Filing.

Filed Date: 6/27/12.

Accession Number: 20120627–5179.

Comments Due: 5 p.m. ET 8/27/12.

Docket Numbers: ER10–2606–001.

Applicants: Consolidated Water Power Company.

Description: Consolidated Water Power Company Market-Based Rate Tariff to be effective 6/28/2012.

Filed Date: 6/27/12.

Accession Number: 20120627–5148.

Comments Due: 5 p.m. ET 7/18/12.

Docket Numbers: ER10–2606–002; ER10–2609–002.

Applicants: Consolidated Water Power Company, Escanaba Paper Company.

Description: Updated Market Power Analysis of Consolidated Water Power Company, *et al.*
Filed Date: 6/27/12.
Accession Number: 20120627–5176.
Comments Due: 5 p.m. ET 8/27/12.

Docket Numbers: ER10–2609–001.
Applicants: Escanaba Paper Company.
Description: Escanaba Paper Company Market-Based Rate Tariff to be effective 6/28/2012.
Filed Date: 6/27/12.
Accession Number: 20120627–5146.
Comments Due: 5 p.m. ET 7/18/12.

Docket Numbers: ER11–4386–002.
Applicants: AmericaWide Energy, LLC.
Description: AmericaWide Energy, LLC submits letter to FERC informing them that AmericaWide Energy Holdings, LLC is now the sole member of the company.
Filed Date: 6/25/12.
Accession Number: 20120627–0201.
Comments Due: 5 p.m. ET 7/16/12.

Docket Numbers: ER12–1875–001.
Applicants: AltaGas Renewable Energy Colorado LLC.
Description: Supplement to be effective 12/31/9998.
Filed Date: 6/27/12.
Accession Number: 20120627–5145.
Comments Due: 5 p.m. ET 7/18/12.

Docket Numbers: ER12–2065–001.
Applicants: Aequitas Energy, Inc.
Description: Amendment to Filing 1 to be effective 6/20/2012.
Filed Date: 6/27/12.
Accession Number: 20120627–5167.
Comments Due: 5 p.m. ET 7/18/12.

Docket Numbers: ER12–2115–000.
Applicants: PJM Interconnection, L.L.C.
Description: Notice of Cancellation of Service Agreement 2856 in Docket No. ER11–3527–000 to be effective 5/9/2012.
Filed Date: 6/27/12.
Accession Number: 20120627–5083.
Comments Due: 5 p.m. ET 7/18/12.

Docket Numbers: ER12–2116–000.
Applicants: Northeast Utilities Service Company.
Description: NUSCO on Behalf of Western Massachusetts Electric Company Notice of Cancellation of Service Agreement.
Filed Date: 6/27/12.
Accession Number: 20120627–5112.
Comments Due: 5 p.m. ET 7/18/12.

Docket Numbers: ER12–2117–000.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: G645–G788 Amended GIA (6–27–12) to be effective 6/28/2012.
Filed Date: 6/27/12.
Accession Number: 20120627–5116.
Comments Due: 5 p.m. ET 7/18/12.

Docket Numbers: ER12–2118–000.
Applicants: Pacific Gas and Electric Company.
Description: Shelter Cove IA Amendment and WDT SA to be effective 8/27/2012.
Filed Date: 6/27/12.
Accession Number: 20120627–5154.
Comments Due: 5 p.m. ET 7/18/12.

Docket Numbers: ER12–2119–000.
Applicants: Avista Corporation.
Description: Avista KEC Unexecuted SA T–1119 to be effective 9/1/2012.
Filed Date: 6/27/12.
Accession Number: 20120627–5165.
Comments Due: 5 p.m. ET 7/18/12.

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

Docket Numbers: ES12–45–000.
Applicants: Golden Spread Electric Cooperative, Inc.
Description: Amendment to Application of Golden Spread Electric Cooperative, Inc.
Filed Date: 6/27/12.
Accession Number: 20120627–5178.
Comments Due: 5 p.m. ET 7/9/12.

Take notice that the Commission received the following public utility holding company filings:

Docket Numbers: PH12–17–000.
Applicants: SteelRiver Infrastructure Partners LP.
Description: FERC–65A: Revised Exemption Notification of SteelRiver Infrastructure Partners LP.
Filed Date: 6/27/12.
Accession Number: 20120627–5103.
Comments Due: 5 p.m. ET 7/18/12.

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

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

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

Dated: June 28, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–16689 Filed 7–6–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2985–008 Massachusetts]

Onyx Specialty Papers, Inc; Notice of Availability of Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission or FERC's) regulations, 18 Code of Federal Regulations (CFR) Part 380 (Order No. 486, 52 FR 47897), Commission staff has reviewed the Onyx Specialty Papers, Inc.'s application for surrender of project license for the Willow Mill Hydroelectric Project (FERC Project No. 2985) and has prepared an environmental assessment (EA). The project is located on the Housatonic River, in the Town of Lee, Berkshire County, Massachusetts.

The EA contains the Commission staff's analysis of the potential environmental effects of the proposed surrender of license and concludes that the proposal would not constitute a major federal action that would significantly affect the quality of the human environment.

A copy of the EA is available for review at the Commission in the Public Reference Room 2–A of the Commission's offices at 888 First Street NE., Washington, DC 20426. The EA also may be viewed on the Commission's Internet Web site at (*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. Additional information about the project is available from the Commission's Web site using the eLibrary link. For assistance with eLibrary, contact *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676; for TTY contact (202) 502–8659.

You may also register online at *www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

For further information, contact Carlisa Linton by telephone at 202–502–8416 or by email at *Carlisa.linton-peters@ferc.gov.*

Dated: June 29, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–16628 Filed 7–6–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13316–001]

Mesa de Los Carros Hydro, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On April 3, 2012, Mesa De Los Carros Hydro, LLC filed an application, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Mesa De Los Carros Pumped Storage Project to be located in San Miguel County, New Mexico. The proposed project would be closed loop and would not be built on an existing body of water.

The proposed project would consist of: (1) An upper earthen dam with a height of 88 feet and a length of 11,880 feet; (2) an upper reservoir with a surface area of 276 acres, a capacity of 10,394 acre-feet, and a maximum pool elevation of 6,900 feet msl; (3) a lower earthen dam with a height of 110 feet and a length of 9,662 feet; (4) a lower reservoir with a surface area of 396 acres, a capacity of 11,652 acre-feet, and a maximum pool elevation of 5,560 feet msl; (5) a 29-foot-diameter, 9,000-foot-long steel penstock; (6) a powerhouse containing 4 generating units with a total installed capacity of 1,154 MW; (7) a 19.5-mile-long, 500 kV transmission line and; (8) appurtenant facilities. The proposed project would have an annual production of 4,214 GWh which would be sold to a local utility.

Applicant Contact: Brent L. Smith, Symbiotics, LLC, 811 SW Naito Parkway Ste. 120, Portland, OR 97204 (503) 235–3424.

FERC Contact: Shana Murray (202) 502–8333.

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–13316) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: June 29, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–16629 Filed 7–6–12; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2011–1013; FRL 9697–6]

Permitting Guidance for Oil and Gas Hydraulic Fracturing Activities Using Diesel Fuels—Draft

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of Comment Period.

SUMMARY: EPA published on May 10, 2012, *Permitting Guidance for Oil and Gas Hydraulic Fracturing Activities Using Diesel Fuels—Draft.* The initial public comment period for this proposal was 60 days, ending on July 9, 2012. In response to requests from several stakeholders, this action extends the public comment period for an additional 45 days.

DATES: The deadline for submitting comments is August 23, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OW–2011–1013 by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: OW-Docket@epa.gov@epa.gov.*
- *Mail:* Permitting Guidance for Oil and Gas Hydraulic Fracturing Activities Using Diesel Fuels—Draft, Environmental Protection Agency, Mailcode: 4606M, 1200 Pennsylvania Ave. NW., Washington, DC.
- *Hand Delivery:* Office of Water (OW) Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OW–2011–1013. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov.* The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available

either electronically in *www.regulations.gov* or in hard copy at the OW Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OW Docket is (202) 566–2426.

FOR FURTHER INFORMATION CONTACT: Sherri Comerford, Underground Injection Control (UIC) Program, Drinking Water Protection Division, Office of Ground Water and Drinking Water (MC–4606M), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–4639; email address: *Comerford.Sherri@epa.gov.* For general information, visit the Underground Injection Control Program's Hydraulic Fracturing and the Safe Drinking Water Act Web site, *http://water.epa.gov/type/groundwater/uic/class2/hydraulicfracturing/hydraulic-fracturing.cfm.*

SUPPLEMENTARY INFORMATION: Underground injection of fluids through wells is subject to the requirements of the Safe Drinking Water Act (SDWA) except where specifically excluded by the statute. In the 2005 Energy Policy Act (EP Act), Congress revised the SDWA definition of ''underground injection'' to specifically exclude from UIC regulation the ''underground injection of fluids or propping agents (other than diesel fuels) pursuant to hydraulic fracturing operations related to oil, gas, or geothermal production activities'' (SDWA Section 1421(d)(1)(B)). UIC regulations further provide that ''[a]ny underground injection, except into a well authorized by rule or except as authorized by permit issued under the UIC program, is prohibited'' (40 CFR 144.11). Thus, owners or operators who inject diesel fuels during hydraulic fracturing related to oil, gas, or geothermal operations must obtain a UIC permit before injection begins. While the EP Act references hydraulic fracturing related to geothermal activities, the draft guidance only covers hydraulic fracturing using diesel fuels related to oil and gas activities. Permits for oil and gas hydraulic fracturing using diesel fuels are available through the UIC Class II Program, the well class for oil and gas activities. Geothermal activities are not considered Class II.

The draft guidance provides information on SDWA UIC Class II requirements and recommendations for permitting hydraulic fracturing injection wells where diesel fuels are used in fluids or propping agents. The draft guidance is intended for EPA permit writers and, as a result, is relevant where EPA directly implements the UIC Class II program. Others may find the information in this document useful also. Recommendations in the draft guidance may change based on the comments we receive on the draft publication and this will be reflected in the final guidance. The deadline for submitting comments is August 23, 2012.

Dated: July 3, 2012.

Pamela S. Barr,

Acting Director, Office of Ground Water and Drinking Water.

[FR Doc. 2012–16694 Filed 7–6–12; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

DATE AND TIME: *Thursday, July 12, 2012 at 10:00 a.m.*

PLACE: 999 E Street NW., Washington, DC (Ninth Floor).

STATUS: This Meeting Will Be Open to the Public.

Items To Be Discussed

Correction and Approval of the Minutes for the Meeting of June 21, 2012;
Proposed Final Audit Report on National Right to Life PAC (A09–19);
Management and Administrative Matters.

Individuals who plan to attend and require special assistance, such as sign language interpretation or other reasonable accommodations, should contact Shawn Woodhead Werth, Secretary and Clerk, at (202) 694–1040, at least 72 hours prior to the meeting date.

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Shelley E. Garr,

Deputy Secretary of the Commission.

[FR Doc. 2012–16841 Filed 7–5–12; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL TRADE COMMISSION

Workshop on Pet Medications Issues

AGENCY: Federal Trade Commission.

ACTION: Notice of workshop and request for comments.

SUMMARY: The Federal Trade Commission seeks public comments in connection with a workshop to examine competition and consumer protection issues in the pet medications industry. The workshop will consider how current industry distribution and other business practices affect consumer choice and price competition for pet medications; the ability of consumers to obtain written, portable prescriptions that they can fill wherever they choose; and the ability of consumers to verify the safety and efficacy of pet medications that they purchase. The workshop will also examine the extent to which recent changes to restricted distribution and prescription portability practices in the contact lens industry might yield lessons applicable to the pet medications industry. The Commission seeks the views of consumers, veterinarians, business representatives, economists, lawyers, academics, and other interested parties on these issues. This notice poses a series of questions relevant to those issues about which the Commission seeks comment. After conducting the workshop and reviewing comments, the Commission may prepare a report discussing these issues.

DATES: The workshop will be held on October 2, 2012, in the Conference Center of the FTC office building at 601 New Jersey Avenue NW., Washington, DC. Prior to the workshop, the Commission will publish an agenda and further information on its Web site. Comments in response to this notice must be received on or before September 14, 2012.

ADDRESSES: Interested parties are invited to submit written comments electronically or in paper form by following the instructions in the **SUPPLEMENTARY INFORMATION** section below. Comments in electronic form should be submitted by using the following Web link: *https://ftcpublic.commentworks.com/ftc/petmedsworkshop* (and following the instructions on the Web-based form). Comments filed in paper form should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex X), 600 Pennsylvania Avenue NW., Washington, DC 20580, in the manner detailed in the supplementary section below.

FOR FURTHER INFORMATION CONTACT: Stephanie A. Wilkinson, Attorney, Office of Policy Planning, Federal Trade Commission, 600 Pennsylvania Avenue NW., Washington, DC 20580, 202–326–2084, *petmedsworkshop@ftc.gov.*

SUPPLEMENTARY INFORMATION: The quality and cost of pet medications is an

important pocketbook issue for many consumers. In 2011, 62 percent of U.S. households owned a pet, and Americans spent an estimated $50 billion on their pets,[1] including nearly $7 billion for prescription and over-the-counter (OTC) pet medications.[2] Drawing on the Federal Trade Commission's expertise as a competition and consumer protection agency, the workshop will examine ways to inform and empower consumers to obtain the highest quality and most cost-effective healthcare products for their pets.

Pet owners spend significantly more money on their pets than in past decades, and the market for pet medications has grown significantly in recent years.[3] Manufacturers and veterinarians have introduced new and improved diagnostic and therapeutic treatments for pets; pet medications have become available at some online and brick-and-mortar retail outlets; and veterinarians and others have increasingly emphasized preventative pet care. In addition, market participants note, in recent years it has become easier to administer flea and tick control products and heartworm preventatives, and the products themselves have become more effective. These products comprise the bulk of chronic pet medications sold in the United States. Indeed, the sale of prescription and OTC flea, tick, and heartworm products totaled nearly $3.7 billion in 2011.[4]

Distribution Practices in the Pet Medications Industry

Historically, veterinarians have been the principal dispensers of pet medications because of their unique role in the veterinarian-client-patient relationship, whereby a veterinarian examines, diagnoses, and treats the animal (patient), while also providing information to the animal's owner (client). Consumers still purchase most of their pet medications from the veterinarians who examine their pets, and most pet medication manufacturers choose to distribute their products exclusively through the veterinary channel.

Nonetheless, pet medications are no longer sold exclusively by veterinarians. Over the last ten years, brick-and-mortar and online retail and pharmacy entities (hereinafter collectively referred to as ''retailers'') also have begun selling pet medications, especially OTC medications. Some evidence suggests that these retailers may offer substantial pro-consumer benefits, such as increased convenience and lower prices.

Although retailers may obtain some portion of their pet medication products directly from manufacturers or authorized distributors, they also rely heavily on secondary supply channels. Most manufacturers state that they restrict the distribution of their pet medications to the veterinary channel, and that they use well-established tracking procedures to ensure the safety and efficacy of their products. Certain veterinarians purchase pet medications from manufacturers or authorized distributors and then resell some portion of their purchase to secondary suppliers for a profit, a practice sometimes referred to as ''diversion.''[5] Some secondary suppliers and retailers claim to have protocols in place to verify that the retailers receive bona fide products that originated with the manufacturer. Other industry participants, however, have questioned whether secondary suppliers and retailers always receive bona fide products (as compared to, for example, counterfeit product from non-U.S. sources), thereby raising potential questions about product safety and authenticity. The workshop will examine how competition in sales of pet medications to consumers has developed in light of these practices and how prices, product supply, and product quality may be affected.

In the workshop, the Commission seeks to examine issues related to the distribution of pet medications from practical, economic, and legal perspectives. The Commission invites public comment on questions relevant to this topic, including:

- How are pet medications distributed to consumers?
- What are the business rationales for various pet medication distribution practices?
- How has competition to sell medications to pet owners evolved in light of these distribution practices?
- How do these practices affect prices to consumers?
- How do these practices affect product supply and quality?
- How do these practices affect consumer choice?
- How do these practices affect entry into the pet medications market?
- How do these practices affect innovation in the pet medications market?
- What efficiencies or inefficiencies are associated with these practices?
- What, if any, product safety or counterfeiting issues exist with respect to these practices? Have there been instances in which false or misleading information about product safety risks was disseminated to consumers?
- Are there other factors that should be considered when analyzing the competition and consumer protection issues related to the distribution of pet medications?

Prescription Portability for Pet Medications

All industry participants agree that pets should be properly examined and diagnosed by a veterinarian to determine the most appropriate course of treatment for any medical condition, including whether any medication should be prescribed. When a veterinarian writes a prescription for a medication to be dispensed and subsequently administered by a pet's owner, the prescription must be filled with the correct medication and dosage and the owner must have access to relevant information about the medication and proper administration techniques. Some observers argue that veterinarians are in the best position to carry out these responsibilities; these observers believe, therefore, that veterinarians alone should dispense prescription pet medications to their clients. Others argue that licensed pharmacists are equally capable of dispensing pet medications to consumers, provided the pharmacists dispense the correct medication and dosage as prescribed by a veterinarian; these advocates point out that veterinarians can still provide relevant information and follow-up care to their clients even if they do not dispense the medication. Concerns about the safety of pet medications dispensed by pharmacists appear less pronounced for OTC medications, which do not require a prescription and typically do not require direct supervision by a veterinarian.

[1] American Pet Products Association Industry Statistics & Trends.

[2] Packaged Facts estimates.

[3] The size of the overall U.S. pet industry grew steadily from $17 billion in 1994 to over $50 billion in 2011. (American Pet Products Association Industry Statistics & Trends.) The size of the U.S. pet medications market grew from approximately $4.5 billion in 2006 to approximately $6.7 billion in 2011, and is projected to reach $9.25 billion by 2015. (Packaged Facts estimates.)

[4] *Id.* Of the estimated $6.7 billion in U.S. retail sales of pet medications in 2011, 36% was for flea and tick control products, and 19% was for heartworm preventatives. (Packaged Facts estimates.)

[5] It should be noted that the term ''diversion'' as used in human pharmaceutical markets means the illegal trade in prescription narcotics, in which products are not being used by the consumer in the manner intended. This is distinct from the situation in the pet medications market, in which products obtained through secondary supply channels are being used by the consumer in the manner intended.

A consumer cannot legally obtain prescription pet medications from a retailer without a written, portable prescription from a veterinarian. The American Veterinary Medical Association (AVMA) advises veterinarians to honor a client's request for a prescription, provided that a valid veterinarian-client-patient relationship exists.[6] This guidance is not mandatory, however. State regulations vary as to whether veterinarians are legally required to provide written prescriptions to clients, and it is unclear to what extent such regulatory obligations may be actively enforced against veterinarians. It appears that, while many veterinarians provide written prescriptions to their clients when requested, some veterinarians have refused to provide prescriptions or otherwise have discouraged their clients from obtaining pet medications from retailers.

Federal legislation proposed in House Bill 1406 (''H.R. 1406'' or ''the Bill'') would require veterinarians to provide clients with written prescriptions for all pet medications, regardless of whether requested, and to inform clients of their right to have pet medications dispensed elsewhere.[7] The Bill also would prohibit veterinarians from charging a fee or requiring waivers of liability for providing written prescriptions. H.R. 1406 would require the Federal Trade Commission to promulgate rules implementing the statute within 180 days of its enactment.

In the workshop, the Commission seeks to examine issues related to the portability of pet medication prescriptions from practical, economic, and legal perspectives. The Commission invites public comment on questions relevant to this topic, including:

- How varied are current veterinarian practices with respect to providing written, portable prescriptions to clients?
- To what extent are consumers aware that they can request a portable prescription from their veterinarian and have the prescription dispensed elsewhere?
- Which states require prescription portability for pet medications? Which do not? Are there states in which a proposal for prescription portability for pet medications was rejected by the legislature and, if so, why?
- In states that do require prescription portability, what recourse do consumers have if a veterinarian refuses to provide a written, portable prescription?
- What evidence exists to support a need for federal legislation requiring veterinarians to provide written prescriptions to their clients?
- What price and non-price benefits can accrue to consumers from prescription portability for pet medications?
- What risks or inefficiencies may be posed by prescription portability for pet medications?
- Is there a need for federal legislation requiring veterinarians to notify clients that they have the right to fill their prescriptions at the pharmacy of their choice?
- Is it appropriate to deny veterinarians the ability to charge a fee or require a waiver of liability for providing a written prescription to clients?
- How might the passage of H.R. 1406 affect price, consumer choice, and other forms of competition in the pet medications market?
- How can the prices charged to consumers for pet medications by veterinary clinics and retailers best be quantified and compared?
- To what extent do retailer prices for pet medications affect the prices of medications sold at veterinary practices, or other aspects of veterinary clinic operations?
- To what extent would H.R. 1406 affect veterinarians' sales of pet medications?
- What compliance costs would veterinarians face if H.R. 1406 were enacted?
- How might the passage of H.R. 1406 affect pet medication distribution practices?
- Should possible amendments to H.R. 1406 be considered?
- Are there other factors that should be considered when analyzing the competition and consumer protection issues related to the portability of pet medication prescriptions?

Comparison to Fairness to Contact Lens Consumers Act

Some restricted distribution and prescription portability issues existed in the contact lens industry at the time that Congress passed the Fairness to Contact Lens Consumers Act (''FCLCA''), Public Law 108–164. Industry participants have noted both similarities and differences between the contact lens industry and the pet medications industry. The workshop will examine whether consumer experiences with the FCLCA might provide insights about the potential impact of H.R. 1406. The Commission invites public comment on questions relevant to this topic, including:

- What was the impact of the FCLCA, if any, to consumers?
- What was the impact of the FCLCA, if any, to optometrists and ophthalmologists?
- What was the impact of the FCLCA, if any, on entry into the contact lens industry?
- What was the impact of the FCLCA, if any, on innovation in the contact lens industry?
- What was the impact of the FCLCA, if any, to contact lens distribution practices?
- Are there significant similarities or differences between the contact lens industry and the pet medications industry, particularly with respect to industry distribution practices and issues of prescription portability? If so, how should those similarities or differences be taken into account in assessing the likely effects of H.R. 1406 compared to the FCLCA?
- Are there other factors that should be considered when analyzing the competition and consumer protection issues related to the FCLCA, and how consumer experiences with the FCLCA might provide insights about the potential impact of H.R. 1406?

Instructions for Filing Public Comments

Interested parties are invited to submit written comments electronically or in paper form. We must receive your comment by September 14, 2012. Because paper mail addressed to the FTC is subject to delay due to heightened security screening, please consider submitting your comments in electronic form. Comments filed in electronic form should be submitted using the following Web link: *https://ftcpublic.commentworks.com/ftc/petmedsworkshop* (and following the instructions on the Web-based form). To ensure that the Commission considers an electronic comment, you must file it on the Web-based form at the Web link: *https://ftcpublic.commentworks.com/ftc/petmedsworkshop.* If this notice appears at *http://www.regulations.gov/#!home,* you may also file an electronic comment through that Web site. The Commission will consider all comments that regulations.gov forwards to it. You may also visit the FTC Web site at *http://www.ftc.gov* to read the notice and the news release describing it.

Comments should refer to ''Pet Medications Workshop, Project No. P12–1201'' to facilitate the organization of comments. Please note that your comment—including your name and your State—will be placed on the public

[6] See Principles of Veterinary Medical Ethics of the AVMA, III.C.1.

[7] *See* Fairness to Pet Owners Act, H.R. 1406, 112th Cong. (2011), *available at http://www.gpo.gov/fdsys/pkg/BILLS–112hr1406ih/pdf/BILLS–112hr1406ih.pdf.*

record of this proceeding, including on the publicly accessible FTC Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* Because comments will be made public, they should not include any sensitive personal information, such as any individual's Social Security Number; date of birth; driver's license number or other State identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, comments should not include ''trade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential'' as provided in Section 6(f) of the Federal Trade Commission Act (FTC Act), 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c).[8]

A comment filed in paper form should include the ''Pet Medications Workshop, Project No. P12–1201'' reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex X), 600 Pennsylvania Avenue NW., Washington, DC 20580. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC Web site, to the extent practicable, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2012–16594 Filed 7–6–12; 8:45 am]

BILLING CODE 6750–01–P

[8] The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

GENERAL SERVICES ADMINISTRATION

[FMR Bulletin—PBS–2012–03; Docket 2012–0002; Sequence 11]

Federal Management Regulation; FMR Bulletin PBS–2012–03; Redesignations of Federal Buildings: Correction

AGENCY: Public Buildings Service (PBS), General Services Administration (GSA).

ACTION: Notice of a bulletin; correction.

SUMMARY: The U.S. General Services Administration published in the **Federal Register** of June 13, 2012, a bulletin announcing the designation and redesignation of three Federal buildings. Inadvertently, the two-letter State ''AL'' was incorrectly identified with the city of Anchorage. This document corrects the abbreviation of the State of Anchorage to ''AK''.

DATES: *Effective Date:* July 9, 2012.

FOR FURTHER INFORMATION CONTACT: U.S. General Services Administration, Public Buildings Service (PBS), 1800 F Street NW., Washington, DC 20405, telephone number: 202–501–1100.

SUPPLEMENTARY INFORMATION: The GSA published a document in the **Federal Register** of June 13, 2012, (77 FR 35393). Inadvertently, the two-letter State for the city Anchorage was identified incorrectly. This document corrects the abbreviation of the State for the city Anchorage to read ''AK''.

Correction

In FR Doc. 2012–14416 published in the **Federal Register** at 77 FR 35393, June 13, 2012 make the following correction:

On page 35393, in the table, first and second columns, second entries, remove ''Anchorage, AL'' and add ''Anchorage, AK'' in their places.

Dated: June 21, 2012.

Dan Tangherlini,

Acting Administrator of General Services.

[FR Doc. 2012–16712 Filed 7–6–12; 8:45 am]

BILLING CODE 6820–23–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Scientific Advisory Committee on Alternative Toxicological Methods (SACATM)

AGENCY: Division of the National Toxicology Program (DNTP), National Institute of Environmental Health Sciences (NIEHS), National Institutes of Health (NIH), HHS.

ACTION: Meeting announcement and request for comments.

SUMMARY: Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of a meeting of SACATM on September 5–6, 2012, at the Rodbell Auditorium, Rall Building at the NIEHS, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709. The meeting is open to the public with attendance limited only by the space available. The meeting will be webcast through a link at (*http://www.niehs.nih.gov/news/video/live*). SACATM advises the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM), the NTP Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM), and the Director of the NIEHS and NTP regarding statutorily mandated duties of ICCVAM and activities of NICEATM.

DATES: The SACATM meeting will be held on September 5–6, 2012. The meeting is tentatively scheduled from 8:30 a.m. Eastern Daylight Time to 5:30 p.m. on September 5 and 8:30 a.m. until adjournment on September 6. All individuals who plan to attend are encouraged to register online at the NTP Web site (*http://ntp.niehs.nih.gov/go/32822*) by August 29, 2012. In order to facilitate planning, persons wishing to make an oral presentation are asked to notify Dr. Lori White, NTP Designated Federal Officer, via online registration, phone, or email by August 29, 2012 (see **ADDRESSES** below). Written comments should also be received by August 29, 2012, to enable review by SACATM and NIEHS/DNTP staff before the meeting. TTY users should contact the Federal TTY Relay Service at 800–877–8339. Requests should be made at least 5 business days in advance of the event.

ADDRESSES: The SACATM meeting will be held at the Rodbell Auditorium, Rall Building at the NIEHS, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709. Public comments and other correspondence should be directed to Dr. Lori White (Office of Liaison, Policy and Review, DNTP, NIEHS, P.O. Box 12233, MD K2–03,

Research Triangle Park, NC 27709; telephone: 919–541–9834 or email: *whiteld@niehs.nih.gov*). Courier address: NIEHS, 530 Davis Drive, Room 2136, Morrisville, NC 27560.

SUPPLEMENTARY INFORMATION:

Preliminary Agenda and Other Meeting Information

A preliminary agenda, roster of SACATM members, background materials, public comments, and any additional information, when available, will be posted on the SACATM meeting Web site (*http://ntp.niehs.nih.gov/go/32822*) or available upon request (see **ADDRESSES** above). Following the meeting, summary minutes will be prepared and available on the SACATM Web site or upon request.

Request for Comments

Both written and oral public input on the agenda topics is invited. Written comments received in response to this notice will be posted on the NTP Web site. Persons submitting written comments should include their name, affiliation (if applicable), and sponsoring organization (if any) with the document. Time is allotted during the meeting for presentation of oral comments and each organization is allowed one time slot per public comment period. At least 7 minutes will be allotted for each speaker, and if time permits, may be extended up to 10 minutes at the discretion of the chair. Registration for oral comments will also be available on-site, although time allowed for presentation by on-site registrants may be less than for pre-registered speakers and will be determined by the number of persons who register at the meeting. In addition to in-person oral comments at the meeting, public comments can be presented by teleconference line. There will be 50 lines for this call; availability will be on a first-come, first-served basis. The available lines will be open from 8:00 a.m. until 5:30 p.m. on September 5 and 8:30 a.m. to adjournment on September 6, although public comments will be received only during the formal public comment periods, which will be indicated on the preliminary agenda. The access number for the teleconference line will be provided to registrants by email prior to the meeting.

Persons registering to make oral comments are asked to do so through the online registration form (*http://ntp.niehs.nih.gov/go/32822*) and to send a copy of their statement to Dr. White (see **ADDRESSES** above) by August 29, 2012, to enable review by SACATM, NICEATM–ICCVAM, and NIEHS/DNTP staff prior to the meeting. Written statements can supplement and may expand the oral presentation. If registering on-site and reading from written text, please bring 40 copies of the statement for distribution and to supplement the record.

Background Information on ICCVAM, NICEATM, and SACATM

ICCVAM is an interagency committee composed of representatives from 15 Federal regulatory and research agencies that require, use, generate, or disseminate toxicological and safety testing information. ICCVAM conducts technical evaluations of new, revised, and alternative safety testing methods with regulatory applicability and promotes the scientific validation and regulatory acceptance of toxicological and safety testing methods that more accurately assess the safety and hazards of chemicals and products and that reduce, refine (decrease or eliminate pain and distress), or replace animal use. The ICCVAM Authorization Act of 2000 (42 U.S.C. 285*l*–3) established ICCVAM as a permanent interagency committee of the NIEHS under NICEATM. NICEATM administers ICCVAM, provides scientific and operational support for ICCVAM-related activities, and conducts independent validation studies to assess the usefulness and limitations of new, revised, and alternative test methods and strategies. NICEATM and ICCVAM work collaboratively to evaluate new and improved test methods and strategies applicable to the needs of U.S. Federal agencies. NICEATM and ICCVAM welcome the public nomination of new, revised, and alternative test methods and strategies for validation studies and technical evaluations. Additional information about ICCVAM and NICEATM can be found on the NICEATM–ICCVAM Web site *(http://iccvam.niehs.nih.gov).*

SACATM was established in response to the ICCVAM Authorization Act [Section 285*l*–3(d)] and is composed of scientists from the public and private sectors. SACATM advises ICCVAM, NICEATM, and the Director of the NIEHS and NTP regarding statutorily mandated duties of ICCVAM and activities of NICEATM. SACATM provides advice on priorities and activities related to the development, validation, scientific review, regulatory acceptance, implementation, and national and international harmonization of new, revised, and alternative toxicological test methods. Additional information about SACATM, including the charter, roster, and records of past meetings, can be found at *http://ntp.niehs.nih.gov/go/167.*

Dated: June 27, 2012.

John R. Bucher,

Associate Director, National Toxicology Program.

[FR Doc. 2012–16675 Filed 7–6–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day-12–0856]

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 the CDC Reports Clearance Officer at (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 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

National Quitline Data Warehouse (OMB No. 0920–0856, exp. 7/31/2012)—Revision—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Tobacco use remains the leading preventable cause of disease and death in the United States, resulting in approximately 440,000 deaths annually and contributing to $92 billion annually in lost worker productivity. Although the prevalence of current smoking among adults decreased significantly since its peak in the 1960s, overall smoking prevalence among U.S. adults has remained virtually unchanged during the past five years. Large disparities in smoking prevalence continue to exist among members of racial/ethnic minority groups and individuals of low socioeconomic status.

The National Tobacco Control Program (NTCP) was established by CDC to help reduce tobacco-related disease, disability, and death. The NTCP provides funding for state quitlines, which provide telephone-based tobacco cessation services to help tobacco users

quit. Quitlines overcome many of the barriers to tobacco cessation classes and traditional clinics because they are free and available at the caller's convenience. Quitline services in all states can be accessed through a toll-free national portal number at 1–800–QUIT–NOW. According to CDC's Best Practices for Comprehensive Tobacco Control, approximately six to eight percent of tobacco users potentially can be reached successfully by quitlines; however, currently, only one to two percent of tobacco users contact Quitlines.

With funding authorized by the American Recovery and Reinvestment Act of 2009 (ARRA), CDC provided additional support for the expansion of tobacco quitline services and established a National Quitline Data Warehouse (NDQW) to collect information from the 50 states, the District of Columbia, Puerto Rico, and Guam. The principal information collection is based on a uniform Minimum Data Set (MDS) developed collaboratively by the North American Quitline Consortium and other tobacco control organizations.

Currently, the National Quitline Data Warehouse is an ongoing data collection that continues to standardize services, individual-level intake, and follow-up data collected by CDC-funded quitlines for the purposes of program monitoring, evaluation, and improvement. CDC is requesting OMB approval to continue the National Quitline Data Warehouse to evaluate the impact of Affordable Care Act, Prevention and Public Health Funds, and other CDC funding streams, such as the National Tobacco Control Program.

Quitline service providers use a common interview instrument to collect intake information from all callers. A one-minute interview will be conducted with callers who contact the quitline to obtain information on another person's behalf. Callers who contact the quitline to obtain information or services for themselves will be asked to participate in a 10-minute interview. A random sample of callers who receive a quitline service are asked to participate in a short, voluntary follow-up interview seven months after intake. Individual-level data (intake and 7-month follow-up) are submitted to CDC electronically through a secure FTP server (60%) and via U.S. mail (40%).

In addition, CDC collects a web-based quarterly report about each quitline program from the designated Tobacco Control Manager. These reports are used to quantify changes in service provision and improvements in the capacity of the quitlines to assist tobacco users over time. The majority of these data (90%) are submitted through the web-based survey, while the remaining 10% are submitted through other electronic means (i.e. email, PDF, fax). Based on NQDW data collected during the first two-year OMB clearance period, the estimated burden per response for the NQDW Quitline Services Online Survey is being increased from 7 minutes to 20 minutes.

The information collected in the NQDW will be used to determine the role quitlines play in promoting tobacco use cessation, measure the number of tobacco users being served by state quitlines, determine reach of quitlines to high-risk populations (e.g., racial and ethnic minorities and the medically underserved), measure the number using each state quitline who quit, determine whether some combinations of services contribute to higher quit rates than others, and improve the timeliness, access to, and quality of data collected by quitlines. CDC received public comments about uses of NQDW data, and other issues, in response to publication of the 60-day **Federal Register** Notice. In response to those comments, the revision request includes additional information about uses of information collected through the NQDW and describes CDC's plans to establish an evaluation working group to further enhance uses of NQDW data.

Information will be collected electronically and through the U.S. mail for a three-year period. There are no costs to respondents other than their time. The total estimated annualized burden hours are 88,982.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Caller who contacts the Quitline on behalf of someone else.	NQDW Intake Questionnaire	24,688	1	1/60
Caller who contacts the Quitline for personal use.		510,768	1	10/60
Quitline caller who received a Quitline service.	NQDW 7–Month Follow-up Questionnaire	28,900	1	7/60
Tobacco Control Manager	NQDW Quitline Services Online Survey	53	4	20/60

Kimberly S. Lane,

Deputy Director, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2012–16648 Filed 7–6–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–12–0821]

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

Quarantine Station Illness and Death Investigation Forms—Airline, Maritime, Land/Border Crossing Illness and Death Investigation Forms—Revision—National Center for Zoonotic and Emerging Infectious Diseases (NCEZID)

(0920–0821, expires 9/30/2012), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC is requesting a revision to an existing data collection of patient-level clinical, epidemiologic, and demographic data from ill travelers and their possible contacts in order to fulfill its regulatory responsibility to prevent the importation of communicable diseases from foreign countries (42 CFR part 71) and interstate control of communicable diseases in humans (42 CFR part 70).

Section 361 of the Public Health Service (PHS) Act (42 U.S.C. 264) authorizes the Secretary of Health and Human Services to make and enforce regulations necessary to prevent the introduction, transmission or spread of communicable diseases from foreign countries into the United States. The regulations that implement this law, 42 CFR parts 70 and 71, authorize quarantine officers and other personnel to inspect and undertake necessary control measures with respect to conveyances (e.g., airplanes, cruise ships, trucks, etc.), persons, and shipments of animals and etiologic agents in order to protect the public health. The regulations also require conveyances to immediately report an ''ill person'' or any death on board to the Quarantine Station prior to arrival in the United States. An ''ill person'' is defined in statute by:

—Fever (≥100 °F or 38 °C) persisting ≥48 hours.
—Fever (≥100 °F or 38 °C) AND rash, glandular swelling, or jaundice.
—Diarrhea (≥3 stools in 24 hours or greater than normal amount).

The 2003 SARS situation and concern about pandemic influenza and other communicable diseases have prompted CDC Quarantine Stations to recommend that all illnesses be reported prior to arrival.

CDC Quarantine Stations are currently located at 20 international U.S. Ports of Entry. When a suspected illness is reported to the Quarantine Station, officers promptly respond to this report by meeting the incoming conveyance in person (when possible), collecting information and evaluating the patient(s), and determining whether an ill person can safely be admitted into the U.S. If Quarantine Station staff are unable to meet the conveyance, the crew or medical staff of the conveyance are trained to complete the required documentation and forward it (using a secure system) to the Quarantine Station for review and follow-up.

To perform these tasks in a streamlined manner and ensure that all relevant information is collected in the most efficient and timely manner possible, Quarantine Stations use a number of forms—the Air Travel Illness or Death Investigation Form, Maritime Conveyance Illness or Death Investigation Form, and the Land Travel Illness or Death Investigation Form—to collect data on passengers with suspected illness and other travelers/crew who may have been exposed to an illness. These forms are also used to respond to a report of a death aboard a conveyance.

The purpose of all three forms is the same: To collect information that helps quarantine officials detect and respond to potential public health communicable disease threats. All three forms collect the following categories of information: Demographics and mode of transportation, clinical and medical history, and any other relevant facts (e.g., travel history, traveling companions, etc.). As part of this documentation, quarantine public health officers look for specific signs and symptoms common to the nine quarantinable diseases (Pandemic influenza; SARS; Cholera; Plague; Diphtheria; Infectious Tuberculosis; Smallpox; Yellow fever; and Viral Hemorrhagic Fevers), as well as most communicable diseases in general. These signs and symptoms include fever, difficulty breathing, shortness of breath, cough, diarrhea, jaundice, or signs of a neurological infection. The forms also collect data specific to the traveler's conveyance.

These data are used by Quarantine Stations to make decisions about a passenger's suspected illness as well as its communicability. This in turn enables Quarantine Station staff to assist conveyances in the public health management of passengers and crew.

The estimated total burden on the public, included in the chart below, can vary a great deal depending on the severity of the illness being reported, the number of contacts, the number of follow-up inquiries required, and who is recording the information (e.g., Quarantine Station staff versus the conveyance medical authority). In all cases, Quarantine Stations have implemented practices and procedures that balance the health and safety of the American public against the public's desire for minimal interference with their travel and trade. Whenever possible, Quarantine Station staff obtain information from other documentation (e.g., manifest order, other airline documents) to reduce the amount of the public burden. The total estimated burden requested for this data collection is 377 hours.

Kimberly S. Lane,

Deputy Director, Office of Science Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2012–16647 Filed 7–6–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–12–0556]

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 the CDC Reports Clearance Officer at (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 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Assisted Reproductive Technology (ART) Program Reporting System (0920–0559, exp. 9/30/2012)—Revision—National Center for Chronic Disease and Public Health Promotion (NCDDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The ART program reporting system is used to comply with Section 2(a) of Pub. L. 102–493 (known as the Fertility Clinic Success Rate and Certification Act of 1992 (FCSRCA)), 42 U.S.C. 263a–1(a)). FCSRCA requires each ART program to annually report to the Secretary through the CDC pregnancy success rates achieved by each ART program, the identity of each embryo laboratory used by such ART program, and whether the laboratory is certified or has applied for certification under the Act. The reporting system allows CDC to publish an annual success rate report to Congress as specified by the FCSRCA.

CDC requests OMB approval to continue information collection for three years. This Revision request includes an increase in the total estimated burden hours due to an increase in the estimated number of

responding clinics and an increase in the estimated number of responses per respondent. In addition, this Revision request describes implementation of a brief, one-time optional feedback survey at the end of the data submission for each reporting year. The feedback survey will elicit information about ART reporting system usability as well as respondents' perspectives on the usefulness of the information collection.

Information is collected electronically through the National ART Surveillance System (NASS), a web-based interface, or by electronic submission of NASS-compatible files. The NASS includes information about all ART cycles initiated by any of the ART programs practicing in the United States and its territories. The system also collects information about the pregnancy outcome of each cycle as well as a number of data items deemed important to explain variability in success rates across ART programs and individuals.

Respondents are the 484 ART programs in the United States. Approximately 440 ART programs are expected to report an average of 339 ART cycles each. The burden estimate includes the time for collecting, validating, and reporting the requested information. Information is collected on an annual schedule.

There are no costs to the respondents other than their time. The total estimated annualized burden hours are 96,960.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
ART Programs	NASS	440	339	39/60
	Feedback Survey	176	1	2/60

Kimberly S. Lane,

Deputy Director, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2012–16645 Filed 7–6–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day-12–0338]

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 the CDC Reports Clearance Officer at (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 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Annual Submission of the Ingredients Added to, and the Quantity of Nicotine Contained in, Smokeless Tobacco Manufactured, Imported, or Packaged in the U.S. (OMB No. 0920–0338, exp. 9/30/2012)—Extension—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention (CDC), Office on Smoking and Health (OSH) has the primary responsibility for the Department of Health and Human Services (HHS) smoking and health program. HHS's overall goal is to reduce death and disability resulting from the use of smokeless tobacco products and other forms of tobacco use through programs of information, education and research.

Since 1994, as required by the Comprehensive Smokeless Tobacco Education Act of 1986 (CSTHEA, 15 U.S.C. 4401 et seq., Pub. L. 99–252), CDC has collected information about the ingredients used in smokeless tobacco products and their nicotine content. Respondents are commercial smokeless tobacco product manufacturers, packagers, or importers (or their designated representatives), who are required by the CSTHEA to submit ingredient reports to HHS on an annual basis. The legislation also authorizes HHS to undertake research, and to report to Congress, as deemed appropriate, about the health effects of these ingredients.

Respondents are not required to submit specific forms; however, they are required to meet reporting guidelines and to submit the ingredient report by chemical name and Chemical Abstract Service (CAS) Registration Number, consistent with accepted reporting practices for other companies currently required to report ingredients added to other consumer products. Typically, respondents submit a summary report to CDC with the ingredient information for multiple products, or a statement that there are no changes to their previously submitted ingredient report.

Ingredient reports for new products are due at the time of first importation. Thereafter, ingredient reports are due annually on March 31. Information is submitted to OSH by mailing a written report on the respondent's letterhead, by CD, three-inch floppy disk, or thumb drive. The information collection is subject to strict confidentiality provisions and electronic mail submissions are not accepted. Upon receipt and verification of the annual nicotine and ingredient report, OSH issues a Certificate of Compliance to the respondent.

OMB approval is requested for three years. There are no changes to information collection procedures or the estimated burden per response. Due to an increase in the estimated number of respondents (from 11 to 13), there is an increase in the total estimated annualized burden hours (from 18,843 to 22,269). There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Smokeless Tobacco Manufacturers, Packagers, and Importers.	SLT Nicotine and Ingredient and Report	13	1	1,713

Kimberly S. Lane,

Deputy Director, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2012–16643 Filed 7–6–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30-Day–12–12II]

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

Risk Factors for Invasive Methicillin-resistant *Staphylococcus aureus* (MRSA) among Patients Recently Discharged from Acute Care Hospitals through the Active Bacterial Core Surveillance for Invasive MRSA infections (ABCs MRSA)—NEW—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Essential steps in reducing the occurrence of healthcare-associated invasive MRSA infections are to quantify the burden and to identify modifiable risk factors associated with invasive MRSA disease. The current CDC's ABCs MRSA surveillance has been essential to quantify the burden of invasive MRSA in the United States. Through this surveillance CDC was able to estimate that 94,360 invasive MRSA infections associated with 18,650 deaths occurred in the United States in 2005. The majority of these invasive infections (58%) had onset in the community or within 3 days of hospital admission and occurred among individuals with recent healthcare exposures (healthcare-associated community-onset [HACO]). More recent data from the CDC's ABCs MRSA system have shown that two thirds of invasive healthcare-associated community-onset MRSA infections occur among persons who are discharged from an acute care hospital in the prior 3 months. Risk factors for invasive MRSA infections post-discharge have not been well evaluated, and effective prevention measures in this population remain uncertain.

For this project, an estimated total of 450 patients (150 patients with HACO MRSA infection post-acute care discharge and 300 patients without HACO MRSA infection) will be contacted for the MRSA interview annually. This estimate is based on the numbers of MRSA cases reported by the ABCs MRSA sites annually (*http://www.cdc.gov/abcs/reports-findings/survreports/mrsa08.html*) who are 18 years of age or older, had onset of the MRSA infection in the community or within 3 days of hospital admission, and history of hospitalization in the prior 3 months. ABCs MRSA surveillance case report forms will be used to identify HACO MRSA cases to be contacted for a telephone interview. For each HACO MRSA case identified; 2 patients without HACO MRSA infection (control-patients) matched on age with MRSA case will be contacted for a health interview. All 450 patients (both cases and controls) will be screened for eligibility and those considered to be eligible will complete the telephone interview. We anticipate that 350 of the 450 patients screened will complete the telephone interview across all 6 participating ABCs MRSA sites per year. We anticipate the screening questions to take about 5 minutes and the telephone interview 20 minutes per respondent.

Preventing healthcare-associated invasive MRSA infections is one of CDC priorities. The goal of this project is to assess risk factors for invasive healthcare-associated MRSA infections, which will inform the development of targeted prevention measures. This activity supports the HHS Action Plan for elimination of healthcare-associated infections.

There are no costs to respondents. The total response burden for the study is estimated as 155 hours.

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Hospital Patients	Screening Form	450	1	5/60
	Telephone interview	350	1	20/60

Kimberly S. Lane,

Deputy Director, Office of Science Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2012–16641 Filed 7–6–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Announcement of Requirements and Registration for Million Hearts ™ Caregiver Video Challenge

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

Aware Approving Official: Thomas R. Frieden, MD, MPH, Director, Centers for Disease Control and Prevention, and Administrator, Agency for Toxic Substances and Disease Registry.

SUMMARY: The Centers for Disease Control and Prevention (CDC) within the Department of Health and Human Services, in partnership with Million Hearts ™ announces the launch of *The Million Hearts ™ Caregiver Video Challenge.* We invite people who play a role in helping to prevent or control high blood pressure or maintain the heart health of a loved one to share their stories of caregiving by creating original, compelling videos that are less than 2 minutes long. The videos should include a description of how the caregiver contributes to another person's heart health and provide helpful tips related to high blood pressure prevention or control.

This challenge is necessary to engage a key audience of the Million Hearts ™ initiative and to recognize individuals who work hard to provide care for their family members or friends. The goal of this Challenge is to have caregivers create inspiring videos that provide other caregivers helpful tips on heart healthy practices, particularly on the prevention and control of high blood pressure. Through these personalized videos we intend to promote heart disease prevention through blood pressure control, medication adherence, and lifestyle changes to the public.

DATES: Contestants can submit videos July 16, 2012 through August 31, 2012. Judging will take place September 10–28, 2012. Winners will be announced on October 8, 2012.

FOR FURTHER INFORMATION CONTACT: Megan Steinbauer, Officer of the Associate Director for Communication, Centers for Disease Control and Prevention, 1600 Clifton Road NE., Mailstop G–21, Atlanta, Georgia 30329, phone (404) 639–3245, email *weo6@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Subject of Challenge Competition

''The Million Hearts ™ Caregiver Video Challenge'' will engage the caregiver community. We ask caregivers to create and submit videos that describe their role in caring for the heart health, particularly by helping to prevent or control high blood pressure, of loved ones. In the videos caregivers should describe how they help family members remember to take medications as directed (medication adherence), offer tips for monitoring blood pressure at home to improve blood pressure control, or show how to encourage lifestyle changes that benefit blood pressure control. Lifestyle changes include increasing physical activity or reducing sodium in the diet.

Eligibility Rules for Participating in the Competition

The Challenge is open to any Contestant, defined as an individual or team of U.S. citizens or permanent residents of the United States who are 18 years of age or older. All individual members of a team must meet the eligibility requirements. ''Team members'' do not include people whose only contribution is appearing in the video. Minors can appear in the video, as long as the necessary consent is provided.

To be eligible to win a prize under this challenge, an individual or entity—

(1) Shall have registered to participate in the competition under the rules promulgated by Centers for Disease Control and Prevention;

(2) Shall have complied with all the requirements under this section;

(3) In the case of a private entity, shall be incorporated in and maintain a primary place of business in the United States, and in the case of an individual, whether participating singly or in a group, shall be a citizen or permanent resident of the United States; and

(4) May not be a Federal entity or Federal employee acting within the scope of their employment. Federal employees seeking to participate in this contest outside the scope of their employment should consult their ethics official prior to developing their submission.

(5) May not be employees of the HHS, judges of the Challenge, or any other party involved with the design, production, execution, or distribution of the Challenge or their immediate family (spouse, parents or step-parents, siblings and step-siblings, and children and step-children).

(6) Shall not be an HHS employee, not otherwise associated with the challenge within the scope of their employment, working on their applications or submissions during assigned duty hours.

(7) Federal grantees may not use Federal funds to develop COMPETES Act challenge applications unless consistent with the purpose of their grant award.

(8) Federal contractors may not use Federal funds from a contract to develop COMPETES Act challenge applications or to fund efforts in support of a COMPETES Act challenge submission.

An individual or entity shall not be deemed ineligible because the individual or entity used Federal facilities or consulted with Federal employees during a competition if the facilities and employees are made available to all individuals and entities participating in the competition on an equitable basis.

By entering, each Contestant agrees to: (a) Comply with, and be bound by, these Official Rules and the decisions of the Challenge and judges which are binding and final in all matters relating to this Challenge; (b) Assume any and all risks and waive claims against the Federal Government and its related entities, except in the case of willful misconduct, for any injury, death, damage, or loss of property (including any damage that may result from a virus, malware, etc. to CDC systems utilized to play the video), revenue, or profits, whether direct, indirect, or consequential, arising from the Contestant's participation in the Challenge, whether the injury, death, damage, or loss arises through negligence or otherwise. The Contestant/Submitter shall be liable for, and shall indemnify and hold harmless the Government against, all actions or claims for any claim, demand, judgment, or other allegation arising from alleged violation of an individual's trademark, copyright, or other legally protected interest in video's submitted to CDC.

Provided, however, that Contestants are not required to waive claims arising out of the unauthorized use or disclosure by the Sponsor and/or Administrator of the intellectual property, trade secrets, or confidential business information of the Contestant. (c) Be responsible for obtaining their own liability insurance to cover claims by any third party for death, bodily injury, or property damage, or loss

resulting from an activity carried out in connection with participation in the Challenge, and claims by the Federal Government for damage or loss to Government property resulting from such an activity; and (d) Indemnify the Federal Government against third party claims for damages arising from or related to Challenge activities.

Registration Process for Participants

The Million Hearts™ Caregiver Video Challenge can be registered for on *http://www.challenge.gov.* Interested persons should read the official rules and guidelines posted on the Challenge site (*www.MillionHearts.challenge.gov*) to create an eligible video. If a person wishes to register to enter a submission, they must click on the link to ''follow'' the Challenge at the top of the Challenge site.

Amount of the Prize

Three winners will be selected. The first place winner will receive $500.00. The second and third place winners will receive $250.00 each.

Payment of the Prize

Prizes awarded under this competition will be paid by check and may be subject to Federal income taxes. The prizes are donated by a private donor, the CDC Foundation.

Basis Upon Which Winner Will Be Selected

The videos will be judged by Million Hearts™ leadership and external partners in compliance with the requirements of the America COMPETES Act. Judges will be named after the Challenge begins. The judging panel will make decisions based on the following criteria:

(1) *How appropriate is the video to the theme?* Judges will score the entries on the extent to which each video supports the Challenge goals and follows the official rules and guidelines. Following the theme, videos should provide appropriate and accurate care and prevention information.

(2) *How is the caregiver's story told?* Submissions will be judged on the creativity, originality, and memorability of the information presented in the videos.

(3) *How enjoyable is the video to watch?* All types of videos will be accepted into the Challenge. However, judges will rate each video on its visual and sound quality and how clearly the caregiver's story is communicated.

(4) *To what extent does the video have the potential to impact others?* Submitted videos should be persuasive and motivate other caregivers and their family members to perform heart-healthy practices. Videos should offer easy to execute, useful tips regarding the prevention and control of high blood pressure.

Additional Information

More information on the topic areas can be found on *http://millionhearts.hhs.gov/abouthds/prevention.html.*

Regarding Copyright/Intellectual Property: Upon Submission, Contestant warrants that he or she is the sole author and owner of the contest Submission, and that the contest Submission completely originates with the Contestant, that it does not infringe upon any copyright or any other rights of any third party of which Contestant(s) is aware, and is free of malware.

Submission Rights: All videos submitted to the *Million Hearts™ Caregiver Video Contest* remain the intellectual property of the individuals who developed them. However, HHS and CDC maintain a non-exclusive, royalty-free license to use, reproduce, publish, distribute and exhibit the submission/winning video in any and all formats or manner for educational, training and other public health purposes consistent with HHS and/or CDC's mission.

Compliance With Rules and Contacting Contest Winners

Finalists and the Contest Winners must comply with all terms and conditions of these Official Rules; winning is contingent upon fulfilling all requirements herein. The initial finalists will be notified by email, telephone, or mail after the date of the judging. Awards may be subject to Federal income taxes, and the Department of Health and Human Services will comply with the Internal Revenue Service withholding and reporting requirements, where applicable.

Privacy

If Contestants choose to provide the CDC with personal information by registering or filling out the submission form through the Challenge.gov Web site, that information is used to respond to Contestants in matters regarding their submission, announcements of entrants, finalists, and winners of the Contest. Information is not collected for commercial marketing. Winners are permitted to cite that they won this contest.

General Conditions

The CDC reserves the right to cancel, suspend, and/or modify the Contest, or any part of it, for any reason, at CDC's sole discretion.

Participation in this Contest constitutes a contestants' full and unconditional agreement to abide by the Contest's Official Rules found at *www.Challenge.gov.*

Authority: 15 U.S.C. 3719.

Dated: July 2, 2012.

Tanja Popovic,

Deputy Associate Director for Science, Centers for Disease Control and Prevention.

[FR Doc. 2012–16666 Filed 7–6–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Request for Nominations of Candidates To Serve on the Board of Scientific Counselors, National Center for Environmental Health/Agency for Toxic Substances and Disease Registry (BSC, NCEH/ATSDR)

The CDC is soliciting nominations for membership on the BSC, NCEH/ATSDR. The BSC, NCEH/ATSDR consists of 16 experts knowledgeable in the field of environmental public health or in related disciplines, who are selected by the Secretary of the U.S. Department of Health and Human Services (HHS). The BSC, NCEH/ATSDR provides advice and guidance to the Secretary, HHS; the Director, CDC; and the Director, NCEH/ATSDR, regarding program goals, objectives, strategies, and priorities in fulfillment of the agencies' mission to protect and promote people's health. The Board provides advice and guidance to help NCEH/ATSDR work more efficiently and effectively with its various constituents and to fulfill its mission in protecting America's health.

Nominations are being sought for individuals who have expertise and qualifications necessary to contribute to the accomplishments of the Board's objectives. Nominees will be selected from experts having experience in preventing human diseases and disabilities caused by environmental conditions. Experts in the disciplines of toxicology, epidemiology, environmental or occupational medicine, behavioral science, risk assessment, exposure assessment, and experts in public health and other related disciplines will be considered. Members may be invited to serve up to four-year terms.

The U.S. Department of Health and Human Services policy stipulates that committee membership be balanced in

terms of points of view represented and the board's function. Consideration is given to a broad representation of geographic areas within the U.S., as well as gender, race, ethnicity, persons with disabilities, and several factors including: (1) The committee's mission; (2) the geographic, ethnic, social, economic, or scientific impact of the advisory committee's recommendations; (3) the types of specific perspectives required, for example, those of consumers, technical experts, the public at-large, academia, business, or other sectors; (4) the need to obtain divergent points of view on the issues before the advisory committee; and (5) the relevance of State, local, or tribal governments to the development of the advisory committee's recommendations. Nominees must be U.S. citizens.

The following information must be submitted for each candidate: Name, affiliation, address, telephone number, and current curriculum vitae. Email addresses are requested if available. Nominations should be sent, in writing, and postmarked by September 30, 2012, to: Sandra Malcom, Committee Management Specialist, NCEH/ATSDR, CDC, 4770 Buford Highway (MS–F61), Chamblee, Georgia 30341, Email address: *sym6@CDC.GOV*. Telephone and facsimile submissions cannot be accepted.

Candidates invited to serve will be asked to submit the ''Confidential Financial Disclosure Form (OGE Form 450) for Special Government Employees Serving on Federal Advisory Committees at the Centers for Disease Control and Prevention.'' This form allows CDC to determine whether there is a statutory conflict between that person's public responsibilities as a Special Government Employee and private interests and activities, or the appearance of a lack of impartiality, as defined by Federal regulation. The form may be viewed and downloaded at *http://www.usoge.gov/forms/oge450_pdf/oge450_accessible.pdf.*

This form should not be submitted as part of a nomination.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention, and the Agency for Toxic Substances and Disease Registry.

Dated: June 28, 2012.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2012–16636 Filed 7–6–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0860]

Glen R. Justice: Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing an order under the Federal Food, Drug, and Cosmetic Act (the FD&C Act) debarring Glen R. Justice, M.D. from providing services in any capacity to a person that has an approved or pending drug product application for a period of 25 years. We base this order on a finding that Dr. Justice was convicted of five felony counts under Federal law for conduct involving health care fraud and that this pattern of conduct was sufficient to find that there is reason to believe he may violate requirements under the FD&C Act relating to drug products. Dr. Justice was given notice of the proposed debarment and an opportunity to request a hearing within the timeframe prescribed by regulation. Dr. Justice failed to respond. Dr. Justice's failure to respond constitutes a waiver of his right to a hearing concerning this action.

DATES: This order is effective July 9, 2012.

ADDRESSES: Submit applications for special termination of debarment to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Kenny Shade, Office of Regulatory Affairs, Food and Drug Administration, 12420 Parklawn Dr., Rockville, MD 20857, 301–796–4640.

SUPPLEMENTARY INFORMATION:

I. Background

Section 306(b)(2)(B)(ii)(I) of the FD&C Act (21 U.S.C. 335a(b)(2)(B)(ii)(I)) permits debarment of an individual if FDA finds that the individual has been convicted of a felony under Federal law for conduct which involves bribery, payment of illegal gratuities, fraud, perjury, false statement, racketeering, blackmail, extortion, falsification or destruction of records, or interference with, obstruction of an investigation into, or prosecution of any criminal offense, and it finds, on the basis of the conviction and other information, that such individual has demonstrated a pattern of conduct sufficient to find that there is reason to believe the individual may violate requirements under the FD&C Act relating to drug products.

On July 25, 2011, the U.S. District Court for the Central District of California entered judgment against Dr. Justice for health care fraud in violation of 18 U.S.C. 1347, and aiding and abetting and causing an act to be done in violation of 18 U.S.C. 2.

The FDA's finding that debarment is appropriate is based on the felony convictions referenced herein. The factual basis for this conviction is as follows: Dr. Justice was a physician licensed by the State of California. Dr. Justice owned and operated a medical practice in the Central District of California and he enrolled as a provider with federally-funded and private health care programs.

Dr. Justice devised and executed a scheme to defraud federally-funded and private health care benefit programs. As part of the scheme, Dr. Justice knowingly and willfully submitted, and caused to be submitted, false and fraudulent claims to health care benefit programs for injectable medications, knowing that those medications were never provided to the patients and he billed patients health care benefit programs for more expensive injectable medications when less expensive medications were provided. Dr. Justice continued his conduct despite being advised by staff to desist and subsequent to the execution of a search warrant at his medical practice in 2006. As a result of Dr. Justice's fraudulent business practices, health care benefit programs suffered losses between $400,000 and $1,000,000.

As a result of his convictions, on March 26, 2012, FDA sent Dr. Justice a notice by certified mail proposing to debar him for 25 years from providing services in any capacity to a person that has an approved or pending drug product application. The proposal was based on the finding, under section 306(b)(2)(B)(ii)(I) of the FD&C Act, that Dr. Justice was convicted of felonies under Federal law for conduct which involved health care fraud, and that the Agency found, on the basis of the conviction and other information, that Dr. Justice had demonstrated a pattern of conduct sufficient to find that there is reason to believe he may violate

requirements under the FD&C Act relating to drug products. This conclusion was based on the fact that Dr. Justice had legal and professional obligations to ensure that he submitted accurate medical claims for procedures he performed, as well as administering medicines that were appropriate for his patients' condition, which he knowingly and willingly disregarded, as well as the fact that Dr. Justice intentionally billed for different FDA-regulated drug products than what he wrote prescriptions for. Therefore, FDA had reason to believe that, if Dr. Justice were to provide services to a person that has an approved or pending drug application, he may violate requirements under the FD&C Act relating to drug products. The proposal offered Dr. Justice an opportunity to request a hearing, providing him 30 days from the date of receipt of the letter in which to file the request, and advised him that failure to request a hearing constituted a waiver of the opportunity for a hearing and of any contentions concerning this action. The proposal was received on March 29, 2012. Dr. Justice failed to respond within the timeframe prescribed by regulation and has, therefore, waived his opportunity for a hearing and has waived any contentions concerning his debarment (21 CFR part 12).

II. Findings and Order

Therefore, the Director, Office of Enforcement, Office of Regulatory Affairs, under section 306(b)(2)(B)(ii)(I) of the FD&C Act, under authority delegated to the Director (Staff Manual Guide 1410.35), finds that Glen R. Justice has been convicted of five counts of a felony under Federal law for conduct involving health care fraud, and, on the basis of the conviction and other information, finds that Dr. Justice has demonstrated a pattern of conduct sufficient to find that there is reason to believe he may violate requirements under the FD&C Act relating to drug products.

As a result of the foregoing finding, Dr. Justice is debarred for 25 years from providing services in any capacity to a person with an approved or pending drug product application under sections 505, 512, or 802 of the FD&C Act (21 U.S.C. 355, 360b, or 382), or under section 351 of the Public Health Service Act (42 U.S.C. 262), effective (see **DATES**) (see sections 306(c)(1)(B), (c)(2)(A)(ii), and 201(dd) of the FD&C Act (21 U.S.C. 335a(c)(1)(B), (c)(2)(A)(ii), and 321(dd))). Any person with an approved or pending drug product application who knowingly employs or retains as a consultant or contractor, or otherwise uses the services of Dr. Justice, in any capacity during Dr. Justice's debarment, will be subject to civil money penalties (section 307(a)(6) of the FD&C Act (21 U.S.C. 335b(a)(6))). If Dr. Justice provides services in any capacity to a person with an approved or pending drug product application during his period of debarment he will be subject to civil money penalties (section 307(a)(7) of the FD&C Act). In addition, FDA will not accept or review any abbreviated new drug applications submitted by or with the assistance of Dr. Justice during his period of debarment (section 306(c)(1)(A) of the FD&C Act).

Any application by Dr. Justice for special termination of debarment under section 306(d)(4) of the FD&C Act (21 U.S.C. 335a(d)(4)) should be identified with Docket No. FDA–2011–N–0860 and sent to the Division of Dockets Management (see **ADDRESSES**). All such submissions are to be filed in four copies. The public availability of information in these submissions is governed by 21 CFR 10.20(j).

Publicly available submissions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 22, 2012.

Armando Zamora,

Acting Director, Office of Enforcement, Office of Regulatory Affairs.

[FR Doc. 2012–16600 Filed 7–6–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0690]

Wyeth Pharmaceuticals, Inc.; Withdrawal of Approval of a New Drug Application for DURACT Capsules

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new drug application (NDA) for DURACT (bromfenac sodium) Capsules, held by Wyeth Pharmaceuticals, Inc. (Wyeth), P.O. Box 8299, Philadelphia, PA 19101–8299. Wyeth, now a part of Pfizer, Inc., has voluntarily requested that approval of this application be withdrawn, thereby waiving its opportunity for a hearing.

DATES: Effective July 9, 2012.

FOR FURTHER INFORMATION CONTACT: Florine P. Purdie, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 6366, Silver Spring, MD 20993–0002, 301–796–3601.

SUPPLEMENTARY INFORMATION: In June 1998, Wyeth voluntarily withdrew DURACT (bromfenac sodium) Capsules from the market. DURACT (bromfenac sodium) Capsules, a nonsteroidal anti-inflammatory drug indicated for the short-term management of acute and chronic pain, were withdrawn from the market after FDA and Wyeth received postmarketing reports of rare, severe liver toxicity in patients who took DURACT for periods of time beyond that recommended in the labeling.

In a letter dated December 9, 2011, Wyeth requested that FDA withdraw approval of NDA 20–535, DURACT (bromfenac sodium) Capsules, under § 314.150(d) (21 CFR 314.150(d)). In that letter, Wyeth also waived its opportunity for a hearing, provided under § 314.150(a).

Therefore, under section 505(e) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(e)) and § 314.150(d), and under authority delegated by the Commissioner of Food and Drugs to the Director, Center for Drug Evaluation and Research, approval of NDA 20–535, and all amendments and supplements thereto, is withdrawn (see **DATES**). Distribution of this product in interstate commerce without an approved application is illegal and subject to regulatory action (see sections 505(a) and 301(d) of the FD&C Act (21 U.S.C. 355(a) and 331(d)).

Dated: June 21, 2012.

Janet Woodcock,

Director, Center for Drug Evaluation and Research.

[FR Doc. 2012–16597 Filed 7–6–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; 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 Eye Institute Special Emphasis Panel, NEI Translational Grant Applications Review.
Date: July 23, 2012.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites Chevy Chase Pavilion, 4300 Military Road, Washington, DC 20015.
Contact Person: Daniel R. Kenshalo, Ph.D., Scientific Review Officer, National Eye Institute, National Institutes of Health, 5635 Fishers Lane, Suite 1300, MSC 9300, 301–451–2020, *kenshalod@nei.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: National Eye Institute Special Emphasis Panel, NEI Clinical Planning and Data Analysis.
Date: July 25–26, 2012.
Time: 8:30 a.m. to 9 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 5635 Fishers Lane, Bethesda, MD 20892, (Virtual Meeting).
Contact Person: Anne E. Schaffner, Ph.D., Chief, Scientific Review Branch, Division of Extramural Research, National Eye Institute, National Institutes of Health, 5635 Fishers Lane, Suite 1300, MSC 9300, 301–451–2020, *aes@nei.nih.gov.*

Name of Committee: National Eye Institute Special Emphasis Panel, NEI Clinical Trials.
Date: July 31, 2012.
Time: 2:30 p.m. to 4:30 p.m.
Agenda: To review and evaluate cooperative agreement applications.
Place: National Institutes of Health, 5635 Fishers Lane, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Anne E. Schaffner, Ph.D., Chief, Scientific Review Branch, Division of Extramural Research, National Eye Institute, National Institutes of Health, 5635 Fishers Lane, Suite 1300, MSC 9300, 301–451–2020, *aes@nei.nih.gov.*

Name of Committee: National Eye Institute Special Emphasis Panel, NEI Training Grants.
Date: August 6, 2012.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Hilton Garden Inn, 7301 Waverly Street, Bethesda, MD 21045.
Contact Person: Brian Hoshaw, Ph.D., Scientific Review Officer, Division of Extramural Research, National Eye Institute, National Institutes of Health, 5635 Fishers Lane, Suite 1300, MSC 9300, 301–451–2020, *hoshawb@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: June 28, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–16678 Filed 7–6–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; 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 on Aging Special Emphasis Panel Age, Gene/Environment Susceptibility—Reykjavik Study Continuation.
Date: July 24, 2012.
Time: 11 a.m. to 12:30 p.m.
Agenda: To review and evaluate contract proposals.
Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Alexander Parsadanian, Ph.D., Scientific Review Officer, National Institute on Aging, Gateway Building 2c/212, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–496–9666, *parsadaniana@nia.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: National Institute on Aging Special Emphasis Panel, Genes and Longevity in Humans.
Date: July 27, 2012.
Time: 12:30 p.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Elaine Lewis, Ph.D., Scientific Review Branch, National Institute on Aging, Gateway Building, Suite 2C212, MSC–9205, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–402–7707, *elainelewis@nia.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. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: June 29, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–16676 Filed 7–6–12; 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 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 Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Ancillary Studies to the Intestinal Stem Cells Consortium.
Date: July 30, 2012.
Time: 12 p.m. to 2 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: Maria E. Davila-Bloom, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 758, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7637, *davila-bloomm@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: June 29, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–16684 Filed 7–6–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; 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 Dental and Craniofacial Research Special Emphasis Panel.

Date: July 10, 2012.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6706 Democracy Blvd., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Marilyn Moore-Hoon, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Dental and Craniofacial Research, 6701 Democracy Blvd., Rm. 676, Bethesda, MD 20892–4878, 301–594–4861, *mooremar@nidcr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the intramural research review cycle.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel.

Date: July 18, 2012.

Time: 1 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Marilyn Moore-Hoon, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Dental and Craniofacial Research, 6701 Democracy Blvd., Rm. 676, Bethesda, MD 20892–4878, 301–594–4861, *mooremar@nidcr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the intramural research review cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: June 29, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–16682 Filed 7–6–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; 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 Cancer Institute Special Emphasis Panel Review of a Pediatric Phase 1/Pilot Consortium UM1 Application.

Date: July 12, 2012.

Time: 10 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute, NIH, 6116 Executive Blvd. Room 8018, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Majed M. Hamawy, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Boulevard, Room 8135, Bethesda, MD 20892, 301–594–5659, *mh101v@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to scheduling conflicts.

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/sep/sep.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: June 29, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–16680 Filed 7–6–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of General Medical Sciences Special Emphasis Panel, July 9, 2012, 8:30 a.m. to July 9, 2012, 6 p.m., Hilton Garden Inn Washington DC/Bethesda, 7301 Waverly Street, Bethesda, MD, 21045 which was published in the **Federal Register** on June 15, 2012, 77 FR 35989.

The date, time and location of the meeting have been changed to July 24, 2012, 8 a.m. to July 25, 2012, 5 p.m., National Institutes of Health, Natcher Building, 45 Center Drive, Room 3An.18, Bethesda, MD, 20892. The meeting is closed to the public.

Dated: June 29, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–16677 Filed 7–6–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; 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 Child Health and Human Development Special Emphasis Panel, Brain and Behavior.

Date: July 12, 2012.

Time: 11 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Cathy J. Wedeen, Ph.D., Scientific Review Officer, Division of Scientific Review, OD, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01–G, Bethesda, MD 20892, 301–435–6878, *wedeenc@mail.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. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: June 29, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–16681 Filed 7–6–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; 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 on Aging Special Emphasis Panel, Aging and Innovation.

Date: July 11, 2012.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Rebecca J. Ferrell, Ph.D., Scientific Review Officer, National Institute on Aging, Gateway Building Rm. 2c212, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–402–7703, *ferrellrj@mail.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: National Institute on Aging Special Emphasis Panel, Reproductive Hormones and the Brain II.

Date: July 13, 2012.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Rebecca J. Ferrell, Ph.D., Scientific Review Officer, National Institute on Aging, Gateway Building Rm. 2c212, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–402–7703, *ferrellrj@mail.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: National Institute on Aging Special Emphasis Panel, Longitudinal Studies in Aging Research.

Date: July 24, 2012.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Rebecca J. Ferrell, Ph.D., Scientific Review Officer, National Institute on Aging, Gateway Building Rm. 2c212, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–402–7703, *ferrellrj@mail.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: National Institute on Aging Special Emphasis Panel, COPD and Immune Aging.

Date: July 30, 2012.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Rebecca J. Ferrell, Ph.D., Scientific Review Officer, National Institute on Aging, Gateway Building Rm. 2c212, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–402–7703, *ferrellrj@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: June 28, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–16679 Filed 7–6–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: Healthy Transitions Initiative Cross-Site Evaluation—NEW

The Substance Abuse and Mental Health Services Administration (SAMHSA), Center of Mental Health Services is responsible for the cross-site evaluation of the Cooperative Agreements for State/Community Partnerships to Integrate Services and Supports for Youth and Young Adults 16–25 with Serious Emotional Disturbances (SED) or Serious Mental Illness (SMI), and Their Families (Healthy Transitions Initiative—HTI) that will collect data on program implementation and youth and young adult outcomes in the areas of education, employment, housing, mental health and co-occurring disorders, and involvement with the juvenile and criminal justice systems. This cross-site evaluation design includes a process and an outcome evaluation and data will be collected over a 3-year period from 7 grantee sites.

The cross-site evaluation is designed to address the following questions.

Process Evaluation Questions

1. How closely does implementation match the plan proposed in the grant?
2. What types of deviation from the plan occur?
3. What effect do the deviations have on the planned intervention and performance assessment?
4. What facilitates a successful transition between youth and adult systems?
5. Is there a change from a ''youth-guided'' model to a ''youth and young adult consumer-driven'' model?

6. What is the extent of interagency coordination and collaboration?

7. How are state and local-level systems changing in response to the HTI implementation? How does state and local-level policy change affect the implementation of the Initiative?

8. Who provides services (i.e., program staff, agency site)?

9. What services are being provided (i.e., modality, type, intensity, duration)?

10. Is there a viable cultural and linguistic competence plan?

11. What are the individual characteristics of the youth and young adults (i.e., who is being served)?

12. In what settings (i.e., system, community) are they being served?

Outcome Evaluation Questions

1. What is the effect of the HTI intervention on the participants?

2. What is the effect of the HTI intervention, compared to a sample of similar young adults not participating in the HTI intervention?

3. What program factors are associated with the observed outcomes?

4. What individual factors are associated with the observed outcomes?

5. How durable are the effects over 24 months?

Process Evaluation

The process evaluation is designed to assess the fidelity of grantees to implement their proposed program model, and consists of young person focus groups, young person surveys, youth mentor focus groups, transitional program personnel interviews and surveys, and local and state administrator interviews. Process evaluation data will be collected in two waves during FY 2012 and during FY 2014 and, with the exception of the state administrator interviews, participants are not expected to participate more than one time during the 2 waves of data collection.

Outcome Evaluation

The outcome evaluation is designed to assess outcomes of youth and young adults in regards to education, employment, housing, mental health and co-occurring disorders, and involvement with the juvenile and criminal justice systems. The outcome evaluation will utilize both an enhanced and standard data collection and a longitudinal cohort design, and will include a comparative study to assess the effectiveness of HTI relative to a similar sample of young persons who did not receive HTI services. In the standard data collection protocol, outcome data will be collected for each HTI young adult participant, at a minimum of, at baseline at least every 6 months for up to 24 months for as long as the participant remains in HTI services. Enhanced outcome data will be collected on a subsample of young adults at 6 month intervals. The enhanced protocol will continue even after the young person from the subsample has left or has been discharged from HTI services, for up to 24 months. The baseline and follow up outcome instruments include the following key indicators: Demographic information, service use, education, employment/vocational training, housing and living situation, clinical outcomes, behavioral and other health, trauma-related experiences, life skills, parenting skills and supports, involvement with juvenile or criminal justice systems, and social and peer relationships. While participants are enrolled in HTI services, these data collected by the HTI grantees as specified in the RFA.

The HTI Data Center (HTI DC) will be developed for data collection and management. The HTI DC will be a secure Web site that allows uploading of data, real-time access to data by grantees, and production of automated reports for the sites. It is flexible for local use and simplifies the management, monitoring, and reporting of data.

The summary burden reflects the distinct number of respondents, total annual burden, and total hourly cost of the study.

SUMMARY BURDEN TABLE

	Number of distinct respondents	Average annual number responses/ respondent	Total annual number of responses	Average 3-year burden per response (hours)	Total annual burden (hours)	Hourly wage cost	Total hourly cost *
Young Persons	320	1.10	796	1.55	547	[a] $7.25	$3966
Youth Mentors	84	0.33	28	1.25	35	[b] 10.74	376
Transitional Program Personnel	49	0.33	23	1.41	23	[c] 15.24	351
Local Administrators	21	0.67	14	1.50	21	[d] 22.69	476
State Administrators	7	0.67	9	0.54	3	[e] 23.54	220
Total Summary	481	3	871		629		5,389

Written comments and recommendations concerning the proposed information collection should be sent by August 8, 2012 to the SAMHSA Desk Officer at the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). To ensure timely receipt of comments, and to avoid potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov*. Although commenters are encouraged to send their comments via email, commenters may also fax their comments to: 202–395–7285. Commenters may also mail them to: Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, Room 10102, Washington, DC 20503.

Cathy J. Friedman,

Public Health Analyst.

[FR Doc. 2012–16642 Filed 7–6–12; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2012–0028]

Agency Information Collection Activities: Submission for Review; Information Collection Extension Request for the DHS S&T First Responders Community of Practice Program

AGENCY: Science and Technology Directorate, DHS.

ACTION: 30-day Notice and request for comment.

SUMMARY: The Department of Homeland Security (DHS) invites the general public to comment on the data collection form for the DHS Science & Technology (S&T) First Responders Community of Practice (FRCoP): User Registration Page (DHS Form 10059 (9/09)). The FRCoP web based tool collects profile information from first responders and select authorized non-first responder users to facilitate networking and formation of online communities. All users are required to authenticate prior to entering the site. In addition, the tool provides members the capability to create wikis, discussion threads, blogs, documents, etc., allowing them to enter and upload content in accordance with the site's Rules of Behavior. Members are able to participate in threaded discussions and comment on other member's content. The DHS S&T FRCoP program is responsible for providing a collaborative environment for the first responder community to share information, best practices, and lessons learned. Section 313 of the Homeland Security Act of 2002 (PL 107–296) established this requirement. This notice and request for comments is required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35).

DATES: Comments are encouraged and will be accepted until August 8, 2012.

ADDRESSES: Interested persons are invited to submit comments, identified by docket number DHS–2012–0028, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Please follow the instructions for submitting comments.
- *Email: Kathy.Higgins@hq.dhs.gov.* Please include docket number DHS–2012–0028 in the subject line of the message.
- *Fax:* (202) 254–6171. (Not a toll-free number).
- *Mail:* Science and Technology Directorate, ATTN: Chief Information Officer—Rick Stevens, 1120 Vermont Ave, Mail Stop 0202, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: DHS FRCoP Contact Kathy Higgins (202) 254–2293 (Not a toll free number).

SUPPLEMENTARY INFORMATION: DHS S&T currently has approval to collect information utilizing the User Registration Form until September 30, 2012 with OMB approval number 1640–0016. The User Registration Form will be available on the First Responders Community of Practice Web site found at [*https://communities.firstresponder.gov/*]. The user will complete the form online and submit it through the Web site.

The Department is committed to improving its information collection and urges all interested parties to suggest how these materials can further reduce burden while seeking necessary information under the Act.

DHS is particularly interested in comments that:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Suggest ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Suggest ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Renewal of Information Collection .

(2) *Title of the Form/Collection:* First Responders Community of Practice: User Registration Form.

(3) *Agency Form Number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* DHS Science & Technology Directorate, R-Tech (RTD), DHS Form 10059 (09/09).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Individuals; the data will be gathered from individual first responders who wish to participate in the First Responders Community of Practice.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:*

a. *Estimate of the total number of respondents:* 2,000.

b. *An estimate of the time for an average respondent to respond:* 0.5 burden hours.

c. *An estimate of the total public burden (in hours) associated with the collection:* 1,000 burden hours.

Dated: June 29, 2012.

Rick Stevens,

Chief Information Officer for Science and Technology.

[FR Doc. 2012–16662 Filed 7–6–12; 8:45 am]

BILLING CODE 9110–9F–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R7–SM–2012–N151: FXFR13350700640L6–123–FF07J00000]

Proposed Information Collection; Federal Subsistence Regulations and Associated Forms

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (U.S. Fish and Wildlife Service) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. This IC is scheduled to expire on January 31, 2013. We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: To ensure that we are able to consider your comments on this IC, we must receive them by September 7, 2012.

ADDRESSES: Send your comments on the IC to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 2042–PDM, 4401 North Fairfax Drive, Arlington, VA 22203 (mail); or *INFOCOL@fws.gov* (email). Please include ''1018–0075'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this IC, contact Hope Grey at *INFOCOL@fws.gov* (email) or 703–358–2482 (telephone).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Alaska National Interest Lands Conservation Act (ANILCA) and regulations in the Code of Federal Regulations (CFR) at 50 CFR 100 and 36 CFR 242 require that persons engaged in taking fish, shellfish, and wildlife on public lands in Alaska for subsistence uses must apply for and obtain a permit to do so and comply with reporting

provisions of that permit. We use the following forms to collect information from qualified rural residents for subsistence harvest:

(1) FWS Form 3–2326 (Federal Subsistence Hunt Application, Permit, and Report).

(2) FWS Form 3–2327 (Designated Hunter Permit Application, Permit, and Report).

(3) FWS Form 3–2328 (Federal Subsistence Fishing Application, Permit, and Report).

(4) FWS Form 3–2378 (Designated Fishing Permit Application, Permit, and Report).

(5) FWS Form 3–2379 (Federal Subsistence Customary Trade Recordkeeping Form).

We use the information collected to evaluate:

- Eligibility of applicant.
- Subsistence harvest success.
- Effectiveness of season lengths, harvest quotas, and harvest restrictions.
- Hunting patterns and practices.
- Hunter use.

The Federal Subsistence Board uses the harvest data, along with other information, to set future season dates and bag limits for Federal subsistence resource users. These seasons and bag limits are set to meet the needs of subsistence hunters without adversely impacting the health of existing animal populations.

Also included in this IC are three forms associated with recruitment and selection of members for regional advisory councils.

(1) FWS Form 2321 (Federal Subsistence Regional Advisory Council Membership Application/Nomination).

(2) FWS Form 2322 (Regional Advisory Council Candidate Interview).

(3) FWS Form 2323 (Regional Advisory Council Reference/Key Contact Interview).

The member selection process begins with the information that we collect on the application. Ten interagency review panels interview all applicants and nominees, their references, and regional key contacts. These contacts are all based on the information that the applicant provides on the application form. The information that we collect through the application form and subsequent interviews is the basis of the Federal Subsistence Board's recommendations to the Secretaries of the Interior and Agriculture for appointment and reappointment of council members.

In addition to the above forms, our regulations at 50 CFR 100 and 36 CFR 242 contain requirements for the collection of information. We collect nonform information on:

(1) Repeal of Federal subsistence rules and regulations (50 CFR 100.14 and 36 CFR 242.14).

(2) Proposed changes to Federal subsistence regulations (50 CFR 100.18 and 36 CFR 242.18).

(3) Special action requests (50 CFR 100.19 and 36 CFR 242.19).

(4) Requests for reconsideration (50 CFR 100.20 and 36 CFR 242.20).

(5) Requests for permits and reports, such as traditional religious/cultural/educational permits, fishwheel permits, fyke net permits, and under-ice permits (50 CFR 100.25–27 and 36 CFR 242.25–27).

II. Data

OMB Control Number: 1018–0075.

Title: Federal Subsistence Regulations and Associated Forms, 50 CFR 100 and 36 CFR 242.

Service Form Number(s): FWS Forms 3–2321, 3–2322, 3–2323, 3–2326, 3–2327, 3–2328, 3–2378, and 3–2379.

Type of Request: Extension of a currently approved collection.

Description of Respondents: Federally defined rural residents in Alaska.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Activity	Number of respondents	Number of responses	Completion time per response	Total annual burden hours
3–2321—Membership Application	67	67	2 hours	134
3–2322—Applicant Interview	67	67	30 minutes	34
3–2323—Reference/Contact Interview	171	171	15 minutes	43
3–2326—Hunt Application and Permit	7,250	7,250	10 minutes	1,208
3–2326—Hunt Report	7,250	7,250	5 minutes	604
3–2327—Designated Hunter Application and Permit	645	645	10 minutes	108
3–2327—Designated Hunter—Hunt Report	645	645	5 minutes	54
3–2328—Fishing Application and Permit	1,114	1,114	10 minutes	186
3–2328—Fishing Report	1,114	1,114	5 minutes	93
3–2378—Designated Fishing Application and Permit	29	29	10 minutes	5
3–2378—Designated Fishing Report	29	29	5 minutes	2
3–2379—Customary Trade Recordkeeping Application and Permit	25	25	10 minutes	4
3–2379—Customary Trade Recordkeeping—Report	25	25	5 minutes	2
Petition to Repeal	1	1	2 hours	2
Proposed Changes	92	92	30 minutes	46
Special Actions Request	24	24	30 minutes	12
Request for Reconsideration (Appeal)	3	3	4 hours	12
Traditional/Cultural/Educational Permits and Reports	22	22	30 minutes	11
Fishwheel, Fyke Net, and Under-ice Permits and Reports	8	8	15 minutes	2
Totals	18,581	18,581		2,562

III. Comments

We invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this IC. Before including your address, phone number, email address, or other personal identifying information in your

comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: June 29, 2012.

Tina A. Campbell,

Chief, Division of Policy and Directives Management, U.S. Fish and Wildlife Service.

[FR Doc. 2012–16659 Filed 7–6–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R9–MB–2012–N152; FF09M21200–123–FXMB1231099BPP0L2]

Proposed Information Collection; Depredation Orders for Double-Crested Cormorants

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (U.S. Fish and Wildlife Service) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. This IC is scheduled to expire on January 31, 2013. We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: To ensure that we are able to consider your comments on this IC, we must receive them by September 7, 2012.

ADDRESSES: Send your comments on the IC to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 2042–PDM, 4401 North Fairfax Drive, Arlington, VA 22203 (mail); or *INFOCOL@fws.gov* (email). Please include ''1018–0121'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this IC, contact Hope Grey at *INFOCOL@fws.gov* (email) or 703–358–2482 (telephone).

SUPPLEMENTARY INFORMATION:

I. Abstract

This information collection is associated with regulations implementing the Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703 et seq.). Under the MBTA, it is unlawful to take, possess, import, export, transport, sell, purchase, barter, or offer for sale, purchase, or barter, migratory birds or their parts, nests, or eggs, except as authorized by regulations implementing the MBTA.

The regulations in the Code of Federal Regulations (CFR) at 50 CFR 21.47 (Aquaculture Depredation Order) authorize aquaculture producers and the U.S. Department of Agriculture (APHIS-Wildlife Services) in 13 States to take double-crested cormorants when the birds are found committing or about to commit depredations on commercial freshwater aquaculture stocks. The regulations at 50 CFR 21.48 (Public Resource Depredation Order) authorize State fish and wildlife agencies, APHIS-Wildlife Services, and federally recognized tribes in 24 States to take double-crested cormorants to prevent depredations on the public resources of fish, wildlife, plants, and their habitats.

Both 50 CFR 21.47 and 21.48 impose reporting and recordkeeping requirements on those operating under the depredation orders. We use the information collected to:

- Help assess the impact of the depredation orders on double-crested cormorant populations.
- Protect nontarget migratory birds or other species.
- Ensure that agencies and individuals are operating in accordance with the terms, conditions, and purpose of the orders.
- Help gauge the effectiveness of the orders at mitigating cormorant-related damages.

II. Data

OMB Control Number: 1018–0121.

Title: Depredation Orders for Double-Crested Cormorants, 50 CFR 21.47 and 21.48.

Service Form Number(s): None.

Type of Request: Extension of a currently approved collection.

Description of Respondents: Aquaculture producers, States, and tribes.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: Annually for reports; ongoing for recordkeeping.

Activity	Number of respondents	Number of responses	Completion time per response (hours)	Total annual burden hours
Report take of migratory bird species other than double-crested cormorants (21.47(d)(7); 21.48(d)(7))	1	1	1	1
Report take of species protected under Endangered Species Act (21.47(d)(8); 21.48(d)(8))	1	1	1	1
Written notice of intent to conduct control activities (21.48(d)(9))	12	12	3	36
Report of control activities (21.48(d)(10) and (11))	12	12	20	240
Report effects of management activities (21.48(d)(12))	9	9	75	675
Recordkeeping (21.47(d)(9))	325	325	7	2,275
Totals	360	360		3,228

III. Comments

We invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this IC. Before

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

Dated: June 29, 2012.

Tina A. Campbell,

Chief, Division of Policy and Directives Management, U.S. Fish and Wildlife Service.

[FR Doc. 2012–16664 Filed 7–6–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–ES–2012–N0143: 40120–1112–0000–F2]

Receipt of Applications for Endangered Species Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species. With some exceptions, the Endangered Species Act (ESA) prohibits activities with listed species unless a Federal permit is issued that allows such activities. The ESA requires that we invite public comment before issuing these permits.

DATES: We must receive written data or comments on the applications at the address given below, by August 8, 2012.

ADDRESSES: Documents and other information submitted with the applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, GA 30345 (Attn: Cameron Shaw, Permit Coordinator).

FOR FURTHER INFORMATION CONTACT: Cameron Shaw, telephone 904/731–3191; facsimile 904/731–3045.

SUPPLEMENTARY INFORMATION: The public is invited to comment on the following applications for permits to conduct certain activities with endangered and threatened species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and our regulations in the Code of Federal Regulations (CFR) at 50 CFR 17. This notice is provided under section 10(c) of the Act.

If you wish to comment, you may submit comments by mail or hand-delivery to the Fish and Wildlife Service's Regional Office (see **ADDRESSES** section) or via electronic mail (email) to *permitsR4ES@fws.gov*. Please include your name and return address in your email message. If you do not receive a confirmation from the Fish and Wildlife Service that we have received your email message, contact us directly at the telephone number listed above (see **FOR FURTHER INFORMATION CONTACT** section).

Before including your address, telephone number, email address, or other personal identifying information in your comments, 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 comments to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Permit Application Number: TE–71535A

Applicant: Misty Hamilton, Lowmansville, Kentucky

Applicant requests reauthorization to conduct scientific studies and surveys on the following species:

Indiana bat *Myotis sodalis,*

Gray bat *Myotis grisescens,*

Virginia big-eared bat *Corynorhinus townsendii virginianus.*

These surveys will be conducted in Kentucky.

Permit Application Number: TE–71613A

Applicant: University of Tennessee, Knoxville, Tennessee

Applicant requests reauthorization to conduct scientific studies and surveys on Indiana bats (*Myotis sodalis*) and Gray bats (*Myotis grisescens*). These surveys will be conducted in Tennessee and Missouri.

Permit Application Number: TE–71851A

Applicant: United States Geological Survey, Southeast Ecology Center, Gainesville, Florida

Applicant requests authorization to conduct scientific research on the following species of freshwater mussels:

Fat threeridge—*Amblema neislerii*

Shinyrayed pocketbook—*Lampsilis subangulata*

Gulf moccasinshell—*Medionidus penicillatus*

Ochlockonee moccasinshell—*Medionidua simpsonianus*

Oval pigtoe—*Pleurobema pyriforme*

This research project will be conducted in Alabama, Georgia, and Florida.

Permit Application Number: TE–71854A

Applicant: David Eargle, Columbia, South Carolina

Applicant requests authorization to conduct presence/absence surveys and retain remnant shells of the Carolina Heelsplitter (*Lasmigona decorata*) throughout North Carolina and South Carolina.

Permit Application Number: TE–73096A

Applicant: Steve Orzell, Avon Park, Florida

Applicant requests authorization to collect a small number of leaves from a limited number of *Lupinus aridorum* (scrub lupine) to conduct genetic research. This activity will occur on the McLeod Unit of the Lakes Wales Ridge National Wildlife Refuge, Polk County, Florida.

Permit Application Number: TE–129703

Applicant: HMB Professional Engineers, Frankfort, Kentucky

Applicant requests amendment to authorization to conduct presence/absence surveys for 2 bat species, 14 fish species, 34 fresh-water mussel species, 2 snail species, 1 insect species, and 2 plant species in the State of Ohio.

Permit Application Number: TE–76082A

Applicant: Hopi Hoekstra, Harvard University, Cambridge, Massachusetts

Applicant requests authorization to capture and temporarily house Anastasia Island beach mice (*Peromyscus polionotus phasma*) for the purpose of captive breeding and reintroduction. The mice will be captured in Florida and housed at Harvard University.

Permit Application Number: TE–171577

Applicant: Chaffee Maneuver Training Center, Arkansas Army National Guard, Fort Chaffee, Arkansas

Applicant requests reauthorization to capture, mark and release American burying beetles (*Nicrophorus americanus*) for the purpose of scientific study and species recovery efforts. These activities will be conducted on

the Chaffee Maneuver Training Center, Arkansas Army National Guard, Fort Chaffee, Arkansas.

Permit Application Number: TE–76565A

Applicant: Rebecca Ijames, Central City, Kentucky

Applicant requests reauthorization to conduct scientific studies and surveys on the following species:

Indiana bat *Myotis sodalis,*

Gray bat *Myotis grisescens,*

Virginia big-eared bat *Corynorhinus townsendii virginianus.*

These surveys will be conducted in Kentucky.

Dated: June 22, 2012.

Mark J. Musaus,

Acting Regional Director.

[FR Doc. 2012–16665 Filed 7–6–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–10608; 2200–3200–665]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before June 9, 2012. Pursuant to section 60.13 of 36 CFR Part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation. Comments may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service,1201 Eye St. NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by July 24, 2012. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: June 14, 2012.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program.

ARIZONA

Maricopa County

Sun City DEVCO Model No. 1, 10801 W. Oakmont Dr., Sun City, 12000422

Yuma County

Wadin, John, House, 900 W. 1st St., Yuma, 12000423

CALIFORNIA

San Francisco County

Drydock 4 Hunters Point Naval Shipyard, SE. of jct. of Spear Ave. & Morrell St., San Francisco, 12000424

Hunters Point Commercial Drydock Historic District, E. of jct. of Fisher Ave. & Robinson Dr., San Francisco, 12000425

LOUISIANA

Tangipahoa Parish

Ponchatoula Commercial Historic District (Boundary Increase and Decrease), 111, 180, 165, 138 N. 6th, 170, 175, 163–165, 138, 125 W. Hickory, 155 NW. Railroad Ave., 201, 245, 265, 275 W. Pine, Ponchatoula, 12000426

MINNESOTA

Beltrami County

Three Island Park Site (Woodland Tradition in Minnesota MPS), Address Restricted, Tenstrike, 12000427

Hennepin County

Quinlan, Elizabeth C., House, 1711 Emerson Ave., S., Minneapolis, 12000428

Redwood County

Redwood Falls Retaining Wall Roadside Development Project (Federal Relief Construction in Minnesota MPS), Jct. of MN 19 & 71, Redwood Falls, 12000429

MISSISSIPPI

De Soto County

Springhill Cemetery, College St. & W. Oak Grove Rd., Hernando, 12000430

Forrest County

Hub City Historic District (Boundary Increase II), Roughly bounded by E. 4th, Gordon, E. Front, Green, & Melrose Sts., Gordon's Cr., & 1st Ave., Hattiesburg, 12000431

Leake County

Carthage Historic District, Roughly bounded by E. & W. Water, Mill, N. & S. Jordon, N. Pearl, & N. & S. White Sts., Carthage, 12000432

Oktibbeha County

Downtown Starkville Historic District, Roughly bounded by Jefferson, N. Montgomery, & Yeates Sts., & RR., Starkville, 12000433

MISSOURI

Audrain County

Audrain County Courthouse, 101 N. Jefferson St., Mexico, 12000434

Greene County

Fallon Brothers Building (Springfield MPS), 211–229 S. Market Ave., Springfield, 12000435

St. Louis Independent City

Central States Life Insurance Company Building, 3207 Washington Blvd., St. Louis (Independent City), 12000436

OKLAHOMA

Comanche County

Comanche Indian Mission Cemetery, Henry Post Army Airfield, 4900 Area, Fort Sill, 12000437

RHODE ISLAND

Providence County

Downtown Providence Historic District (Boundary Increase), 250 & 254 Washington St., Providence, 12000438

SOUTH CAROLINA

Greenville County

Southern Bleachery and Print Works, 113 Mill St., Taylors, 12000439

TENNESSEE

Robertson County

Glenn, Mollie and Neel, House, 307 5th Ave., Springfield, 12000440

Shelby County

National Cotton Council Building, 1918 North Parkway, Memphis, 12000441

[FR Doc. 2012–16602 Filed 7–6–12; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

Outer Continental Shelf, Oil and Gas Lease Sales in the Central Gulf of Mexico Planning Area (CPA) and the Western Gulf of Mexico Planning Area (WPA), Beginning With WPA Sale 233 in 2013 and Subsequent Sales Through 2017

AGENCY: Bureau of Ocean Energy Management (BOEM), Interior.

ACTION: Call for Information and Nominations.

SUMMARY: This Call for Information and Nominations (hereinafter referred to as the ''Call'') is the initial step in the pre-lease process. The purpose of the Call is to gather information on oil and gas leasing, exploration, and development that might result from Outer Continental Shelf (OCS) oil and gas lease sales, tentatively beginning in the fall of 2013 under the OCS oil and gas leasing

program for 2012–2017. Information collected through this process will help BOEM design future sales. BOEM is enhancing the pre-lease planning process, which begins with this Call, by undertaking a series of important steps to increase the transparency of the process and accountability.

DATES: Comments must be received no later than August 8, 2012 at the address specified below.

FOR FURTHER INFORMATION CONTACT: For information on this Call, please contact Mr. Carrol Williams, Bureau of Ocean Energy Management, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, telephone (504) 736–2803.

SUPPLEMENTARY INFORMATION: On March 15, 2011, BOEM published a Call to gather information on a series of Gulf of Mexico oil and gas lease sales scheduled in the OCS Oil and Gas Leasing Program for 2012–2017 (76 FR 14040). The March 2011 Call identified the area under consideration as the majority of the acreage in the CPA and WPA, but that Call specifically excluded acreage in a 1.4 nautical mile (nmi) buffer area in the area formerly known as the Western Gap, north of the continental shelf boundary. This 1.4 nmi buffer area includes acreage in the CPA and WPA along the continental shelf boundary between the United States and Mexico. By treaty with Mexico, this 1.4 nmi buffer area is not available for leasing until 2014.

On February 20, 2012, however, the United States and Mexico signed an *Agreement between the United States of America and the United Mexican States Concerning Transboundary Hydrocarbon Reservoirs in the Gulf of Mexico* (hereinafter referred to as the ''Agreement''). Upon the Agreement's entry into force, the 1.4 nmi buffer area may be available for lease earlier than 2014. As such, this Call is being issued to encompass the acreage identified in the March 2011 Call, as well as approximately 158,584 acres in the portion of the CPA and WPA that may be made available by the Agreement if it enters into force prior to 2014. If this area becomes available for lease, it will be announced in a Notice of Sale.

Call for Information and Nominations

1. Authority

This Call is published pursuant to the OCS Lands Act as amended (43 U.S.C. 1331–1356, hereinafter ''OCSLA''), and the regulations issued thereunder (30 CFR part 556).

2. Purpose of Call

The purpose of the Call is to gather information for the following tentatively scheduled OCS Lease Sales in the CPA and WPA.

Lease sale, OCS planning area	Sale year
Sale 233, WPA	2013
Sale 231, CPA	2014
Sale 238, WPA	2014
Sale 235, CPA	2015
Sale 246, WPA	2015
Sale 241, CPA	2016
Sale 248, WPA	2016
Sale 247, CPA	2017

BOEM seeks information and nominations on oil and gas leasing, exploration, development, and production within this portion of the CPA and WPA from all interested parties. This early planning and consultation step is important for ensuring that all interests and concerns are communicated to the U.S. Department of the Interior for future decisions in the leasing process pursuant to OCSLA and regulations at 30 CFR part 556.

Final decisions regarding this additional acreage for possible leasing will be made at a later date and in compliance with applicable laws, including all requirements of the National Environmental Policy Act, Coastal Zone Management Act and OCSLA.

3. Description of Area

A Call for the majority of the acreage in the CPA and WPA was issued on March 15, 2011. This Call encompasses that acreage, as well as approximately 158,584 acres in the portion of the CPA and WPA that may be made available by the Agreement, described above, if it enters into force. A map of the full Call area is included below, depicting the acres of the CPA and WPA that may be made available by the Agreement. The map is available without charge from: Bureau of Ocean Energy Management, Public Information Office, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, or telephone: 1–800–200–GULF. It is also available via the BOEM Web site at: *http://www.boem.gov/Oil-and-Gas-Energy-Program/Leasing/Regional-Leasing/Gulf-of-Mexico-Region/Call-for-Info-and-Nominations-CPA-WPA-bufferarea.aspx.* The CPA/WPA areas are depicted in full on the map available at *http://www.boem.gov/uploadedfiles/callmap-2012-2017.pdf.*

4. Instructions on Call

Comments must be received no later than 30 days following publication of this document in the **Federal Register** in envelopes labeled ''Comments on the Call for Information and Nominations for Proposed CPA and WPA Lease Sales,'' submitted to the Gulf of Mexico Region's Leasing and Financial Responsibility Unit (Attention: Mr. Carrol Williams) at the previously noted address.

The Call map delineates the Call area, all of which has been identified by BOEM as having potential for the discovery of accumulations of oil and gas.

BOEM seeks comments from all interested parties about particular geological, environmental (including natural disasters), biological, archaeological and socioeconomic conditions or conflicts, or other information that might bear upon the potential leasing and development of this area. BOEM also seeks comments on possible conflicts between future OCS oil and gas activities that may result from the proposed lease sale and state Coastal Management Programs (CMPs). If possible, these comments should identify specific CMP policies of concern, the nature of the conflict foreseen, and steps that BOEM could take to avoid or mitigate the potential conflict. Comments may be in terms of broad areas or restricted to particular blocks of concern.

In the Proposed Final OCS Oil & Gas Leasing Program 2012–2017, BOEM established an alternative and mitigation tracking table (the Table), which is designed to track the lineage and treatment of suggestions for inclusion of acreage, spatial exclusions, temporal deferrals, and/or mitigation from the Five-Year Program to the lease sale stage and on to the plan stage. This alternative and mitigation tracking table will allow commenters to see how and where their concerns are considered, while ensuring that a reasonable concern that is not suitable for consideration during one stage will be considered at an appropriate subsequent stage. You can view the alternative and mitigation tracking table at: *http://www.boem.gov/Oil-and-Gas-Energy-Program/Leasing/Five-Year-Program/Lease-Sale-Schedule/Alternative-and-Mitigation-Tracking-Table.aspx.* Suggestions for deferrals collected during the comment period on this Call will be added to the Table to be tracked through the process.

Additionally, BOEM has created an interactive map through the Multipurpose Marine Cadastre (MMC) Web site for the Gulf of Mexico. You can

view the interactive map at: *http://www.boem.gov/Oil-and-Gas-Energy-Program/Leasing/Five-Year-Program/Lease-Sale-Schedule/Interactive-Maps.aspx.* The MMC is an integrated marine information system that provides a more comprehensive look at geospatial data and ongoing activities and studies occurring in the area being considered. If there is a data layer that you believe should be added for consideration, please provide this information by following the commenting instructions above. If you have questions about the interactive map, please contact Donna Dixon, Leasing Division Chief, at (703) 787–1215.

5. Use of Information From the Call

Information submitted in response to this Call will be used for several purposes. First, comments on possible environmental effects and potential use conflicts will be used in the analysis of environmental conditions in and near the Call area. Comments on environmental and other use conflicts will be used to make a preliminary determination of the potential advantages and disadvantages of oil and gas exploration and development to the region and the Nation. Second, comments may be used in developing lease terms and conditions to ensure environmentally safe offshore operations. Third, comments may be used to assess potential conflicts between offshore oil and gas activities and a state CMP.

Individual indications of interest in areas for mineral leasing are considered to be privileged and proprietary information. To avoid inadvertent release of proprietary information, please mark all documents and every page containing such information with ''Confidential—Contains Proprietary Information.'' The names of persons or entities submitting comments or indicating interest will be treated by BOEM as information that can be released to the public. When comments are released, individual indications of interest in mineral leasing, trade secrets, commercial or financial information will be treated as confidential and proprietary information that is privileged and not released to the public.

6. Existing Information

BOEM routinely assesses the status of information acquisition efforts and the quality of the information base for potential decisions on a tentatively scheduled lease sale. An extensive environmental studies program has been underway in the Gulf of Mexico since 1973. The emphasis, including continuing studies, has been on ''environmental analysis'' of biologically sensitive habitats, physical oceanography, ocean-circulation modeling, ecological effects of oil and gas activities, and hurricane impacts on coastal communities and the environment.

You may obtain a complete listing of available study reports and information for ordering copies from the Public Information Office referenced above. You may also order the reports for a fee from the U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, or telephone (703) 605–6000 or (800) 553–6847. In addition, you may obtain a program status report for continuing studies in this area from the Chief, Office of Environmental Studies (MS 5430), Bureau of Ocean Energy Management, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, or telephone (504) 736–2752, or via the BOEM Web site at: *http://www.boem.gov/Environmental-Stewardship/Environmental-Studies/Gulf-of-Mexico-Region/GOMR-Environmental-Studies-Program.aspx.*

7. Tentative Schedule

MILESTONES FOR PROPOSED LEASE SALE 233 IN 2013

Call for Information and Nominations	July 2012.
Comments received on Call	August 2012.
Area Identification Decision	September 2012.
Proposed Notice	5 months before lease sale.
Final Notice of Sale	1 month before lease sale.
Tentative Lease Sale Date	Fall 2013 (Lease Sale 233).

Dated: July 3. 2012.

Tommy P. Beaudreau,

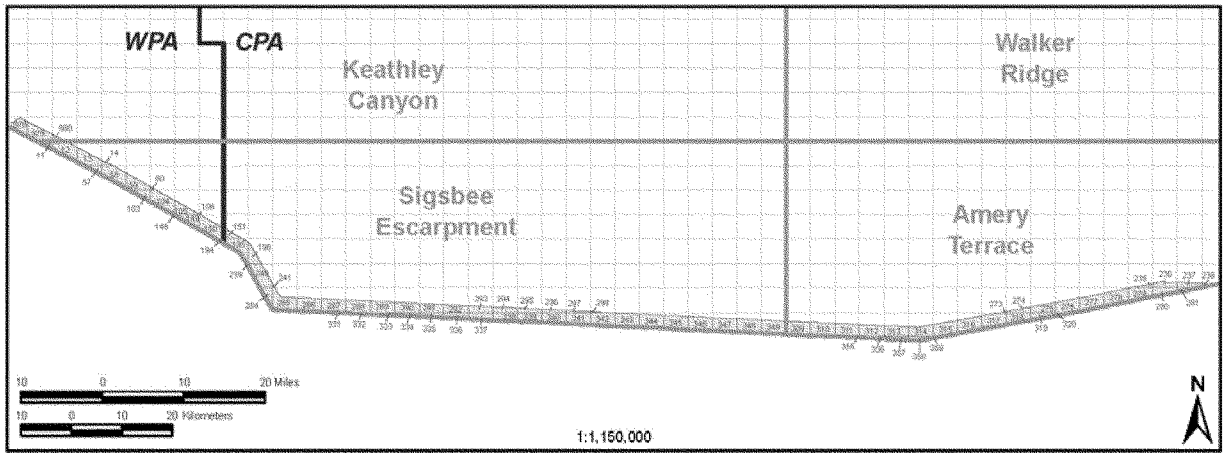
Director, Bureau of Ocean Energy Management.

BILLING CODE 4310–MR–P

CALL FOR INFORMATION AND NOMINATIONS MAP

Central Planning Area
Lease Sales 231, 235, 241, 247

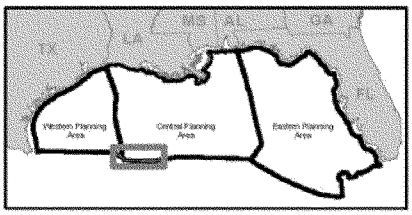
Western Planning Area
Lease Sales 233, 238, 246, 248



New Blocks Potentially Available Pursuant to Transboundary Agreement
- 89 blocks
- 158,584 acres

Planning Area Boundary

Protraction Area Boundary



BOEM
Bureau of Ocean Energy Management

MAS201200077

[FR Doc. 2012–16733 Filed 7–6–12; 8:45 am]
BILLING CODE 4310–MR–C

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

Outer Continental Shelf, Gulf of Mexico, Oil and Gas Lease Sales, Western Planning Area Lease Sale 233 and Central Planning Area Lease Sale 231

AGENCY: Bureau of Ocean Energy Management (BOEM), Interior.

ACTION: Notice of Intent to Prepare a Supplemental Environmental Impact Statement (EIS).

Authority: This Notice of Intent to Prepare a Supplemental EIS (NOI) is published pursuant to the regulations (40 CFR 1501.7) implementing the provisions of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.) (NEPA).

SUMMARY: Pursuant to the regulations implementing the procedural provisions of NEPA, BOEM is announcing its intent to prepare a Supplemental EIS for proposed Western Planning Area (WPA) Lease Sale 233 and Central Planning Area (CPA) Lease Sale 231 (WPA/CPA Supplemental EIS). The proposed lease sales are in the Gulf of Mexico's WPA off the States of Texas and Louisiana and in the CPA off the States of Louisiana, Mississippi, and Alabama. The WPA/CPA Supplemental EIS will update the environmental and socioeconomic analyses in the *Gulf of Mexico OCS Oil and Gas Lease Sales: 2012–2017; WPA Lease Sales 229, 233, 238, 246, and 248; CPA Lease Sales 227, 231, 235, 241, and 247, Final Environmental Impact Statement* (OCS EIS/EA BOEM 2012–019) (WPA/CPA Multisale Final EIS). The WPA/CPA Multisale Final EIS was completed in July 2012.

A Supplemental EIS is deemed appropriate to supplement the WPA/CPA Multisale Final EIS for these lease sales in order to consider new circumstances and information arising, among other things, from the *Deepwater Horizon* event. The WPA/CPA Supplemental EIS analysis will focus on updating the baseline conditions and potential environmental effects of oil and natural gas leasing, exploration, development, and production in the WPA and CPA. The WPA/CPA Supplemental EIS will also analyze the 1.4 nautical mile (nmi) buffer area in the Western Gap, which was excluded from the WPA/CPA Multisale EIS but which may be available in the proposed lease sale or subsequent sale. The WPA/CPA Supplemental EIS will assist decisionmakers in making informed decisions regarding the approval of operations, as well as leasing.

The WPA/CPA Supplemental EIS analysis will focus on the potential environmental effects of oil and natural gas leasing, exploration, development, and production in the areas identified as the proposed lease sale areas. In addition to the no action alternative (i.e., canceling the proposed sales), other alternatives may be considered for each proposed lease sale, such as deferring certain areas from the proposed lease sales.

SUPPLEMENTARY INFORMATION: On June 28, 2012, the Department of the Interior released a Proposed Final OCS Oil and Gas Leasing Program for 2012–2017, which includes proposed WPA Lease Sale 233 and CPA Lease Sale 231. The general area proposed for WPA Lease Sale 233 covers approximately 29 million acres in the western portion of the Gulf of Mexico (GOM) (excluding whole and partial blocks within the boundary of the Flower Garden Banks National Marine Sanctuary). The general area proposed for CPA Lease Sale 231 covers approximately 67 million acres in the central portion of the GOM (excluding whole and partial blocks deferred by the Gulf of Mexico Energy Security Act of 2006 and blocks that are beyond the United States Exclusive Economic Zone in the area known as the northern portion of the Eastern Gap).

On February 20, 2012, the United States and Mexico signed an *Agreement between the United States of America and the United Mexican States Concerning Transboundary Hydrocarbon Reservoirs in the Gulf of Mexico* (hereinafter referred to as the ''Agreement''). Upon the Agreement's entry into force, additional acreage that lies within 1.4 nmi north of the continental shelf boundary in the area formerly known as the Western Gap will be available for lease. A treaty with Mexico currently prohibits leasing in this 1.4 nmi buffer area until 2014. This area includes acreage in the CPA and WPA along the continental shelf boundary between the United States and Mexico. If the Agreement enters into force, this 1.4 nmi buffer area may be available for leasing prior to 2014. When this area becomes available for lease, it will be announced in a Notice of Sale. The 1.4 nmi buffer area was not previously considered in the Multisale Final EIS, but potential impacts on this area will be considered in the WPA/CPA Supplemental EIS.

This **Federal Register** notice is not an announcement to hold the proposed lease sales, but is a continuation of information gathering and is published early in the environmental review process as required by NEPA. The comments received during the scoping comment period will help form the content of the WPA/CPA Supplemental EIS and will be summarized in presale documentation prepared prior to holding the proposed WPA or CPA lease sales. If, after completion of the Supplemental EIS, the Secretary's decision is to hold one or both of the lease sales, then the lease sale areas identified in the Notice of Sale may exclude or defer certain lease blocks from the areas offered. For purposes of the WPA/CPA Supplemental EIS and to adequately assess the potential impacts of two area wide lease sales, however, BOEM is conservatively assuming that all unleased blocks may be offered in the proposed WPA and CPA lease sales.

In order to ensure a greater level of transparency during the Outer Continental Shelf Lands Act (OCSLA) stages and tiered NEPA processes of the Proposed Final OCS Oil & Gas Leasing Program 2012–2017, (the Five-Year Program), BOEM established an alternative and mitigation tracking table (the Table), which is designed to track the receipt and treatment of alternative and mitigation suggestions. Section 4.3.2 of the Outer Continental Shelf Oil and Gas Leasing Program: 2012–2017; Final Programmatic Environmental Impact Statement (the Five-Year EIS) (*http://www.boem.gov/5-year/2012-2017/PEIS.aspx*) has presented a list of deferral and alternatives requests that were received during the development of the Five-Year EIS but were determined to be more appropriately considered at subsequent OCSLA and NEPA stages. The WPA/CPA Multisale Final EIS addressed these deferral and alternatives requests, even though they were ultimately deemed inappropriate for further analysis as a separate alternative or deferral from those already included and considered in the WPA/CPA Multisale Final EIS. In future NEPA analyses, BOEM will continue to evaluate whether these or other deferral or alternative requests warrant additional consideration as appropriate. (Please refer to Sections 2.2.1.1 and 2.2.1.1 of the WPA/CPA Multisale Final EIS for a complete discussion; *http://www.boem.gov/Environmental-Stewardship/Environmental-Assessment/NEPA/nepaprocess.aspx*). The key requirement at each stage in the NEPA process is to identify how the recommendations for deferral and mitigation requests are being addressed and whether new information or

circumstances favor new or different analytical approaches in response to these requests.

Additionally, BOEM has created a tailored map of the potentially affected area through the Multipurpose Marine Cadastre (MMC) Web site, *http://boem.gov/Oil-and-Gas-Energy-Program/Leasing/Five-Year-Program/Lease-Sale-Schedule/Interactive-Maps.aspx.* This map is an integrated marine information system that provides a more comprehensive look at geospatial data and ongoing activities and studies occurring in the area being considered. This Web site provides the ability to view multiple data layers of existing geospatial data. Commenters can suggest data layers for consideration by following the commenting instructions below.

Scoping Process: Through this NOI, BOEM is also announcing the scoping process for the WPA/CPA Supplemental EIS. Throughout the scoping process, Federal, state, tribal, and local government agencies, and other interested parties have the opportunity to aid BOEM in determining the significant issues, reasonable alternatives, and potential mitigation measures to be analyzed in the WPA/CPA Supplemental EIS, as well as providing additional information. BOEM will use the NEPA commenting process to satisfy the public involvement process for Section 106 of the National Historic Preservation Act (16 U.S.C. 470f), as provided for in 36 CFR 800.2(d)(3).

Cooperating Agency: BOEM invites other Federal agencies and sate, tribal, and local governments to consider becoming cooperating agencies in the preparation of the WPA/CPA Supplemental EIS. We invite qualified government entities to inquire about cooperating agency status for the WPA/CPA Supplemental EIS. Following the guidelines from the Council of Environmental Quality (CEQ), qualified agencies and governments are those with ''jurisdiction by law or special expertise.'' Potential cooperating agencies should consider their authority and capacity to assume the responsibilities of a cooperating agency and to remember that an agency's role in the environmental analysis neither enlarges nor diminishes the final decisionmaking authority of any other agency involved in the NEPA process. Upon request, BOEM will provide potential cooperating agencies with a written summary of ground rules for cooperating agencies, including time schedules and critical action dates, milestones, responsibilities, scope and detail of cooperating agencies' contributions, and availability of predecisional information. BOEM anticipates this summary will form the basis for a Memorandum of Agreement between BOEM and each cooperating agency. Agencies should also consider the ''Factors for Determining Cooperating Agency Status'' in Attachment 1 to CEQ's January 30, 2002, *Memorandum for the Heads of Federal Agencies: Cooperating Agencies in Implementing the Procedural Requirements of the National Environmental Policy Act.* These documents are available at the following locations on the Internet: *http://nepa.fhwa.dot.gov/ReNEPA/ReNepa.nsf/All+Documents/D155918ABFA4EB3A85256BF20071E9AE/$FILE/Cooperating%20Agencies%20Memorandum.1.30.02.doc* and *http://nepa.fhwa.dot.gov/ReNEPA/ReNepa.nsf/All+Documents/D155918ABFA4EB3A85256BF20071E9AE/$FILE/Cooperating%20Agency%20Memo%20Factors.1.30.02.doc.*

BOEM, as the lead agency, will not provide financial assistance to cooperating agencies. Even if an organization is not a cooperating agency, opportunities will exist to provide information and comments to BOEM during the normal public input stages of the NEPA/EIS process. For further information about cooperating agencies, please contact Mr. Gary D. Goeke at (504) 736–3233.

Comments: All interested parties, including Federal, state, and local government agencies, and the general public, may submit written comments on the scope of the WPA/CPA Supplemental EIS, significant issues that should be addressed, alternatives that should be considered, potential mitigation measures, and the types of oil and gas activities of interest in the proposed lease sale areas.

Written scoping comments may be submitted in one of the following two ways:

1. In an envelope labeled ''Scoping for the WPA/CPA Supplemental EIS'' and mailed (or hand delivered) to Mr. Gary D. Goeke, Chief, Regional Assessment Section, Office of Environment (MS 5410), Bureau of Ocean Energy Management, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394; or

2. BOEM email address: *Ls_233_231SEIS@boem.gov.*

Petitions, although accepted, do not generally provide useful information to assist in scoping. BOEM does not consider anonymous comments. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. If you wish for your name and/or address to be withheld, you must state your preference prominently at the beginning of your comment. All submissions from organizations or businesses and from individuals identifying themselves as representatives or officials of organizations or businesses will be made available for public inspection in their entirety.

DATES: Comments must be received no later than August 8, 2012 at the address specified below.

FOR FURTHER INFORMATION CONTACT: For information on the WPA/CPA Supplemental EIS, scoping process, the submission of comments, or BOEM's policies associated with this notice, please contact Mr. Gary D. Goeke, Chief, Regional Assessment Section, Office of Environment (MS 5410), Bureau of Ocean Energy Management, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, telephone (504) 736–3233.

Dated: July 3, 2012.

Tommy P. Beaudreau,

Director, Bureau of Ocean Energy Management.

[FR Doc. 2012–16732 Filed 7–6–12; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–806]

Certain Digital Televisions Containing Integrated Circuit Devices and Components Thereof, Notice of Commission Determination Not To Review an Initial Determination Terminating the Investigation as to Sole Respondent Vizio, Inc.; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (''ALJ'') initial determination (''ID'') (Order No. 10) terminating the investigation with respect to sole respondent Vizio, Inc. (''Vizio'') on the

basis of a settlement agreement. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Jia Chen, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708–4737. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server 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.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on September 19, 2011, based on a complaint filed by Renesas Electronics Corporation (''Renesas'') of Tokyo, Japan. 76 FR 58041 (Sept. 19, 2011). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, by reason of infringement of certain claims of U.S. Patent Nos. 7,199,432 and 6,531,400. The complaint further alleges the existence of a domestic industry. The sole respondent named in the Commission's notice of investigation is Vizio of Irvine, California.

On June 4, 2012, complainant Renesas and respondent Vizio filed a joint motion pursuant to Commission Rule 210.21(a)(2) to terminate the investigation on the basis of a settlement agreement (''Settlement Agreement'') that resolves their litigation. Public and confidential versions of the Settlement Agreement were attached to the motion. The motion also stated that there are no other agreements, written or oral, express or implied, between the parties concerning the subject matter of this investigation. On June 7, 2012, the Commission investigative attorney filed a response supporting the motion.

On June 11, 2012, the ALJ issued the subject ID granting the motion, finding that no extraordinary circumstances exist that would prevent the requested termination of the investigation in its entirety and that the motion fully complies with Commission Rule 210.21. The ID also found that termination of the investigation based on the settlement does not impose any undue burden on the public health and welfare, competitive conditions in the U.S. economy or U.S. consumers. No petitions for review were received.The Commission has determined not to review the ID.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: July 2, 2012.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2012–16592 Filed 7–6–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Safe Drinking Water Act

Notice is hereby given that on June 29, 2012 the United States lodged a proposed Consent Decree in *United States* v. *Lincoln Road RV Park, Inc.,* Case No. 6:12-cv-00004–CCL, with the United States District Court for the District of Montana.

In this action the United States seeks permanent injunctive relief and civil penalties for alleged violations of the Safe Drinking Water Act (''SDWA''), 42 U.S.C. 300f through 300j-26, including violations of the National Primary Drinking Water Regulations (''NPDWRs''), at Lincoln Road RV Park, Inc.'s recreational vehicle campground in Helena, Montana. The proposed Consent Decree requires Lincoln Road to comply with the NPDWRs in the future, to pay a civil penalty of $12,000, payable in twelve monthly installments, and to pay stipulated penalties in the event of future NPDWR violations.

For a period of thirty (30) days from the date of this publication, the United States Department of Justice will receive comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, and should either be emailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611. The comments should refer to *United States* v. *Lincoln Road RV Park, Inc.,* Case No. 6:12-cv-00004–CCL, and D.J. Ref. 90–5–1–1–10130.

During the public comment period, the settlement agreement may be examined on the following Department of Justice Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the settlement agreement 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 $5.75 ($.25 per page) 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 address given above.

Robert Brook,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2012–16599 Filed 7–6–12; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on June 28, 2012, a proposed consent decree in *United States* v.*BRC Properties, Inc.,* Civil Action No. 3:12-cv-00128, was lodged with the United States District Court for the Western District of Pennsylvania.

The proposed consent decree resolves claims that the United States filed under Section 107 of CERCLA, 42 U.S.C. 9607, for reimbursement of costs incurred and to be incurred in connection with response actions at the Barefoot Disposal Site (''Site'') in Blair County, Pennsylvania. Under the proposed consent decree, the Settling Defendant, BRC Properties, Inc., will reimburse the United States $60,000 for past response costs and limited future response costs.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication comments relating to the proposed consent 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. *BRC Properties, Inc.,* DOJ No. 90–11–3–09307/1.

During the public comment period, the proposed consent decree may also

be examined on the following Department of Justice Web site, *http://www.usdoj.gov/endr/Consent_Decrees.html*. A copy of the proposed consent decree may 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. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $23.25 (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 address given above.

Robert Brook,

Assistant Section Chief, Environmental Enforcement Section, Environment & Natural Resources Division.

[FR Doc. 2012–16598 Filed 7–6–12; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Employment and Training Administration

Comment Request for Information Collection for Labor Condition Application and Instructions for H–1B, H–1B1, and E–3 Nonimmigrants; ETA Forms 9035, 9035E, 9035CP; and WHD Nonimmigrant Worker Information Form WH–4, Extension With Revisions

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (Department), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the public and Federal agencies with an opportunity to comment on the proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 [44 U.S.C. 3506(c)(2)(A)]. This program helps ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, ETA is soliciting comments concerning the collection of data of the approved information collection, Office of Management and Budget (OMB) Control Number 1205– 0310, containing Form ETA 9035—*Labor Condition Application for Nonimmigrant Workers;* Form ETA 9035E—*Labor Condition Application for Nonimmigrants* (electronic version); Form ETA 9035CP—*General Instructions for the 9035 & 9035E;* and Wage and Hour Division (WHD) Form WH–4—*Nonimmigrant Worker Information Form,* which expire on March 31, 2015. In order to meet its statutory responsibilities under the INA, the Department is revising the existing collection of information pertaining to employers seeking to apply for labor condition applications to allow them to bring foreign labor to the U.S. on a temporary basis. The Secretary uses the collected information to determine if employers are meeting their statutory and regulatory obligations.

DATES: Written comments must be submitted to the office listed in the addressees section below on or before September 7, 2012.

ADDRESSES: Submit written comments to William L. Carlson, Ph.D., Administrator, Office of Foreign Labor Certification, Room C–4312, Employment & Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Telephone number: 202–693–3010 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1–877–889–5627 (TTY/TDD). Fax: 202–693–2768. Email: *ETA.OFLC.Forms@dol.gov* subject line: Revised Form ETA 9035. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed above.

SUPPLEMENTARY INFORMATION:

I. Background

The information collection is required by sections 212(n) and (t) and 214(c) of the Immigration and Nationality Act (INA) (8 U.S.C. 1182(n) and (t) and 1184(c)). The Department and the Department of Homeland Security have promulgated regulations to implement the INA. Specifically for this collection, 20 CFR part 655 Subparts H and I and 8 CFR 214.2(h)(4) are applicable. The INA mandates that no alien may enter the United States (U.S.) for the purpose of performing professional work on a temporary basis unless the U.S. employer has attested to the Secretary of Labor (Secretary) that the working conditions for the alien will not adversely affect the working conditions of similarly employed U.S. workers; that the salary will be at least the prevailing wage for the occupational classification in the area of employment or the actual wage paid by the employer to all other individuals with similar experience and qualifications to that of the foreign worker for the specific employment in question– whichever is higher; that there is no strike or lockout in the course of a labor dispute in the occupational classification at the place of employment; and that the employer has met all other requirements of the program as specified in the regulations. The Department's review of the attestations is limited to obvious errors and inaccuracies. The Department has revised the information collection instruments included in this information collection request to clarify certain elements of the information collection and enhance the integrity of the labor attestation process. In the past the respondents have been for-profit businesses and not-for-profit institutions. On rare occasions the respondents have been local, State, tribal governments, or the Federal government.

The Department has proposed changes to this collection. As a result of recommendations from both the Government Accountability Office (GAO) and the Department's Office of the Inspector General (OIG), as well as sister agencies, the Department seeks to revise the scope of information collected in the context of H–1B, H–1B1 and E–3 applications in order to enhance its integrity review for obvious errors, omissions and inaccuracies under 20 CFR 655.730(b). The revised collection will allow the Department to improve its integrity review and ensure the accuracy and completeness of the information.

II. Review Focus

The Department is particularly interested in comments which:

- 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 submissions of responses.

III. Current Actions

Type of Review: Extension with revisions.

Title(s): Labor Condition Application Nonimmigrants (H–1B, H–1B1 and E–3 visa programs) and *Nonimmigrant Worker Information Form.*

OMB Control Number: 1205–0310.

Affected Public: Businesses or other for-profits, not-for-profits, States, local governments, and tribal governments.

Form(s): Forms ETA 9035, ETA 9035E, ETA 9035CP and WHD Form WH–4.

Total Annual Respondents: 77,425.

Annual Frequency: On occasion.

Total Annual Responses: 1,129,000.

Average Time per Response: 25 minutes.

Estimated Total Annual Burden Hours: 479,666.

Total Annual Burden Cost for Respondents: $0.

Comments submitted in response to this comment request will be summarized and/or included in the request for OMB approval of the ICR; they will also become a matter of public record.

Signed at Washington, DC, on this 27th day of June 2012.

Jane Oates,

Assistant Secretary for Employment & Training

[FR Doc. 2012–16587 Filed 7–6–12; 8:45 am]

BILLING CODE 4510–FP–P

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Integrative Activities; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Committee of Visitors Panel for the Experimental Program to Stimulate Competitive Research (EPSCoR), #1373.

Dates/Time: July 24, 2012; 8:00 a.m.–5:00 p.m., July 25, 2012; 8:00 a.m.–5:00 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230, Stafford II Room 555.

Type of Meeting: Partially Open.

Contact Persons: Denise Barnes, Office Head (Acting), Uma Venkateswaran, Sian Mooney and Jeanne Small, Program Directors, Martha James, Associate Program Officer (Detail), and Elizabeth Lawrence, Program Analyst. Experimental Program to Stimulate Competitive Research (EPSCoR); Office of Integrative Activities, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 292–8683.

Purpose of Meeting: To carry out Committee of Visitors (COV) review, including examination of decisions on proposals, reviewer comments, and other privileged materials.

Agenda

July 24th, 2012

8:00 a.m.–10:15 a.m. Open session, Welcome, COV briefing

10:15 a.m.–5:00 p.m. Closed session, COV review

July 25th, 2012

8:00 a.m.– 2:00 p.m. Closed session, Report Preparation

3:00 p.m.–4:00 p.m. Closed session, Finalize COV Report

4:00 p.m.–5:00 p.m. Open session, Presentation of COV Findings

Reason for Closing: Certain sessions of the meeting are closed to the public because the Committee is reviewing proposal actions that will include privileged intellectual property and personal information that could harm individuals if they are disclosed. If discussions were open to the public, these matters that are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act would be improperly disclosed.

Dated: July 3, 2012.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2012–16651 Filed 7–6–12; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

Proposed Information Collection Activity: Submission for OMB Review; Comment Request

AGENCY: National Transportation Safety Board (NTSB).

ACTION: Notice.

SUMMARY: The NTSB is announcing that it will submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for approval, in accordance with the Paperwork Reduction Act. This ICR proposes voluntary completion of a form to collect contact information of victims of transportation accidents, and/or victims' family members and friends. The NTSB will transmit either a paper copy or an electronic copy of the form to victims' family members and friends. This Notice informs the public that they may submit comments concerning the NTSB's proposed collection of information to the NTSB Desk Officer at the OMB.

DATES: Submit written comments regarding this proposed collection of information by August 8, 2012.

ADDRESSES: Respondents may submit written comments on the collection of information to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Attention: Desk Officer for the National Transportation Safety Board, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Paul Sledzik, NTSB Office of Transportation Disaster Assistance, at (202) 314–6185.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act, the NTSB previously published a Notice in the **Federal Register** indicating its proposal to collect basic contact information, such as email addresses and telephone numbers, of victims of transportation accidents, and/or victims' family members and friends. 77 FR 18269 (Mar. 27, 2012). The NTSB did not receive any comments. At this juncture, in accordance with OMB regulations that require this additional Notice for proposed ICRs, the NTSB seeks to notify the public that it may submit comments on this proposed ICR to OMB. 5 CFR 1320.10(a).

Respondents' completion of the proposed form is voluntary. The survey will be available as a paper copy that the NTSB may mail to a potential respondent, or an electronic copy the NTSB may transmit via email. The form is not duplicative of other agencies' collections of information. The NTSB estimates that respondents will spend, at most, 10 minutes in completing the form. The NTSB estimates that approximately 50 respondents per year will complete the form.

Dated: June 29, 2012.

Deborah A.P. Hersman,

Chairman.

[FR Doc. 2012–16590 Filed 7–6–12; 8:45 am]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–328; NRC–2012–0160]

Tennessee Valley Authority; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (NRC or the Commission) has granted the request of Tennessee Valley Authority (the licensee) to withdraw its August 31, 2011, application as supplemented by letters dated November 28, 2011, January 27, February 29, and March 8, 2012, for proposed amendment to Facility

Operating License No. DPR–79 for the Sequoyah Nuclear Plant, Unit 2, located in Hamilton County, Tennessee.

The proposed change would have revised the Technical Specifications to allow opening of one of the penetration hatches in the shield building dome for up to five hours per day, six days per calendar week while in modes 1 through 4 during SQN, Unit 2 Cycle 18, and until entering Mode 5 at the start of the SQN, Unit 2 fall 2012 refueling outage.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on November 15, 2011 (76 FR 70775). However, by letter dated June 7, 2012, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated August 31, 2011, and the licensee's letter dated June 7, 2012, which withdrew the application for license amendment. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Room O1–F21, 1555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available documents created or received at the NRC are accessible electronically through the Agencywide Documents Access and Management System (ADAMS) in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737 or by email to *pdr.resource@nrc.gov.*

Dated at Rockville, Maryland, this 27th day of June 2012.

For the Nuclear Regulatory Commission.

Siva P. Lingam,

Project Manager, Plant Licensing Branch II–2, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2012–16658 Filed 7–6–12; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2012–0002]

Sunshine Act Meetings

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission [NRC–2012–0002].

DATE: Weeks of July 9, 16, 23, 30, August 6, 13, 2012.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and closed.

Week of July 9, 2012

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.

Week of August 6, 2012—Tentative

Tuesday, August 7, 2012

9:30 a.m. Briefing on the Status of Lessons Learned from the Fukushima Dai-ichi Accident (Public Meeting) (Contact: John Monninger, 301–415–0610)

This meeting will be webcast live at the Web address: *www.nrc.gov.*

Week of August 13, 2012—Tentative

There are no meetings scheduled for the week of August 13, 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: July 3, 2012.

Rochelle C. Bavol,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2012–16791 Filed 7–5–12; 11:15 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2012–0139]

Withdrawal of Regulatory Guide 7.3; Procedures for Picking Up and Receiving Packages of Radioactive Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of withdrawal; correction.

SUMMARY: This document is correcting the document published in the **Federal Register** on June 15, 2012 (77 FR 36017). Today's document supersedes that document and republishes it in its entirety with corrections. This document, by way of explanation, is including previously omitted text that establishes a better rationale for withdrawing the regulatory guide (RG). The U.S. Nuclear Regulatory Commission (NRC or Commission) is withdrawing RG 7.3, ''Procedures for Picking Up and Receiving Packages of Radioactive Material.'' The RG is being withdrawn because it is outdated and the relevant information contained in it has been updated and incorporated into Revision 1 of RG 7.7, ''Administrative Guide for Verifying Compliance with Packaging Requirements for Shipment and Receipt of Radioactive Material,'' which was issued in March 28, 2012 (77 FR 18871).

ADDRESSES: Please refer to Docket ID NRC–2012–0139 when contacting the NRC about the availability of information on this document. You may access information related to this document, which the NRC possesses and are publicly available, using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0139. Address questions about NRC dockets to Carol

Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov.*

• *NRC's Agencywide Documents Access and Management System (ADAMS):* Publicly available documents created or received at the NRC are available online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin 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, or 301–415–4737, or by email at *PDR.Resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced. The review for the withdrawal of RG 7.3 is available in ADAMS under Accession No. ML120900195.

• *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, MD 20852.

The documents are not copyrighted and NRC approval is not required to reproduce them.

FOR FURTHER INFORMATION CONTACT: Bernard White, Office of Nuclear Material Safety and Safeguards, Division of Spent Fuel Storage and Transportation, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001, telephone: 301–492–3303; email: *Bernard.White@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is withdrawing RG 7.3 because its guidance has been superseded and is no longer needed. The RG was published in May 1975 to provide guidance on meeting the requirements in Title 10 of the Code of Federal Regulations (10 CFR) 20.205, ''Procedures for Picking Up, Receiving, and Opening Packages.'' Regulatory Guide 7.3 provided guidance to licensees on making arrangements for receipt, pickup, and monitoring of packages containing radioactive material; and reporting when received packages showed evidence of leakage or excessive radiation levels.

Regulatory Guide 7.3 was issued after a rulemaking by the Atomic Energy Commission in 1974 that revised 10 CFR part 20, ''Standards for Protection Against Radiation.'' This rulemaking was in response to two incidents resulting in excessive contamination and radiation exposures from improperly packaged radioactive material. Since these requirements were new to the transportation community, the Atomic Energy Commission developed RG 7.3 to provide licensees with a method acceptable to the NRC staff for meeting the new requirements. In the 37 years since RG 7.3 was issued, there has been extensive experience by the transportation community on receiving and opening packages and the regulations in 10 CFR 20.205 have been replaced with new U.S. Department of Transportation regulations and 10 CFR 20.1906, ''Procedures for Receiving and Opening Packages.'' Regulatory Guide 7.3 was not kept current. The NRC is withdrawing the RG because it is outdated and the relevant information contained in it has been updated and incorporated into Revision 1 of RG 7.7, ''Administrative Guide for Verifying Compliance with Packaging Requirements for Shipment and Receipt of Radioactive material.'' Revision 1 of RG 7.7 was finalized in March 2012, a notice of its issuance was published in the **Federal Register** on March 28, 2012 (77 FR 18871).

II. Further Information

As explained above, the guidance provided in this RG is no longer necessary. Regulatory guides may be withdrawn when their guidance no longer provides useful information, such as when the guidance is superseded by technological developments, congressional actions, or other events.

Withdrawal of a RG means that the NRC staff no longer approves, as a generic matter, the guidance in the withdrawn RG. Therefore, an applicant or licensee who wishes to follow the guidance bears the responsibility of demonstrating in the appropriate circumstance, that the guidance in the withdrawn RG is applicable to the applicant's or licensee's specific situation. Current licensees who have included RG 7.3 in their licensing basis may continue to use it and withdrawal of the RG does not affect their existing licenses or agreements. Changes to existing licenses must be accomplished in accordance with applicable NRC requirements.

It states in NUREG/CR–4775, ''Guide to Preparing Operating Procedures for Shipping Packages,'' issued December 1988, that licensees should reference RG 7.3 in their operating procedures for shipping packages. Because RG 7.3 is being withdrawn, the recommendation in NUREG/CR–4775 to reference RG 7.3 should not be relied on in the future and an applicant or licensee who wishes to follow this portion of the guidance in NURGE/CR–4775 bears the responsibility of demonstrating, in the appropriate circumstance, that the guidance in the withdrawn regulatory guide is applicable to the applicant's or licensee's specific situation. Current licensees who have included RG 7.3 in their licensing basis because of the reference to it in NUREG/CR–4775 may continue to use RG 7.3, and withdrawal of the RG does not affect their existing licenses or agreements.

Regulatory guides and publicly available NRC documents are available on line in the NRC Library at: *http://www.nrc.gov/reading-rm/doc-collections/.* The documents can also be viewed online for free or printed for a fee in the NRC's PDR at 11555 Rockville Pike, Rockville, MD; the mailing address is USNRC PDR, Washington, DC 20555–0001; telephone: 301–415–4737, or 1–800–397–4209; fax 301–415–3548; or by email to *pdr.resource@nrc.gov* Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

Dated at Rockville, Maryland, this 29th day of June 2012.

For the Nuclear Regulatory Commission.

Edward O'Donnell,

Acting Branch Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2012–16661 Filed 7–6–12; 8:45 am]

BILLING CODE 7590–01–P

PEACE CORPS

Information Collection Requests Under OMB Review

AGENCY: Peace Corps.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Peace Corps will submit the following information collection request to the Office of Management and Budget (OMB) for approval. In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Peace Corps invites the general public to comment on this request revision of a currently approved collection, Peace Corps 50th Anniversary Archive Project (OMB Control Number: 0420—0542). The title of the information collection will change from Peace Corps 50th Anniversary Archives to Peace Corps Digital Library (OMB Control Number 0420—pending). This process is conducted in accordance with 5 CFR 1320.10.

DATES: Submit comments on or before August 8, 2012.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name/or OMB approval number and should be sent via email to: *oira_submission@omb.eop.gov* or fax to: 202–395–3086. Attention: Desk Officer for Peace Corps.

FOR FURTHER INFORMATION CONTACT: Denora Miller, FOIA Officer, Peace Corps, 1111 20th Street NW., Washington, DC 20526, (202) 692–1236, or email at *pcfr@peacecorps.gov*. Copies of available documents submitted to OMB may be obtained from Denora Miller.

SUPPLEMENTARY INFORMATION: The 50th Anniversary Archive Project collects stories and photographs from Returned Peace Corps Volunteers along with basic contact information (name, phone number, email address) and information about their Peace Corps service, such as dates of service, geographic location, and sector of service. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on October 17, 2011 (76 FR 64127).

Method: The information is collected from an online form.

Old Title: Peace Corps 50th Anniversary Archive Project.

New Title: Peace Corps Digital Library.

OMB Control Number: 0420—pending.

Affected Public: Returned Peace Corps Volunteer and general public.

Respondents' Obligation To Reply: Voluntary.

Burden to the Public

(a) Estimated number of respondents: 1,000.

(b) Frequency of response: One time.

(c) Estimated average burden per response: 15 minutes.

(d) Estimated total reporting burden: 250 hours.

(e) Estimated annual cost to respondents: $0.00.

General Description of Collection: This information is used to add assets to the digital library on the Peace Corps Web site; provide stories and photos for use in exhibits, news articles and events about Peace Corps; assist in documenting the history of the Peace Corps as experienced by its Volunteers through the years.

Request for Comment: Peace Corps invites comments on whether the proposed collection of information is necessary for proper performance of the functions of the Peace Corps Response, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

This notice issued in Washington, DC, on July 2, 2012.

Garry W. Stanberry,

Acting Associate Director, Management.

[FR Doc. 2012–16649 Filed 7–6–12; 8:45 am]

BILLING CODE 6051–01–P

PEACE CORPS

Information Collection Requests Under OMB Review

AGENCY: Peace Corps.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Peace Corps will submit the following information collection request to the Office of Management and Budget (OMB) for approval. The purpose of this notice is to allow 30 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995 (44 USC Chapter 35).

DATES: Submit comments on or before August 8, 2012.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name/or OMB approval number and should be sent via email to: *oira_submission@omb.eop.gov* or fax to: 202–395–3086. Attention: Desk Officer for Peace Corps.

FOR FURTHER INFORMATION CONTACT: Denora Miller, FOIA Officer, Peace Corps, 1111 20th Street NW., Washington, DC 20526, (202) 692–1236, or email at *pcfr@ peacecorps.gov.* Copies of available documents submitted to OMB may be obtained from Denora Miller.

SUPPLEMENTARY INFORMATION: The Peace Corps' Press Office uses the Hometown News Release Form to collect information about a Peace Corps invitee's decision to serve and their local newspapers.

Method: The Peace Corps currently emails the Hometown News Release Form to invitees. The respondent returns the form by email. The Hometown News Release Form will be available through the Peace Corps' new volunteer delivery and support system. The new method will replace sending the form by email.

Title: Hometown News Release Form.

OMB Control Number: 0420—pending.

Type of Information Collection: Existing collection in use without an OMB control number.

Affected Public: Individuals or households.

Respondents' Obligation to Reply: Voluntary.

General Description of Collection: This information is used to inform reporters from local and college newspapers, as well as radio and television stations about an invitee's decision to serve in the Peace Corps. It helps notify the community that their neighbor or classmate will be gone for two years and also helps Peace Corps recruit the next generation of Peace Corps volunteers.

Request for Comment: Peace Corps invites comments on whether the proposed collection of information is necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

This notice issued in Washington, DC, on July 3, 2012.

Garry W. Stanberry,

Acting Associate Director, Management.

[FR Doc. 2012–16652 Filed 7–6–12; 8:45 am]

BILLING CODE 6051–01–P

POSTAL REGULATORY COMMISSION

[Docket No. R2012–9; Order No. 1389]

Price Adjustment

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently filed Postal Service request to adjust prices for several market dominant products within First-Class Mail and Standard Mail. This notice addresses procedural steps associated with the filing.

DATES: *Comments are due:* July 17, 2012.

ADDRESSES: Submit comments electronically via the Commission's

Filing Online system at *http://www.prc.gov.* Commenters who cannot submit their views electronically should contact the person identified in **FOR FURTHER INFORMATION CONTACT** by telephone for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Postal Service Filing
III. Commission Action

I. Introduction

On June 27, 2012, the Postal Service filed a notice with the Commission announcing its intent to adjust prices for several market dominant products within First-Class Mail and Standard Mail pursuant to 39 U.S.C. 3622 and 39 CFR 3010.[1] The adjustment is a 2-percent discount on the prices for First-Class Mail and Standard Mail letters, flats, and cards (presort and automation), which include a qualifying mobile barcode or similar print technology inside or on the qualifying mailpieces (Mobile Shopping Promotion). Notice at 1. The Mobile Shopping Promotion is proposed to take effect at 12:01 a.m. on November 7, 2012 and will expire at 11:59 p.m. on November 21, 2012. *Id.*

II. Postal Service Filing

Incentive program. The Postal Service proposes an upfront 2-percent discount on First-Class Mail and Standard Mail letters, flats, and cards (presort and automation) that include, in or on the mailpiece, a mobile barcode (or other print/mobile technology). *Id.* This technology must direct the recipients of the mailpieces to a mobile-optimized Web site that allows them to purchase an advertised product on the mobile device. The Postal Service also proposes to allow mailers to qualify for an extra 1-percent rebate on their qualifying mailings, if a portion of their orders is fulfilled via Priority Mail® between November 9, 2012 and December 31, 2012. *Id.* at 1–2. In order to claim the rebate, mailers would be required to demonstrate that the number of Priority Mail packages delivered to customers exceeded 0.5 percent of the total number of qualifying mailpieces sent during the Mobile Shopping Promotion. *Id.* at 7. Mailers may submit applications for this rebate between January 1, 2013 and February 15, 2013. *Id.* at 9.

Participants will be required to register for and accept the terms of the Mobile Shopping Promotion at least 2 hours prior to their first qualifying mailing. *Id.* at 7–8. Participants must disclose which permits will be participating in the Mobile Shopping Promotion and agree to participate in a survey at the end of the promotional period. *Id.* at 8. The Postal Service plans to open registration around September 15, 2012. *Id.*

The Postal Service will require the mailings to be submitted electronically via mail.dat, mail.xml, or Postal Wizard. Mailers must affirmatively claim the Mobile Shopping Promotion on their electronic postage submissions and certify that each mailpiece meets the requirements. Mailers must claim the Mobile Shopping Promotion discount at the time of mailing. *Id.* Postage must be paid using a permit imprint, pre-cancelled stamp permit, or qualifying meter mail. *Id.* at 8–9.

Standard Mail Flats compliance with 39 U.S.C. 101(d). In its FY2010 Annual Compliance Determination Report, the Commission directed the Postal Service to increase the cost coverage of the Standard Mail Flats product through a combination of above-average price adjustments and cost reductions.[2] The Postal Service acknowledges that the Mobile Shopping Promotion will have the short-term effect of lowering postage revenues from Standard Mail Flats. However, it contends that the long-term effect will be to encourage future revenue growth by improving the value of direct mail to advertisers. Notice at 10. Also, the Postal Service expects the revenue loss to be much smaller than the loss expected from the Mobile Shopping Promotion approved by the Commission in Docket No. R2012–6. *Id.* at 13.

Impact on the price cap. The Postal Service will not calculate the cap implication of the discount as described in rule 3010.14(b)(1) through (4). *Id.* at 14. The Postal Service states that, consistent with past limited-availability discounts, it intends to essentially ignore the effect of the price decrease resulting from the program on the price cap for both future and current prices. *Id.*

Objectives and factors, workshare discounts, and preferred rates. The Postal Service lists the relevant objectives and factors of 39 U.S.C. 3622, and claims the program to a large extent ''does not substantially alter the degree to which First-Class Mail and Standard Mail prices already address'' the objectives and factors. *Id.* at 16. In particular, the Postal Service contends that the Mobile Shopping Promotion is an example of the increased pricing flexibility under the Postal Accountability and Enhancement Act (objective 4), and will encourage new mail volumes, which will have the effect of enhancing the financial position of the Postal Service (objective 5). *Id.* at 16. Similarly, the Postal Service claims that the Mobile Shopping Promotion encourages increased mail volume (factor 7) and will not imperil the ability of First-Class Mail or Standard Mail to cover its attributable costs (factor 2). *Id.* at 18.

According to the Postal Service, the Mobile Shopping Promotion will not impact current workshare discounts. *Id.* As the Mobile Shopping Promotion does not exclude any mailers, the Postal Service asserts that it will not affect compliance with any preferred rate requirements. *Id.* at 19.

Mail Classification Schedule (MCS). The Postal Service provides proposed MCS language in Appendix A of its notice. It outlines the proposed changes in the MCS for the relevant products. *Id.* Appendix A.

III. Commission Action

The Commission establishes Docket No. R2012–9 to consider all matters related to the notice. The Commission's rules provide for a 20-day comment period starting from the date of the filing of the notice. *See* 39 CFR 3010.13(a)(5). Interested persons may express views and offer comments on whether the planned changes are consistent with the policies of 39 U.S.C. 3622 and 39 CFR 3010. Comments are due no later than July 17, 2012.

The Commission appoints Katalin K. Clendenin to represent the interests of the general public in this proceeding.

It is ordered:

1. The Commission establishes Docket No. R2012–9 to consider matters raised by the Postal Service's June 27, 2012 notice.

2. Interested persons may submit comments on the planned price adjustments. Comments are due no later than July 17, 2012.

3. Pursuant to 39 U.S.C. 505, Katalin K. Clendenin is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

[1] United States Postal Service Notice of Market-Dominant Price Adjustment, June 27, 2012 (Notice).

[2] Docket No. ACR2010, Annual Compliance Determination Report, March 29, 2011 at 106.

By the Commission.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2012–16589 Filed 7–6–12; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–30125; File No. 812–13878]

Gladstone Capital Corporation, et al.; Notice of Application

June 29, 2012.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order under sections 17(d), 57(a)(4) and 57(i) of the Investment Company Act of 1940 (the ''Act'') and rule 17d–1 under the Act to permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit the Investors (as defined below) to co-invest in portfolio companies with each other and with an affiliated investment fund.

APPLICANTS: Gladstone Capital Corporation (''GLAD''), Gladstone Investment Corporation (''GAIN''), Gladstone Lending Corporation (''Lending,'' and collectively with GLAD and GAIN, the ''Funds''), Gladstone Partners Fund, LP (''Partners''), and Gladstone Management Corporation (''GMC'').

FILING DATES: The application was filed on March 10, 2011, and amended on December 21, 2011, April 19, 2012, and June 29, 2012.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on July 25, 2012, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F St. NE., Washington, DC 20549–1090. Applicants: 1521 Westbranch Dr., Suite 200, McLean, VA 22102.

FOR FURTHER INFORMATION CONTACT: Marilyn Mann, Special Counsel, at (202) 551–6813 or Mary Kay Frech, Branch Chief, at (202) 551–6821 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. GLAD and GAIN are closed-end management investment companies that have elected to be regulated as business development companies (''BDCs'') under the Act. Lending is a closed-end management investment company that has filed a notice of intent to elect to be regulated as a BDC pursuant to section 6(f) of the Act. Lending was organized on December 7, 2009, but has not yet commenced operations. A majority of the directors of each of the Funds is or will be persons who are not ''interested persons'' as defined in section 2(a)(19) of the Act (''Non-Interested Directors'').

2. GMC is registered as an investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act'') and serves as the investment adviser to each Fund. From time to time GMC, or an entity controlling, controlled by, or under common control with GMC, may serve as investment adviser or subadviser to other BDCs or registered closed-end management investment companies (each, a ''Closed-End Fund,'' and together with the Funds, the ''Investors''). Companies subadvised by GMC or an entity controlling, controlled by, or under common control with GMC are included in the term ''Closed-End Fund'' only if the subadviser controls the Closed-End Fund.

3. GLAD's Objectives and Strategies are to achieve a high level of current income by investing in certain debt securities issued by private businesses that are family-owned businesses or substantially owned by leveraged buyout funds or individual investors.[1] GAIN's Objectives and Strategies are to achieve a high level of current income and capital gains by investing in debt and equity securities of private businesses. Lending's proposed Objectives and Strategies are to generate current income and, to a lesser extent, long-term capital appreciation through investing in syndicated and non-syndicated debt investments of small to mid-sized corporations that are typically larger companies than those in which GLAD or GAIN invest, but which may from time to time be similar to the types of investments in which GLAD and GAIN invest.

4. Partners is a limited partnership organized under Delaware law and is excluded from the definition of investment company by section 3(c)(1) of the Act. Partners' investment objective is similar to GLAD's Objectives and Strategies. GMC is the general partner of Partners and serves as its investment adviser.

5. Applicants seek an order (''Order'') under sections 17(d), 57(a)(4), and 57(i) of the Act and rule 17d–1 under the Act to permit two or more of the Investors and Partners to (a) co-invest with each other in securities issued by issuers in private placement transactions[2] in which GMC negotiates terms in addition to price; and (b) make additional investments in securities of such issuers, including through the exercise of warrants, conversion privileges, and other rights to purchase securities of the issuers (such additional investments, ''Follow-On Investments'').[3] ''Co-Investment Transaction'' means any transaction in which an Investor participated together with Partners and/or one or more other Investors in reliance on the Order. ''Potential Co-Investment Transaction'' means any investment opportunity in which an Investor could not participate together with Partners and/or one or more other Investors without obtaining and relying on the Order. The Order would supersede a previous co-investment order issued to GLAD, GAIN, Partners, Gladstone General Partner, LLC, and GMC.[4]

6. When considering Potential Co-Investment Transactions for any Investor, GMC will consider only the Objectives and Strategies, investment policies, investment positions, capital

[1] ''Objectives and Strategies'' means the investment objectives and strategies of an Investor, as described in the Investor's registration statement on Form N–2, other filings the Investor has made with the Commission under the Securities Act of 1933 (''Securities Act''), or under the Securities Exchange Act of 1934, and the Investor's reports to shareholders.

[2] The term ''private placement transactions'' means transactions in which the offer and sale of securities by the issuer are exempt from registration under the Securities Act.

[3] All existing entities that currently intend to rely upon the Order have been named as applicants. Any other existing or future entity that subsequently relies on the Order will comply with the terms and conditions of the application.

[4] Gladstone Capital, Investment Company Act Release Nos. 27120 (Oct. 25, 2005) (notice) and 27150 (Nov. 22, 2005) (order).

available for investment, and other pertinent factors applicable to that Investor. Other than pro rata dispositions and Follow-On Investments as provided in conditions 7 and 8, and after making the determinations required in conditions 1 and 2(a), GMC will present each Potential Co-Investment Transaction and the proposed allocation to the directors eligible to vote under section 57(o) of the Act (''Eligible Directors''), and the ''required majority,'' as defined in section 57(o) of the Act (''Required Majority'') will approve each Co-Investment Transaction prior to any investment by the participating Investor.

7. With respect to the pro rata dispositions and Follow-On Investments provided in conditions 7 and 8, an Investor may participate in a pro rata disposition or Follow-On Investment without obtaining prior approval of the Required Majority if, among other things: (i) The proposed participation of each Investor and Partners in such disposition is proportionate to its outstanding investments in the issuer immediately preceding the disposition or Follow-On Investment, as the case may be; and (ii) the board of directors of the Investor has approved that Investor's participation in pro rata dispositions and Follow-On Investments as being in the best interests of the Investor. If the board does not so approve, any such disposition or Follow-On Investment will be submitted to the Investor's Eligible Directors. The board of any Investor may at any time rescind, suspend or qualify its approval of pro rata dispositions and Follow-On Investments with the result that all dispositions and/or Follow-On Investments must be submitted to the Eligible Directors.

8. Applicants state that no Non-Interested Director of an Investor will have a financial interest in any Co-Investment Transaction, other than through share ownership in one of the Investors.

Applicants' Legal Analysis

1. Section 57(a)(4) of the Act prohibits certain affiliated persons of a BDC from participating in joint transactions with the BDC in contravention of rules as prescribed by the Commission. Under section 57(b)(2) of the Act, any person who is directly or indirectly controlling, controlled by, or under common control with a BDC is subject to section 57(a)(4). Applicants submit that each of the Investors and Partners could be deemed to be a person related to each Investor in a manner described by section 57(b) by virtue of being under common control with the Investor. Section 57(i) of the Act provides that, until the Commission prescribes rules under section 57(a)(4), the Commission's rules under section 17(d) of the Act applicable to registered closed-end investment companies will be deemed to apply to transactions subject to section 57(a)(4). Because the Commission has not adopted any rules under section 57(a)(4), rule 17d–1 also applies to joint transactions with Investors that are BDCs. Section 17(d) of the Act and rule 17d–1 under the Act are applicable to Investors that are registered closed-end investment companies.

2. Section 17(d) of the Act and rule 17d–1 under the Act prohibit affiliated persons of a registered investment company from participating in joint transactions with the company unless the Commission has granted an order permitting such transactions. In passing upon applications under rule 17d–1, the Commission considers whether the company's participation in the joint transaction is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

3. Applicants state that in the absence of the requested relief, the Investors would be, in some circumstances, limited in their ability to participate in attractive and appropriate investment opportunities. Applicants believe that the proposed terms and conditions will ensure that the Co-Investment Transactions are consistent with the protection of each Investor's shareholders and with the purposes intended by the policies and provisions of the Act. Applicants state that the Investors' participation in the Co-Investment Transactions will be consistent with the provisions, policies, and purposes of the Act and on a basis that is not different from or less advantageous than that of other participants.

Applicants' Conditions

Applicants agree that the Order will be subject to the following conditions:

1. Each time GMC considers a Potential Co-Investment Transaction for Partners or another Investor that falls within an Investor's then-current Objectives and Strategies, GMC will make an independent determination of the appropriateness of the investment for the Investor in light of the Investor's then-current circumstances.

2. (a) If GMC deems an Investor's participation in any Potential Co-Investment Transaction to be appropriate for the Investor, it will then determine an appropriate level of investment for the Investor.

(b) If the aggregate amount recommended by GMC to be invested in the Potential Co-investment Transaction by the Investors and Partners, collectively, in the same transaction, exceeds the amount of the investment opportunity, the amount proposed to be invested by each party will be allocated among them pro rata based on each party's total assets, up to the amount proposed to be invested by each. GMC will provide the Eligible Directors of each participating Investor with information concerning each participating party's total assets to assist the Eligible Directors with their review of the Investor's investments for compliance with these allocation procedures.

(c) After making the determinations required in conditions 1 and 2(a), GMC will distribute written information concerning the Potential Co-Investment Transaction (including the amount proposed to be invested by each Investor and Partners) to the Eligible Directors of each participating Investor for their consideration. An Investor will co-invest with another Investor or Partners only if, prior to participating in the Potential Co-Investment Transaction, a Required Majority concludes that:

(i) The terms of the transaction, including the consideration to be paid, are reasonable and fair to the Investor and its shareholders and do not involve overreaching in respect of the Investor or its shareholders on the part of any person concerned;

(ii) The transaction is consistent with:

(A) The interests of the shareholders of the Investor; and

(B) The Investor's then-current Objectives and Strategies;

(iii) The investment by other Investors or Partners would not disadvantage the Investor, and participation by the Investor would not be on a basis different from or less advantageous than that of other Investors or Partners; provided that, if any other Investor or Partners, but not the Investor itself, gains the right to nominate a director for election to a portfolio company's board of directors or the right to have a board observer or any similar right to participate in the governance or management of the portfolio company, such event will not be interpreted to prohibit the Required Majority from reaching the conclusions required by this condition (2)(c)(iii), if:

(A) The Eligible Directors will have the right to ratify the selection of such director or board observer, if any;

(B) GMC agrees to, and does, provide, periodic reports to the Investor's board of directors with respect to the actions of the director or the information received by the board observer or obtained through the exercise of any similar right to participate in the governance or management of the portfolio company; and

(C) Any fees or other compensation that Partners or any Investor or any affiliated person of Partners or any Investor receives in connection with the right of Partners or the Investor to nominate a director or appoint a board observer or otherwise to participate in the governance or management of the portfolio company will be shared proportionately among Partners (who may, in turn, share its portion with its affiliated persons) and the participating Investors in accordance with the amount of each party's investment; and

(iv) The proposed investment by the Investor will not benefit GMC, Partners or the other Investors or any affiliated person of any of them (other than the parties to the Co-Investment Transaction), except (A) to the extent permitted by condition 13, (B) to the extent permitted by section 17(e) or 57(k) of the Act, as applicable, (C) indirectly, as a result of an interest in the securities issued by one of the parties to the Co-Investment Transaction, or (D) in the case of fees or other compensation described in condition 2(c)(iii)(C).

3. Each Investor has the right to decline to participate in any Potential Co-Investment Transaction or to invest less than the amount proposed.

4. GMC will present to the board of directors of each Investor, on a quarterly basis, a record of all investments in Potential Co-Investment Transactions made by any of the other Investors or Partners during the preceding quarter that fell within the Investor's then-current Objectives and Strategies that were not made available to the Investor, and an explanation of why the investment opportunities were not offered to the Investor. All information presented to the board of directors pursuant to this condition will be kept for the life of the Investor and at least two years thereafter, and will be subject to examination by the Commission and its staff.

5. Except for Follow-On Investments made in accordance with condition 8, an Investor will not invest in reliance on the Order in any issuer in which another Investor or Partners or any affiliated person of such Investor or Partners is an existing investor.

6. An Investor will not participate in any Potential Co-Investment Transaction unless the terms, conditions, price, class of securities to be purchased, settlement date, and registration rights will be the same for each participating Investor and Partners. The grant to Partners or another Investor, but not the Investor, of the right to nominate a director for election to a portfolio company's board of directors, the right to have an observer on the board of directors or similar rights to participate in the governance or management of the portfolio company will not be interpreted so as to violate this condition 6, if conditions 2(c)(iii)(A), (B) and (C) are met.

7. (a) If Partners or any Investor elects to sell, exchange or otherwise dispose of an interest in a security that was acquired in a Co-Investment Transaction, GMC will:

(i) Notify each Investor that participated in the Co-Investment Transaction of the proposed disposition at the earliest practical time; and

(ii) Formulate a recommendation as to participation by each Investor in the disposition.

(b) Each Investor will have the right to participate in such disposition on a proportionate basis, at the same price and on the same terms and conditions as those applicable to Partners and any other Investor.

(c) An Investor may participate in such disposition without obtaining prior approval of the Required Majority if: (i) The proposed participation of each Investor and Partners in such disposition is proportionate to its outstanding investments in the issuer immediately preceding the disposition; (ii) the board of directors of the Investor has approved as being in the best interests of the Investor the ability to participate in such dispositions on a pro rata basis (as described in greater detail in this application); and (iii) the board of directors of the Investor is provided on a quarterly basis with a list of all dispositions made in accordance with this condition. In all other cases, GMC will provide its written recommendation as to the Investor's participation to the Eligible Directors, and the Investor will participate in such disposition solely to the extent that a Required Majority determines that it is in the Investor's best interests.

(d) Partners and each Investor will bear their own expenses in connection with any such disposition.

8. (a) If Partners or any Investor desires to make a Follow-On Investment in a portfolio company whose securities were acquired in a Co-Investment Transaction, GMC will:

(i) Notify each Investor that participated in the Co-Investment Transaction of the proposed transaction at the earliest practical time; and

(ii) Formulate a recommendation as to the proposed participation, including the amount of the proposed Follow-On Investment, by each Investor.

(b) An Investor may participate in such Follow-On Investment without obtaining prior approval of the Required Majority if: (i) The proposed participation of each Investor and Partners in such investment is proportionate to its outstanding investments in the issuer immediately preceding the Follow-On Investment; and (ii) the board of directors of the Investor has approved as being in the best interests of the Investor the ability to participate in Follow-On Investments on a pro rata basis (as described in greater detail in this application). In all other cases, GMC will provide its written recommendation as to the Investor's participation to the Eligible Directors, and the Investor will participate in such Follow-On Investment solely to the extent that a Required Majority determines that it is in the Investor's best interests.

(c) If, with respect to any Follow-On Investment:

(i) The amount of the opportunity is not based on the Investors' and Partners' outstanding investments immediately preceding the Follow-On Investment; and

(ii) The aggregate amount recommended by GMC to be invested by each Investor in the Follow-On Investment, together with the amount proposed to be invested by Partners in the same transaction, exceeds the amount of the opportunity; then the amount invested by each such party will be allocated among them pro rata based on each party's total assets, up to the amount proposed to be invested by each.

(d) The acquisition of Follow-On Investments as permitted by this condition will be considered a Co-Investment Transaction for all purposes and subject to the other conditions set forth in this application.

9. The Non-Interested Directors of each Investor will be provided quarterly for review all information concerning Potential Co-Investment Transactions and Co-Investment Transactions, including investments made by other Investors or Partners that the Investor considered but declined to participate in, so that the Non-Interested Directors may determine whether all investments made during the preceding quarter, including those investments that the Investor considered but declined to participate in, comply with the conditions of the Order. In addition, the

Non-Interested Directors will consider at least annually the continued appropriateness for the Investor of participating in new and existing Co-Investment Transactions.

10. Each Investor will maintain the records required by section 57(f)(3) of the Act as if each of the investments permitted under these conditions were approved by the Required Majority under section 57(f).

11. No Non-Interested Director of an Investor will also be a director, general partner, managing member or principal, or otherwise an ''affiliated person'' (as defined in the Act), of Partners.

12. The expenses, if any, associated with acquiring, holding or disposing of any securities acquired in a Co-Investment Transaction (including, without limitation, the expenses of the distribution of any such securities registered for sale under the Securities Act) will, to the extent not payable by GMC under its investment advisory agreements with the Investors and Partners, be shared by the Investors and Partners in proportion to the relative amounts of the securities held or being acquired or disposed of, as the case may be.

13. Any transaction fee (including break-up or commitment fees but excluding broker's fees contemplated by section 17(e) or 57(k) of the Act, as applicable) received in connection with a Co-Investment Transaction will be distributed to the participating Investors and Partners on a pro rata basis based on the amounts they invested or committed, as the case may be, in such Co-Investment Transaction. If any transaction fee is to be held by GMC pending consummation of the transaction, the fee will be deposited into an account maintained by GMC at a bank or banks having the qualifications prescribed in section 26(a)(1) of the Act, and the account will earn a competitive rate of interest that will also be divided pro rata among the Investors and Partners based on the amounts they invest in such Co-Investment Transaction. None of Partners, GMC or any affiliated person of the Investors will receive additional compensation or remuneration of any kind as a result of or in connection with a Co-Investment Transaction (other than (a) in the case of the Investors and Partners, the pro rata transaction fees described above and fees or other compensation described in condition 2(c)(iii)(C) and (b) in the case of GMC, investment advisory fees paid in accordance with the agreements between GMC and the Investors or Partners).

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–16626 Filed 7–6–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Tuesday, July 10, 2012 at 10:00 a.m. and Friday, July 13, 2012 at 1:00 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meetings. 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)(2), (3), (5), (6), (7), 9(B) and (10) and 17 CFR 200.402(a)(2), (3), (5), (6), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Gallagher, as duty officer, voted to consider the items listed for the Closed Meeting in closed sessions.

The subject matter of the Closed Meeting scheduled for Tuesday, July 10, 2012 will be:

Institution and settlement of an injunctive action; and a personnel matter.

The subject matter of the Closed Meeting scheduled for Friday, July 13, 2012 will be:

Consideration of amicus participation;

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551–5400.

Dated: July 3, 2012.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2012–16771 Filed 7–5–12; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67331; File No. SR–EDGX–2012–24]

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing of Proposed Rule Changes To Amend EDGX Rules Regarding Market Access

July 2, 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 22, 2012, the EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule changes as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 11.3 to (1) delete those provisions that the Exchange believes have been rendered superfluous and unnecessary in light of the adoption by the Commission of Rule 15c3–5 under the Act; and (2) add a requirement for Sponsoring Members [3] to maintain a list of Sponsored Participants [4] which the Sponsoring Member has authorized to obtain access to the Exchange's System,[5] and to provide the list of Sponsored Participants to the Exchange upon request. The Exchange is also proposing amendments to Rule 11.3(b)(1) and Rule 1.5(z) to align the definition of Sponsored Participant with the terminology used in Rule 15c3–5 to describe such arrangements.

The text of the proposed rule changes is attached as Exhibit 5 and is 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] As defined in EDGX Rule 1.5(aa).

[4] As defined in EDGX Rule 1.5(z).

[5] As defined in EDGX Rule 1.5(cc).

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 changes and discussed any comments it received on the proposed rule changes. 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 Changes

1. Purpose

Background on Market Access Rule

On November 3, 2010, the Commission adopted Rule 15c3–5 (the ''Market Access Rule''). The Market Access Rule governs risk management controls by broker-dealers with market access. The Market Access Rule had an effective date of January 14, 2011, with phased-in compliance dates of July 14, 2011, and November 30, 2011.[6]

Among other things, the Market Access Rule requires that any broker-dealer with market access,[7] or that provides a customer or any other person with market access, must establish, document and maintain a system of risk management controls and supervisory procedures that are reasonably designed to manage the financial, regulatory and other risks of this business activity. These controls include financial risk management controls reasonably designed to prevent the entry of orders that exceed appropriate pre-set credit or capital thresholds in the aggregate for each customer and the broker-dealer itself, and to prevent the entry of erroneous orders. In addition, the Market Access Rule requires certain regulatory risk management controls that, among other things, prevent the entry of orders unless compliance with applicable regulatory requirements has been satisfied on a pre-order entry basis, and restrict access to trading systems and technology that provide market access to persons and accounts that have been pre-approved and authorized by the broker-dealer. These regulatory risk management controls also include measures designed to prevent the entry of orders for a broker-dealer, customer or other person if such person is restricted from trading those securities, and to assure that appropriate surveillance personnel receive immediate, post-trade execution reports that result from market access.

These risk management controls and associated supervisory procedures must be under the direct and exclusive control of the broker-dealer that is subject to the Market Access Rule. While a broker-dealer can use third-party providers to satisfy some or all of these requirements, the broker-dealer is nonetheless required to ensure that whatever technology or other services are provided by such third-parties are under such broker-dealer's direct and exclusive control.

Rule 11.3(b): Sponsored Participants

Rule 11.3(b) sets forth the requirements for Sponsored Participants to obtain authorized access to the System through one or more Sponsoring Members by entering into and maintaining customer agreements with one or more Sponsoring Members through which the Sponsored Participant may trade on the System. Such agreements must incorporate the provisions set forth in Rule 11.3(b)(2). These contractual provisions include, *inter alia,* that: (1) Sponsored Participants must enter into and maintain an agreement with the Exchange; (2) Sponsoring Members must acknowledge and agree that all orders entered by their Sponsored Participants are binding in all respects on the Sponsoring Member; (3) Sponsoring Members must acknowledge responsibility for any and all actions taken by their Sponsored Participants; (4) Sponsored Participants of Sponsoring Members must take reasonable security precautions to prevent unauthorized use or access to the System, including unauthorized entry of information into the System, or the information and data made available therein; and (5) Sponsored Participants of Sponsoring Members must maintain, keep current and provide to the Sponsoring Member and to the Exchange, upon request, a list of Authorized Traders (''ATs'')[8] who may obtain access to the System on behalf of such Sponsored Participant. In addition, the Sponsoring Member must provide the Exchange with a written statement in form and substance acceptable to the Exchange, identifying each Sponsored Participant by name and acknowledging its responsibility for the orders, executions and actions of such Sponsored Participants.

The Exchange believes that, as a result of the controls established under the Market Access Rule, which apply directly to Sponsoring Members, the contractual provisions contained in Rule 11.3(b) have been rendered superfluous and unnecessary. In particular, the Exchange believes that the Market Access Rule's provisions requiring that Sponsoring Members establish, document and maintain a system of risk management controls and supervisory procedures that are reasonably designed to manage the financial, regulatory and other risks of this business activity clearly establish the obligations and responsibilities of Members acting as Sponsoring Members to Sponsored Participants. The contractual provisions required under Rule 11.3(b), therefore, are not only superfluous and unnecessary but might also cause confusion on the part of Sponsoring Members as to the obligations that have been squarely imposed upon them by the Market Access Rule. Therefore, the Exchange is proposing to delete the provisions in current Rule 11.3(b)(2)(A)–(I), the second sentence of Rule 11.3(b)(1) and Rule 11.3(b)(3) and replace them with the provisions described below. In addition, the Exchange is making conforming amendments to Rule 11.3(a) to require that only Members, and *not* Users (which term is defined to include not only Members but their Sponsored Participants), enter into agreements with the Exchange. Additional conforming amendments are being proposed to the definition of Sponsored Participant (Rules 1.5(z) and 11.3(b)(1)) to align such definition with the terminology used in the Market Access Rule.

The Exchange is retaining the requirement in Rule 11.4(a) that all Members shall maintain a list of ATs who may obtain access to the System on behalf of the Member or the Member's Sponsored Participants. Members must continue to provide such list of ATs to the Exchange upon request. This requirement is being retained in order to ensure that Sponsoring Members continue to track whom they grant access to their systems and to enable the

[6] *See* Securities Exchange Act Release No. 63241 (November 3, 2010), 75 FR 69792 (November 15, 2011) [sic] (File No. S7–03–10). *See also* Securities Exchange Act Release No. 64798 [sic] (June 27, 2011), 76 FR 38293 (June 30, 2011) (File No. S7–03–10) (providing limited extension of compliance date for certain requirements); Securities Exchange Act Release No. 65132 (August 15, 2011), 76 FR 51457 (August 18, 2011) (exempting floor broker operations of certain broker-dealers with market access from automated controls requirement of Rule 15c3–5).

[7] The term ''market access'' is defined in Rule 15c3–5(a)(1) to include, *inter alia,* access to trading in securities on an exchange or alternative trading system (''ATS'') as a result of being a member or subscriber of the exchange or ATS, respectively.

[8] As defined in EDGX Rule 1.5(c).

Exchange to request such information upon request, if necessary. In addition, in order to maintain transparency into who is accessing the Exchange's System, the Exchange is also amending Rule 11.3(b)(2) to require Sponsoring Members to maintain a list of Sponsored Participants whom the Sponsoring Member has authorized to obtain access to the System pursuant to Rule 11.3. The amended rule will also provide that the Sponsoring Member shall update the list of Sponsored Participants as necessary, and provide the list to the Exchange upon request. The Exchange also proposes to amend Rule 11.3(b)(3) to require that Sponsoring Members shall comply with all requirements under the Market Access Rule with regard to market access arrangements with Sponsored Participants.

2. Statutory 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] in that they are 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, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The proposed rule changes are consistent with these obligations because they are designed to eliminate superfluous and unnecessary regulatory requirements, and thereby avoid potential confusion. Additionally, the proposed rule changes are designed to make the Exchange's Rules clearer and more transparent to Members by eliminating provisions that have been rendered superfluous and unnecessary by the Market Access Rule.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

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 written comments on the proposed rule changes.

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 or within such longer period (i) as the Commission may designate up to 45 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

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–EDGX–2012–24 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–EDGX–2012–24. 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 changes 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–EDGX–2012–24 and should be submitted on or before July 30, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–16623 Filed 7–6–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67333; File No. SR–OCC–2012–07]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Approving Proposed Rule Change Relating to Adjustment Panel Voting

July 2, 2012.

I. Introduction

On May 7, 2012, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change SR–OCC–2012–07 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder.[2] The proposed rule change was published for comment in the **Federal Register** on May 24, 2012.[3] The Commission received no comment letters on the proposal. This order approves the proposal.

II. Description

OCC is updating the procedures applied to adjustment panel voting and eliminating the requirement that an adjustment panel be convened to vote on certain specific types of standard

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 67021 (May 18, 2012), 77 FR 31060 (May 24, 2012).

contract adjustments affecting equity options. These changes are intended to improve overall operational efficiency in responding to events for which a contract adjustment may be made.

Certain panels may be convened under OCC's by-laws to (i) determine contract adjustments to the terms of outstanding options when certain events occur (e.g., stock distribution, stock dividend, merger, consolidation or reorganization) and (ii) fix certain amounts or values in respect of certain options in the event a required value is unreported, inaccurate, unreliable, unavailable, or inappropriate. Such panels are convened in accordance with Article VI, Section 11 of OCC's by-laws and currently consist of two representatives of each options exchange on which options affected by the event are traded and one representative of OCC, who votes only in case of a tie. The decision to adjust (and the nature of the adjustment to be made) or to fix an amount or value is made by majority vote of the adjustment panel. Most often, panels are convened to determine adjustments to the terms of outstanding equity options in response to certain corporate events.

The procedures for panel voting, as described in Article VI, Section 11, have not been updated for over 25 years. In the past, a smaller number of OCC options exchanges posed few problems in convening panels to consider adjustments for equity options. Currently, however, there are ten options exchanges and multiple listing of equity options on several, if not all, exchanges is common. It is increasingly difficult to convene two members from each exchange to consider adjustments on a timely basis. This difficulty is magnified when it is necessary to convene panel meetings to address late-breaking events which often occur outside of normal business hours. Additionally, although all equity option adjustments must currently be addressed by an adjustment panel, certain corporate events and their corresponding option adjustments are so regular and predictable that it no longer appears necessary for an adjustment panel to be convened to address them.

The OCC Securities Committee has unanimously endorsed the proposed changes and OCC's Board of Directors and stockholders have authorized OCC to submit the proposed rule change. OCC is continuing to evaluate the rules applicable to adjustment determinations and additional changes may be proposed in the future.

Proposed By-Law Changes

OCC is making several changes to the voting procedures for the Securities Committee and adjustment panels. OCC believes the changes will provide significant operational efficiencies, allowing OCC and the option exchanges to respond more quickly to corporate events affecting listed options. The changes to the procedures governing adjustment panel voting (1) change the requirement that each exchange be represented by two persons to one person,[4] (2) allow that adjustment panel actions be determined by votes accomplished by such means as the Securities Committee may designate for that purpose, (3) provide that certain kinds of corporate events shall not require an adjustment panel vote, (4) define a quorum for adjustment panels and provide for majority vote,[5] and (5) allow the Chairman of OCC to designate a non-officer as his representative on adjustment panels.[6]

The specific corporate events which would no longer require a panel vote to effect an adjustment to the terms of an option would be limited to stock splits or stock distributions where additional shares of the underlying security are issued, reverse splits, and cash mergers or similar events where all shares are exchanged exclusively for cash. Adjustments for stock splits, stock distributions, and reverse splits are generally the most routine option adjustments executed by OCC. Option adjustments for these events, when executed, are the result of well understood formulae and consistent precedent. The Securities Committee does not believe it is necessary to convene adjustment panels for ''boiler plate'' adjustments of this kind. In like manner, mergers and other events where the affected security is exchanged exclusively for cash have always occasioned option adjustments which have called for the delivery of cash. The Securities Committee does not believe it necessary to convene panel meetings to authorize these adjustments.

While an adjustment panel vote would not be required in these cases, an adjustment panel could be convened at any time at the request of any exchange or OCC in order to address any aspect of the corporate event or option contract adjustment deemed to need discussion by such panel. Also, in all cases of option adjustments, OCC and the exchanges would naturally coordinate the operational execution of the adjustments (effective date, option symbol, strike prices, etc).

The changes also allow convened panels the ability to conduct their business by any means determined by the Securities Committee. Currently, the Securities Committee and panels are allowed to conduct business in person or by phone. For the purposes of exchanging information and registering votes, OCC and the Securities Committee believe that electronic means of communication (e.g., email) should also be allowed as well as other means of communication which may be available in the future (e.g., OCC systems applications developed for this purpose).

III. Discussion

Section 19(b)(2)(B) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization.[7] Section 17A(b)(3)(F) of the Act requires that a clearing agency, among other things, have the capacity to facilitate the prompt and accurate clearance and settlement of securities transactions for which it is responsible.[8]

The Commission finds that the proposed change is consistent with the purposes and requirements of Section

[4] Panels convened by OCC to fix a required amount or value (as provided for in the by-laws) would continue to include two representatives from each exchange on which the affected series is open for trading. (Such panels also include an OCC representative, who votes only in case of a tie.) OCC believes it appropriate to retain this requirement as the need to fix such amount or value generally would involve series that are less likely to be traded on multiple exchanges. However, certain of the procedural changes being made to Article VI, Section 11 will be applied to the by-laws that permit panels to be convened to fix a required amount or value in order to improve efficiency. These changes include eliminating the requirement that at least one panel member from an exchange be a member of the Securities Committee and allowing such panels to transact its business by such means as determined by the Securities Committee.

[5] The intent is to ensure that any adjustment decision is determined by a majority of the exchanges (including a representative of OCC if a voting member) that trade the affected option. For example, if eight exchanges trade an option, five exchanges would constitute a quorum for an adjustment panel. However, a majority vote of these five exchanges would require only three exchanges. In this case an adjustment decision would be determined by a distinct minority of the exchanges trading the option. Specifying an additional requirement that the action be determined by a majority of the exchanges trading the option provides for an additional level of assurance that a majority of eligible voting members will determine an adjustment.

[6] Currently, the Chairman is allowed to designate an OCC officer as his representative. OCC believes the Chairman should be able to designate a non-officer as his representative.

[7] 15 U.S.C. 78s(b)(2)(B).

[8] 15 U.S.C. 78q–1(b)(3)(F).

17A of the Act[9] and the rules and regulations thereunder applicable to OCC. In particular, the Commission believes that the proposed change provides for more efficient procedures that further the purposes of the Act by facilitating the prompt and accurate clearance and settlement of securities transactions for which OCC is responsible.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act[10] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change (File No. SR–OCC–2012–07) be, and hereby is, approved.[12]

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin O'Neill,

Deputy Secretary.

[FR Doc. 2012–16625 Filed 7–6–12; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78q–1.

[10] 15 U.S.C. 78q–1.

[11] 15 U.S.C. 78s(b)(2).

[12] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67332; File No. SR–EDGA–2012–27]

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing of Proposed Rule Changes To Amend EDGA Rules Regarding Market Access

July 2, 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 22, 2012, the EDGA Exchange, Inc. (the ''Exchange'' or ''EDGA'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule changes 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 changes 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

The Exchange proposes to amend Rule 11.3 to (1) delete those provisions that the Exchange believes have been rendered superfluous and unnecessary in light of the adoption by the Commission of Rule 15c3–5 under the Act; and (2) add a requirement for Sponsoring Members[3] to maintain a list of Sponsored Participants[4] which the Sponsoring Member has authorized to obtain access to the Exchange's System,[5] and to provide the list of Sponsored Participants to the Exchange upon request. The Exchange is also proposing amendments to Rule 11.3(b)(1) and Rule 1.5(z) to align the definition of Sponsored Participant with the terminology used in Rule 15c3–5 to describe such arrangements.

The text of the proposed rule changes is attached as Exhibit 5 and is 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 changes and discussed any comments it received on the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background on Market Access Rule

On November 3, 2010, the Commission adopted Rule 15c3–5 (the ''Market Access Rule''). The Market Access Rule governs risk management controls by broker-dealers with market access. The Market Access Rule had an effective date of January 14, 2011, with phased-in compliance dates of July 14, 2011, and November 30, 2011.[6]

[3] As defined in EDGA Rule 1.5(aa).

[4] As defined in EDGA Rule 1.5(z).

[5] As defined in EDGA Rule 1.5(cc).

[6] *See* Securities Exchange Act Release No. 63241 (November 3, 2010), 75 FR 69792 (November 15, 2011) [sic] (File No. S7–03–10). *See also* Securities Exchange Act Release No. 64798 [sic] (June 27, 2011), 76 FR 38293 (June 30, 2011) (File No. S7–03–10) (providing limited extension of compliance date for certain requirements); Securities Exchange Act Release No. 65132 (August 15, 2011), 76 FR 51457 (August 18, 2011) (exempting floor broker operations of certain broker-dealers with market access from automated controls requirement of Rule 15c3–5).

Among other things, the Market Access Rule requires that any broker-dealer with market access,[7] or that provides a customer or any other person with market access, must establish, document and maintain a system of risk management controls and supervisory procedures that are reasonably designed to manage the financial, regulatory and other risks of this business activity. These controls include financial risk management controls reasonably designed to prevent the entry of orders that exceed appropriate pre-set credit or capital thresholds in the aggregate for each customer and the broker-dealer itself, and to prevent the entry of erroneous orders. In addition, the Market Access Rule requires certain regulatory risk management controls that, among other things, prevent the entry of orders unless compliance with applicable regulatory requirements has been satisfied on a pre-order entry basis, and restrict access to trading systems and technology that provide market access to persons and accounts that have been pre-approved and authorized by the broker-dealer. These regulatory risk management controls also include measures designed to prevent the entry of orders for a broker-dealer, customer or other person if such person is restricted from trading those securities, and to assure that appropriate surveillance personnel receive immediate, post-trade execution reports that result from market access.

These risk management controls and associated supervisory procedures must be under the direct and exclusive control of the broker-dealer that is subject to the Market Access Rule. While a broker-dealer can use third-party providers to satisfy some or all of these requirements, the broker-dealer is nonetheless required to ensure that whatever technology or other services are provided by such third-parties are under such broker-dealer's direct and exclusive control.

Rule 11.3(b): Sponsored Participants

Rule 11.3(b) sets forth the requirements for Sponsored Participants to obtain authorized access to the

[7] The term ''market access'' is defined in Rule 15c3–5(a)(1) to include, *inter alia,* access to trading in securities on an exchange or alternative trading system (''ATS'') as a result of being a member or subscriber of the exchange or ATS, respectively.

System through one or more Sponsoring Members by entering into and maintaining customer agreements with one or more Sponsoring Members through which the Sponsored Participant may trade on the System. Such agreements must incorporate the provisions set forth in Rule 11.3(b)(2). These contractual provisions include, *inter alia,* that: (1) Sponsored Participants must enter into and maintain an agreement with the Exchange; (2) Sponsoring Members must acknowledge and agree that all orders entered by their Sponsored Participants are binding in all respects on the Sponsoring Member; (3) Sponsoring Members must acknowledge responsibility for any and all actions taken by their Sponsored Participants; (4) Sponsored Participants of Sponsoring Members must take reasonable security precautions to prevent unauthorized use or access to the System, including unauthorized entry of information into the System, or the information and data made available therein; and (5) Sponsored Participants of Sponsoring Members must maintain, keep current and provide to the Sponsoring Member and to the Exchange, upon request, a list of Authorized Traders (''ATs'')[8] who may obtain access to the System on behalf of such Sponsored Participant. In addition, the Sponsoring Member must provide the Exchange with a written statement in form and substance acceptable to the Exchange, identifying each Sponsored Participant by name and acknowledging its responsibility for the orders, executions and actions of such Sponsored Participants.

The Exchange believes that, as a result of the controls established under the Market Access Rule, which apply directly to Sponsoring Members, the contractual provisions contained in Rule 11.3(b) have been rendered superfluous and unnecessary. In particular, the Exchange believes that the Market Access Rule's provisions requiring that Sponsoring Members establish, document and maintain a system of risk management controls and supervisory procedures that are reasonably designed to manage the financial, regulatory and other risks of this business activity clearly establish the obligations and responsibilities of Members acting as Sponsoring Members to Sponsored Participants. The contractual provisions required under Rule 11.3(b), therefore, are not only superfluous and unnecessary but might also cause confusion on the part of Sponsoring Members as to the obligations that have been squarely imposed upon them by the Market Access Rule. Therefore, the Exchange is proposing to delete the provisions in current Rule 11.3(b)(2)(A)–(I), the second sentence of Rule 11.3(b)(1) and Rule 11.3(b)(3) and replace them with the provisions described below. In addition, the Exchange is making conforming amendments to Rule 11.3(a) to require that only Members, and *not* Users (which term is defined to include not only Members but their Sponsored Participants), enter into agreements with the Exchange. Additional conforming amendments are being proposed to the definition of Sponsored Participant (Rules 1.5(z) and 11.3(b)(1)) to align such definition with the terminology used in the Market Access Rule.

The Exchange is retaining the requirement in Rule 11.4(a) that all Members shall maintain a list of ATs who may obtain access to the System on behalf of the Member or the Member's Sponsored Participants. Members must continue to provide such list of ATs to the Exchange upon request. This requirement is being retained in order to ensure that Sponsoring Members continue to track whom they grant access to their systems and to enable the Exchange to request such information upon request, if necessary. In addition, in order to maintain transparency into who is accessing the Exchange's System, the Exchange is also amending Rule 11.3(b)(2) to require Sponsoring Members to maintain a list of Sponsored Participants whom the Sponsoring Member has authorized to obtain access to the System pursuant to Rule 11.3. The amended rule will also provide that the Sponsoring Member shall update the list of Sponsored Participants as necessary, and provide the list to the Exchange upon request. The Exchange also proposes to amend Rule 11.3(b)(3) to require that Sponsoring Members shall comply with all requirements under the Market Access Rule with regard to market access arrangements with Sponsored Participants.

2. Statutory 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] in that they are 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, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The proposed rule changes are consistent with these obligations because they are designed to eliminate superfluous and unnecessary regulatory requirements, and thereby avoid potential confusion. Additionally, the proposed rule changes are designed to make the Exchange's Rules clearer and more transparent to Members by eliminating provisions that have been rendered superfluous and unnecessary by the Market Access Rule.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will 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 neither solicited nor received written comments on the proposed rule changes.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

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–2012–27 on the subject line.

[8] As defined in EDGA Rule 1.5(c).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

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–2012–27. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of 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–2012–27, and should be submitted on or before July 30, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–16624 Filed 7–6–12; 8:45 am]

BILLING CODE 8011–01–P

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67336; File No. SR–FICC–2012–04]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving Proposed Rule Change To Clarify the Ability of the Government Securities Division To Use Implied Volatility Indicators as Part of the Volatility Model in Its Clearing Fund Formula

July 2, 2012.

I. Introduction

On May 15, 2012, the Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–FICC–2012–04 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder.[2] The proposed rule change was published for comment in the **Federal Register** on May 31, 2012.[3] The Commission received no comment letters regarding the proposal. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

II. Description

This proposed rule change relates to the use of implied volatility indicators in the clearing fund formula of FICC's Government Securities Division (''GSD''). As discussed in FICC's filing with the Commission, a primary objective of GSD's clearing fund (''Clearing Fund'')[4] is to have on deposit from each applicable Member[5] assets sufficient to satisfy losses that may otherwise be incurred by GSD as the result of the default of the Member and the resultant close out of that Member's unsettled positions under GSD's trade guaranty. The required Clearing Fund deposit of each Member is calculated twice daily[6] pursuant to a formula set forth in Section 1b of GSD Rule 4 designed to provide sufficient funds to cover this risk of loss. The Clearing Fund formula accounts for a variety of risk factors through the application of a number of components, each described in Section 1b of GSD Rule 4.

The volatility component of the Clearing Fund formula is designed to calculate the amount of money that may be lost on a portfolio over a given period of time assumed necessary to liquidate the portfolio within a given level of confidence. Pursuant to Section 1b of Rule 4, GSD may calculate the volatility component on a value at risk charge (''VaR Charge'') ''utilizing such assumptions (including confidence levels) and based on such historical data as [GSD] deems reasonable, and shall cover such range of historical volatility as [GSD] from time to time deems appropriate.''[7] FICC believes that Section 1b of Rule 4 therefore provides GSD with the flexibility to adjust the calculation of the volatility component of its Clearing Fund formula as needed to react to changes in market conditions, including through the use of such assumptions and data as it deems appropriate within its VaR Charge.

The historical simulation model currently used to calculate the VaR Charge in GSD's Clearing Fund formula is driven by historical data observed in the fixed-income market. While the model weighs the data it uses in favor of more recent observations, it is still limited in its ability to quickly reflect sudden changes in market volatility, which may lead to the collection of insufficient margin during periods of sudden market volatility.

GSD's Clearing Fund formula, in particular the VaR Charge, provides GSD with the discretion to adjust the model assumptions and data as necessary to react to these market conditions. To enhance the model's performance, additional information and other observable market data, including data derived from financial products with future maturity dates, thus may be incorporated into or utilized by the volatility model, including data observed in implied volatility indicators that are derived from historical prices of financial products that have maturity dates in the future (such as the 1-year option on the 10-year swap rate). For the avoidance of doubt, this proposed rule change

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 34–67059 (May 24, 2012), 77 FR 32153 (May 31, 2012). In its filing with the Commission, FICC included a detailed statement regarding the purposes of and basis for the proposed rule change. *See id.*

[4] FICC GSD Rule 1—Definitions provides that ''[t]he term 'Clearing Fund' means the Clearing Fund established by the Corporation pursuant to these Rules, which shall be comprised of the aggregate of all Required Fund Deposits and all other deposits, including Cross-Guaranty Repayment Deposits, to the Clearing Fund.''

[5] FICC GSD Rule 1—Definitions provides that ''[t]he term 'Member' means a Comparison-Only Member or a Netting Member. The term 'Member' shall include a Sponsoring Member in its capacity as a Sponsoring Member and a Sponsored Member, each to the extent specific in Rule 3A.''

[6] A Member's Clearing Fund deposit may also be recalculated on an intraday basis as needed.

[7] FICC GSD Rule 1—Definitions defining the term VaR Charge in relevant part.

amends the definition of VaR Charge to make clear that the assumptions and data utilized in calculating the VaR Charge may be based on observable market data, which may include implied market volatility indicators that are derived from historical prices of financial products that have maturity dates in the future, so as to enhance the performance of the model and enable GSD to more effectively achieve and maintain the confidence level required by regulatory and industry standards.[8] Incorporation of such information into volatility calculations is a generally accepted practice for portfolio volatility models, currently used by other clearing agencies, and accordingly consistent with current rules of FICC.

The proposed rule change clarifies that GSD at its discretion may utilize implied volatility indicators that are derived from historical prices of financial products that have maturity dates in the future among the assumptions and other observable market data as part of its volatility model. The proposal also clarifies the ability of GSD to adjust its volatility calculations as needed to improve the performance of the model in periods of market volatility. It therefore assists GSD to maintain the requisite confidence level notwithstanding those market conditions.

As an example of one such adjustment to the volatility model, GSD will apply a multiplier (''Augmented Volatility Adjustment Multiplier'') to the VaR Charge. The Augmented Volatility Adjustment Multiplier is based on the levels of change in current and implied volatility measures. An advantage of this approach is that as volatility subsides in the market so will the effect of the Augmented Volatility Adjustment Multiplier on Members' margin requirements. The volatility measures will be determined by reference to the implied volatility of the 1-year option on the 10-year USD LIBOR swap rate and the historical volatility of the 10-year USD LIBOR swap rate. It is expected that GSD will provide its Members with advance notice of the Augmented Volatility Adjustment Multiplier that may be applied to the Members' VaR Charge on a weekly basis.[9] By using a single fixed multiplier based on observable market data, Members will be able to predict the impact on their margin requirement. Although the Augmented Volatility Adjustment Multiplier will be automatically applied to each Member's VaR Charge, GSD may in its sole discretion determine to waive the application of the Augmented Volatility Adjustment Multiplier to all of its Members in circumstances it deems warrant such a waiver.[10]

FICC intends that this proposed rule change would be effective on a date no less than ten business days following an Important Notice to Members by FICC announcing any approval by the Commission.

III. Discussion

Section 19(b)(2)(B) of the Act [11] directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. In particular, Section 17A(b)(3)(F) of the Act [12] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, and to assure the safeguarding of securities and funds that are in the custody or control of such clearing agency or for which it is responsible. The proposed rule change would clarify that FICC GSD's rules permit it to use implied volatility indicators that are derived from historical prices of financial products that have maturity dates in the future as part of the volatility model in its Clearing Fund formula. The use of these indicators should assist GSD in its efforts to ensure the efficacy of its volatility margin methodology in highly volatile markets and, thereby, reduce GSD's and its Members' exposure to the losses of a defaulting Member.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act, as well as with the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) [13] of the Act, that the proposed rule change (File No. SR–FICC–2012–04) be, and hereby is, *approved.*[14]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–16653 Filed 7–6–12; 8:45 am]

BILLING CODE 8011–01–P

[8] The text of the proposed change to the definition of VaR Charge can be found in Exhibit 5 to proposed rule change SR–FICC–2012–04 at *http://www.dtcc.com/downloads/legal/rule_filings/2012/ficc/SR-FICC-2012-04.pdf.*

[9] FICC GSD will reserve the right to recalculate the multiplier more frequently than weekly in volatile market conditions.

[10] FICC GSD plans to apply a cap to the Augmented Volatility Adjustment Multiplier and initially the cap will be set at 2. FICC GSD will reserve the right to change the cap in its sole discretion.

[11] 15 U.S.C. 78s(b)(2)(B).

[12] 15 U.S.C. 78q–1(b)(3)(F).

[13] 15 U.S.C. 78s(b)(2).

[14] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition and capital formation. *See* 15 U.S.C. 78c(f).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Qiao Xing Universal Resources, Inc., and Qiao Xing Mobile Communication Co., Ltd.; Order of Suspension of Trading

July 5, 2012.

It appears to the Securities and Exchange Commission (''Commission'') that there is a lack of current and accurate information concerning the securities of Qiao Xing Universal Resources, Inc. (''XING''), a British Virgin Islands corporation with headquarters and operations in the People's Republic of China. Those securities now trade in the over-the-counter market under the symbol XINGF since trading in them was suspended by the NASDAQ Stock Market Inc. (''NASDAQ'') on May 10, 2012.

Questions have arisen regarding the accuracy and completeness of information contained in XING's public filings with the Commission concerning, among other things, the effectiveness of XING's internal control over financial reporting. It appears to the Commission that relevant information has not been disclosed about XING, including the following: (1) Its CFO resigned; (2) its independent auditor resigned; and (3) its US counsel resigned.

It also appears to the Commission that there is a lack of current and accurate information concerning the securities of Qiao Xing Mobile Communication Co., Ltd. (''QXM''), a British Virgin Islands corporation with headquarters and operations in the People's Republic of China, which now trades in the over-the-counter market under the symbol QXMCF since it was suspended by the New York Stock Exchange (''NYSE'') on May 18, 2012.

It appears to the Commission that relevant information has not been disclosed about QXM, including the

following: (1) The Chairman of its Audit Committee resigned; and (2) its outside independent auditor resigned.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies.

Therefore, *it is ordered,* pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on July 5, 2012, through 11:59 p.m. EDT on July 18, 2012.

By the Commission.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2012–16790 Filed 7–5–12; 11:15 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

National Women's Business Council

AGENCY: U.S. Small Business Administration.

ACTION: Notice of open Federal advisory committee meeting.

SUMMARY: The SBA is issuing this notice to announce the location, date, time, and agenda for the next meeting of the National Women's Business Council (NWBC). The meeting will be open to the public.

DATES: The meeting will be held on July 17, 2012 from approximately 2:00 p.m. to 5:00 p.m. EDT.

ADDRESSES: The meeting will be held via web teleconference. The web conference URL: *https://www/connectmeeting.att.com.* The meeting/teleconference number: 888–858–2144; and Access Code: 4518629.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), SBA announces the meeting of the National Women's Business Council. The National Women's Business Council is tasked with providing policy recommendations on issues of importance to women business owners to the President, Congress, and the SBA Administrator.

The purpose of the meeting is to discuss NWBC's 2012 action items, the status of research projects, and the NWBC and Women Impacting Public Policy's Leadership Summit on July 19, 2012.

FOR FURTHER INFORMATION CONTACT: The meeting is open to the public however advance notice of attendance is requested. Anyone wishing to attend or make a presentation to the NWBC must either email their interest to *info@nwbc.gov* or call the main office number at 202–205–3850.

Those needing special accommodation in order to attend or participate in the meeting, please contact 202–205–3850 no later than July 13, 2012.

For more information, please visit our Web site at *www.nwbc.gov*.

Marisa Renee Lee,

Senior Advisor to the Deputy Administrator.

[FR Doc. 2012–16601 Filed 7–6–12; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB) Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

(SSA) Social Security Administration, DCRDP, Attn: Reports Clearance Director, 107 Altmeyer Building, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OPLM.RCO@ssa.gov.*

I. The information collection below is pending at SSA. SSA will submit it to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than September 7, 2012. Individuals can obtain copies of the collection instrument by writing to the above email address.

Statement of Employer—20 CFR 404.801–404.803—0960–0030. When workers report they were paid wages but cannot provide proof of those earnings, and the wages do not appear in SSA's records of earnings, SSA uses form SSA–7011–F4 to document the alleged wages. Specifically, the agency uses the form to resolve discrepancies in the individual's Social Security earnings record and to process claims for Social Security benefits. We only send Form SSA–7011–F4 to employers if we are unable to locate the earnings information in our own records. The respondents are employers who can verify wage allegations made by wage earners.

Type of Request: Revision of an OMB-approved information collection.

Collection method	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–7011–F4	462,000	1	20	154,000

II. SSA submitted the information collection below to OMB for clearance. Your comments regarding the information collection would be most useful if OMB and SSA receive them within 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than August 8, 2012. Individuals can obtain copies of the OMB clearance package by writing to *OPLM.RCO@ssa.gov.*

Request for Workers' Compensation/Public Disability Benefit Information—20 CFR 404.408(e)—0960–0098. Claimants for Social Security disability payments who are also receiving Worker's Compensation/Public Disability Benefits (WC/PDB) must notify SSA about their WC/PDB, so the agency can reduce claimants' Social Security disability payments accordingly. If claimants provide necessary evidence, such as a copy of

their award notice, benefit check, etc., that is sufficient verification. In cases where claimants cannot provide such evidence, SSA uses Form SSA–1709. The entity paying the WC/PDB benefits, its agent, (such as an insurance carrier), or an administering public agency complete this form. The respondents are Federal, State, and local agencies, insurance carriers, and public or private self-insured companies administering WC/PDB benefits to disability claimants.

Type of Request: Revision of an OMB-approved information collection.

Collection method	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–1709	120,000	1	15	30,000

Dated: July 3, 2012.

Faye Lipsky,

Reports Clearance Director, Office of Regulations and Reports Clearance, Social Security Administration.

[FR Doc. 2012–16634 Filed 7–6–12; 8:45 am]

BILLING CODE 4191–02–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB) Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

(SSA) Social Security Administration, DCRDP, Attn: Reports Clearance Director, 107 Altmeyer Building, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OPLM.RCO@ssa.gov.*

The information collections below are pending at SSA. SSA will submit the information collections to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than September 7, 2012. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. *Requests for Self-Employment Information, Employee Information, Employer Information—20 CFR 422.120—0960–0508.* When SSA cannot identify Form W–2 wage data for an individual, we place the data in an earnings suspense file and contact the individuals (and in certain instances the employer) to obtain the correct information. If the respondent furnishes the name and SSN information that agrees with SSA's records, or provides information that resolves the discrepancy, SSA adds the reported earnings to the respondent's Social Security record. We use Forms SSA–L2765, SSA–L3365, and SSA–L4002 for this purpose. The respondents are self-employed individuals and employees whose name and SSN information do not agree with their employer's and SSA's records.

Type of Request: Revision of an OMB approved information collection.

Collection method	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–L2765	12,321	1	10	2,054
SSA–L3365	179,749	1	10	29,958
SSA–L4002	121,679	1	10	20,280
Totals	313,749			52,292

2. *Function Report Adult—Third Party—20 CFR 404.1512 & 416.912—0960–0635.* Individuals receiving or applying for Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI) provide SSA with medical evidence and other proof SSA requires to prove their disability. SSA, and Disability Determination Services (DDS) on our behalf, collect this information using Form SSA–3380–BK. We use the information to document how claimants' disabilities affect their ability to function, and to determine eligibility for SSI and SSDI claims. The respondents are third parties familiar with the functional limitations (or lack thereof) of claimants who apply for SSI and SSDI benefits.

Type of Request: Revision of an OMB approved information collection.

Collection method	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–338–BK (Individuals)	500,000	1	61	508,333
SSA–338–BK (Private Sector)	500,000	1	61	508,333

Collection method	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Totals	1,000,000			1,016,666

3. *Function Report Adult—20 CFR 404.1512 & 416.912—0960–0681.* Individuals receiving or applying for SSDI or SSI must provide medical evidence and other proof SSA requires to prove their disability. SSA, and DDSs on our behalf, collect the information using Form SSA–3373. We use this information to document how claimants' disabilities affect their ability to function, and to determine eligibility for SSI and SSDI claims. The respondents are title II and title XVI applicants (or current recipients undergoing redeterminations) for disability payments.

Type of Request: Revision of an OMB-approved information collection.

Collection instrument	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–3373	4,221,656	1	61	4,292,016

Dated: July 3, 2012.

Faye Lipsky,

Reports Clearance Director, Office of Regulations and Reports Clearance, Social Security Administration.

[FR Doc. 2012–16635 Filed 7–6–12; 8:45 am]

BILLING CODE 4191–02–P

SUSQUEHANNA RIVER BASIN COMMISSION

Actions Taken at June 7, 2012 Meeting

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: As part of its regular business meeting held on June 7, 2012, in Binghamton, New York, the Commission took the following actions: (1) Rescinded approval for one water resources project; (2) approved or tabled the applications of certain water resources projects; and (3) took additional actions as set forth in the Supplementary Information below.

DATES: June 7, 2012.

ADDRESSES: Susquehanna River Basin Commission, 1721 N. Front Street, Harrisburg, PA 17102–2391.

FOR FURTHER INFORMATION CONTACT: Richard A. Cairo, General Counsel, telephone: (717) 238–0423, ext. 306; fax: (717) 238–2436; email: *rcairo@srbc.net.* Regular mail inquiries may be sent to the above address. See also Commission web site at www.srbc.net.

SUPPLEMENTARY INFORMATION: In addition to its related actions on projects identified in the summary above and the listings below, the following items were also presented or acted on at the business meeting: (1) Election of the State of Maryland as the Chair and the federal government as the Vice Chair of the Commission for FY 2013; (2) extension of the comment period for the proposed Low Flow Protection Policy from May 16, 2012, to July 16, 2012; (3) adoption of a Water Resources Program for FY 2013–2014; (4) amendment of a Records Processing Fee Schedule to include an Information Technology Services Fee, effective July 1, 2012; (5) amendment of a Regulatory Program Fee Schedule, effective July 1, 2012; (6) authorization to refinance the Curwensville Water Storage Project; (7) adoption of a FY 2014 budget subject to future revision; (8) amendment of the Comprehensive Plan for the Water Resources of the Susquehanna River Basin; and (9) tabling of a request for an administrative hearing from Anadarko E&P Company, LP on a denial of approval for its Well PW–11.

Rescission of Project Approval

The Commission rescinded approval for the following project:

1. Project Sponsor and Facility: BAE Systems Controls, Town of Union, Broome County, NY (Docket No. 20030802).

Project Applications Approved

The Commission approved the following project applications:

1. Project Sponsor and Facility: Anadarko E&P Company LP (West Branch Susquehanna River), Piatt Township, Lycoming County, PA. Surface water withdrawal of up to 1.500 mgd (peak day).

2. Project Sponsor: Aqua Pennsylvania, Inc. Project Facility: Eagle Rock Utilities, Black Creek Township, Luzerne County, and Hazle Township, Schuylkill County, PA. Groundwater withdrawal of up to 0.220 mgd (30-day average) from Well ER–6, located in Black Creek Township, Luzerne County.

3. Project Sponsor and Facility: Aqua Infrastructure, LLC. Source approval of a regional water supply distribution system to natural gas operations centered in Lycoming County, PA.

4. Project Sponsor and Facility: Carrizo (Marcellus), LLC (Clearfield Creek), Reade Township, Cambria County, PA. Surface water withdrawal of up to 0.432 mgd (peak day).

5. Project Sponsor and Facility: Empire Kosher Poultry, Inc., Walker Township, Juniata County, PA. Modification to increase total groundwater system withdrawal by an additional 0.499 mgd, for a total of 1.269 mgd (30-day average) (Docket No. 20030809).

6. Project Sponsor and Facility: Jo Jo Oil Company, Inc. (Tunkhannock Creek), Tunkhannock Township, Wyoming County, PA. Surface water withdrawal of up to 0.999 mgd (peak day).

7. Project Sponsor and Facility: LDG Innovation, LLC (Tioga River), Lawrenceville Borough, Tioga County, PA. Modification to increase surface water withdrawal by an additional 0.375 mgd, for a total of 0.750 mgd (peak day) (Docket No. 20100311).

8. Project Sponsor and Facility: LHP Management, LLC (Muncy Creek), Muncy Creek Township, Lycoming County, PA. Surface water withdrawal of up to 0.999 mgd (peak day).

9. Project Sponsor and Facility: LHP Management, LLC (West Branch Susquehanna River), Muncy Creek Township, Lycoming County, PA. Surface water withdrawal of up to 3.000 mgd (peak day).

10. Project Sponsor and Facility: Mountain Country Energy Services, Inc. (Driftwood Branch Sinnemahoning

Creek), Lumber Township, Cameron County, PA. Extension of Docket No. 20081213.

11. Project Sponsor and Facility: Niagara Gas & Oil Services Inc. (Susquehanna River), Athens Township, Bradford County, PA. Surface water withdrawal of up to 0.999 mgd (peak day).

12. Project Sponsor and Facility: Northeast Natural Energy LLC (West Branch Susquehanna River), Cooper Township, Clearfield County, PA. Surface water withdrawal of up to 0.500 mgd (peak day).

13. Project Sponsor and Facility: Northwestern Lancaster County Authority, Penn Township, Lancaster County, PA. Groundwater withdrawal of up to 0.324 mgd (30-day average) from Well 2 and of up to 0.617 mgd (30-day average) from Well 3.

14. Project Sponsor and Facility: Rausch Creek Land, L.P., Porter Township, Schuylkill County, PA. Groundwater withdrawal of up to 0.100 mgd (30-day average) from Pit #21.

15. Project Sponsor and Facility: RES Coal LLC (Clearfield Creek), Boggs Township, Clearfield County, PA. Surface water withdrawal of up to 0.275 mgd (peak day) and consumptive water use of up to 0.275 mgd (30-day average).

16. Project Sponsor and Facility: Roger D. Jarrett (West Branch Susquehanna River), Muncy Creek Township, Lycoming County, PA. Surface water withdrawal of up to 2.000 mgd (peak day).

17. Project Sponsor and Facility: Southwestern Energy Production Company (East Branch Tunkhannock Creek), Lenox Township, Susquehanna County, PA. Surface water withdrawal of up to 1.500 mgd (peak day).

18. Project Sponsor and Facility: SWEPI LP (Chemung River), Town of Big Flats, Chemung County, NY. Renewal of surface water withdrawal of up to 0.107 mgd (peak day) (Docket No. 20080604).

19. Project Sponsor and Facility: SWEPI LP (Cowanesque River), Lawrence Township, Tioga County, PA. Surface water withdrawal of up to 0.942 mgd (peak day).

20. Project Sponsor and Facility: SWEPI LP (Tioga River—Tioga Junction), Lawrence Township, Tioga County, PA. Renewal of surface water withdrawal of up to 0.107 mgd (peak day) (Docket No. 20080606).

21. Project Sponsor and Facility: Talisman Energy USA Inc. (Chemung River), Town of Chemung, Chemung County, NY. Modification and renewal of surface water withdrawal of up to 2.000 mgd (peak day) (Docket No. 20080605).

22. Project Sponsor and Facility: Tennessee Gas Pipeline Company (Susquehanna River), Asylum Township, Bradford County, PA. Surface water withdrawal of up to 1.080 mgd (peak day) and consumptive water use of up to 0.030 mgd (30-day average).

23. Project Sponsor: Viking Energy of Northumberland, LLC. Project Facility: Power Plant, Point Township, Northumberland County, PA. Renewal of consumptive water use of up to 0.387 mgd (peak day); groundwater withdrawal of up to 0.173 mgd from Well 1; groundwater withdrawal of up to 0.173 mgd from Well 2; groundwater withdrawal of up to 0.173 mgd from Well 4; and a total system withdrawal limit of up to 0.350 mgd (30-day average) (Docket No. 19870301).

24. Project Sponsor and Facility: WPX Energy Appalachia, LLC (North Branch Wyalusing Creek), Middletown Township, Susquehanna County, PA. Surface water withdrawal of up to 0.750 mgd (peak day).

Project Applications Tabled

The following project applications were tabled by the Commission:

1. Project Sponsor and Facility: Aqua Resources, Inc. (Susquehanna River), Athens Township, Bradford County, PA. Application for surface water withdrawal of up to 0.900 mgd (peak day).

2. Project Sponsor and Facility: OTT North East Services, LLC (Starrucca Creek), Harmony Township, Susquehanna County, PA. Application for surface water withdrawal of up to 0.480 mgd (peak day).

Authority: Pub. L. 91–575, 84 Stat. 1509 et seq., 18 CFR parts 806, 807, and 808.

Dated: June 25, 2012.

Thomas W. Beauduy,

Deputy Executive Director.

[FR Doc. 2012–16660 Filed 7–6–12; 8:45 am]

BILLING CODE 7040–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: FAA Acquisition Management System (FAAAMS)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The FAA Acquisition Management System establishes policies and internal procedures for FAA acquisition. The information collection is necessary to solicit, award, and administer contracts for supplies, equipment, services, facilities, and real property to fulfill FAA's mission.

DATES: Written comments should be submitted September 7, 2012.

FOR FURTHER INFORMATION CONTACT: Kathy DePaepe at (405) 954–9362, or by email at: *Kathy.A.DePaepe@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0595.

Title: FAA Acquisition Management System (FAAAMS).

Form Numbers: 85 forms available at *http://fast.faa.gov/ProcurementToolboxForms.cfm.*

Type of Review: Renewal of an information collection.

Background: Section 348 of Public Law 104–50 directed FAA to establish an acquisition system. The information collection is carried out as an integral part of FAA's acquisition process. Various portions of the AMS describe information needed from vendors seeking or already doing business with FAA. FAA contracting offices collect the information to plan, solicit, award, administer and close individual contracts. The FAA small business office collects information to promote and increase small business participation in FAA contracts.

Respondents: Approximately 15,298 vendors.

Frequency: Data is collected on occasion.

Estimated Average Burden per Response: 7.5 hours.

Estimated Total Annual Burden: 2,000,719 hours.

ADDRESSES: Send comments to the FAA at the following address: Ms. Kathy DePaepe, Room 126B, Federal Aviation Administration, AES–200, 6500 S. MacArthur Blvd., Oklahoma City, OK 73169.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your

comments in the request for OMB's clearance of this information collection.

Issued in Washington, DC, on July 2, 2012.

Albert R. Spence,

FAA Assistant Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 2012–16707 Filed 7–6–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Advanced Qualification Program (AQP)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The Advanced Qualification Program (AQP) incorporates data driven quality control processes for validating and maintaining the effectiveness of air carrier training program curriculum content.

DATES: Written comments should be submitted by September 7, 2012.

FOR FURTHER INFORMATION CONTACT: Kathy DePaepe at (405) 954–9362, or by email at: *Kathy.A.DePaepe@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0701.

Title: Advanced Qualification Program (AQP).

Form Numbers: There are no FAA forms associated with this collection.

Type of Review: Renewal of an information collection.

Background: Under Special Federal Aviation Regulation No. 58, Advanced Qualification Program (AQP), the FAA provides certificated air carriers, as well as training centers they employ, with a regulatory alternative for training, checking, qualifying, and certifying aircrew personnel subject to the requirements of 14 CFR parts 121 and 135. The main goal of the AQP is to improve flight crew performance by providing alternative means of complying with certain rules that may inhibit innovative use of modern technology for flight crewmember training. Data collection and analysis is a fundamental part of AQP. AQP is continuously validated through the collection and analysis of trainee performance. Data collection and analysis processes ensure that the certificate holder provides performance information on its crewmembers, flight instructors, and evaluators that will enable the certificate holder and the FAA to determine whether the form and content of training and evaluation activities are satisfactorily accomplishing the overall objectives of the curriculum.

Respondents: 18 respondents with approved Advanced Qualification Programs.

Frequency: Data is collected monthly.

Estimated Average Burden per Response: 2 hours.

Estimated Total Annual Burden: 432 hours.

ADDRESSES: Send comments to the FAA at the following address: Ms. Kathy DePaepe, Room 126B, Federal Aviation Administration, AES–200, 6500 S. MacArthur Blvd., Oklahoma City, OK 73169.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Issued in Washington, DC, on July 2, 2012.

Albert R. Spence,

FAA Assistant Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 2012–16718 Filed 7–6–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Operating Requirements: Commuter and On Demand Operations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. Title 49 U.S.C., Section 44702 authorizes issuance of air carrier operating certificates. 14 CFR part 135 prescribes requirement for Air Carrier/Commercial Operators. The info collected shows compliance and applicant eligibility.

DATES: Written comments should be submitted by September 7, 2012.

FOR FURTHER INFORMATION CONTACT: Kathy DePaepe at (405) 954–9362, or by email at: *Kathy.A.DePaepe@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0039.

Title: Operating Requirements: Commuter and On Demand Operations.

Form Numbers: FAA form 8070–1.

Type of Review: Renewal of an information collection.

Background: Title 49 U.S.C., Section 44702 authorizes issuance of air carrier operating certificates. 14 CFR part 135 prescribes requirement for Air Carrier/Commercial Operators. Each operator which seeks to obtain, or is in possession of, an air carrier or FAA operating certificate must comply with the requirements of 14 CFR part 135 in order to maintain data which is used to determine if the carrier is operating in accordance with minimum safety standards. Air carrier and commercial operator certification is completed in accordance with 14 CFR part 119. Part 135 contains operations and maintenance requirements.

Respondents: 2,426 operators.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: Approximately 7.7 minutes.

Estimated Total Annual Burden: 1,154,674 hours.

ADDRESSES: Send comments to the FAA at the following address: Ms. Kathy DePaepe, Room 126B, Federal Aviation Administration, AES–200, 6500 S. MacArthur Blvd., Oklahoma City, OK 73169.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Issued in Washington, DC, on July 2, 2012.

Albert R. Spence,

FAA Assistant Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 2012–16708 Filed 7–6–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Changes in Permissible Stage 2 Airplane Operations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. This information will be used to issue special flight authorizations for non-revenue transports and non-transport jet operations of Stage 2 airplanes at U.S. airports. Only a minimal amount of data is requested to identify the affected parties and determine whether the purpose for the flight is one of those enumerated by law.

DATES: Written comments should be submitted by September 7, 2012.

FOR FURTHER INFORMATION CONTACT: Kathy DePaepe at (405) 954–9362, or by email at: *Kathy.A.DePaepe@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0652.

Title: Changes in Permissible Stage 2 Airplane Operations.

Form Numbers: There are no FAA forms associated with this collection.

Type of Review: Renewal of an information collection.

Background: This collection is required under the Airport Noise and Capacity Act of 1990 (as amended by Pub. L. 106–113) and the FAA Modernization and Reform Act of 2012. This information is used by the FAA to issue special flight authorizations for nonrevenue operations of transports and non-transport jet Stage 2 airplanes at U.S. airports. Only minimal amount of data is requested to identify the affected parties and determine whether the purpose for the flight is one of the ones enumerated in the law.

Respondents: 50 applicants.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 15 minutes.

Estimated Total Annual Burden: 12.5 hours.

ADDRESSES: Send comments to the FAA at the following address: Ms. Kathy DePaepe, Room 126B, Federal Aviation Administration, AES–200, 6500 S. MacArthur Blvd., Oklahoma City, OK 73169.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Issued in Washington, DC, on July 2, 2012.

Albert R. Spence,

FAA Assistant Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 2012–16688 Filed 7–6–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of a Non-Aeronautical Land-Use Change Effecting the Quitclaim Deed and Federal Grant Assurance Obligations at Delano Municipal Airport, Delano, CA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of a Non-Aeronautical Land-Use Change.

SUMMARY: The Federal Aviation Administration (FAA) proposes to rule and invites public comment on the application for a non-aeronautical land-use change for approximately 38 acres of airport property at Delano Municipal Airport, Delano, California, from the aeronautical use provisions of the Quitclaim Deed and Grant Agreement Assurances since the land is not needed for aeronautical purposes. The property will be leased for its fair market value and the rental proceeds deposited in the airport account for airport use. The reuse of the land for a solar farm and the non-aeronautical use of an old administrative building represent compatible land uses that will not interfere with the airport or its operation, thereby protecting the interests of civil aviation and contributing to the self-sustainability of the airport.

DATES: Comments must be received on or before August 8, 2012.

FOR FURTHER INFORMATION CONTACT: Comments on the request may be mailed or delivered to the FAA at the following address: Tony Garcia, Airports Compliance Program Manager, Federal Aviation Administration, Airports Division, Federal Register Comment, P.O. Box 92007, Los Angeles, CA 90009–2007. In addition, one copy of the comment submitted to the FAA must be mailed or delivered to Mr. Roman Dowling, Public Works Director, City of Delano, 1015 Eleventh Avenue, P.O. Box 3010, Delano, CA 93216–3010.

SUPPLEMENTARY INFORMATION: In accordance with the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21), Public Law 10–181 (Apr. 5, 2000; 114 Stat. 61), this notice must be published in the **Federal Register** 30 days before the Secretary may waive any condition imposed on a federally obligated airport by surplus property conveyance deeds or grant agreements.

The following is a brief overview of the request:

The City of Delano requested a modification of the conditions in the Quitclaim Deed and Grant Agreement Assurances to permit non-aeronautical use of approximately 38 acres of land at Delano Municipal Airport. The subject property is located east of the airfield and a small building is situated on the western edge of the airport. The land is presently undeveloped. A large tract of land will be redeveloped for a solar farm and a small building will be used for a non-aeronautical business. The City of Delano proposes to lease the property under the terms of a long-term lease for a solar farm since the land is not needed for aeronautical purposes. Reuse of the land for a solar farm will not impede future development of the airport. In addition, the City of Delano will lease a small vacant office building on the western edge of the airport in an undeveloped area to be used for a non-aviation business. The lease rate for both uses will be based on the appraised market value and the lease proceeds will be deposited in the airport account and used for airport purposes. The use of the property for a solar farm and a non-aviation business represents uses that are not incompatible and will not interfere with airport operations. The land will become revenue-producing property, which will enhance the self-

sustainability of the airport and, thereby, serve the interests of civil aviation.

Issued in Hawthorne, California, on June 28, 2012.

Brian Armstrong,

Manager, Safety and Standards Branch, Airports Division, Western-Pacific Region.

[FR Doc. 2012–16691 Filed 7–6–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Cancellation of Supplemental Environmental Impact Statement (SEIS); Travis County, TX

AGENCY: Federal Highway Administration, DOT.

ACTION: Cancellation of Notice of Intent to Prepare a SEIS.

SUMMARY: The Federal Highway Administration (FHWA) and Texas Department of Transportation (TxDOT) are issuing this notice to advise the public that the Notice of Intent (NOI) to prepare a Supplemental Environmental Impact Statement (SEIS) for proposed improvements to U.S. Highway 290 (US 290)/State Highway (SH) 71 West through Oak Hill, in Travis County, Texas, is being rescinded.

FOR FURTHER INFORMATION CONTACT: Mr. Salvador Deocampo, District Engineer, District A, Federal Highway Administration (FHWA), Texas Division, 300 East 8th Street, Rm 826, Austin, Texas 78701, Telephone 512–536–5950.

SUPPLEMENTARY INFORMATION: On August 15, 2008, TxDOT, in cooperation with the FHWA, announced its intent to prepare a limited-scope SEIS pursuant to 40 CFR 1508.22 and 43 TAC Sec. 2.5(e)(2) for proposed improvement of US 290/SH 71 West through Oak Hill, in Travis County, Texas. The improvements proposed between Ranch-to-Market Road (RM) 1826 and Joe Tanner Lane were originally considered in a Final Environmental Impact Statement (FEIS) covering improvements to SH 71/US 290 from Ranch-to-Market Road (RM) 1826 to FM 973. A Record of Decision (ROD) was issued by FHWA on August 22, 1988. The mid-section of the original project limits, between Joe Tanner Lane and Riverside Drive, has been constructed. The limited-scope SEIS would have evaluated potential impacts resulting from changes in funding mechanisms, changes in adjacent land use, State and Federal listing of the Barton Springs salamander as endangered, public input, and proposed design modifications since the issuance of the SH 71/US 290 ROD along the unconstructed western portion of the original FEIS, between RM 1826 and Joe Tanner Lane.

TxDOT and FHWA have decided to rescind the NOI to prepare a SEIS for US 290/SH 71 West through Oak Hill from RM 1826 to Joe Tanner Lane. The project was placed on hold in 2008 due to the limited availability of funds and local planning priorities. The SEIS was in the preliminary stages of development. Recently, the FHWA has determined that a SEIS would no longer be applicable to the project and a full environmental impact statement (EIS) would be required to evaluate potential impacts. Therefore, the decision to rescind the NOI was due to limited availability of funds, local planning priorities and the determination that an EIS would be required.

Issued on: June 25, 2012.

Salvador Deocampo,

District Engineer.

[FR Doc. 2012–16640 Filed 7–6–12; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statements: National Summary of Rescinded Notices of Intent

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: The FHWA is issuing this notice to advise the public that 8 States have rescinded Notices of Intent (NOIs) to prepare 14 Environmental Impact Statements (EISs) for proposed highway projects. The FHWA Division Offices, in consultation with the State departments of transportation (State DOTs), determined that six projects were no longer viable and have formally cancelled the projects. No further Federal resources will be expended on these projects; the environmental review process has been terminated. Four projects have been reduced in scope or found not to have significant impacts and now meet the criteria for an Environmental Assessment (EA) or a Categorical Exclusion (CE). Two projects will be constructed using solely State funds, so EISs will not be required. One project will be divided into two future projects and NOIs will be issued as needed. Finally, one project is being significantly rescoped and required a new NOI, which has already been issued.

FOR FURTHER INFORMATION CONTACT: Bill Ostrum, Office of Project Development and Environmental Review, (202) 366–4651; Janet Myers, Office of the Chief Counsel, (202) 366–2019; Federal Highway Administration, 1200 New Jersey Avenue SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded by accessing the **Federal Register**'s home page at: *http://www.archives.gov* and the Government Printing Office's Web page at *http://www.gpoaccess.gov/nara.*

Background

The FHWA, as lead Federal agency under the National Environmental Policy Act (NEPA) and in furtherance of its oversight and stewardship responsibilities under the Federal-aid highway program, periodically requests that its Division Offices review, with the State DOTs, the status of all EISs and place those projects that are not actively progressing in a timely manner in an inactive project status. The FHWA maintains lists of active and inactive EIS projects on its Web site at *http://www.environment.fhwa.dot.gov/.* The FHWA has determined that inactive projects that are no longer a priority or that lack financial resources should be rescinded with a **Federal Register** notice notifying the public that project activity has been terminated. This notice covers the time period since the last summary was issued on May 23, 2011, and published in the **Federal Register** at 76 FR 31676 (June 1, 2011). As always, FHWA encourages State DOTs to work with their FHWA Division Office to determine when it is most prudent to initiate an EIS in order to best balance available resources as well as the expectations of the public.

The FHWA is issuing this notice to advise the public that 8 States (California, Idaho, Mississippi, Nebraska, New York, North Carolina, Ohio, and Texas) have recently rescinded previously issued NOIs for 14 EISs for proposed highway projects. A listing of these projects, general location, original NOI date of publication in the **Federal Register**, and the date that the NOI was formally rescinded by notice published in the **Federal Register**, is provided below.

The FHWA Division Offices, in consultation with the State DOTs, determined that six of these projects were no longer viable projects and have formally cancelled those projects. The projects are: State Route 101 in

Mendocino County, California; State Route 603/43 in Hancock County, Mississippi; the Elizabeth Brady Road Extension (U–3808) in Orange County, North Carolina; the Brooklyn-Queens Expressway (Project X730.56) in Kings County, New York; Gowanus Expressway—Battery Tunnel (Project X729.94) in Kings County, New York; and US–62 in Mahoning and Trumbull Counties, Ohio.

Four projects are currently undergoing re-scoping and are expected to require either an EA or CE when re-scoping is complete. These projects include: The Bayview Transportation Improvement Project in California; the Boise River Bridge and Travel Corridor in Ada County, Idaho; SH–55 in Valley County, Idaho; and Highway 35 between Norfolk and South Sioux City, Nebraska.

In addition, two projects will now be constructed using State funding for the delivery of the project so EISs are no longer necessary: US Highway 30, Schuyler to Fremont in Colfax and Dodge Counties, Nebraska; and the Loop 375/César Chavez Highway, in El Paso County, Texas.

The Peace Bridge Expansion Project in Erie County, New York, will be divided into separate projects, and new NOIs will be issued as needed. Finally, one project, the Tappan Zee Bridge/I–287 project in Rockland and Westchester Counties, New York, was significantly changed in scope. A new NOI reflecting this change was issued on 10/12/2011.

State	Project name	Original NOI date	Rescinded NOI date
CA	State Route 101 in Mendocino County	9/5/2002	8/09/2011
CA	Bayview Transportation Improvement Project	6/2/2004	9/1/2011
ID	Boise River Bridge and Travel Corridor	1/13/2004	8/29/2011
ID	SH–55 in Valley County	1/24/2000	3/14/2012
MS	State Route 603/43	10/26/2009	8/26/2011
NC	Elizabeth Brady Road Extension (U–3808)	6/14/2005	1/23/2012
NE	Highway 35 between Norfolk and South Sioux City	3/4/2002	7/14/2011
NE	Highway 30, Schuyler to Fremont in Colfax and Dodge Counties	8/29/2005	3/7/2012
NY	Tappan Zee Bridge/I–287	12/23/2002	10/12/2011
NY	Brooklyn-Queens Expressway (BQE), Interstate 278 (I–278) in Kings County (Project X730.56)	4/20/2009	11/29/2011
NY	Gowanus Expressway—Battery Tunnel in Kings County	11/1/1996	11/29/2011
NY	Peace Bridge Expansion Project, City of Buffalo, Erie County	10/9/2001	1/10/2012
OH	US–62 in Mahoning and Trumbull Counties	11/5/2004	4/26/2012
TX	Loop 375 César Chávez Highway (Border Highway West Extension), El Paso County	9/1/2007	10/3/2011

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: June 29, 2012.

Victor M. Mendez,

Administrator.

[FR Doc. 2012–16644 Filed 7–6–12; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2012–0059]

2012 Temporary Closure of I–395 Just South of Conway Street in the City of Baltimore to Vehicular Traffic To Accommodate the Construction and Operation of the Baltimore Grand Prix

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comment.

SUMMARY: The Maryland Transportation Authority (MDTA) has requested FHWA approval of MDTA's proposed plan to temporarily close a portion of I–395 (just south of Conway Street in Baltimore City) from approximately 6 p.m. on Wednesday, August 29, 2012, until approximately 6 a.m. on Tuesday, September 4, 2012. The closure is requested to accommodate the construction and operation of the Baltimore Grand Prix (BGP), which will use the streets of downtown Baltimore as a race course. The request is based on the provisions in 23 CFR 658.11 which authorizes the deletion of segments of the federally designated routes that make up the National Network designated in Appendix A of 23 CFR Part 658 upon approval by the FHWA.

The FHWA seeks comments from the general public on this request submitted by the MDTA for a deletion in accordance with section 658.11(d) for the considerations discussed in this notice.

DATES: Comments must be received on or before 30 days after date of publication in the **Federal Register**.

ADDRESSES: The letter of request along with justifications can be viewed electronically at the docket established for this notice at *http://www.regulations.gov.* Hard copies of the documents will also be available for viewing at the DOT address listed below.

Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, or fax comments to (202) 493–2251. Alternatively, comments may be submitted via the Federal eRulemaking Portal at *http://www.regulations.gov* (follow the on-line instructions for submitting comments). All comments should include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or you may print the acknowledgment page that appears after submitting comments electronically. All comments received into any docket may be searched in electronic format by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). Persons making comments 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 view the statement at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. John C. Nicholas, Truck Size and Weight Team, Office of Operations, (202) 366–2317, Mr. Bill Winne, Office of the Chief Counsel, (202) 366–0791, Federal Highway Administration, 1200

New Jersey Avenue SE., Washington, DC 20590, and Mr. Gregory Murrill, FHWA Division Administrator-DELMAR Division, (410) 962–4440. Office hours for the FHWA are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

You may submit or retrieve comments online through the Federal eRulemaking portal at: *http://www.regulations.gov.* The Web site is available 24 hours each day every day. Electronic submission and retrieval help and guidelines are available under the help section of the Web site.

An electronic copy of this document may also be downloaded from Office of the Federal Register's home page at: *http://www.archives.gov/federal_register* and the Government Printing Office's Web page at: *http://www.gpoaccess.gov.*

Background

The FHWA is responsible for enforcing the Federal regulations applicable to the National Network of highways that can safely and efficiently accommodate the large vehicles authorized by provisions of the Surface Transportation Assistance Act of 1982, as amended, designated in accordance with 23 CFR part 658 and listed in Appendix A. In accordance with section 658.11, the FHWA may approve deletions or restrictions of the Interstate System or other National Network routes based upon specified justification criteria in section 658.11(d)(2). These deletions are then published in the **Federal Register** for notice and comment.

The MDTA has submitted a request to the FHWA for approval of the temporary closure of I–395 just south of Conway Street in the city of Baltimore from the period beginning Wednesday, August 29, 2012, at approximately 6 p.m. through Tuesday, September 4, 2012, at around 6 a.m., encompassing the Labor Day holiday. The incoming request and supporting documents, including maps, may be viewed electronically at the docket established for this notice at *http://www.regulations.gov.* This closure will be undertaken in support of the BGP which will use the streets of downtown Baltimore as a race course. The MDTA is the owner and operator of I–395 and I–95 within the city of Baltimore.

It is anticipated the BGP event will continue to be hosted in the city of Baltimore for the next 4 consecutive years. The inaugural event occurred September 2 through September 4, 2011. The event is expected to attract 160,000 spectators over a 3–4 day period, not including the event organizer workforce and volunteers, the racing organizations and their respective personnel, or media and vendors. Event planners expect spectators from within a 400-mile radius of the city, with a large portion traveling the I–95 corridor. It is anticipated that the attendance for the peak day (Sunday) will reach 70,000 people with most arriving by private vehicle.

The construction and operation of the race course will create safety concerns by obstructing access from the I–395 northern terminus to the local street system including Howard Street, Conway Street, and Lee Street. However, an existing connection from I–395 to Martin Luther King Jr. Boulevard will remain open throughout the event. In addition, access to and from I–95 into and out of the city along alternative access routes, including US 1, US 40, Russell Street, and Washington Boulevard will be maintained. The BGP and the city plan to update the 2011 signing plan to inform and guide motorists to, through, and around the impacted downtown area. The statewide transportation operations system, the Coordinated Highways Action Response Team will provide real-time traffic information to motorists through dynamic message signs and highway advisory radio. The MDTA states that the temporary closure of this segment of I–395 to general traffic should have no impact on interstate commerce. I–95, the main north-south Interstate route in the region, will remain open during the time period of the event. There are five additional I–95 interchanges, just to the north or south of I–395, with connections to the local street system including the arterials servicing the city's downtown area. A sign and supplemental traffic control systems plan was developed as part of the 2011 event's Traffic Management Plan (TMP). In addition, I–695 (Baltimore Beltway) will provide motorists traveling through the region the ability to bypass the impact area by circling around the city.

Commercial motor vehicles of the dimensions and configurations described in 23 CFR 658.13 and 658.15 which serve the impacted area, may use the alternate routes listed above. Vehicles servicing the businesses bordering the impacted area will still be able to do so by also using the alternative routes noted above to circulate around the restricted area. In addition, vehicles not serving businesses in the restricted area but, currently using I–395 and the local street system to reach their ultimate destinations, will be able to use the I–95 interchanges north and south of I–395 to access the alternative routes. A map depicting the alternative routes is available electronically at the docket established for this notice at *http://www.regulations.gov.* The MDTA has reviewed these alternative routes and determined the routes to generally be capable of safely accommodating the diverted traffic during the period of temporary restriction. As mentioned previously, the sign and supplemental traffic control system plan is also being updated as part of the event's TMP. Commercial vehicles as well as general traffic leaving the downtown area will also be able to use the alternative routes to reach I–95 and the rest of the Interstate System. The BGP and the city are working closely with businesses, including the hotels and restaurants located within the impact area, to schedule deliveries prior to the proposed I–395 closure to the extent feasible. The BGP is also working with affected businesses to schedule delivery services during the event period.

The original plan uses a credentialing process for access through designated gates with access to specific loading areas. This request to temporarily close I–395 was prepared for the MDTA by the BGP and the city. In addition, the city has reached out to the Federal, State, and local agencies to collaborate and coordinate efforts to address the logistical challenges of hosting the BGP. The BGP and the city have worked extensively with the businesses and residential communities in the city that could be affected by the event. These efforts include the formation of Task Forces and event Sub-Committees, to guide the development of plans for event security, transportation management, public safety and more.

The FHWA seeks comments on this request for temporary deletion from the National Network for considerations in accordance with 23 CFR 658.11(d).

Authority: 23 U.S.C. 127, 315 and 49 U.S.C. 31111, 31112, and 31114; 23 CFR part 658.

Issued on: June 29, 2012.

Victor M. Mendez,

Administrator.

[FR Doc. 2012–16639 Filed 7–6–12; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA–2012–0031]

Notice of Request for the Extension of a Currently Approved Information Collection

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to renew the approval of the following information collection:

Transit Research, Development, Demonstration and Deployment Projects

DATES: Comments must be submitted before September 7, 2012.

ADDRESSES: To ensure that your comments are not entered more than once into the docket, submit comments identified by the docket number by only one of the following methods:

1. *Web site: www.regulations.gov.* Follow the instructions for submitting comments on the U.S. Government electronic docket site. (Note: The U.S. Department of Transportation's (DOT's) electronic docket is no longer accepting electronic comments.) All electronic submissions must be made to the U.S. Government electronic docket site at *www.regulations.gov.* Commenters should follow the directions below for mailed and hand-delivered comments.

2. *Fax:* 202–366–7951.

3. *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.

4. *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

Instructions: You must include the agency name and docket number for this notice at the beginning of your comments. Submit two copies of your comments if you submit them by mail. For confirmation that FTA has received your comments, include a self-addressed stamped postcard. Note that all comments received, including any personal information, will be posted and will be available to Internet users, without change, to *www.regulations.gov.* You may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000 (65 FR 19477), or you may visit *www.regulations.gov.*

Docket: For access to the docket to read background documents and comments received, go to *www.regulations.gov* at any time. Background documents and comments received may also be viewed at the U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT:

—Jarrett Stolzfus, FTA's Office of Research, Demonstration and Innovation, (202) 366–493–0361, or email: *Jarrett.stolzfus@dot.gov.*

SUPPLEMENTARY INFORMATION:

Interested parties are invited to send comments regarding any aspect of this information collection, including: (1) The necessity and utility of the information collection for the proper performance of the functions of the FTA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection.

Title: Transit Research, Development, Demonstration and Deployment Projects (*OMB Number: 2132–0546*).

Background: 49 U.S.C. Section 5312(a) authorizes the Secretary of Transportation to make grants or contracts for research, development, demonstration and deployment projects, and for evaluation of technology of national significance to public transportation, that the Secretary determines will improve mass transportation service or help transportation service meet the total urban transportation needs at a minimum cost. In carrying out the provisions of this section, the Secretary is also authorized to request and receive appropriate information from any source. The information collected is submitted as part of the application for grants and cooperative agreements and is used to determine eligibility of applicants. Collection of this information also provides documentation that the applicants and recipients are meeting program objectives and are complying with FTA Circular 6100.1D and other federal requirements.

Respondents: FTA grant recipients.

Estimated Annual Burden on Respondents: 56 hours for each of the 200 respondents.

Estimated Total Annual Burden: 11,240 hours.

Frequency: Every two years.

Issued: July 2, 2012.

Ann M. Linnertz,

Associate Administrator for Administration.

[FR Doc. 2012–16670 Filed 7–6–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Return Processing Delays Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Return Processing Delays Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, August 7, 2012.

FOR FURTHER INFORMATION CONTACT: Janice Spinks at 1–888–912–1227 or 206–220–6098.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Return Processing Delays Project Committee will be held Tuesday, August 7, 2012, at 9:30 a.m. Pacific Time via telephone conference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notifications of intent to participate must be made with Ms. Janice Spinks. For more information please contact Ms. Spinks at 1–888–912–1227 or 206–220–6098, or write TAP Office, 915 2nd Avenue, MS W–406, Seattle, WA 98174 or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include various IRS issues.

Dated: July 2, 2012.

Louis Morizio,

Director, Taxpayer Advocacy Panel.

[FR Doc. 2012–16611 Filed 7–6–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Joint Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Joint Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, August 22, 2012.

FOR FURTHER INFORMATION CONTACT: Susan Gilbert at 1–888–912–1227 or (515) 564–6638.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Joint Committee will be held Wednesday, August 22, 2012, 2:00 p.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. Notification of intent to participate must be made with Susan Gilbert. For more information please contact Ms. Gilbert at 1–888–912–1227 or (515) 564–6638 or write: TAP Office, 210 Walnut Street, Stop 5115, Des Moines, IA 50309 or contact us at the Web site: *http://www.improveirs.org.*

The agenda will include various IRS topics.

Dated: July 2, 2012.

Louis Morizio,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2012–16612 Filed 7–6–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Bankruptcy Compliance Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Bankruptcy Compliance Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, August 14, 2012.

FOR FURTHER INFORMATION CONTACT: Timothy Shepard at 1–888–912–1227 or 206–220–6095.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel Bankruptcy Compliance Project Committee will be held Tuesday, August 14, 2012, at 9:00 a.m. Pacific Time via telephone conference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Timothy Shepard. For more information please contact Mr. Shepard at 1–888–912–1227 or 206–220–6095, or write TAP Office, 915 2nd Avenue, MS W–406, Seattle, WA 98174, or contact us at the Web site: *http://www.improveirs.org.*

The agenda will include various IRS Issues.

Dated: July 2, 2012.

Louis Morizio,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2012–16613 Filed 7–6–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Refund Processing Communications Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Refund Processing Communications Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, August 2, 2012.

FOR FURTHER INFORMATION CONTACT: Ellen Smiley at 1–888–912–1227 or 414–231–2360.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Refund Processing Communications Project Committee will be held Thursday, August 2, 2012 at 2:00 p.m. Eastern Time via telephone conference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Ms. Ellen Smiley. For more information please contact Ms. Smiley at 1–888–912–1227 or 414–231–2360, or write TAP Office Stop 1006MIL, 211 West Wisconsin Avenue, Milwaukee, WI 53203–2221, or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include various IRS issues.

Dated: July 2, 2012.

Louis Morizio,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2012–16616 Filed 7–6–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of Taxpayer Advocacy Panel Taxpayer Burden Reduction Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Taxpayer Burden Reduction Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, August 15, 2012.

FOR FURTHER INFORMATION CONTACT: Meredith Odom at 1–888–912–1227 or 718–488–3514.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Taxpayer Burden Reduction Project Committee will be held Wednesday, August 15, 2012, at 2:30 p.m. Eastern Time via telephone conference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of

intent to participate must be made with Ms. Odom. For more information please contact Ms. Odom at 1–888–912–1227 or 718–488–3514, or write TAP Office, 10 MetroTech Center, 625 Fulton Street, Brooklyn, NY 11201, or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include various IRS issues.

Dated: July 2, 2012.

Louis Morizio,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2012–16605 Filed 7–6–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Toll-Free Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Toll-Free Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, August 7, 2012.

FOR FURTHER INFORMATION CONTACT: Marianne Dominguez at 1–888–912–1227 or 954–423–7978.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Toll-Free Project Committee will be held Tuesday, August 7, 2012, at 11:00 a.m. Eastern Time via telephone conference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Marianne Dominguez. For more information please contact Ms. Dominguez at 1–888–912–1227 or 954–423–7978, or write TAP Office, 1000 South Pine Island Road, Suite 340, Plantation, FL 33324, or contact us at the Web site: *http://www.improveirs.org.*

The agenda will include various IRS issues.

Dated: July 2, 2012.

Louis Morizio,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2012–16615 Filed 7–6–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Face-to-Face Service Methods Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Face-to-Face Service Methods Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, August 14, 2012.

FOR FURTHER INFORMATION CONTACT: Donna Powers at 1–888–912–1227 or 954–423–7977.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel Face-to-Face Service Methods Project Committee will be held Tuesday, August 14, 2012, at 2:00 p.m. Eastern Time via telephone conference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Donna Powers. For more information please contact Ms. Powers at 1–888–912–1227 or 954–423–7977, or write TAP Office, 1000 South Pine Island Road, Suite 340, Plantation, FL 33324, or contact us at the Web site: *http://www.improveirs.org.*

The agenda will include various IRS Issues.

Dated: July 2, 2012.

Louis Morizio,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2012–16606 Filed 7–6–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Tax Forms and Publications Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Tax Forms and Publications Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, August 8, 2012.

FOR FURTHER INFORMATION CONTACT: Marisa Knispel at 1–888–912–1227 or 718–488–3557.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Tax Forms and Publications Project Committee will be held Wednesday, August 8, 2012, at 2:00 p.m. Eastern Time via telephone conference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Ms. Knispel. For more information please contact Ms. Knispel at 1–888–912–1227 or 718–488–3557, or write TAP Office, 10 MetroTech Center, 625 Fulton Street, Brooklyn, NY 11201, or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include various IRS issues.

Dated: July 2, 2012.

Louis Morizio,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2012–16604 Filed 7–6–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Small Business/Self-Employed Decreasing Non-Filers Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of Meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Small

Business/Self-Employed Decreasing Non-Filers Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, August 21, 2012.

FOR FURTHER INFORMATION CONTACT: Patricia Robb at 1–888–912–1227 or 414–231–2360.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Small Business/Self-Employed Decreasing Non-Filers Project Committee will be held Tuesday, August 21, 2012, at 1:00 p.m. Eastern Time via telephone conference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Ms. Patricia Robb. For more information please contact Ms. Robb at 1–888–912–1227 or 414–231–2360, or write TAP Office, Stop 1006MIL, 211 West Wisconsin Avenue, Milwaukee, WI 53203–2221, or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include various IRS issues.

Dated: July 2, 2012.

Louis Morizio,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2012–16614 Filed 7–6–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Rehabilitation Research and Development Service Scientific Merit Review Board, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that subcommittees of the Rehabilitation Research and Development Service Scientific Merit Review Board will meet on August 7–9 and 13–15, 2012, at the Sheraton Crystal City Hotel, 1800 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 5 p.m. each day, except on August 13, 2012. The Career Development Award Program subcommittee will meet on this day from 7 p.m. to 9 p.m. The following subcommittees of the Board will meet to evaluate merit review applications:

August 7 Aging and Neurodegenerative Disease; Rehabilitation Engineering and Prosthetics/Orthotics; and Spinal Cord Injury.

August 7–8 Brain Injury: Traumatic Brain Injury and Stroke; Musculoskeletal/Orthopedic Rehabilitation; and Psychological Health and Social Reintegration.

August 9 Rehabilitation Engineering and Prosthetics/Orthotics; and Research Career Scientists.

August 13–15 Career Development Award Program.

August 14 Brain Injury: Traumatic Brain Injury and Stroke.

August 14–15 Psychological Health and Social Reintegration; Regenerative Medicine; and Sensory Systems/Communication.

The purpose of the Board is to review rehabilitation research and development applications and advise the Director, Rehabilitation Research and Development Service, and the Chief Research and Development Officer on the scientific and technical merit, the mission relevance, and the protection of human and animal subjects.

A general session will be held on August 7 and 14 from 8 a.m. to 9 a.m. to cover administrative matters and to discuss the general status of the program. This portion of the meeting is open to the public. The remaining portion of each subcommittee meeting will be closed to the public for the discussion, examination, reference to, and oral review of the research applications and critiques. No oral or written comments will be accepted from the public for either portion of the meetings.

During the closed portion of each subcommittee meeting, discussion and recommendations will include qualifications of the personnel conducting the studies (the disclosure of which would constitute a clearly unwarranted invasion of personal privacy), as well as research information (the premature disclosure of which would likely compromise significantly the implementation of proposed agency action regarding such research projects). As provided by subsection 10(d) of Public Law 92–463, as amended by Public Law 94–409, closing the meeting is in accordance with 5 U.S.C. 552b(c)(6) and (9)(B).

Those who plan to attend the general session should contact Tiffany Asqueri, Designated Federal Officer, Rehabilitation Research and Development Service, at Department of Veterans Affairs (10P9R), 810 Vermont Avenue NW., Washington, DC 20420, or email at *tiffany.asqueri@va.gov.* For further information, please call Mrs. Asqueri at (202) 443–5757.

By Direction of the Secretary.

Dated: July 3, 2012.

Vivian Drake,

Committee Management Officer.

[FR Doc. 2012–16711 Filed 7–6–12; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

Vol. 77 Monday,

No. 131 July 9, 2012

Part II

Department of Energy

Federal Energy Regulatory Commission

18 CFR Parts 35, 37, and 101

Third-Party Provision of Ancillary Services; Accounting and Financial Reporting for New Electric Storage Technologies; Proposed Rule

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 35, 37, and 101

[Docket Nos. RM11–24–000 and AD10–13–000]

Third-Party Provision of Ancillary Services; Accounting and Financial Reporting for New Electric Storage Technologies

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) proposes to revise certain aspects of its current market-based rate regulations, ancillary services requirements under the *pro forma* open-access transmission tariff (OATT), and accounting and reporting requirements. Specifically, the Commission proposes to revise its *Avista Corp.*[1] policy governing the sale of ancillary services at market-based rates to public utility transmission providers and reflect such reforms in Parts 35 and 37 of the Commission's regulations. The Commission also proposes to require each public utility transmission provider to include provisions in its OATT explaining how it will determine Regulation and Frequency Response reserve requirements in a manner that takes into account the speed and accuracy of resources used. Finally, the Commission proposes to revise the accounting and reporting requirements under its Uniform System of Accounts for public utilities and licensees and its forms, statements, and reports, contained in FERC Form No. 1, Annual Report of Major Electric Utilities, Licensees and Others, FERC Form No. 1–F, Annual Report for Nonmajor Public Utilities and Licensees, and FERC Form No. 3–Q, Quarterly Financial Report of Electric Utilities, Licensees, and Natural Gas Companies, to better account for and report transactions associated with the use of energy storage devices in public utility operations.

DATES: Comments are due 60 days after publication in the **Federal Register**.

ADDRESSES: Comments, identified by docket number, may be filed in the following ways:

- Electronic Filing through *http://www.ferc.gov.* Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.
- *Mail/Hand Delivery:* Those unable to file electronically may mail or hand-deliver comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Comment Procedures Section of this document.

FOR FURTHER INFORMATION CONTACT: Rahim Amerkhail (Technical Information), Federal Energy Regulatory Commission, Office of Energy Policy and Innovation, 888 First Street NE., Washington, DC 20426, (202) 502–8266; Christopher Handy (Accounting Information), Federal Energy Regulatory Commission, Office of Enforcement, 888 First Street NE., Washington, DC 20426, (202) 502–6496; Lina Naik (Legal Information), Federal Energy Regulatory Commission, Office of the General Counsel, 888 First Street NE., Washington, DC 20426, (202) 502–8882; Eric Winterbauer (Legal Information), Federal Energy Regulatory Commission, Office of the General Counsel, 888 First Street NE., Washington, DC 20426, (202) 502–8329.

SUPPLEMENTARY INFORMATION:

139 FERC ¶ 61,245

Notice of Proposed Rulemaking

(June 22, 2012)

1. In this Notice of Proposed Rulemaking (NOPR), the Federal Energy Regulatory Commission (Commission) seeks comment on a package of related proposals developed by the Commission based on comments received in response to a Notice of Inquiry (NOI)[2] issued in this proceeding on June 16, 2011. As the Commission noted in the NOI, there is growing interest in rate flexibility by both purchasers and sellers of ancillary services. A variety of resources are poised to provide ancillary services but may be frustrated from doing so by certain aspects of the Commission's market-based rate policies. At the same time, transmission customers and sellers alike are seeking greater transparency with regard to reserve requirements for ancillary services, with a particular focus on Regulation and Frequency Response. As the Commission has considered ways to foster transparency and competition in ancillary services markets, issues also have arisen related to accounting for and reporting of sales from energy storage devices that, if left unresolved, could impair the ability of these resources to participate in markets for ancillary services and other services subject to the Commission's jurisdiction.

2. The NOI explored these topics by seeking comment on existing restrictions on third-party provision of ancillary services, irrespective of the technologies used for such provision. The NOI also questioned whether the various cost-based compensation methods for Regulation and Frequency Response service that exist in regions outside of the current organized markets could be adjusted to address the same speed and accuracy issues identified in the proceeding that led to the issuance of Order No. 755.[3] Finally, the NOI sought comment on the adequacy of current accounting and reporting requirements as they pertain to the oversight of the provision of jurisdictional services from energy storage devices.

3. Based on the comments received in response to the NOI, the Commission proposes to revise certain aspects of its market-based rate regulations, ancillary services requirements under the *pro forma* open-access transmission tariff (OATT), and accounting and reporting requirements. Specifically, the Commission proposes to revise its *Avista Corp.* policy governing the sale of ancillary services at market-based rates to public utility transmission providers and reflect such reforms in Parts 35 and 37 of the Commission's regulations.[4] The Commission also proposes to require each public utility transmission provider to include provisions in its OATT explaining how it will determine Regulation and Frequency Response service reserve requirements in a manner that takes into account the speed and accuracy of resources used. Finally, the Commission proposes to revise certain accounting and reporting requirements under its Uniform System of Accounts for public utilities and licensees (USofA)[5] and its forms, statements, and reports, contained in FERC Form No. 1 (Form No. 1), Annual Report of Major Electric Utilities, Licensees and Others,[6] FERC Form No.

[1] *See Avista Corp.,* 87 FERC ¶ 61,223 (*Avista*), *order on reh'g,* 89 FERC ¶ 61,136 (1999).

[2] *Third-Party Provision of Ancillary Services; Accounting and Financial Reporting for New Electric Storage Technologies,* 135 FERC ¶ 61,240 (2011) (NOI).

[3] *Frequency Regulation Compensation in the Organized Wholesale Power Markets,* Order No. 755, FERC Stats. & Regs. ¶ 31,324 (2011), *reh'g denied,* Order No. 755–A, 138 FERC ¶ 61,123 (2012).

[4] *See Avista Corp.,* 87 FERC ¶ 61,223 (*Avista*), *order on reh'g,* 89 FERC ¶ 61,136 (1999) (*Avista Rehearing Order*).

[5] *Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act,* 18 CFR part 101 (2011).

[6] 18 CFR 141.1 (2011).

1–F (Form No. 1–F), Annual Report for Nonmajor Public Utilities and Licensees,[7] and FERC Form No. 3–Q (Form No. 3–Q), Quarterly Financial Report of Electric Utilities, Licensees, and Natural Gas Companies,[8] to better account for and report transactions associated with energy storage devices used in public utility operations. The Commission seeks comment on these proposed reforms.

I. Background

4. The Commission has initiated numerous actions over the last several decades to foster the development of competitive wholesale energy markets by ensuring non-discriminatory access and comparable treatment of resources in jurisdictional wholesale markets.[9] With regard to ancillary services, the Commission in Order No. 888 [10] contemplated that third parties (i.e., parties other than a transmission provider supplying ancillary services pursuant to its OATT obligation) could provide ancillary services on other than a cost-of-service basis if such pricing was supported, on a case-by-case basis, by analyses that demonstrated that the seller lacks market power in the relevant product market.[11] Later, in *Ocean Vista Power Generation, L.L.C.,*[12] the Commission provided guidance regarding such analyses, explaining that as a general matter a study of ancillary services markets should address the nature and characteristics of each ancillary service, as well as the nature and characteristics of generation capable of supplying each service, and that the study should develop market shares for each service.

5. The Commission subsequently acknowledged in *Avista* [13] that data limitations can impair the ability of sellers to perform a market power study for ancillary services consistent with the requirements of *Ocean Vista.* The Commission therefore adopted a policy allowing third-party ancillary service providers that could not perform a market power study to sell certain ancillary services [14] at market-based rates with certain restrictions.[15] In so doing, the Commission reasoned that the backstop of cost-based ancillary services from transmission providers, in effect, limits the price at which customers are willing to buy ancillary services, thus ensuring that the third party sellers' rates would remain just and reasonable even without a showing of lack of market power. However, the Commission found that this backstop failed to provide adequate mitigation of potential third-party market power in three situations: (1) Sales to an RTO or an ISO, which has no ability to self-supply ancillary services but instead depends on third parties;[16] (2) to address affiliate abuse concerns, sales to a traditional, franchised public utility affiliated with the third-party supplier, or sales where the underlying transmission service is on the system of the public utility affiliated with the third-party supplier; and (3) sales to a public utility that is purchasing ancillary services to satisfy its own OATT requirements to offer ancillary services to its own customers.[17]

6. The Commission's focus in this proceeding is on the third situation above. The concern in this situation has been that if third parties who had not been shown to lack market power were permitted to sell to public utilities seeking to meet their OATT ancillary service obligations, the public utility's ability to recover such purchase costs in OATT rates might lead it to agree to above-market purchases, which would then be incorporated into the public utility's OATT ancillary service rate and gradually increase that rate. This increase in turn would reduce the ability of the cost-based OATT rate to serve as an alternative to the third-party market based rate, and thus undermine the mitigation measure that the Commission relied upon in *Avista* to enable relaxation of the requirement for a market power analysis.[18] In summary, under existing Commission regulation and policy, a third-party supplier may sell certain ancillary services at market-based rates without showing a lack of market power except under the three circumstances identified above.

7. Over a decade has passed since the Commission first developed the *Avista* restrictions. During this time, potential changes to the *Avista* restrictions have been considered by the Commission on several occasions. In the rulemaking proceeding leading to the issuance of Order No. 697, the Commission sought comment on whether to modify or revise the *Avista* policy and, if so, how.[19] The Commission ultimately

[7] 18 CFR 141.2 (2011).

[8] 18 CFR 141.400 (2011).

[9] *See, e.g., Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities,* Order No. 888, FERC Stats. & Regs. ¶ 31,036, at 31,781 (1996), *order on reh'g,* Order No. 888–A, FERC Stats. & Regs. ¶ 31,048, *order on reh'g,* Order No. 888–B, 81 FERC ¶ 61,248 (1997), *order on reh'g,* Order No. 888–C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group* v. *FERC,* 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York* v. *FERC,* 535 U.S. 1 (2002); *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities,* Order No. 697, FERC Stats. & Regs. ¶ 31,252, *clarified,* 121 FERC ¶ 61,260 (2007), *order on reh'g,* Order No. 697–A, FERC Stats. & Regs. ¶ 31,268, *clarified,* 124 FERC ¶ 61,055, *order on reh'g,* Order No. 697–B, FERC Stats. & Regs. ¶ 31,285 (2008), *order on reh'g,* Order No. 697–C, FERC Stats. & Regs. ¶ 31,291 (2009), *order on reh'g,* Order No. 697–D, FERC Stats. & Regs. ¶ 31,305 (2010), *aff'd sub nom. Montana Consumer Counsel* v. *FERC,* 659 F.3d 910 (9th Cir. 2011); *Preventing Undue Discrimination and Preference in Transmission Service,* Order No. 890, FERC Stats. & Regs. ¶ 31,241, *order on reh'g,* Order No. 890–A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g,* Order No. 890–B, 123 FERC ¶ 61,299 (2008), *order on reh'g,* Order No. 890–C, 126 FERC ¶ 61,228 (2009), *order on reh'g,* Order No. 890–D, 129 FERC ¶ 61,126 (2009); *Wholesale Competition in Regions with Organized Electric Markets,* Order No. 719, FERC Stats. & Regs. ¶ 31,281 (2008), *order on reh'g,* Order No. 719–A, FERC Stats. & Regs. ¶ 31,292 (2009), *order on reh'g,* Order No. 719–B, 129 FERC ¶ 61,252 (2009).

[10] Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,781.

[11] Order No. 888 required six Ancillary Services to be included in the OATT: (1) Scheduling, System Control and Dispatch; (2) Reactive Supply and Voltage Control from Generation Sources; (3) Regulation and Frequency Response; (4) Energy Imbalance; (5) Operating Reserve—Spinning; and (6) Operating Reserve—Supplemental. Order No. 890 later added a seventh OATT ancillary service: Generator Imbalance. *See* Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 85.

[12] 82 FERC ¶ 61,114, at 61,406–07 (1998) (*Ocean Vista*).

[13] *Avista,* 87 FERC at 61,882.

[14] These ancillary services included: Regulation and Frequency Response, Energy Imbalance, Operating Reserve—Spinning, and Operating Reserve—Supplemental. The Commission did not extend this *Avista* policy to Reactive Supply and Voltage Control from Generation Sources service, which means that third parties wishing to sell this ancillary service at market-based rates would remain subject to the pre-*Avista* market power screen requirement. The Commission also did not extend the *Avista* policy to Scheduling, System Control and Dispatch service. However, because only balancing area operators can provide this ancillary service, it does not lend itself to competitive supply.

[15] One of the restrictions imposed in *Avista* was an obligation for sellers to establish an Internet-based Web site for providing information about and transacting ancillary services and on-going reports to the Commission detailing their activities in the ancillary services markets. *See Avista,* 87 FERC at 61,883. In Order No. 697, the Commission concluded that subsequent implementation of electric quarterly report (EQR) filing requirements justified eliminating these requirements under the *Avista* policy.

[16] Subsequently, as the Commission recognized in Order No. 697, most RTOs and ISOs developed formal ancillary service markets, thus rendering this component of the *Avista* policy largely superfluous. *See* Order No. 697, FERC Stats. & Regs. ¶ 31,252 at n.1194 and P 1069.

[17] *Avista,* 87 FERC ¶ 61,223 at n.12.

[18] *See Avista Rehearing Order,* 89 FERC at 61,391–92 (stating that the Commission is ''able to grant blanket authority for flexible pricing only because the price charged by the third-party supplier is disciplined by the obligation of the transmission provider to offer these services under cost-based rates. This discipline would be thwarted if the transmission provider could substitute purchases under non-cost-based rates for its mandatory service obligation.'')

[19] Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 1052.

retained its policy of not allowing sales of ancillary services by a third-party supplier in the three situations identified above, but noted its openness to considering requests for market-based rate authorization to make such sales on a case-by-case basis.[20] Such a request was submitted by WSPP in 2011. Based on the facts in that instance, the Commission rejected WSPP's request as it related to market-based sales by a third-party supplier to satisfy the purchasing transmission provider's own OATT requirements to offer ancillary services to its customers. However, the Commission noted that it was open to new approaches in the evaluation of proposals for sales of ancillary services at market-based rates and encouraged parties to submit proposals that address the Commission's concerns.[21]

8. In its ongoing effort to foster the development of competitive markets, including those for ancillary services, the Commission has continued to evaluate its *Avista* policy, in particular the restriction on the sale of ancillary services by third-parties to a public utility that is purchasing ancillary services to satisfy its own OATT requirements to offer ancillary services to its own customers. As the Commission considered potential revisions to the *Avista* policy, the Commission also has evaluated the extent to which other policies may impair development of ancillary services markets in light of a growing need for ancillary services to support grid functions in the face of potential changes in the portfolio of generation resources, entry of new technologies seeking to provide the service, and the growing interest of sellers and transmission providers to have flexibility in meeting ancillary services needs.[22]

9. This evaluation led the Commission to issue an NOI in this proceeding to seek comment on whether revising this aspect of the *Avista* restriction would be appropriate, either by implementing alternative methods of proving a lack of market power or alternative methods of mitigating any potential market power. The NOI also sought comment on cost-based compensation methods for Regulation and Frequency Response service, as well as accounting and reporting requirements as they pertain to oversight of the provision of jurisdictional services from energy storage devices.

10. Based on the comments received, the Commission includes in this NOPR a package of proposals to facilitate the development of competitive markets for ancillary services, increase transparency for Regulation and Frequency Response reserve requirements, and better account for and report transactions associated with energy storage devices used in public utility operations. The Commission describes each of these proposals in detail below.

II. Discussion

A. The Avista Policy

11. As noted above, the Commission's *Avista* policy authorizes the sale of certain ancillary services at market-based rates without showing a lack of market power except under specified circumstances. As relevant here, a third-party may not sell ancillary services at market-based rates to a public utility that is purchasing ancillary services to satisfy its own open access transmission tariff requirements to offer ancillary services to its own customers. In order to overcome this restriction, a potential seller must provide a market power study demonstrating a lack of market power for the particular ancillary service in the particular geographic market. However, commenters in response to the NOI note that certain information needed to perform such a market power study is not currently available, effectively precluding them from the opportunity to make such a showing.[23] Whether due to this or other limitations, the effect of the *Avista* policy is to categorically prohibit sales of ancillary services to public utility transmission providers outside of the RTO and ISO markets.[24]

12. Some commenters suggest that the current analyses used to evaluate a seller's ability to exercise horizontal market power in the sale of energy and capacity remain sufficient to address market power in ancillary services as well.[25] Other commenters contend that alternative mitigation measures would be appropriate for sellers unable to perform a market power analysis, such as the use of price caps based on the purchasing utility's cost-based OATT ancillary services rates or the use of competitive solicitations.[26] The Commission believes that these suggestions may have merit and has developed potential reforms to the *Avista* policy to provide greater flexibility to sellers while protecting buyers from the exercise of market power that could lead to unjust and unreasonable or unduly discriminatory or preferential rates. These proposals are discussed further below.

1. Use of Market Power Analyses

13. The Commission analyzes horizontal market power[27] for sales of energy and capacity using two indicative screens, the wholesale market share screen and the pivotal supplier screen, to identify sellers that raise no horizontal market power concerns and can otherwise be considered for market-based rate authority.[28] The wholesale market share screen measures whether a seller has a dominant position in the relevant geographic market in terms of the number of megawatts of uncommitted capacity owned or controlled by the seller, as compared to the uncommitted capacity of the entire market.[29] A seller whose share of the relevant market is less than 20 percent during all seasons passes the wholesale market share screen.[30] The pivotal supplier screen evaluates the seller's potential to exercise horizontal market power based on the seller's uncommitted capacity at the time of annual peak demand in the relevant market.[31] A seller satisfies the pivotal supplier screen if its uncommitted capacity is less than the net uncommitted supply in the relevant market.[32]

14. Passing both the wholesale market share screen and the pivotal supplier screen creates a rebuttable presumption that the seller does not possess horizontal market power; failing either screen creates a rebuttable presumption that the seller possesses horizontal market power.[33] A seller that fails one

[20] *Id.* P 1061.

[21] *WSPP, Inc.,* 134 FERC ¶ 61,169 (2011).

[22] *See, e.g., Integration of Variable Energy Resources,* Order No. 755, FERC Stats. & Regs. ¶ 32,664 (2010); and *Demand Response Compensation in Organized Wholesale Energy Markets,* Order No. 745, 76 FR 16658 (Mar. 24, 2011), FERC Stats. & Regs. ¶ 31,322 (2011).

[23] WSPP Comments at 7–10, ENBALA Comments at 2–3, California Storage Alliance Comments at 5–6, and ESA Comments at 8.

[24] As noted above, most RTOs and ISOs have developed formal ancillary service markets, allowing for the sale of ancillary services at market-based rates in those regions.

[25] PPL Companies Comments at 3, EPSA Comments at 5–6, and Portland General Comments at 3–4, Shell Energy Comments at 13–16, Powerex Comments at 38–40, and WSPP Comments at 11–12. While several commenters also support the idea of developing less challenging analyses for measuring ancillary service market power, none provides any concrete proposals. *See, e.g.,* California PUC Comments at 5.

[26] *See, e.g.,* Southern California Edison Comments at 5–6 and WSPP Comments at 16.

[27] 18 CFR 35.37(b) (2011).

[28] Order No. 697, FERC Stats. & Regs. ¶ 31,252 at PP 13, 62. *See also* 18 CFR § 35.37(b), (c)(1) (2011).

[29] Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 43.

[30] *Id.* PP 43–44, 80, 89.

[31] 18 CFR 35.37(c)(1) (2011).

[32] Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 42.

[33] 18 CFR 35.37(c)(1) (2011).

of the screens may present evidence, such as a delivered price test (DPT), to rebut the presumption of horizontal market power.[34] In the alternative, a seller may accept the presumption of horizontal market power and adopt some form of cost-based mitigation.[35]

15. Three of the key components of the analysis of horizontal market power are the definition of products, the determination of appropriate geographic scope of the relevant market for each product, and the identification of the uncommitted generation supply within the relevant geographic market. In Order No. 697, the Commission adopted a default relevant geographic market for sales of energy and capacity.[36] In particular, the Commission will generally use a seller's balancing authority area plus first-tier markets, or the RTO/ISO market as applicable, as the default relevant geographic market. However, where the Commission has made a specific finding that there is a submarket within an RTO, that submarket becomes the default relevant geographic market for sellers located within the submarket for purposes of the market-based rate analysis. The Commission also provided guidance as to the factors the Commission will consider in evaluating whether, in a particular case, to adopt an alternative larger or smaller geographic market instead of relying on the default geographic market. A necessary condition that must be satisfied to justify an alternative market is a demonstration regarding whether there are frequently binding transmission constraints during historical peak seasons examined in the screens and at other competitive significant times that prevent competing supply from reaching customers within the proposed alternative geographic market.[37]

16. For sales of energy and capacity, the product definitions are well understood, the relevant geographic market is generally the default market described above, and the uncommitted generation supply is generally identified as all such supply located within the seller's balancing authority area plus potential uncommitted imports as determined largely by available transmission capacity in the form of simultaneous import limits.[38] In contrast, defining the product, determining the relevant geographic market, and identifying uncommitted competing resources can be more complex for ancillary services. To date the Commission has not received an acceptable market power analysis for the sale of ancillary services at market-based rates outside of RTO/ISO markets. As noted above, certain commenters in response to the NOI contend that the information necessary to perform a market power analysis outside of RTO/ISO markets is not currently available.[39] Certain other commenters argue that the current analyses used to evaluate a seller's ability to exercise market power in the sale of energy and capacity are sufficient to address market power in ancillary services as well.[40]

17. Much of the difficulty in acquiring ancillary service-specific data is related to identifying specific resources that are physically capable of providing certain ancillary services. For instance, Schedule 6 Operating Reserve—Supplemental may be provided by generating units that are online but partially unloaded, by quick-start generating units that are offline or by interruptible load or other non-generation resources capable of providing this service.[41] The associated reliability standards definitions indicate that Operating Reserves—Supplemental must be fully available to serve load within the Disturbance Recovery Period, which by default is 15 minutes after a reportable disturbance.[42] Information related to the amount of capacity able to start within 15 minutes and information related to the quantity of load that is interruptible within 15 minutes may not be readily available. In addition, the extent to which a public utility decides to provide this service from partially loaded units is a decision that public utilities make on a day-to-day basis and is dictated in part by the amount of headroom available from the units that are committed and dispatched to serve and follow load. Information related to this kind of decision making is inherently difficult to obtain. This inability to obtain needed information coupled with the fact that certain ancillary services, as detailed further below, have geographic and other limitations gives rise to our interest in considering reforms based on the characteristics of the ancillary service to be provided.

a. Reliance on Existing Indicative Screens

18. In light of these issues associated with market power analyses for specific ancillary services, and the comments asserting that the existing market power analyses for sales of energy and capacity may be sufficient for ancillary services as well, the Commission has considered whether passing the existing market-based rate screens described above should create a rebuttable presumption that the seller lacks horizontal market power for ancillary services. As discussed below, the Commission believes that this may be the case for the two imbalance ancillary services (Energy Imbalance and Generator Imbalance), but that alternative definitions of the relevant geographic market and alternative assumptions for identifying potential competing resources within the relevant geographic market may be needed in order to apply the existing indicative screens to other ancillary services.

19. Units capable of providing Energy Imbalance and Generator Imbalance do not appear to require any different technical equipment or suffer from any different geographical limitations compared to units that provide energy or capacity. As one commenter argues, any available unit in a given geographic market would appear to be capable of providing energy that helps address imbalances in that market.[43] The Commission notes that this position is consistent with the Commission's

[34] 18 CFR 35.37(c)(2) (2011). For purposes of rebutting the presumption of horizontal market power, sellers may use the results of the DPT to perform pivotal supplier and market share analyses and market concentration analyses using the Herfindahl-Hirschman Index (HHI). The HHI is a widely accepted measure of market concentration, calculated by squaring the market share of each firm competing in the market and summing the results. The Commission has stated that a showing of an HHI less than 2,500 in the relevant market for all season/load periods for sellers that have also shown that they are not pivotal and do not possess a market share of 20 percent or greater in any of the season/load periods would constitute a showing of a lack of horizontal market power, absent compelling contrary evidence from intervenors. Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 111.

[35] 18 CFR 35.37(c)(3) (2011).

[36] Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 15.

[37] Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 268.

[38] Studies of Simultaneous Transmission Import Limits (SIL) quantify a study area's simultaneous import capability from its aggregated first-tier area. SIL studies are used as a basis for calculating import capability to serve load in the relevant geographic market when performing market power analyses.

[39] WSPP Comments at 7–10; ENBALA Comments at 2–3; California Storage Alliance Comments at 5–6; and, ESA Comments at 8. Several of these commenters request that new reporting requirements be imposed to facilitate sellers' ability to perform market power analyses for ancillary services markets.

[40] PPL Companies Comments at 3, EPSA Comments at 5–6, and Portland General Comments at 3–4, Shell Energy Comments at 13–16, Powerex Comments at 38–40, and WSPP Comments at 11–12.

[41] *See, e.g.,* Order No. 890–A, FERC Stats. & Regs. ¶ 31,261, *Pro Forma* OATT at Schedule 6, Operating Reserve—Supplemental Reserve Service.

[42] *See, e.g.,* NERC Reliability Standard BAL–002–1, Disturbance Control Performance at R4.2, available at *http://www.nerc.com/files/BAL-002-1.pdf.*

[43] Shell Energy Comments at 12.

decision in Order No. 890–A to base cost-based imbalance charges in the OATT on the incremental cost of the last 10 MW dispatched by the transmission provider for any purpose, without imposing any requirement that this last 10 MW be based on resources with any particular capabilities.[44] To the extent that there are no unique technical requirements or limitations that apply to the provision of Energy Imbalance or Generator Imbalance, it would follow that the market-based rate screens for energy and capacity would consider the same set of units as a market power analysis designed for those two ancillary services.

20. Accordingly, the Commission proposes to revise its regulations governing market-based rate authorizations to provide that sellers passing existing market-based rate analyses in a given geographic market should be granted a rebuttable presumption that they lack horizontal market power for sales of Energy Imbalance and Generator Imbalance ancillary services in that market. Specifically, section 35.37 of the Commission's regulations would be revised to state that a seller would have a rebuttable presumption it lacks market power with respect to sales of energy, capacity, energy imbalance service, and generator imbalance service if the seller passes the pivotal supplier analysis based on annual peak demand of the relevant market and a market share analysis applied on a seasonal basis. The Commission preliminarily concludes that expanding the rebuttable presumption adopted in Order No. 697 for energy and capacity to include Energy Imbalance and Generator Imbalance provides adequate protection that market-based rates charged by public utilities will be just and reasonable and not unduly discriminatory or preferential. The Commission notes that this proposal would not constitute a revision to the *Avista* policy. Rather, this proposal merely finds that the existing market power screens can be applied to analysis of market power for Energy Imbalance and Generator Imbalance. As a result, sellers who pass the existing market power screens would not be subject to the sales restrictions otherwise required under the *Avista* policy. The Commission seeks comment on this proposal, including the proposed revisions to part 35.37(c)(1) of our regulations, and its application to Energy Imbalance and Generator Imbalance services. Comments may address, among other things, any unique technical requirements or limitations that might apply to the provision of the ancillary imbalance services, and the Commission's proposal to extend the rebuttable presumption to imbalance services.

21. There appear to be significant technical requirements or limitations that apply to the provision of ancillary services other than Energy Imbalance and Generator Imbalance such that the existing market-based rate screen may not be adequate to capture the potential horizontal market power of sellers of these other ancillary services. Technical considerations may limit the units capable of providing Reactive Supply and Voltage Control, Regulation and Frequency Response, Operating Reserve-Spinning, and Operating Reserve-Supplemental services as compared to the broader set of units capable of providing energy or capacity potentially requiring the identification of a different geographic market than the default geographic market used to conduct market power analyses for sales of energy and capacity and a change to the assumptions used to identify potential competing resources within that market. For example, the size of the relevant geographic market for a particular ancillary service may be subject to change based on system conditions and the need to meet applicable reliability criteria. The balancing authority may at times be able to procure ancillary services on a system-wide basis, whereas at other times factors may require the balancing authority to procure ancillary services on a zonal or even more location-specific basis. Further, not every facility that has the capability to provide energy will have the capability to provide every ancillary service. Also, the procurement may involve commercially sensitive internal decision-making that determines what proportion of a unit's total capability will be dedicated to a particular ancillary service instead of energy and capacity.

22. With regard to Operating Reserve—Spinning and Operating Reserve—Supplemental, the Commission recognizes that resources used to provide these services are maintained to convert to energy if needed, as with imbalance services. However, minimum ramp rate requirements and stringent minimum start-up rates for off-line resources used for supplemental reserves apply to the provision of Operating Reserve—Spinning and Operating Reserve—Supplemental. For on-line resources, not all types of units may be capable of extended periods of operation below their fully loaded set point, or such operation may be prohibitively uneconomic.

23. With regard to Reactive Supply and Voltage Control, technical and geographic considerations generally limit the units capable of providing this ancillary service as compared with the broader set of units capable of providing energy or capacity. In order to provide Reactive Supply and Voltage Control service, conventional synchronous generators must be able to vary the voltage level of their electrical output. Not all synchronous generators may choose to operate in a way that provides Reactive Supply and Voltage Control service. Similarly, non-traditional asynchronous resources require some other power electronic controls in order to provide this ancillary service, and not all owners of asynchronous resources choose to install the needed controls. Further, non-generation resources may be technically capable of providing this ancillary service with appropriate controls, but they may not all choose to install the needed controls. Finally, as recognized in numerous venues and proceedings including Order No. 888, losses of reactive power during transmission may be significantly greater than losses incurred in delivering real power, meaning that reactive power must often be supplied from local resources.[45] Therefore, the appropriate relevant geographic market for Reactive Supply and Voltage Control service could be smaller than the default geographic market discussed above and even within that reduced geographic market, not all resources may be capable of competing to provide this particular ancillary service. Moreover, conventional resources generally require Automatic Generation Control (AGC) equipment in order to provide Regulation and Frequency Response service, while non-traditional resources require power electronic controls that perform like AGC. Not all units have AGC or power electronic controls that perform like AGC. Therefore, a different set of competing resources might need to be identified within the default geographic market for Regulation and Frequency Response service.

24. The Commission seeks comments on whether the technical requirements

[44] *See* Order No. 890–A, FERC Stats. & Regs. ¶ 31,261 at P 309.

[45] FERC, *Principles for Efficient and Reliable Reactive Power Supply and Consumption,* Docket No. AD05–1–000, at 18 (2005), *available at http://www.ferc.gov/EventCalendar/Files/20050310144430–02–04–05-reactive-power.pdf.* (''Reactive power is difficult to transport. At high loadings, relative losses of reactive power on transmission lines are often significantly greater than relative real power losses * * * Losses in transmission lead to the expression that reactive power does not travel well.'').

for Operating Reserve—Spinning, Operating Reserve—Supplemental, Reactive Supply and Voltage Control, and Regulation and Frequency Response would necessitate a market power analysis based on a different geographic market or different set of resources as compared to those analyzed to determine market power for sales of energy and capacity. If so, we seek comment on how the relevant geographic market can be identified and how potentially competing resources with the needed characteristics can be identified within the relevant geographic market. Finally, we seek comment on whether the limited reporting requirement and optional market power screen, discussed further below, could be applicable for assessing the market power of potential sellers of these ancillary services.

b. Optional Market Power Screen

25. Several commenters to the NOI support the idea of developing alternative analyses for measuring market power for ancillary services,[46] while others propose that new reporting requirements be imposed to facilitate sellers' ability to perform market power analyses for ancillary services markets.[47] Upon review of these comments, the Commission proposes a limited new reporting requirement that would provide potential sellers of ancillary services [48] with the information needed to develop market power analyses using an optional market power screen solely applicable to ancillary services. Specifically, the Commission proposes to require each public utility transmission provider to publicly post on its OASIS information as to the aggregate amount (MW or MVAR, as applicable) of each ancillary service that it has historically required, including any geographic limitations it may face in meeting such ancillary service requirements.[49] For example, a hypothetical transmission provider may report that it has historically maintained 100 MW of Regulation and Frequency Response reserves for its balancing area and 100 MVAR of Reactive Supply and Voltage Control in each of two submarkets within its balancing authority area.

26. The optional market power screen for an ancillary service would then compare the amount of capacity in MWs (or, as applicable, MVARs) that a potential seller can dedicate to providing the ancillary service in the relevant geographic market with the buyer's reported aggregate requirement for that ancillary service, taking into account any reported historical locational requirements (e.g., locational requirements due to such things as binding transmission constraints or the geographic limitations of Reactive Supply). Using this optional market power screen, sellers whose available capacity is no more than 20 percent of the relevant reported aggregate requirement for an ancillary service would then receive a rebuttable presumption that they lack horizontal market power for the ancillary service in question.

27. The Commission recognizes that this approach would be an alternative to the Commission's historical approach to conducting market power analyses, though we believe it is consistent with the principles by which we developed our market power analyses. Moreover, this approach would be limited solely to market power analyses of ancillary services and would be permitted because of the lack of publicly-available information on the potential supply of various ancillary services in a given geographic market. In *Ocean Vista* the Commission explained that as a general matter, a study of ancillary service markets should address the nature and characteristics of each ancillary service, as well as the nature and characteristics of generators capable of supplying each service, and the study should develop market shares for each service.[50] Of particular relevance here, the Commission stated that the market power analysis for ancillary services markets should identify the relevant geographic market, which could include all potential sellers of the product from whom the buyer could obtain the service, taking into account relevant factors which may include the other sellers' locations, the physical capability of the delivery system and the cost of such delivery, and important technical characteristics of the sellers facilities.[51]

28. The proposed approach discussed above is consistent with these principles. Identification of the aggregate requirement for each ancillary service within the balancing authority area serves as a proxy for the identification of the amount and location of resources that may be technically capable of providing the requisite service in the relevant geographic market, without requiring resource-specific information for resources currently providing the service. The Commission has allowed use of proxies for various inputs to the indicative screens to simplify or streamline the analyses,[52] and in particular has stated that a seller, where appropriate, can make certain simplifying assumptions, such as performing the indicative screens assuming that the relevant market has no import capability (this was modified in later orders to mean no competing imports) or treating the host balancing authority area utility as the only other competitor.[53] Essentially, the proposed proxy would treat the resources used historically by the host balancing authority area utility as the only other competing resources for purposes of market share analysis. This proxy would take into account the nature and characteristics of each ancillary service, as well as the nature and characteristics of resources capable of supplying each service and any limitations such as deliverability that have historically affected designation of resources to provide the ancillary service. The proposed approach would allow potential third party sellers to compare their ancillary service capacity to the capacity that has historically been needed to provide the service as shown by the relevant transmission provider's OASIS posting of ancillary service

[46] *See, e.g.,* California PUC Comments at 5.

[47] *See, e.g.,* NGSA comments at 5 and EPSA comments at 3–4.

[48] The Commission envisions this optional screen being available as a voluntary alternative to the type of market power analyses described in *Ocean Vista.* The Commission also envisions permitting this optional screen to be used solely in connection with sales of Operating Reserve-Spinning, Operating Reserve-Supplemental, Reactive Supply and Voltage Control, and Regulation and Frequency Response services. Further, if our earlier proposal regarding application of the existing screens to Energy and Generator Imbalance services is not ultimately finalized, then we would envision permitting the application of this optional screen to those ancillary services as well.

[49] This requirement would parallel the existing requirement for a seller that owns, operates or controls transmission to conduct simultaneous transmission import capability studies for its home control area and each of its directly-interconnected first-tier control areas in order to facilitate market power analyses by all sellers in the relevant market. Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 346. The Commission's existing requirements and policies with regard to submission of historical data would apply. Therefore, any concerns as to possible manipulation of this data should be ameliorated.

[50] *Id.* P 1048.

[51] *Id.*

[52] For example, the Commission has allowed wind generating facilities that lack five years of operational data to use a five-year average regional wind capacity factor based on data reported by the Energy Information Administration to de-rate their capacity. *See Golden Spread Electric Cooperative, Inc.,* 138 FERC ¶ 61,208 (2012). Additionally, in Order No. 697, the Commission stated that it will allow the capacity of energy-limited facilities to be set equal to their five-year average historical capacity factor. Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 344. The Commission also stated that it is willing to consider proxy amounts for simultaneous transmission import limits. *Id.* P 381.

[53] Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 321.

requirements, and calculate a market share on that basis.

29. The Commission preliminarily concludes that this approach will foster transparency and competition in the provision of ancillary services by providing information for ancillary service sellers to perform the market power analyses required by the Commission's rules while continuing to provide protection for customers from the potential exercise of market power. As with the expansion of the rebuttable presumption for energy and capacity to include Energy Imbalance and Generator Imbalance proposed above, the optional power market screen for ancillary services proposed here would not constitute a revision to the *Avista* policy. Rather, it merely would provide another means of demonstrating a lack of market power in sales of ancillary services. As a result, sellers who pass this optional market power screen would not be subject to the sales restrictions otherwise required under the *Avista* policy.

30. The Commission seeks comment on whether the proposed limited OASIS reporting requirement combined with the opportunity to use an optional market power screen for ancillary services, as described above and in proposed new parts 37.6(k) and 35.37(c)(5) respectively of our regulations, will provide adequate protection that market-based rates charged by public utilities will be just and reasonable and not unduly discriminatory or preferential. The Commission also requests that commenters address the use of the optional screen for Energy and Generator Imbalance ancillary services given the Commission's proposal above that sellers passing existing market-based rate analyses in a given geographic market should be granted a rebuttable presumption that they lack horizontal market power for sales of Energy Imbalance and Generator Imbalance ancillary services in that market. Additionally, the Commission requests comments on the appropriate level of detail to include in the proposed reporting requirement. The Commission is aware that balancing areas determine reserve requirements in different ways; for example, some may have static reserve requirements updated once a year, while others specify reserve requirements as a percentage of load, meaning that their reserve amounts can change throughout a year. The Commission does not at this time intend to change how balancing areas determine their reserve amounts. Rather, we wish the proposed OASIS reporting requirement to adequately capture whatever method the balancing area employs and be detailed enough to support the proposed optional market power screen. For example, if ancillary service reserve requirements change periodically throughout a year, should the associated OASIS posting show the different amounts of reserve procurement with their associated time periods or should the OASIS posting show a single average reserve procurement amount for the year? The Commission also asks for comments on whether the optional market power screen should only be implemented on an experimental basis until the Commission has more experience with the evolution of ancillary service markets and in reviewing the quality of optional market power screens.

2. Alternative Cost-Based Mitigation

31. The NOI also sought comment on alternative mitigation measures to the prohibition adopted in *Avista* with regard to sales to a public utility that is purchasing ancillary services to satisfy its own OATT requirements to offer ancillary services to its own customers. In particular, the Commission sought comment on the possibility of relying on an explicit price cap based on the purchasing utility's cost-based OATT ancillary service rates or the use of competitive solicitations. Based on a review of the resulting comments, the Commission seeks further comment regarding whether the specific alternative cost-based mitigation measures described below that would allow third-party sales to a public utility without showing a lack of market power are adequate to ensure that rates charged by third parties for Regulation and Frequency Response, Operating Reserve-Spinning, or Operating Reserve-Supplemental service will be just and reasonable and not unduly discriminatory or preferential. In addition, while the *Avista* policy did not apply to Reactive Supply and Voltage Control service, the Commission seeks comment on whether third-party sales of Reactive Supply and Voltage Control service to a public utility to satisfy its own OATT obligations should be permitted under one of the price cap options discussed below.

32. Specifically, the Commission proposes to permit sellers unable or unwilling to perform the market power study for ancillary services to propose price caps at or below which sales of Regulation and Frequency Response, Reactive Supply and Voltage Control, Operating Reserve-Spinning, or Operating Reserve-Supplemental service would be allowed where the purchasing entity is a public utility purchasing ancillary services to satisfy its own OATT requirements to offer ancillary services to its own customers. Such a price cap would be based on one of the two possible OATT ancillary service rate caps discussed below and, as in *Avista,* we propose that sales under these price caps would only be permitted in geographic markets where the seller has been granted market-based rate authority for sales of energy and capacity. Alternatively, a seller unable to perform a market power study for ancillary services could rely on competitive solicitations meeting certain minimum requirements in order to make sales in geographic markets where the seller has been granted market-based rate authority for sales of energy and capacity.

a. Use of Price Caps

33. As noted above, the Commission in the NOI explored the idea of using price caps based on the purchasing utility's OATT rates to serve as an alternative mitigation to the *Avista* policy. Use of price caps or other proxies is not unprecedented. For example, the Commission has long permitted cost-of-service sellers to propose cost-justified ceiling rates to allow the seller to respond quickly to market opportunities by discounting below the approved ceiling.[54] In many respects the cost-based ceiling rate umbrella tariffs of decades past may have helped begin the development of bilateral markets for energy and capacity, and we believe the development of bilateral markets for ancillary services today may similarly benefit from the availability of appropriate price cap options. Below we propose two options for comment.

34. First, third parties would be permitted to sell to a public utility buyer at rates not to exceed the buying public utility transmission provider's existing OATT rate for the same ancillary service. The Commission anticipates that this option should be relatively non-controversial to implement as the buyer's OATT ancillary service rates will have already been found to be just and reasonable. However, we recognize that in some situations this type of price cap may do

[54] *See, e.g., Central Maine Power Company,* 56 FERC ¶ 61,200, at 61,818–19 (1991) (''We are aware of the argument that, due to the need to respond quickly to market changes and opportunities for coordination, in some cases transactions must begin before the utility has a chance to file the rate reflecting the transaction with the Commission. While this argument has some merit, we note that many utilities have managed to avoid this problem by having tariffs on file that permit transactions to be negotiated *subject to a cap of 100-percent contribution to fixed costs.''* (emphasis added)).

little to signal a buyer's interest in the procurement of ancillary services or reflect the actual practices in a region, which may include pooling or sharing of reserves. Rather, a policy that relies on the rate of a single buyer may serve as a disincentive to the entry of additional resources to provide ancillary services and ultimately undermine the goal we are trying to achieve of providing sellers some flexibility while ensuring just and reasonable rates. The Commission also appreciates that an individual buyer's OATT ancillary service rates may be higher or lower than the cost of new entry and that they do not necessarily signal whether investment is needed to provide the service.

35. Notwithstanding these potential limitations of relying on a cap at the buying public utility transmission provider's OATT ancillary service rate, the Commission believes that such a cap could provide a means of mitigating the potential market power of sellers unable to perform a market power analysis. Furthermore, a price cap based on the buyer's OATT ancillary service rate may best match the geographic limitations of an ancillary service like Reactive Supply and Voltage Control, and may provide the simplest route to expanded supply at just and reasonable rates for service areas that require more Reactive Supply and Voltage Control. The Commission seeks comment on whether this cost-based cap would provide an effective alternative to imposition of the *Avista* restriction for mitigating potential market power. The Commission also seeks comment on whether this type of cap would induce the provision of ancillary services, particularly from parties who believe that this cap would be beneficial to their efforts to buy or sell specific ancillary services, such as Reactive Supply and Voltage Control. We also seek comment on whether the Commission should require additional transparency provisions to accompany such a cap beyond electric quarterly reports. These provisions may include the transmission provider posting its need for ancillary services and any seller responses.

36. Under the second option, third parties could propose to sell a given ancillary service to a public utility buyer at rates not to exceed the highest public utility transmission provider OATT rate within the relevant geographic market for physical trading of the ancillary service in question. Under this type of regional price cap, the seller (or group of sellers) would be required to file with the Commission a proposal that defines the scope of a contiguous geographic region that both encompasses the service territory(ies) of the public utility transmission provider whose OATT ancillary service rate will form the basis for the price cap, and within which trading of the ancillary service in question is physically possible. Using the highest OATT ancillary service rate as a price cap for a predefined market area with the characteristics above may address some of the potential limitations of a price cap based on an individual public utility transmission provider OATT identified above. Additionally, it may be a more reasonable approximation of the cost of new entry within a market where physical trading of the ancillary service in question is possible.

37. Such a regional price cap proposal could be proposed for any contiguous trading area within which the filer or filers propose to make physical trades of ancillary services. The Commission anticipates that this trading area often may include the seller's home balancing authority area plus first-tier balancing authority areas and possibly additional areas where transmission capacity is available. However, the Commission is concerned that sellers could seek to define regions that are unrealistically broad in order to access a high OATT ancillary service rate from outside their region that may not be appropriate elsewhere. To prevent this type of distortion, the Commission proposes to require price cap sellers to show that the ancillary services in question can be physically traded throughout the region they propose for a given ancillary service price cap. Such a showing would need to take into account the technical characteristics of the ancillary service in question in order to demonstrate the physical ability to trade in the proposed market area. For example, because of their different characteristics, a contiguous geographic region within which it is physically possible to trade Operating Reserve-Spinning is likely to be much greater than any contiguous geographic region within which it is physically possible to trade Reactive Supply and Voltage Control. We seek comment on the types of information available to make such a showing.

38. Also, because different sellers proposing to sell the same ancillary service could conceivably propose different but overlapping trading regions, which might result in multiple regional price caps applying to sales in the overlapping areas, the Commission seeks comment on whether this type of overlap should be permitted. If not, the Commission seeks comment on ways to prevent such overlap in the definition of trading regions. In a similar vein, the Commission also recognizes the possibility that some sellers may propose a regional price cap for a given trading area, while other sellers in the same trading area may propose to sell to specific buying public utilities under the other price cap option discussed above; a price cap set at the buying public utility's relevant OATT ancillary service rate. The Commission seeks comment on whether this type of overlap should be permitted and, if not, on ways it could be prevented.

39. As discussed earlier, the Commission recognizes that the single-public utility price cap option may best match the geographic limitations associated with Reactive Supply and Voltage Control service. Should the Commission, as a result, exclude Reactive Supply and Voltage Control from the list of ancillary services eligible for a regional price cap proposal, meaning that Reactive Supply and Voltage Control could only be sold under a price cap based on the buying public utility's OATT rate for Reactive Supply and Voltage Control?

40. The Commission proposes to amend its regulations at part 35.38 to provide that either of the OATT-based price caps described above can be proposed as mitigation of potential horizontal market power in ancillary services for those sellers who fail or forego relevant, properly defined market power screens for the ancillary service in question. The Commission preliminarily concludes that either cap could serve as an alternative method of ensuring just and reasonable rates for ancillary services that would, unlike the *Avista* mitigation scheme, permit willing buyers and sellers of ancillary services to transact, and thus provide a means of increasing the supply of needed ancillary services in a timely and cost-effective manner. The Commission seeks comment on its proposal, including whether these price caps will provide an effective mitigation measure as an alternative to imposition of the *Avista* restriction, and how the Commission should address the other questions described above.

b. Competitive Solicitations

41. The NOI also sought comment regarding whether transmission providers' use of open and transparent competitive solicitations could facilitate the provision of ancillary services and ensure just and reasonable rates. The Commission sought comment regarding whether a standardized competitive solicitation process could be developed for particular regions or markets.

42. While commenters are generally supportive of the use of competitive solicitations, some contend that competitive solicitations should not be the only option for mitigating market power concerns because past solicitations for ancillary services have not always produced enough interest to ensure a competitive outcome, and this may continue to be the case for some time to come.[55] WSPP also argues that competitive solicitations are probably impractical for short-notice transactions that would commence within a month or less.[56] However, others appear to suggest that the Commission mandate that all ancillary services be procured through competitive solicitations.[57]

43. The comments on this issue indicate that competitive solicitations may not be appropriate for all transactions and may not be sufficient to mitigate potential market power in the sale of ancillary services in every circumstance. However, this does not mean that competitive solicitations should not be available as an option for mitigating potential market power concerns. The Commission proposes to allow applicants to engage in sales to a public utility that is purchasing ancillary services to satisfy its OATT requirements to offer ancillary services to its own customers where the sale is made pursuant to a competitive solicitation that meets the following requirements.

44. Specifically, the Commission has stated that the following four guidelines help determine if a competitive solicitation process satisfies the principle that no affiliate should receive undue preference during any stage of a request for proposals: (1) Transparency: the competitive solicitation process should be open and fair; (2) definition: the product or products sought through the competitive solicitation should be precisely defined; (3) evaluation: evaluation criteria should be standardized and applied equally to all bids and bidders; and (4) oversight: an independent third-party should design the solicitation, administer bidding, and evaluate bids prior to the company's selection.[58]

45. While the Commission originally issued these guidelines for the purpose of preventing undue affiliate preference, we believe they are also applicable in the context of using competitive solicitations to help mitigate the potential exercise of horizontal market power by sellers of ancillary services. However, even if a solicitation process meets all of these guidelines, it may still fail to attract sufficient numbers of sellers to properly discipline resulting market prices. Accordingly, for purposes of a mitigation proposal applicable to market-based sales of ancillary services, the Commission proposes to require entities filing such a proposal to demonstrate to the Commission that the solicitation attracted sufficient seller interest to properly discipline market prices. This showing would be required in addition to the four criteria listed above. The Commission believes that all of these requirements in combination will protect against horizontal market power and thereby ensure just and reasonable rates. We seek comment on this proposal and encourage commenters to develop ideas for ways in which competitive solicitations can be structured to accommodate near-term transactions.

46. Consistent with the discussion above, the Commission proposes to amend section 35.38 of its regulations to provide the opportunity for public utilities seeking waiver of the *Avista* restriction to rely on competitive solicitations meeting the Commission's requirements for transparency, definition, evaluation, oversight, and adequate seller interest.

B. Resource Speed and Accuracy in Determination of Regulation and Frequency Response Reserve Requirements

47. In addition to exploring potential changes to the Commission's requirements for market-based rate authority discussed above, the NOI also sought comment on whether the various cost-based compensation methods for Regulation and Frequency Response service that exist in regions outside of the current organized markets could be adjusted to address the issues identified in the proceeding that led to the issuance of Order No. 755.[59] In that proceeding, the Commission required changes to compensation mechanisms for Regulation and Frequency Response service in the RTO and ISO markets to ensure that all resources providing service are compensated in a just and reasonable and not unduly discriminatory manner. While acknowledging that the specific reforms ultimately adopted in Order No. 755 would not apply outside of RTOs and ISOs, the NOI questioned whether the underlying goal of better valuing the benefits of faster, more accurate provision of Regulation and Frequency Response service could be achievable in other ways outside of RTOs and ISOs.

48. Specifically, the NOI sought comment on: (1) How a cost-based cap for Regulation and Frequency Response service in the WSPP Agreement[60] could be structured to reflect an individual resource's performance; (2) whether transmission customers that self-supply Regulation and Frequency Response service could be permitted to determine the amount of capacity they procure based on the third-party resource's performance capability; and (3) any other way to extend the goals of the Frequency Regulation Compensation NOPR,[61] which ultimately resulted in Order No. 755, outside of the ISOs and RTOs.

49. Most of the more concrete NOI comments on this issue focus on the second question above: whether transmission customers that self-supply Regulation and Frequency Response

[55] Bonneville Comments at 8–9.

[56] WSPP Comments at 21–22.

[57] ESA Comments at 11–12, PPL Companies Comments at 9, IID Comments at 15, and CAREBS Comments at 6.

[58] *See, e.g., Allegheny Energy Supply Co. LLC,* 108 FERC ¶ 61,082 (2004).

[59] Order No. 755, FERC Stats. & Regs. ¶ 31,324 at P 68 (''faster-responding resources have the potential to lower frequency regulation capacity requirements, thereby improving market efficiencies'').

[60] The WSPP Agreement was initially accepted by the Commission on a non-experimental basis in 1991, and provided for flexible pricing for coordination sales and transmission services. *See Western Sys. Power Pool,* 55 FERC ¶ 61,099, *order on reh'g,* 55 FERC ¶ 61,495 (1991), *aff'd in relevant part and remanded in part sub nom. Environmental Action and Consumer Federation of America* v. *FERC,* 996 F.2d 401, 302 U.S. App. D.C. 135 (D.C. Cir. 1992), *order on remand,* 66 FERC ¶ 61,201 (1994). Prior to 1991, the WSPP Agreement was used for three years on an experimental basis. *See Pacific Gas and Electric Co.,* 50 FERC ¶ 61,339 (1990) (extending the initial two-year period of the WSPP Agreement for an additional year). The WSPP Agreement as it exists today permits sellers of electric energy to charge either an uncapped market-based rate (for public utility sellers, they must have obtained separate market-based rate authorization from the Commission to do this), or an ''up to'' cost-based ceiling rate. For sellers without market-based rate authority, the cost-based rate under the WSPP Agreement consists of an individual seller's forecasted incremental cost plus an ''up to'' demand charge based on the average fixed costs of a subset of the original parties to the WSPP Agreement, so long as the seller can justify the use of this charge based on its own fixed costs. Otherwise, the seller must file a separate stand-alone rate schedule that is cost-justified based on the individual seller's own costs. *See Western Sys. Power Pool,* 122 FERC ¶ 61,139 (2008) (finding that it is not just and reasonable to allow a seller to use the WSPP-wide ''up to'' demand charge as a ceiling rate in markets where the seller does not have market-based rate authority unless such a seller can cost-justify the use of the ''up to'' demand charge based on its own fixed costs). Currently, there are over 300 parties to the WSPP Agreement located throughout the United States and Canada, including private, public and governmental entities, financial institutions and aggregators, and wholesale and retail customers.

[61] *Frequency Regulation Compensation in the Organized Wholesale Power Markets,* FERC Stats. & Regs. ¶ 32,672 (2011) (Frequency Regulation Compensation NOPR). Order No. 755 had not yet issued at the time of the NOI in this proceeding.

service could be permitted to determine the amount of capacity they procure based on the third-party resource's performance capability.[62] Some commenters suggest that customers choosing to self-supply Regulation and Frequency Response service from faster-acting resources should be allowed to self-supply a lower volume of regulation capacity.[63] Powerex suggests that each balancing authority be required to maintain well-defined criteria under which a transmission customer self-providing ancillary service reserves can adjust the level of reserves based on the ramping capability of the resources it uses.[64] Bonneville states that, in such circumstances, the balancing authority should make the determination as to the appropriate level of capacity procurement, not the customer itself.[65]

50. Under the existing requirements of the *pro forma* OATT, each public utility transmission provider is required to provide its transmission customers with the option of self-supplying certain ancillary services, including Regulation and Frequency Response service.[66] This self-supply option has been clear since Order No. 888 and, therefore, public utility transmission providers must be prepared to provide self-supply requirements on request from a transmission customer. However, the Commission to date has not addressed the extent to which such requirements should reflect the characteristics of particular resources being used to provide Regulation and Frequency Response service.

51. The Commission proposes to require that each public utility transmission provider submit provisions for inclusion in its OATT that take into account the speed and accuracy of regulation resources in determining its Regulation and Frequency Response reserve requirements.[67] These provisions must include a description of how the public utility transmission provider would make adjustments to the capacity requirement when a customer opts to self-supply its requirements, including through purchases from third-parties, using resources with speed and accuracy characteristics that differ from the set of resources otherwise being used for Regulation and Frequency Response. This description could include the set of resources the public utility transmission provider uses to provide Regulation and Frequency Response service, indicating the capacity typically set aside from each resource and the ramp rate associated with each resource. The description needs to provide enough detail to allow an entity wishing to self-supply to compare the resources it proposed to use to the resources the public utility transmission provider is using to provide Regulation and Frequency Response service. Presumably, this adjustment could be in either direction: down if the customer self-supplies with faster or more accurate resources or up if it uses slower or less accurate resources.

52. The Commission preliminarily finds that accounting for speed and accuracy in a public utility transmission provider's determination of Regulation and Frequency Response reserve requirements is necessary to address the potential for undue discrimination against customers choosing to self-supply their Regulation and Frequency Response needs, including through purchases from third-parties. The Commission is concerned that a public utility transmission provider could engage in undue discrimination by requiring such customers to procure a different amount of regulation reserves than the particular speed and accuracy characteristics of the resources in question justify. Accordingly, the Commission proposes to amend its regulations at part 35.28 to require that public utility transmission providers amend their OATTs at Schedule 3 (Regulation and Frequency Response Service) to explain how they will take into account the speed and accuracy of regulation resources in determining Regulation and Frequency Response reserve requirements. The Commission acknowledges that each public utility transmission provider has unique needs related to Regulation and Frequency Response reserve requirements and, accordingly, may account for speed and accuracy in different ways. Therefore, the Commission does not at this time seek to mandate a particular methodology but instead expects that it would evaluate each proposed determination relevant to Regulation and Frequency Response reserve requirements on a case-specific basis.

53. The Commission seeks comment on this proposal, including comment on how speed and accuracy can be taken into account in the determination of Regulation and Frequency Response reserve requirements, and the Commission's preliminary conclusion that requiring transparency in the determination of Regulation and Frequency Response reserve requirements will help prevent undue discrimination in the form of public utility transmission providers requiring self-supplying customers to procure a different amount of regulation reserves than the particular speed and accuracy characteristics of the resources in question justify.

54. Further, in consideration of the comments regarding the ability of a customer to self-supply ancillary services, we take this opportunity to remind public utility transmission providers that they are already required to post on their public Web sites all rules, standards, and practices, to the extent they exist, that relate to transmission service. This includes the provision of ancillary services which are necessary to the provision of transmission service. As such, the obligation is clear and we see no need at this time to propose reforms.[68]

C. Accounting and Reporting for Energy Storage Operations

55. Finally, the NOI also asked about the Commission's accounting and reporting requirements for energy storage operations. Comments were sought on what changes, if any, should be made to the Commission's accounting and reporting regulations to provide for energy storage services, assets and operations. Comments were received from public utilities, industry associations, government agencies, and others. As noted in the NOI, the accounting regulations currently found in the USofA and the related reporting

[62] *See, e.g.,* Bonneville Comments at 9–10, California Storage Alliance Comments at 14–19, ESA Comments at 27–28, Powerex Comments, Appendix A at 8, and A123 Comments at 2–4. Other comments included WSPP's suggestion that a rate cap proposal could use the two-part rate design described in the Frequency Regulation NOPR, but WSPP does not provide any details regarding how such a rate design could be structured. WSPP Comments at 26–27.

[63] California Storage Alliance Comments at 14–17; ESA Comments at 27–28.

[64] Powerex Comments, Appendix A at 8.

[65] Bonneville Comments at 10.

[66] *See, e.g.,* Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,716; *pro forma* OATT, Original Sheet Nos. 20–21 and Schedule 3, Original Sheet No. 113.

[67] The Commission acknowledges that each balancing authority is responsible for determining its reserve requirements in order to comply with relevant NERC reliability standards, and that sometimes an individual OATT transmission provider may be its own balancing authority and other times it may be part of a larger balancing authority. The Commission also notes that a new standard, BAL–003–1 (Frequency Response and Frequency Bias Setting), is currently under development by NERC stakeholders and may assign a frequency response obligation to each balancing authority or reserve sharing group and require each balancing authority or reserve sharing group to use an appropriate frequency bias setting in its ACE equation and to achieve an adequate annual frequency response measure. While frequency response is distinguished from frequency regulation by the manner in which it is controlled (*see, e.g.,* Order No. 755, FERC Stats. & Regs. ¶ 31,324 at n.5), this standard may also be relevant to a balancing authority's determination of its overall reserve requirements.

[68] 139 FERC ¶ 61,246.

requirements were developed to capture financial and operational information along traditional primary business functions—production, transmission, and distribution of electric energy.[69] Further, as also noted, energy storage assets can have operating characteristics of each of these functions and some may be capable of performing multiple functions simultaneously.[70] Accordingly, entities using energy storage assets may seek multiple methods of cost recovery for their investments in and use of a single energy storage asset to provide various utility services.[71]

56. Numerous comments were received regarding the need for updating the USofA and Form Nos. 1 and 1–F for the accounting and reporting of public utilities. Most commenters are supportive of making amendments to accommodate energy storage transactions. However, some commenters indicate that the Commission's current accounting and reporting requirements sufficiently accommodate these types of transactions.

57. In general, commenters that support amending the current accounting and reporting requirements indicate that the operating nature of energy storage assets is different from typical electric plant assets. These commenters indicate that energy storage assets can be used to serve multiple purposes—production, transmission, or distribution—whereas traditional electric plant assets only serve one purpose. Consequently, they explain that this difference in capabilities can mandate, in certain cases, that the energy storage assets be accounted for differently than traditional electric plant assets. These commenters indicate that changes to the accounting and reporting requirements are needed to address concerns about the potential for cross-subsidization and double or over-recovery of costs in instances where an energy storage asset is simultaneously included in cost-based and market-based rates. Most of these commenters recommend specific accounting and reporting amendments that could assist with protecting against these concerns and certain other commenters in this group expressed that the concern existed but offered no recommendations. For example, Electricity Consumers did not propose specific accounting changes; however, it indicates that it supports accounting treatments that could enhance cost transparency to protect against double-recovery of costs.[72]

58. Several commenters recommend that the Commission create a new energy storage functional classification with associated plant and operation and maintenance (O&M) expense accounts for energy storage assets and operations. TAPS states that because the functional use of a given energy storage facility may change over time and may not fit neatly into any one existing functional category, and because energy storage facility costs may come to be recovered through storage-specific rate schedules, the only transparent and administratively efficient way to account for energy storage plant costs is by adding new accounts to the USofA.[73] TAPS contends that the overall objective of any changes should be to support either effective cost-based regulation of jurisdictional services provided using energy storage resources, or effective market power monitoring and mitigation.[74] APPA agrees with TAPS' comments.[75]

59. The Public Interest Organizations state that a separate asset class may prove the best way to provide full and comparable treatment for energy storage facilities.[76] NGK/TI argues that a new functional classification is needed because energy storage assets are functionally distinct from traditional production, transmission, and distribution assets and energy storage functions cross-cut these traditional functions.[77]

60. Other commenters recommend that the Commission create new plant and O&M expense accounts within the existing functional classifications of production, transmission, and distribution rather than creating a new functional classification specifically for energy storage. FirstEnergy states that new energy storage technologies may provide transmission, distribution, or production services, and the current USofA adequately provides for facilities and activities that provide these functions. However, FirstEnergy states that the USofA does not provide the necessary accounting transparency for new storage technologies. FirstEnergy recommends that the Commission establish new accounts within the currently established functions to provide additional accounting transparency and detail regarding the plant costs and O&M expenses of energy storage facilities that serve these functions.[78] FirstEnergy states that the accounting should strive for transparency by identifying each type of asset with the primary function it serves and aligning the expenses associated with the asset with the revenues it provides. SDG&E contends that energy storage assets should be classified in the existing classifications as production, transmission, or distribution as determined by the owner of the assets and consistent with the jurisdictional nature of the service that the energy storage device provides.[79]

61. Commenters opposed to amending the current accounting and reporting requirements generally argue that the existing requirements adequately accommodate energy storage technologies. CAREBS asserts that the Commission's goal should be to use, where possible, existing accounting methods rather than invent new ones. SolarReserve argues that because many sales of ancillary services would be made under sellers' market-based rate authority, the sellers would have waivers of the accounting and reporting requirements at issue here.[80] Thus, in SolarReserve's opinion, there is no need to amend the Commission's accounting and reporting requirements.

62. California Storage Alliance and ESA indicate that if the Commission decides against creating new energy storage plant accounts and instead proposes to use existing plant accounts to account for energy storage resources, there would need to be changes to existing plant accounts to better capture energy storage plant costs. In this instance, California Storage Alliance and ESA recommend that the Commission revise the instructions of current plant accounts to explicitly include energy storage resources.[81]

63. Responding to concerns about the potential for cross-subsidization in instances where an energy storage resource simultaneously provides multiple services under cost-based and market-based cost recovery mechanisms, EEI reasons that the Commission's current policies can address concerns of cross-subsidization. EEI states that a jurisdictional entity should separately account for services sold under cost-based rates and those that are sold under market-based rates to prevent unfair market advantages through subsidization.[82] Further, EEI

[69] NOI, 135 FERC ¶ 61,240 at P 25.

[70] *Id.*

[71] *Id.*

[72] Electricity Consumers Comments at 8.

[73] TAPS Comments at 13.

[74] *Id.* at 12.

[75] APPA Comments at 7.

[76] Public Interest Organizations Comments at 12.

[77] NGK/TI Comments at 10.

[78] FirstEnergy Comments at 5.

[79] SDG&E Comments at 4.

[80] SolarReserve Comments at 5.

[81] California Storage Alliance Comments at 29; and ESA Comments at 36.

[82] EEI Comments at 10.

states that if an energy storage device is providing a transmission service then it should be accounted for based on its primary use when it was initially placed in service.[83] California PUC makes a similar argument indicating that the energy storage device should be accounted for based on its intended use within a project.

64. EEI and other commenters also argue that energy storage technologies are in an early stage of the technology and that the Commission should wait before implementing new accounting or reporting requirements for energy storage assets. California PUC asserts that due to the complexity of the technologies and their multiple potential uses, to avoid disruption of the existing functional classification system the Commission should use a case-by-case exception approach to determine the appropriate classification.[84]

1. Proposed Accounting Requirements

65. While the Commission's accounting and reporting requirements associated with the USofA do not dictate the ratemaking decisions of this Commission or State Commissions, these accounting and reporting requirements nevertheless support the rate oversight needs of both this Commission and State Commissions. Accordingly, the Commission strives to ensure that its accounting and reporting requirements keep pace with the evolution of the electric industry. As the industry has evolved, the Commission has relied on its accounting and reporting requirements applicable to existing public utilities [85] (i.e., principally investor-owned utilities) to obtain information about an entity's financial condition and results of operations. This information is important in developing and monitoring rates, making policy decisions, compliance and enforcement initiatives, and informing the Commission and the public about the activities of entities that are subject to these accounting and reporting requirements.[86]

66. The Commission has required public utilities to continue to prepare their financial statements in accordance with the accounting requirements of the USofA, as it can accommodate most transactions and events affecting these entities. Under the Commission's accounting and reporting requirements, public utilities must record and classify electric plant assets in the prescribed primary plant accounts based on the purpose served or use of the asset to produce, transmit, or distribute electric energy. In addition, public utilities must also record and classify O&M expenses related to such plant assets based on the specific activity the efforts support. The electric plant assets and related O&M expenses must be reported in annual and quarterly Form Nos. 1, 1–F, and 3–Q reports that are maintained in accordance with the accounting requirements of the USofA.

67. As stated in the NOI, the roles of traditional production, transmission, and distribution assets are generally well understood and each has established method(s) of accounting and reporting; however, the same is not necessarily true of energy storage assets which can operate in ways that resemble production, transmission, and/or distribution.[87] Moreover, it may be possible for some energy storage assets to provide some combination of production, transmission, and distribution services simultaneously. Accordingly, public utilities using energy storage assets may seek multiple methods of cost recovery for their investments in, and use of, the assets to provide various utility services.[88] Consequently, due to the potential to use certain energy storage technologies to provide multiple services and the possibility that a public utility could simultaneously recover costs under both cost-based and market-based rates, the Commission sought comment in the NOI on whether current accounting and reporting requirements for activities and costs for the operation of energy storage resources provide sufficient transparency.

68. After analyzing all comments received and considering the Commission's informational needs, the Commission has determined that the current accounting and reporting requirements do not provide sufficiently transparent information on the activities and costs of new energy storage operations. Consequently, the Commission proposes to amend the USofA and Form Nos. 1, 1–F, and 3–Q to provide financial and operational information on energy storage assets.

69. The Commission proposes to add new electric plant and O&M expense accounts to record the installed cost and operating and maintenance cost of energy storage assets and a new account to record the cost of power purchased for use in energy storage operations. In addition, the Commission proposes to amend the Form Nos. 1, and 1–F to include the new accounts and amended schedules to report statistical and operational information on energy storage operations. Further, the Commission proposes to amend a schedule of the Form No. 3–Q to include the proposed new account to record the cost of power purchased for use in energy storage operations. The Commission seeks comment on these proposed amendments, including whether the proposed changes will provide sufficiently transparent information on the activities and costs of new energy storage operations.

70. Numerous commenters responding to the NOI indicate that the Commission's current accounting and reporting requirements for new energy storage assets are not sufficiently transparent. Many of these commenters suggest that the Commission address this matter by either creating new plant and O&M expense accounts to specifically account for energy storage assets and operations in the existing functional classifications of production, transmission, and distribution, or creating a new separate functional classification for energy storage operations and new associated energy storage plant and O&M expense accounts. While both options would satisfy the Commission's and the public's need for detailed and transparent financial and operation information on public utilities' use of energy storage resources to provide jurisdictional services, the latter option is unnecessary because the existing functional classifications can adequately support energy storage operations. Furthermore, creating a new functional classification does not provide additional benefits compared to creating new accounts within existing classifications. Our proposed amendments to the Form Nos. 1 and 1–F would require utilities with energy storage operations to report detailed financial and operation information on energy storage assets and activities in new schedules for all functions.[89] Thus, using existing functional classifications provides the same level of transparency as would creating a new functional class.

71. Moreover, the Commission understands that the energy storage industry continues to evolve, and as some commenters observe, the use of energy storage resources in large-scale

[83] *Id.*

[84] California PUC Comments at 7.

[85] The term ''public utility'' means any person who owns or operates facilities subject to the jurisdiction of the Commission under the Federal Power Act. 18 CFR part 101 (2011) (Definition No. 29).

[86] Applicants for market-based rate authority that do not sell under cost-based rates frequently seek and typically are granted waiver of many or all of these requirements.

[87] NOI, 135 FERC ¶ 61,240 at P 25.

[88] *Id.*

[89] See, discussion of proposed amendments to Form Nos. 1 and 1–F at PP 101–106.

public utility operations is at an early stage of development. However, commenters recommending that the Commission wait until the industry is more mature before imposing any accounting and reporting requirements for energy storage assets and operations disregard the current need for certainty in the accounting and reporting treatment for energy storage resources and operations. Uniform, transparent and consistent reporting of information on energy storage operations by public utilities is essential, especially by those seeking to recover costs of energy storage services in cost-based rates. This need for information is heightened by the chance that public utilities could seek to simultaneously recover service costs under cost-based and market-based rate mechanisms using a single energy storage asset.[90]

72. Transparency improvements achieved through revisions to the existing accounting and reporting requirements will enhance the Commission's and other form users' ability to make a meaningful assessment of a utility's cost of service and rates. Further, this will enable the Commission and others to better monitor for cross-subsidization. The overarching purpose of these proposed accounting and reporting amendments is to provide useful financial and operational information to regulatory agencies and other users of public utilities' financial statements by establishing uniform accounting and reporting requirements for energy storage assets and operations.

73. The Commission endeavors to achieve a balance between the benefits of revising its accounting and reporting regulations and the imposition of any additional burden on utilities. Information that would be reported for energy storage assets and operations differs little from other data public utilities maintain under the USofA. If a utility owns and operates these energy storage assets, reporting information on them in the proposed accounts and FERC form schedules should not be burdensome. Requiring utilities to classify and account for energy storage assets and operations under existing functional classifications rather than a new one addresses the Commission's and the public's need for detailed and transparent information and lessens the implementation burden on public utilities and licensees subject to Commission accounting and reporting requirements.

74. SolarReserve argues that the accounting and reporting requirements should not be amended because many sales of ancillary services would be made under the sellers' market-based rate authority. This argument is unconvincing. While public utilities using energy storage resources that are granted market-based rate authority by the Commission may seek waivers of the accounting and reporting requirements at issue here, there are instances when public utilities may not seek or fail to be granted waiver of the requirements. Additionally, previously granted waivers may be rescinded where a seller is found to have market power (or where the seller accepts a presumption of market power) and the seller proposes cost-based rate mitigation or the Commission imposes cost-based rate mitigation. Also, public utilities seeking to only recover storage costs under cost-based rates will be subject to these accounting and reporting requirements.

75. Furthermore, in instances where public utilities seek to simultaneously recover costs under cost-based and market-based rates, the Commission proposes that the entities be required to account for and report their operations in accordance with the Commission's accounting and reporting requirements to facilitate development and monitoring of the cost-based portion of the rates. In addition, we propose that public utilities currently providing jurisdictional services and recovering costs of the services under market-based rates that have been granted waiver of the accounting and reporting requirements that seek recovery of a portion of service costs under cost-based rates, be required to forego the previously issued waiver and account for and report all cost and operational information to the Commission in accordance with its accounting and reporting requirements. In this instance, public utilities would be required to account for and report costs sought to be recovered on a cost-based and market-based basis. We seek comment on these proposals. Also, we seek comment on whether there should be a percentage of cost recovery threshold[91] or other determining factor that triggers the accounting and reporting obligations in this situation, or should any instance of multiple cost recovery, regardless of the percentage of a utility's total costs, trigger the accounting and reporting obligations. If a percentage threshold should apply, we seek comment with supporting rationale on what would be an appropriate threshold percentage.

76. Except as discussed above, the proposed amendments to the accounting and reporting regulations are not intended to affect the Commission's policy on market-based rate authority as provided in Order No. 697 or its historical practice of granting waiver of the accounting and reporting regulations of 18 CFR parts 41, 101, and 141 to certain entities with market-based rate authority. In Order No. 697, the Commission concluded that the costs of complying with the USofA requirements and, specifically Parts 41, 101, and 141 of the Commission's regulations, outweigh any incremental benefits of such compliance where the seller only transacts at market-based rates.[92] These proposed accounting and reporting rules do not change that conclusion. However, the Commission notes that entities authorized to make market-based rate sales, irrespective of accounting or other waivers, must file electric quarterly transaction reports regarding their transactions pursuant to Order No. 2001.[93]

77. At this time, the proposed accounting and reporting rules do not impose additional accounting or reporting requirements for hydroelectric pumped storage plant. The existing accounting and reporting standards use subaccounts for pumped storage under the functional classification of production, which is the only Commission-approved jurisdictional use of pumped storage to date. While the Commission has no basis to believe it is impossible to use large-scale pumped storage technologies to perform transmission or distribution functions as well, to date, no pumped storage developer has successfully demonstrated such a non-''production'' use to the Commission. This stands in contrast to the track record for smaller-scale energy storage technologies, where one battery developer has successfully

[90] The Commission has not to date received any proposals from public utilities that simultaneously seek to recover costs under cost-based and market-based rate mechanisms using a single energy storage asset, but the Commission remains open to innovative solutions and will evaluate proposals on a case-by-case basis.

[91] For example, a public utility with 90 percent of its service costs recovered under market-based rates and the remaining 10 percent recovered under cost-based rates.

[92] Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 985.

[93] *Revised Public Utility Filing Requirements,* Order No. 2001, FERC Stats. & Regs. ¶ 31,127 (2002), *reh'g denied,* Order 2001–A, 100 FERC ¶ 61,074 (2002), *reh'g denied,* Order No. 2001–B, 100 FERC ¶ 61,342 (2002), *order directing filings,* Order No. 2001–C, 101 FERC ¶ 61,314 (2002), *order directing filings,* Order No. 2001–D, 102 FERC ¶ 61,334, *order refining filing requirements,* Order No. 2001–E, 105 FERC ¶ 61,352 (2003), *clarified,* Order No. 2001–F, 106 FERC ¶ 61,060 (2004), *order on reh'g,* Order No. 2001–G, 120 FERC ¶ 61,270 (2007), *order on reh'g,* Order No. 2001–H, 121 FERC ¶ 61,289 (2007), *order revising filing requirements,* Order No. 2001–I, FERC Stats. & Regs. ¶ 31,282 (2008).

supported a non-production, transmission use for its project.[94] The Commission remains open to future additions of pumped storage subaccounts to the transmission and distribution functions if appropriate, but at this time the Commission believes that the assets and operations of this pumped storage equipment are sufficiently accounted for by the existing FERC accounts and schedules of the Form Nos. 1, 1–F and 3–Q.[95]

a. Electric Plant Accounts

78. The existing primary plant accounts do not explicitly provide for recording the original cost of energy storage assets. This can lead to inconsistent accounting and reporting for these assets by utilities subject to the accounting and reporting requirements, making it difficult for the Commission and others to determine costs related to energy storage assets for cost-of-service rate purposes. In addition, the lack of transparency affects interested parties' and including the Commission's ability to monitor these companies operations to prevent and discourage cross-subsidization between cost-based and market-based activities.

79. To provide more transparency for the costs of energy storage assets, as well as to address the possibility of inconsistent accounting and reporting, we propose creating a new electric plant account and amending two existing electric plant accounts to record the installed cost of energy storage equipment owned by public utilities and licensees. Specifically, we propose a new account within the production functional classification and amending existing accounts within the transmission and distribution functional classifications.

80. The proposed plant account would be Account 348, Energy Storage Equipment—Production, and the accounts we propose to amend are existing Account 351, [Reserved], and Account 363, Storage Battery Equipment. Account 351 is a reserve account and is not currently being used. The Commission proposes to rename Account 351 as Energy Storage Equipment—Transmission. The current instructions of Account 363 provides for the inclusion of the cost of storage battery equipment used for the purpose of supplying electricity to meet emergency or peak demands. The Commission proposes to amend the instructions of Account 363 to expand the type of energy storage assets that can be recorded in the account and to recognize the unique operating characteristics of energy storage assets, which may provide services other than only supplying electricity.[96] In addition, we also propose to rename Account 363 as Energy Storage Equipment—Distribution.

81. The Commission proposes that the instructions to the accounts provide for recording the cost of installed energy storage assets based on the function or purpose the equipment serves. Further, we propose that in instances where an energy storage asset is used to perform more than one function or purpose, the cost of the asset shall be allocated among production, transmission, and distribution plant based on the services provided by the asset and the allocation of the asset's cost through cost based rates approved by a relevant regulatory agency, federal or state. For example, if a relevant State Commission under its own retail rate-setting authority approves the recovery of 25 percent of the cost installed of the storage device through the distribution component of retail rates, then we would expect 25 percent of the cost installed of the asset to be allocated to distribution plant for accounting and reporting purposes and we would expect distribution-related O&M and other accounting and reporting entries to likewise match relevant decisions made in the State Commission rate proceeding. If other portions of the cost installed are also approved for inclusion in cost-based rates at either a state or federal level, then the relevant decisions in those state or federal proceedings would apply to accounting and reporting entries as well. The Commission seeks comments on these aspects of our proposal.

82. Additionally, the Commission proposes that the original cost of an energy storage asset and other amounts associated with the original cost of the asset (*e.g.,* accumulated depreciation expenses and accumulated deferred income taxes) initially allocated to specific FERC accounts and later reallocated to other FERC accounts based on services provided by the asset and cost recovery be accounted for in accordance with Electric Plant Instruction No. 12, Transfers of Property.[97] Accordingly, we propose that if the costs of an energy storage asset are included in the development of cost-based rates, then the same allocation of costs the primary rate-setting body used for rate development will also be used to allocate the original cost of the energy storage asset among the various functions for accounting and reporting purposes. The Commission seeks comment on these proposals, including the accounting for the transfer of costs associated with an energy storage asset from one functional classification to another. Finally, we propose that the cost of energy storage assets be charged to depreciation expense using the depreciation rates developed for each function.

83. Since some energy storage equipment may perform multiple functions on the grid, we propose that public utilities be required to maintain records identifying the types of functions each individual energy storage asset supports and performs.

84. Additionally, the Commission proposes that costs to install energy storage equipment, along with power purchased or internally generated to energize the equipment to prepare it for service, be capitalized as a component cost of the equipment on the first installation only. This includes costs associated with power purchased and internally generated to test the equipment in preparation for utility service prior to it becoming ready for or placed in service.[98] Further, we propose that earnings resulting from revenue received or earned for energy storage operations during test runs be credited to the cost of construction of the project.[99]

85. Certain energy storage assets are capable of being moved from one location to another. These mobile assets are suitable for a wide range of applications, including emergency power and reliability, among other uses. Labor, materials and other costs are associated with moving these energy storage assets from one location to another location, resetting and preparing them to provide service, and purchasing or self-generating power to reenergize the assets. We propose that any costs incurred to remove, relocate, reset or reenergize an energy storage asset after it was first placed into utility service would not be chargeable to the energy storage equipment accounts as a cost component of the energy storage asset. Instead, the Commission proposes that such costs be accounted for as a

[94] *See Western Grid Development, LLC,* 130 FERC ¶ 61,056, *reh'g denied,* 133 FERC ¶ 61,029 (2010) (*Western Grid*).

[95] *See* FERC Account Nos. 330–337 and 535–545.1, 18 CFR part 101 (2011); and Form Nos. 1, 1–F, and 3–Q, 18 CFR part 141 (2011).

[96] For example, as a distribution resource recorded in the account the asset could assist with voltage regulation which may require it to absorb electricity rather than only supply it at times.

[97] 18 CFR part 101 (2011).

[98] *See* Electric Plant Instruction No. 9(D), Equipment, 18 CFR part 101 (2011).

[99] *See, e.g.,* Electric Plant Instruction No. 3(A)(18), Earnings and Expenses During Construction, 18 CFR Part 101 (2011).

production, transmission, or distribution expense based on the services provided by the energy storage asset and recovery of the asset's cost through rates, in the accounts that follow.[100]

86. The Commission proposes requiring that expenses other than power expenses for removing, relocating or resetting energy storage plant serving a production function be charged to Account 548.1, Operation of Energy Storage Equipment, and Account 553.1, Maintenance of Energy Storage Equipment. We propose requiring that expenses other than power expenses for removing, relocating or resetting energy storage plant serving a transmission function be charged to Account 562.1, Operation of Energy Storage Equipment, and Account, 570.1, Maintenance of Energy Storage Equipment. Also, we propose requiring that expenses other than power expenses for removing, relocating or resetting energy storage plant serving a distribution function be charged to Account 582.1, Operation of Energy Storage Equipment, and Account 592.2, Maintenance of Energy Storage Equipment.

87. Finally, the Commission proposes that costs incurred to purchase or internally generate power to reenergize an energy storage asset after it was first put into service be charged as a current operating cost in the appropriate expense accounts for recording such costs, including the proposed purchased power account discussed below. The Commission seeks comment on its proposals regarding electric plant accounts and whether the proposed changes adequately provide for recording the cost of new energy storage technologies and the development of cost of service rates.

b. Power Purchased and Fuel Supply Expense Accounts

88. To provide some electrical services, energy storage devices may need to maintain a particular state of charge, or as in the case of compressed air facilities, may need to maintain some minimum pressure. To maintain the desired state of charge or pressure some companies may be required to purchase power in retail or wholesale markets to energize their energy storage devices and other companies may internally generate power. In the NOI, the Commission asked about the accounting for the cost of power, fuel and other direct costs incurred in energy storage operations. Specifically, the Commission asked about accounting for the cost of (1) power purchased and stored for resale; (2) power purchased that will not be resold but instead consumed in operations during the provisioning of services; (3) power purchased to sustain a state of charge; (4) power purchased to initially attain a state of charge; and (5) fuel or other direct costs incurred to internally generate power.[101]

89. California Storage Alliance and ESA recommend that a new expense account entitled ''Power Purchased for Storage Operations'' be created to account for items 1–3 above. They indicate that the account could also be used to account for item 4 if the costs are expensed as incurred; otherwise, they recommend that the costs be capitalized in the total cost of the storage resource.[102] California Storage Alliance states that a benefit of having a separate account for power purchased for energy storage operations is that energy storage operating costs, which are organized on a plant level, can be distinguished from traditional utility power purchases and exchanges of electricity, which are organized on a company level.

90. As stated above, the Commission proposes that item 4 and 5 costs of power purchased or internally generated to initially attain a state of charge in preparation for service prior to the equipment being ready for or placed in service be capitalized as a component cost of the equipment. Additionally, we propose that item 5 costs incurred later be expensed as incurred and accounted for as an expense of the accounting period. Regarding items 1–3, the Commission agrees with California Storage Alliance that there is a benefit to having the cost of power purchased for energy storage operations reported separate from other power purchases. This accounting is expected to enhance the transparency of reported cost, which is consistent with the goals of this proposed rulemaking. However, we do not agree with California Storage Alliance's recommendation that power purchased for energy storage operations be accounted for and reported at the individual plant level.

91. California Storage Alliance did not discuss this idea in any detail. It is not clear that information is needed to be reported at the individual plant level for rate development, transparency, or any other purposes. Consequently, rather than proposing that power purchased for energy storage operations be accounted for at the individual plant level, the Commission proposes that the cost of power purchased for energy storage operations be accounted for at the company level in new Account 555.1, Power Purchased for Storage Operations. In that case, companies with multiple energy storage plant assets will record the costs of all power purchased for energy storage operations in one account similar to the procedures used to account for power purchased for other purposes that are currently recorded in Account 555, Purchased Power. However, we also propose that companies maintain records of costs associated with operation of a particular energy storage asset as required by 18 CFR part 125.

92. Further, the Commission proposes that the instructions to Account 555.1 shall be the same as those of Account 555 with an additional instruction requiring the cost of power purchased and consumed or lost in energy storage operations during the provisioning of services be recorded in the new account.[103]

93. In regards to item 5 above, California Storage Alliance and ESA recommend that the cost of fuel incurred to internally generate power for use in energy storage operations be recorded in a new account entitled ''Storage Fuel'' and other direct costs incurred in such operations be recorded in new accounts entitled ''Operation of Electric Storage Equipment'' and ''Maintenance of Electric Storage Equipment.'' [104] California Storage Alliance and ESA do not explain the benefit of recording the cost of fuel for this purpose in a new account. While this accounting may enhance transparency to some extent, existing fuel accounts can adequately support recording the costs of fuel used in energy storage operations.

94. Generating companies currently account for fuel costs in FERC accounts by the method of production (i.e., steam, nuclear, hydraulic, or other). Recording fuel cost to a new storage fuel account would require these companies to calculate the amount of their total fuel costs to be allocated to energy storage operations. This data may best be reported in a new or existing schedule of the Form Nos. 1 and 1–F rather than in a new storage fuel account. California Storage Alliance and ESA's

[100] These proposed energy storage O&M expense accounts are discussed in more detail below at section 1(c).

[101] NOI, 135 FERC ¶ 61,240 at PP 38–44.

[102] California Storage Alliance Comments at 32–34; ESA Comments at 39–41.

[103] For example, purchased power may be consumed or lost during the conversion process where electric energy is received from the grid, stored as another form of energy and later transmitted to the grid as electric energy.

[104] California Storage Alliance Comments at 34 and 37; ESA Comments at 41 and 45.

recommended O&M expense accounts are discussed in the next section.

c. Operation and Maintenance Expense Accounts

95. As previously indicated there are O&M expenses related to the use of these energy storage assets to provide utility services and there are no existing O&M expense accounts in the USofA specifically dedicated to accounting for the cost of energy storage operations. EEI comments that, as it relates to the transmission function, the current O&M expense accounts would adequately provide for recording expenses associated with operation and maintenance of energy storage assets.[105] The Commission agrees that there are some existing O&M expense accounts that can adequately support energy storage-related operation and maintenance activities. We also believe current O&M expense accounts for the production and distribution functions can provide for recording some energy storage-related expenses. However, the operations and maintenance of certain energy storage assets may differ from conventional assets.[106] Further, some existing O&M expense accounts may not be well suited to record the cost of certain activities associated with energy storage operations.[107] To the extent that there are activities and associated costs of energy storage operations that are not specifically provided for in the existing O&M expense accounts, there is a need for accounts to report the costs.

96. California Storage Alliance and ESA recommended that all energy storage-related O&M expense costs be recorded in new accounts entitled ''Operation of Electric Storage Equipment'' and ''Maintenance of Electric Storage Equipment.'' However, aggregating all of the O&M costs for energy storage into two accounts reduces the transparency of the amounts reported, which is contrary to the purpose of the rulemaking. Further, because certain costs of energy storage operations can be adequately accounted for in the existing O&M expense accounts the costs should be reported there in accordance with the instructions of the accounts. Consequently, the Commission proposes that companies record energy storage-related O&M expenses in the existing O&M expense accounts according to the nature of the expense to the extent that the account adequately supports recording of the cost.

97. For energy storage-related O&M expenses that are not specifically provided for in the existing O&M expense accounts the Commission proposes that such costs be recorded in Account 548.1, Operation of Energy Storage Equipment, and Account 553.1, Maintenance of Energy Storage Equipment, for energy storage plant classified as production; Account 562.1, Operation of Energy Storage Equipment, and Account 570.1, Maintenance of Energy Storage Equipment, for energy storage plant classified as transmission; and Account 582.1, Operation of Energy Storage Equipment, and Account 592.2, Maintenance of Energy Storage Equipment, for energy storage plant classified as distribution.

98. The Commission proposes that the instructions of the accounts provide for the inclusion of the cost of labor, materials used and expenses incurred in the operation and maintenance, as appropriate, of energy storage equipment, to the extent that the costs are not appropriately recorded in other O&M expense accounts. Furthermore, we propose that Accounts 592, Maintenance of Station Equipment (Major only), and 592.1, Maintenance of Structures and Equipment (Nonmajor only), be revised such that the accounts do not include O&M expenses related to energy storage operations. Additionally, we propose that the instructions of these accounts be revised to remove the reference to Account 363. The Commission seeks comment on its proposal, including whether the operations of certain energy storage assets differ enough from conventional assets or maintenance activities to require the proposed revisions.

d. No New Revenue Accounts

99. In the NOI, the Commission asked whether new revenue accounts should be created or existing revenue accounts used to account for revenue associated with energy storage operations. The Commission also asked whether all revenues for energy storage operations should be recorded in a single revenue account: Account 456, Other Electric Revenues. Most commenters oppose recording all revenues associated with energy storage operations in a single account because it would not provide sufficient transparency as to the relation of the revenue to a particular service provided. Some commenters argue that new revenue accounts were needed to account for revenues generated using energy storage assets.[108] These commenters generally argue that the existing revenue accounts do not provide sufficient transparency. However, commenters opposed to creating new revenue accounts argue that production, transmission, and distribution services currently have adequate revenue accounts, and energy storage technologies will simply comprise a component of those services. These commenters contend that revenue derived from the use of energy storage assets will originate from the same type of activities associated with revenue derived from the use of traditional utility assets.[109] They argue that the type of resource used to provide the service does not change the accounting for the associated revenue.

100. The Commission agrees with commenters who contend that the existing revenue accounts sufficiently provide for accounting for revenue associated with using energy storage assets. We also agree that revenues associated with the use of energy storage assets will originate from the same type of activities associated with revenue derived from the use of traditional utility assets. The current revenue accounts provide for recording revenue based on sales of electricity and other products and services by type of customer, product, or service. Revenue derived from the operation of energy storage assets will originate from one or more of these items. Commenters recommending new accounts have not identified new revenue streams that may require different accounting. As such, the Commission does not propose new revenue accounts for energy storage. Companies using energy storage assets to provide utility service must record revenues associated with use of the assets in existing revenue accounts in accordance with the instructions of the accounts, as appropriate.

[105] EEI Comments at 12. EEI indicated that in instances where energy storage assets provide a transmission function, the following O&M accounts associated with transmission can be used: Accounts 560, 561.5, 561.8, 562–564, 566–576.

[106] For example, the procedures and practices involving repair of a flywheel that serves a transmission function may not be the same as the procedures and practices involving repair of a transmission line.

[107] For example, certain O&M expenses for generator equipment used in storage operations that serves a transmission function are not well suited for recording in existing transmission O&M expense accounts. Such expenses are the type of expenses that would typically be incurred in production operations; however, because the generator equipment serves a transmission function, the nature of the expense is not production. In such cases, the O&M expenses for generator equipment should be recorded as a transmission expense using the appropriate energy storage equipment transmission O&M expense account.

[108] *See, e.g.,* TAPS Comments at 17–18; BrightSource Comments at 7; and Viridity Comments at 4.

[109] *See, e.g.,* California Storage Alliance Comments at 34; ESA Comments at 42; and FirstEnergy Comments at 5.

2. Proposed New and Amended Form Nos. 1, 1–F, and 3–Q Schedules

101. The Form Nos. 1, 1–F, and 3–Q have schedules that include a basic set of financial statements: Comparative Balance Sheet, Statement of Income and Retained Earnings, Statement of Cash Flows, and the Statement of Comprehensive Income and Hedging Activities. Supporting schedules with supplementary information are filed, including revenues and the related quantities of products sold or transported; account balances for O&M expenses; selected plant cost and operational data; and other information. The Form No. 1 provides schedule pages 408–409, Pumped Storage Generating Plant Statistics (Large Plants), and pages 410–411, Generating Plant Statistics (Small Plants) to report, among other items, operational information on pumped storage plants. These are the only schedules that provide for reporting information on energy storage and these schedules do not provide for reporting information on new types of energy storage assets such as batteries and flywheels, or allow any possibility of treating pumped storage plants as anything other than generating assets.

102. Several commenters responded to the NOI's inquiry about whether the Form Nos. 1 and 1–F should be amended to capture data on energy storage assets and operations. Commenters recommend that certain existing schedules be revised to include energy storage assets and a new schedule be created to report operational and statistical data on the assets.[110] The primary difference among the recommendations is the amount of detail proposed for inclusion in the new schedule.

103. Some commenters recommend that the schedule include all input items that are included in the total amount of O&M expenses for an energy storage asset, similar to how O&M expenses and plant information are currently required to be reported in schedule pages 408–409 of the Form No. 1.[111] In contrast, other commenters propose that the information be presented at a higher, aggregated, level with only total operation and total maintenance expense for energy storage operations reported in the schedule. The Form No. 1 provides schedule pages 408–409 for reporting detailed plant and O&M expense information on generating plants that are considered ''large'' and less detailed plant and cost information on generating plants that are considered ''small'' in schedule pages 410–411, Generating Plant Statistics (Small Plants). According to the instructions of these schedules, the specific schedule a utility must use to report its plant statistics and certain associated costs is determined by the installed capacity of the unit. Generating units with 10,000 kilowatts or more of installed capacity will generally report this information in schedule pages 408–409.[112] While this kilowatt threshold may be an appropriate measure of information reporting requirements for traditional generating plants, it may not be appropriate for new energy storage assets that in many instances will be rated below 10,000 kilowatts. Consequently, the Commission seeks comment on what would be an appropriate kilowatt threshold for requiring utilities to report more detailed plant and cost information for energy storage plant.

104. The Commission proposes to add two new schedules to the Form Nos. 1 and 1–F to report statistical and cost data on energy storage plant. One schedule will require more detailed information than the other to lessen the reporting burden on companies with small energy storage operations. We preliminarily propose that 10,000 kilowatts be the threshold for determining whether a filer reports more detailed information in proposed schedule pages 414–417, Energy Storage Operations (Large Plants), or less detailed information in proposed schedule pages 419–421, Energy Storage Operations (Small Plants). We propose that the following information be reported on pages 414–417 in the proposed schedule: (1) Megawatts (MW) purchased, MW delivered to the grid to support production, transmission, or distribution operations, MW lost during conversion and discharge of energy, and MW sold; (2) Account No. 555.1, Power Purchased for Storage Operations; (3) cost of fuel used in energy storage operations; (4) revenue from the sale of stored energy by revenue account; (5) other energy storage-related cost incurred; (6) cost of energy storage plant recorded in Accounts 101, 103, 106, and 107 by actual or expected functional classification; (7) operation and maintenance expenses associated with each function; and (8) name and location of energy storage plant, by project, and functional classification.

105. Additionally, we propose that the following information be reported on pages 419–421 in the proposed schedule: (1) Cost of plant; (2) operation expenses excluding fuel; (3) maintenance expenses; (4) cost of fuel used in energy storage operations; (5) Account No. 555.1, Power Purchased for Storage Operations; (6) other energy storage-related cost incurred; and (7) name and location of energy storage plant, by project, and functional classification.

106. Finally, we propose to amend several schedules of the Form Nos. 1 and 1–F to include the proposed energy storage plant, purchased power and O&M expense accounts discussed above, and schedule page 397, Amounts Included in ISO/RTO Settlement Statements, of the Form No. 3–Q to include the proposed purchased power account.[113] The Commission seeks public comment on each of the proposals discussed above, including whether the proposed changes will provide sufficiently transparent information on the activities and costs of new energy storage assets and operations.

III. Information Collection Statement

107. The collections of information below for this proposed rule have been submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the Paperwork Reduction Act of 1995.[114] OMB's regulations require approval of certain information collection requirements imposed by agency rule.[115] The Commission solicits comments on its need for this information, whether the information will have practical utility, the accuracy of burden and cost estimates, ways to enhance the quality, utility, and clarity of the information to be collected or retained, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques.

Burden Estimate and Information Collection Costs: The additional estimated annual public reporting burdens and costs for the requirements in this proposed rule are as follows.

[110] *See, e.g.,* California Storage Alliance Comments at 41; ESA Comments at 49; and TAPS Comments at 16.

[111] *See, e.g.,* California Storage Alliance Comments at 39–42; and ESA Comments at 47–50.

[112] The 10,000 kW threshold is currently applied to gas-turbine, internal combustion, nuclear, and conventional hydro and pumped storage plants. There is a separate 25,000 kW threshold for steam plants (e.g., coal, oil).

[113] *See* Appendix B Proposed Amendments to Form Nos. 1, 1–F and 3–Q.

[114] *See* 44 U.S.C. 3507(d).

[115] 5 CFR 1320.11 (2011).

[116] The Form No. 3–Q estimate is one hour since the information is already collected and will only require a minor separation of costs.

[117] The burden in Year 1 is 1,320 hrs. The average annualized burden over Years 1–3 is 440 hr. (1,320/3).

Data collection	Number of respondents (a)	Change in the number of hours per filing (b)	Filings per respondent per year (c)	Change in the total annual hours for this collection (a × b × c=d)	Estimated annual cost (at $120/hr.) (d × $120/hr.) ($)
Form No. 1	210	6	1	1,260	151,200
Form No. 1–F	5	6	1	30	3,600
Form No. 3–Q	213	[116] 1	3	639	76,680
FERC–917 [includes 18 CFR 35.28 pro forma open-access transmission tariff (OATT)].	132	10	1	440 averaged over Years 1–3 [1320 in Year 1].	[117] 52,800
FERC–717 [includes OASIS & posting data on self-supply ancillary services].	176	2	1	352	42,240
FERC–919 [includes '20 percent screen'].	155	7	1	1,085	130,200
Total				3,806 (averaged over Years 1–3)	456,720

Titles: FERC Form No. 1, ''Annual Report of Major Electric Utilities, Licensees, and Others;'' FERC Form No. 1–F, ''Annual Report for Nonmajor Public Utilities and Licensees;'' FERC Form No. 3–Q, ''Quarterly Financial Report of Electric Utilities, Licensees and Natural Gas Companies;'' FERC–917, ''Non-discriminatory Open Access Transmission Tariff,'' FERC–717, ''Standards for Business Practices and Communication Protocols for Public Utilities,'' and FERC–919, ''Electric Rate Schedule Filings: Market Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities.''

Action: Proposed revisions to information collections.

OMB Control Nos.: 1902–0021 (FERC Form No. 1); 1902–0029 (FERC Form No. 1–F); 1902–0205 (FERC Form No. 3–Q); 1902–0233 (FERC–917), 1902–0173 (FERC–717); and 1902–0234 (FERC–919).

Respondents: Public utilities, FERC licensees, and public utility transmission providers.

Frequency of responses: Annually (FERC Form Nos. 1 and 1–F); quarterly (FERC Form No. 3–Q); and as needed (FERC–917, FERC–717, and FERC–919).

Necessity of the Information: The proposed rule would amend the Commission's regulations to reflect changes occurring in the electric industry due to the availability of new energy storage technologies that can be used in the provision of large-scale utility operations. The addition of these plant accounts, and new and amended reporting forms, should enhance transparency and provide detailed information on transactions and events affecting public utilities and licensees that file reports with the Commission. Without specific instructions and accounts for recording and reporting the above transactions and events, inconsistent and incomplete accounting and reporting will likely result. With regard to FERC–917, FERC–919, and FERC–717 the proposed rule would provide increased transparency in the determination of Regulation and Frequency Response requirements, historical ancillary service information, and ancillary service capacity in order to ensure that rates for that service remain just, reasonable, and not unduly discriminatory.

Internal Review: The Commission has reviewed the requirements pertaining to the USofA and the reports it prescribes and determined that the proposed amendments are necessary because the Commission needs to establish uniform accounting and reporting requirements for the costs of utility assets and expenses incurred for providing services as part of a utility's operations. The Commission has reviewed the requirements associated with the OATT, OASIS, and market power analysis and determined they are necessary to increase transparency and ensure that rates remain just, reasonable, and not unduly discriminatory.

108. These requirements conform to the Commission's need for efficient information collection, communication, and management within the energy industry. The Commission has assured itself, through internal review, that there is specific, objective support for the burden estimates associated with the information collection requirements.

109. Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426 [Attention: Ellen Brown, Office of the Executive Director], email: *DataClearance@ferc.gov,* Phone (202) 502–8663, fax: (202) 273–0873.

Comments on the collections of information and associated burden estimates in the proposed rule should be sent to the Commission in this docket and may also be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission]. For security reasons, comments to OMB should be submitted by email to: *oira_submission@omb.eop.gov.* Please refer to OMB Control Nos. 1902–0021 (FERC Form No. 1); 1902–0029 (FERC Form No. 1–F); 1902–0205 (FERC Form No. 3–Q); 1902–0233 (FERC–917), 1902–0173 (FERC–717); and 1902–0234 (FERC–919) and Docket Number RM11–24.

IV. Environmental Analysis

110. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[118] The Commission concludes that neither an Environmental Assessment nor an Environmental Impact Statement is required for this Final Rule under section 380.4(a)(15) of the Commission's regulations, which provides a categorical exemption for approval of actions under sections 205 and 206 of the FPA relating to the filing of schedules containing all rates and charges for the transmission or sale subject to the Commission's jurisdiction, plus the classification, practices, contracts, and regulations that affect rates, charges, classifications, and services.[119]

[118] *Regulations Implementing the National Environmental Policy Act,* Order No. 486, 52 FR 47,897 (Dec. 17, 1987), FERC Stats. & Regs., Regulations Preambles 1986–1990 ¶ 30,783 (1987).

[119] 18 CFR 380.4(a)(15) (2011).

V. Regulatory Flexibility Act

111. The Regulatory Flexibility Act of 1980 (RFA) [120] generally requires a description and analysis of proposed rules that will have significant economic impact on a substantial number of small entities. The RFA mandates consideration of regulatory alternatives that accomplish the stated objectives of a proposed rule and that minimize any significant economic impact on a substantial number of small entities. The Small Business Administration's (SBA's) Office of Size Standards develops the numerical definition of a small business.[121] The SBA has established a size standard for electric utilities, stating that a firm is small if, including its affiliates, it is primarily engaged in the transmission, generation and/or distribution of electric energy for sale and its total electric output for the preceding twelve months did not exceed four million megawatt hours.[122] Most companies regulated by the Commission do not fall within the RFA's definition of a small entity.[123] The proposed rule applies exclusively to public utilities that own, control, or operate facilities for transmitting electric energy in interstate commerce and not electric utilities per se. Based on the filers of the annual FERC Form No. 1 and Form No. 1–F, as well as the number of companies that have obtained waivers, we estimate that 6.8 percent of the filers affected by this proposed rule are ''small.'' The Commission believes this rule will not have a significant economic impact on a substantial number of small entities, and therefore no regulatory flexibility analysis is required.

VI. Comment Procedures

112. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due 60 days after publication in the **Federal Register**. Comments must refer to Docket No. RM11–24–000, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments.

113. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov*. The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

114. Commenters that are not able to file comments electronically must send an original of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

115. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

VII. Document Availability

116. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission's Home Page (*http://www.ferc.gov*) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE., Room 2A, Washington DC 20426.

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

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

List of Subjects in 18 CFR Parts 35, 37, and 101

Electric power rates; Electric utilities.

By direction of the Commission. Commissioner Clark voting present.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

In consideration of the foregoing, the Commission proposes to amend Parts 35, 37, and 101, Chapter I, Title 18, Code of Federal Regulations, as follows.

PART 35—FILING OF RATE SCHEDULES AND TARIFFS

1. The authority citation for Part 35 continues to read as follows:

Authority: 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. § 9701; 42 U.S.C. 7101–7352.

2. Amend § 35.28 by adding a new paragraph (c)(1)(viii) as follows.

§ 35.28 Non-discriminatory open access transmission tariff.

* * * * *

(c)(1)(viii) Each public utility's open access transmission tariff, at Schedule 3—Regulation and Frequency Response Service, must include provisions explaining how it will determine its Regulation and Frequency Response reserve requirements. These provisions must take into account speed and accuracy of regulation resources and include a description of how the public utility transmission provider would make adjustments to the capacity requirement when a customer opts to purchase from third-parties or self-supply its requirements using resources with speed and accuracy characteristics that differ from the set of resources otherwise being used for Regulation and Frequency Response Service.

* * * * *

3. Amend § 35.37 as follows:

a. Paragraph (c)(1) is revised.

b. New paragraph (c)(5) is added.

§ 35.37 Market power analysis required.

* * * * *

(c)(1) There will be a rebuttable presumption that a Seller lacks horizontal market power with respect to sales of energy, capacity, energy imbalance service, and generation imbalance service if it passes two indicative market power screens: a pivotal supplier analysis based on annual peak demand of the relevant market, and a market share analysis applied on a seasonal basis. There will be a rebuttable presumption that a seller possesses horizontal market power with respect to sales of energy, capacity, energy imbalance service, and generation imbalance service if it fails either screen.

* * * * *

(c)(5) There will be a rebuttable presumption that a Seller of Operating

[120] 5 U.S.C. 601–612.

[121] 13 CFR 121.101 (2011).

[122] 13 CFR 121.201, Sector 22, Utilities.

[123] *See* 5 U.S.C. 601(3) citing to section 3 of the Small Business Act, 15 U.S.C. 632. Section 3 of the Small Business Act defines a ''small-business concern'' as a business which is independently owned and operated and which is not dominant in its field of operation. The Small Business Size Standards component of the North American Industry Classification System defines a small electric utility as one that, including its affiliates, is primarily engaged in generation, transmission, and/or distribution of electric energy for sale and whose total electric output for the preceding fiscal years did not exceed 4 million MWh. 13 CFR 121.201 (2011).

Reserve—Spinning, Operating Reserve—Supplemental, Reactive Supply and Voltage Control, or Regulation and Frequency Response services lacks horizontal market power with respect to sales of the ancillary service in question if the amount of capacity in MWs (or, as applicable, MVARs) that it can dedicate to providing the ancillary service in the relevant geographic market, taking into account any reported historical locational requirements, is no more than 20 percent of the relevant reported aggregate requirement for that ancillary service as reported pursuant to § 37.6(k) of the Commission's Regulations.

* * * * *

4. Amend § 35.38 as follows:

a. Paragraph (a) is revised.

b. Paragraph (b) is revised.

c. New paragraph (c) is added.

§ 35.38 Mitigation.

(a) A Seller that has been found to have market power in generation or ancillary services, or that is presumed to have horizontal market power in generation or ancillary services by virtue of failing or foregoing the relevant market power screens, as described in 35.37(c), may adopt the default mitigation detailed in paragraph (b) of this section for sales of energy or capacity or paragraph (c) of this section for sales of ancillary services or may propose mitigation tailored to its own particular circumstances to eliminate its ability to exercise market power. Mitigation will apply only to the market(s) in which the Seller is found, or presumed, to have market power.

(b) Default mitigation for sales of energy or capacity consists of three distinct products:

* * * * *

(c) Default mitigation for sales of ancillary services consists of: (1) A cost-based cap based on the relevant OATT ancillary service rate of the purchasing public utility transmission operator; (2) a cost-based cap based on the highest relevant public utility OATT ancillary service rate in the proposed trading area; or (3) the results of a competitive solicitation that meets the Commission's requirements for transparency, definition, evaluation, oversight, and adequate seller interest to ensure competitiveness.

PART 37—OPEN ACCESS SAME-TIME INFORMATION SYSTEMS

5. The authority citation for Part 37 continues to read as follows:

Authority: 16 U.S.C. 791–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

6. Amend § 37.6 by adding a new paragraph (k) as follows.

§ 37.6 Information to be posted on the OASIS.

* * * * *

(k) *Posting data related to historical ancillary service requirements.* The Transmission Provider must post on OASIS information as to the aggregate amount (MW or MVAR, as applicable) of Operating Reserve—Spinning, Operating Reserve—Supplemental, Reactive Supply and Voltage Control, and Regulation and Frequency Response services that it has historically required in order to serve its long-term firm obligations, including any geographic limitations it may face in meeting such ancillary service requirements.

PART 101—UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR PUBLIC UTILITIES AND LICENSEES SUBJECT TO THE PROVISIONS OF THE FEDERAL POWER ACT

7. The authority citation for Part 101 continues to read as follows:

Authority: 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352, 7651–7651o.

8. In Part 101, Electric Plant Chart of Accounts, Account 348 is added to the list:

Electric Plant Chart of Accounts

* * * * *

2. PRODUCTION PLANT

* * * * *

D. OTHER PRODUCTION

* * * * *

348 Energy Storage Equipment—Production

* * * * *

9. In Part 101, Electric Plant Accounts, Account 351, the name of the account is amended and instructions are added to read as follows:

Electric Plant Accounts

* * * * *

351 Energy Storage Equipment—Transmission

A. This account shall include the cost installed of energy storage equipment used to store energy for load managing purposes. Where energy storage equipment can perform more than one function or purpose, the cost of the equipment shall be allocated among production, transmission, and distribution plant based on the services provided by the asset and the allocation of the asset's cost through rates approved by a relevant regulatory agency. Reallocation of the cost of equipment recorded in this account shall be in accordance with Electric Plant Instruction No. 12, Transfers of Property.

B. Labor costs and power purchase and generation costs incurred to install and energize the equipment are includible on the first installation only. The cost of removing, relocating and resetting energy storage equipment shall not be charged to this account but to Account 562.1, Operation of Energy Storage Equipment, and Account 570.1, Maintenance of Energy Storage Equipment, as appropriate.

C. The records supporting this account shall show, by months, the function(s) each energy storage asset supports or performs.

ITEMS

1. Batteries/Chemical
2. Compressed Air
3. Flywheels
4. Superconducting Magnetic Storage
5. Thermal

10. In Part 101, Electric Plant Accounts, Account 363, the name of the account and the instructions are amended and added to read as follows:

Electric Plant Accounts

* * * * *

363 Energy Storage Equipment—Distribution

A. This account shall include the cost installed of energy storage equipment used to store energy for load managing purposes. Where energy storage equipment can perform more than one function or purpose, the cost of the equipment shall be allocated among production, transmission, and distribution plant based on the services provided by the asset and the allocation of the asset's cost through rates approved by a relevant regulatory agency. Reallocation of the cost of equipment recorded in this account shall be in accordance with Electric Plant Instruction No. 12, Transfers of Property.

B. Labor costs and power purchase and generation costs incurred to install and energize the equipment are includible on the first installation only. The cost of removing, relocating and resetting energy storage equipment shall not be charged to this account but to Account 582.1, Operation of Energy Storage Equipment, and Account 592.2, Maintenance of Energy Storage Equipment, as appropriate.

C. The records supporting this account shall show, by months, the function(s) each energy storage asset supports or performs.

ITEMS

1. Batteries/Chemical
2. Compressed Air
3. Flywheels
4. Superconducting Magnetic Storage
5. Thermal

11. In Part 101, Electric Plant Accounts, new primary plant account 348 is added to read as follows:

Electric Plant Accounts

* * * * *

348 Energy Storage Equipment—Production

A. This account shall include the cost installed of energy storage equipment used to store energy for load managing purposes. Where energy storage equipment can perform more than one function or purpose, the cost of the equipment shall be allocated among production, transmission, and distribution plant based on the services provided by the asset and the allocation of the asset's cost through rates approved by a relevant regulatory agency. Reallocation of the cost of equipment recorded in this account shall be in accordance with Electric Plant Instruction No. 12, Transfers of Property.

B. Labor costs and power purchase and generation costs incurred to install and energize the equipment are includible on the first installation only. The cost of removing, relocating and resetting energy storage equipment shall not be charged to this account but to Account 548.1, Operation of Energy Storage Equipment, and Account 553.1, Maintenance of Energy Storage Equipment, as appropriate.

C. The records supporting this account shall show, by months, the function(s) each energy storage asset supports or performs.

ITEMS

1. Batteries/Chemical
2. Compressed Air
3. Flywheels
4. Superconducting Magnetic Storage
5. Thermal

Note: The cost of pumped storage hydroelectric plant shall be charged to hydraulic production plant. These are examples of items includible in this account. This list is not exhaustive.

12. In Part 101, Operation and Maintenance Expense Chart of Accounts, Accounts 548.1, 553.1, 555.1, 562.1, 570.1, 582.1, and 592.2 are added to the list:

Operation and Maintenance Expense Chart of Accounts

* * * * *

1. POWER PRODUCTION EXPENSES

* * * * *

D. OTHER POWER GENERATION

* * * * *

Operation

* * * * *

548.1 Operation of Energy Storage Equipment

* * * * *

Maintenance

553.1 Maintenance of Energy Storage Equipment

* * * * *

E. OTHER POWER SUPPLY EXPENSES

* * * * *

555.1 Power Purchased for Storage Operations

* * * * *

2. TRANSMISSION EXPENSES

* * * * *

Operation

* * * * *

562.1 Operation of Energy Storage Equipment

* * * * *

Maintenance

* * * * *

570.1 Maintenance of Energy Storage Equipment

* * * * *

4. DISTRIBUTION EXPENSES

* * * * *

Operation

* * * * *

582.1 Operation of Energy Storage Equipment

* * * * *

Maintenance

* * * * *

592.2 Maintenance of Energy Storage Equipment

13. In Part 101, Operation and Maintenance Expense Accounts, new operation expense account 548.1 is added to read as follows:

Operation and Maintenance Expense Accounts

* * * * *

548.1 Operation of Energy Storage Equipment

This account shall include the cost of labor, materials used and expenses incurred in the operation of energy storage equipment includible in Account 348, Energy Storage Equipment-Production, which are not specifically provided for or are readily assignable to other production operation expense accounts.

14. In Part 101, Operation and Maintenance Expense Accounts, new maintenance expense account 553.1 is added to read as follows:

Operation and Maintenance Expense Accounts

* * * * *

553.1 Maintenance of Energy Storage Equipment

This account shall include the cost of labor, materials used and expenses incurred in the maintenance of energy storage equipment includible in Account 348, Energy Storage Equipment-Production, which are not specifically provided for or are readily assignable to other production maintenance expense accounts.

15. In Part 101, Operation and Maintenance Expense Accounts, new power supply expense account 555.1 is added to read as follows:

Operation and Maintenance Expense Accounts

* * * * *

555.1 Power Purchased for Storage Operations

A. This account shall include the cost at point of receipt by the utility of electricity purchased for use in storage operations, including power purchased and consumed or lost in energy storage operations during the provision of services, including but not limited to energy purchased and stored for resale. It shall also include but not be limited to net settlements for exchange of electricity or power, such as economy energy, off-peak energy for on-peak energy, and spinning reserve capacity. In addition, the account shall include the net settlements for transactions under pooling or interconnection agreements wherein there is a balancing of debits and credits for energy, capacity, and possibly other factors. Distinct purchases and sales shall not be recorded as exchanges and net amounts only recorded merely because debit and credit amounts are combined in the voucher settlement.

B. The records supporting this account shall show, by months, the kilowatt hours and prices thereof under each purchase contract and the charges and credits under each exchange or power pooling contract.

16. In Part 101, Operation and Maintenance Expense Accounts, new operation expense account 562.1 is added to read as follows:

Operation and Maintenance Expense Accounts

* * * * *

562.1 Operation of Energy Storage Equipment

This account shall include the cost of labor, materials used and expenses incurred in the operation of energy storage equipment includible in Account 351, Energy Storage Equipment-Transmission, which are not specifically provided for or are readily assignable to other transmission operation expense accounts.

17. In Part 101, Operation and Maintenance Expense Accounts, new maintenance expense account 570.1 is added to read as follows:

Operation and Maintenance Expense Accounts

* * * * *

570.1 Maintenance of Energy Storage Equipment

This account shall include the cost of labor, materials used and expenses incurred in the maintenance of energy storage equipment includible in Account 351, Energy Storage Equipment-Transmission, which are not specifically provided for or are readily assignable to other transmission maintenance expense accounts.

18. In Part 101, Operation and Maintenance Expense Accounts, new operation expense account 582.1 is added to read as follows:

Operation and Maintenance Expense Accounts

* * * * *

582.1 Operation of Energy Storage Equipment

This account shall include the cost of labor, materials used and expenses incurred in the operation of energy storage equipment includible in Account 363, Energy Storage Equipment-Distribution, which are not specifically provided for or are readily assignable to other distribution operation expense accounts.

19. In Part 101, Operation and Maintenance Expense Accounts, new maintenance expense account 592.2 is added to read as follows:

Operation and Maintenance Expense Accounts

* * * * *

592.2 Maintenance of Energy Storage Equipment

This account shall include the cost of labor, materials used and expenses incurred in the maintenance of energy storage equipment includible in Account 363, Energy Storage Equipment-Distribution, which are not specifically provided for or are readily assignable to other distribution maintenance expense accounts.

Note: The following appendix will not be published in the Code of Federal Regulations.

APPENDIX A: LIST OF SHORT NAMES OF COMMENTERS ON THE FEDERAL ENERGY REGULATORY COMMISSION'S NOTICE OF INQUIRY ON THIRD-PARTY PROVISION OF ANCILLARY SERVICES; ACCOUNTING AND FINANCIAL REPORTING FOR NEW ELECTRIC STORAGE TECHNOLOGIES—DOCKET NO. RM11–24–000, JUNE 2011

Short Name or Acronym	Commenter
A123	A123 Systems, Inc.
AEP	American Electric Power Service Corporation.
AES Energy Storage	AES Energy Storage.
APPA	American Public Power Association.
Apparent Inc.	Apparent Inc.
Aquion Energy, Inc.	Aquion Energy, Inc.
AWEA	American Wind Energy Association.
Beacon Power Corporation	Beacon Power Corporation.
Bonneville	Bonneville Power Administration.
BrightSource	BrightSource Energy, Inc.
Business Council for Sustainable Energy	Business Council for Sustainable Energy.
California PUC	California Public Utilities Commission.
California Storage Alliance	California Energy Storage Alliance.
CAREBS	Coalition to Advance Renewable Energy Through Bulk Storage.
EEI	Edison Electric Institute.
Electricity Consumers	Electricity Consumers Resource Council.
ENBALA	Enbala Power Networks.
Environmental Defense Fund	Environmental Defense Fund.
EPSA	Electric Power Supply Association.
ESA	Electricity Storage Association.
FirstEnergy	The Cleveland Electric Illuminating Company, Jersey Central Power & Light Company, Metropolitan Edison Company, Ohio Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, The Toledo Edison Company, Monongahela Power Company, The Potomac Edison Company, West Penn Power Company, FirstEnergy Solutions Corp., American Transmission Systems, Incorporated and Trans-Allegheny Interstate Line Company.
FriiPwr	FriiPwr USA.
Hydro Association	National Hydropower Association.
IID	Imperial Irrigation District.
Mark Lively	Mark B. Lively.
National Grid	National Grid USA.
National Park Service	National Park Service.
NaturEner	NaturEner USA, LLC.
NextStep	NextStep Electric, LLC.
NGK/TI	NGK Insulators, Ltd and Technology Insights.
NGSA	Natural Gas Supply Association.

APPENDIX A: LIST OF SHORT NAMES OF COMMENTERS ON THE FEDERAL ENERGY REGULATORY COMMISSION'S NOTICE OF INQUIRY ON THIRD-PARTY PROVISION OF ANCILLARY SERVICES; ACCOUNTING AND FINANCIAL REPORTING FOR NEW ELECTRIC STORAGE TECHNOLOGIES—DOCKET NO. RM11–24–000, JUNE 2011—Continued

Short Name or Acronym	Commenter
Northwest Group	Avista Corporation, Bonneville Power Administration, Chelan County PUD, Clark Public Utilities, Cowlitz County PUD, Idaho Power Company, NorthWestern Energy, PacifiCorp, Public Power Council, Public Utility District No. 2 of Grant County, and Puget Sound Energy, Inc.
Portland General	Portland General Electric Company.
Powerex	Powerex Corporation.
PPL Companies	PPL EnergyPlus, LLC and PPL Montana, LLC.
Prudent Energy	Prudent Energy Corporation.
Public Interest Organizations	Center for Rural Affairs, Clean Wisconsin, Climate + Energy Project, Conservation Law Foundation, Environment Northeast, Fresh Energy, Land Trust Alliance, Natural Resources Defense Council, Pace Energy and Climate Center, Project for Sustainable FERC Energy Policy, Sierra Club and Union of Concerned Scientists.
Riverbank	Riverbank Power Corporation.
Saft	Saft America, Inc.
SDG&E	San Diego Gas & Electric Company.
Shell Energy	Shell Energy North America (US), L.P.
Solar Energy Association	Solar Energy Industries Association.
SolarReserve	SolarReserve LLC.
Southern California Edison	Southern California Edison Company.
Starwood	Starwood Energy Group Global, LLC.
Steffes	Steffes Corporation.
TAPS	Transmission Access Policy Study Group.
Viridity	Viridity Energy Inc.
WADE/Wartsila	WADE USA and Wartsila North America.
WSPP	WSPP, Inc.
Xtreme	Xtreme Power.

Note: The following Appendix will not be published in the Code of Federal Regulations.

Appendix B—New and Amended Form 1/1F/3Q Pages

BILLING CODE 6717–01–P

Name of Respondent	This Report is: (1) An Original (2) A Resubmission	Date of Report (Mo, Da, Yr) / /	Year/Period of Report End of Year/Qtr

LIST OF SCHEDULES (Electric Utility)

Enter in column (c) the terms "none", "not applicable", or "NA", as appropriate, where no information or amounts have been reported for certain pages. Omit pages where the respondents are "none", "not applicable", or "NA".

Line No.	Title of Schedule (a)	Reference Page No. (b)	Remarks (c)
1	General Information	101	
2	Control Over Respondent	102	
3	Corporations Controlled by Respondent	103	
4	Officers	104	
5	Directors	105	
6	Information on Formula Rates	106(a)(b)	
7	Important Changes During the Year	108-109	
8	Comparative Balance Sheet	110-113	
9	Statement of Income for the Year	114-117	
10	Statement of Retained Earnings for the Year	118-119	
11	Statement of Cash Flows	120-121	
12	Notes to Financial Statements	122-123	
13	Statement of Accum Comp Income, Comp Income, and Hedging Activities	122(a)(b)	
14	Summary of Utility Plant and Accumulated Provisions for Dep, Amort & Dep	200-201	
15	Nuclear Fuel Materials	202-203	
16	Electric Plant in Service	204-207	
17	Electric Plant Leased to Others	213	
18	Electric Plant Held for Future Use	214	
19	Construction Work in Progress-Electric	216	
20	Accumulated Provision for Depreciation of Electric Utility Plant	219	
21	Investment of Subsidiary Companies	224-225	
22	Materials and Supplies	227	
23	Allowances	228-229	
24	Extraordinary Property Losses	230	
25	Unrecovered Plant and Regulatory Study Costs	230	
26	Transmission Service and Generation Interconnection Study Costs	231	
27	Other Regulatory Assets	232	
28	Miscellaneous Deferred Debits	233	
29	Accumulated Deferred Income Taxes	234	
30	Capital Stock	250-251	
31	Other Paid-in Capital	253	
32	Capital Stock Expense	254	
33	Long-Term Debt	256-257	
34	Reconciliation of Reported Net Income with Taxable Inc for Fed Inc Tax	261	
35	Taxes Accrued, Prepaid and Charged During the Year	262-263	
36	Accumulated Deferred Investment Tax Credits	266-267	

Name of Respondent	This Report is: (1) An Original (2) A Resubmission	Date of Report (Mo, Da, Yr) / /	Year/Period of Report End of Year/Qtr

LIST OF SCHEDULES (Electric Utility)

Enter in column (c) the terms "none", "not applicable", or "NA", as appropriate, where no information or amounts have been reported for certain pages. Omit pages where the respondents are "none", "not applicable", or "NA".

Line No.	Title of Schedule (a)	Reference Page No. (b)	Remarks (c)
37	Other Deferred Credits	269	
38	Accumulated Deferred Income Taxes-Accelerated Amortization Property	272-273	
39	Accumulated Deferred Income Taxes-Other Property	274-275	
40	Accumulated Deferred Income Taxes-Other	276-277	
41	Other Regulatory Liabilities	278	
42	Electric Operating Revenues	300-301	
43	Sales of Electricity by Rate Schedules	304	
44	Sales for Resale	310-311	
45	Electric Operation and Maintenance Expenses	320-323	
46	Purchased Power	326-327	
47	Transmission of Electricity for Others	328-330	
48	Transmission of Electricity by ISO/RTOs	331	
49	Transmission of Electricity by Others	332	
50	Miscellaneous General Expenses-Electric	335	
51	Depreciation and Amortization of Electric Plant	336-337	
52	Regulatory Commission Expenses	350-351	
53	Research, Development and Demonstration Activities	352-353	
54	Distribution of Salaries and Wages	354-355	
55	Common Utility Plant and Expenses	356	
56	Amounts included in ISO/RTO Settlement Statements	397	
57	Purchase and Sale of Ancillary Services	398	
58	Monthly Transmission System Peak Load	400	
59	Monthly ISO/RTO Transmission System Peak Load	400a	
60	Electric Energy Account	401	
61	Monthly Peaks and Output	401	
62	Steam Electric Generating Plant Statistics	402-403	
63	Hydroelectric Generating Plant Statistics	406-407	
64	Pumped Storage Generating Plant Statistics	408-409	
65	Generating Plant Statistics Pages	410-411	
66	Energy Storage Operations (Large Plants)	414-416	
67	Energy Storage Operations (Small Plants)	419-420	

Name of Respondent	This Report is: (1) An Original (2) A Resubmission	Date of Report (Mo, Da, Yr) / /	Year/Period of Report End of Year/Qtr

LIST OF SCHEDULES (Electric Utility)

Enter in column (c) the terms "none", "not applicable", or "NA", as appropriate, where no information or amounts have been reported for certain pages. Omit pages where the respondents are "none", "not applicable", or "NA".

Line No.	Title of Schedule (a)	Reference Page No. (b)	Remarks (c)
68	Transmission Line Statistics Pages	426-427	
69	Substations	426-427	
70	Transactions with Associated (Affiliated) Companies	429	
71	Footnote Data	450	
72	Stockholder's Reports – Check appropriate box: Two copies will be submitted. No annual report to stockholders is prepared.		

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo., Da., Yr.)	Year/Period of Report End of _____

ELECTRIC PLANT IN SERVICE (Account 101, 102, 103 and 106)

1. Report below the original cost of electric plant in service according to the prescribed accounts.
2. In addition to Account 101, Electric Plant in Service (Classified), this page and the next include Account 102, Electric Plant Purchased or Sold; Account 103, Experimental Electric Plant Unclassified; and Account 106, Completed Construction Not Classified-Electric.
3. Include in column (c) or (d), as appropriate, corrections of additions and retirements for the current or preceding year.
4. For revisions to the amount of initial asset retirement costs capitalized, included by primary plant account, increases in column (c) additions and reductions in column (e) adjustments.
5. Enclose in parentheses credit adjustments of plant accounts to indicate the negative effect of such accounts.
6. Classify Account 106 according to prescribed accounts, on an estimated basis if necessary, and include the entries in column (c). Also to be included in column (c) are entries for reversals of tentative distributions of prior year reported in column (b). Likewise, if the respondent has a significant amount of plant retirements which have not been classified to primary accounts at the end of the year, include in column (d) a tentative distribution of such retirements, on an estimated basis, with appropriate contra entry to the account for accumulated depreciation provision. Include also in column (d)

Line No.	Accounts (a)	Balance Beginning of Year (b)	Additions (c)
1	**1. INTANGIBLE PLANT**		
2	(301) Organization		
3	(302) Franchises and Consents		
4	(303) Miscellaneous Intangible Plant		
5	TOTAL Intangible Plant (Enter Total of lines 2, 3, and 4)		
6	**2. PRODUCTION PLANT**		
7	A. Steam Production Plant		
8	(310) Land and Land Rights		
9	(311) Structures and Improvements		
10	(312) Boiler Plant Equipment		
11	(313) Engines and Engine-Driven Generators		
12	(314) Turbogenerator Units		
13	(315) Accessory Electric Equipment		
14	(316) Misc. Power Plant Equipment		
15	(317) Asset Retirement Costs for Steam Production		
16	TOTAL Steam Production Plant (Enter Total of lines 8 thru 15)		
17	**B. Nuclear Production Plant**		
18	(320) Land and Land Rights		
19	(321) Structures and Improvements		
20	(322) Reactor Plant Equipment		
21	(323) Turbogenerator Units		
22	(324) Accessory Electric Equipment		
23	(325) Misc. Power Plant Equipment		
24	(326) Asset Retirement Costs for Nuclear Production		
25	TOTAL Nuclear Production Plant (Enter Total of lines 18 thru 24)		
26	**C. Hydraulic Production Plant**		
27	(330) Land and Land Rights		
28	(331) Structures and Improvements		
29	(332) Reservoirs, Dams, and Waterways		
30	(333) Water Wheels, Turbines, and Generators		
31	(334) Accessory Electric Equipment		
32	(335) Miscellaneous Power Plant Equipment		
33	(336) Roads, Railroads, and Bridges		
34	(337) Asset Retirement Costs for Hydraulic Production		
35	TOTAL Hydraulic Production Plant (Enter Total of lines 27 thru 34)		
36	**D. Other Production Plant**		
37	(340) Land and Land Rights		
38	(341) Structures and Improvements		
39	(342) Fuel Holders, Products, and Accessories		
40	(343) Prime Movers		
41	(344) Generators		
42	(345) Accessory Electric Equipment		
43	(346) Misc. Power Plant Equipment		
44	(347) Asset Retirement Costs for Other Production		
45	(348) Energy Storage Equipment - Production		
46	TOTAL Other Production Plant (Enter Total of lines 37 thru 45)		
47	TOTAL Production Plant (Enter Total of lines 16, 25, 35, and 46)		

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo., Da., Yr.)	Year/Period of Report End of _____

ELECTRIC PLANT IN SERVICE (Account 101, 102, 103 and 106)

Distributions of these tentative classifications in columns (c) and (d), including the reversals of the prior years tentative account distributions of these amounts. Careful observance of the above instructions and the texts of Accounts 101 and 106 will avoid serious omissions of the reported amount of respondent's plant actually in service at end of year.

7. Show in column (f) reclassifications or transfers within utility plant accounts. Include also in column (f) the additions or reductions of primary account classifications arising from distribution of amounts initially recorded in Account 102, include in column (e) the amounts with respect to accumulated provision for depreciation, acquisition adjustments, etc., and show in column (f) only the offset to the debits or credits distributed in column (f) to primary account classifications.

8. For Account 399, state the nature and use of plant included in this account and if substantial in amount submit a supplementary statement showing subaccount classification of such plant conforming to the requirement of these pages.

9. For each amount comprising the reported balance and changes in Account 102, state the property purchased or sold, name of vendor or purchase, and date of transaction. If proposed journal entries have been filed with the Commission as required by the Uniform System of Accounts, give also date.

Retirements (d)	Adjustments (e)	Transfers (f)	Balance at End of Year (g)	Line No.
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Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo., Da., Yr.)	Year/Period of Report End of _____

ELECTRIC PLANT IN SERVICE (Account 101, 102, 103 and 106) (Continued)

Line No.	Accounts (a)	Balance Beginning of Year (b)	Additions (c)
48	**3. TRANSMISSION PLANT**		
49	(350) Land and Land Rights		
50	(351) Energy Storage Equipment - Transmission		
51	(352) Structures and Improvements		
52	(353) Station Equipment		
53	(354) Towers and Fixtures		
54	(355) Poles and Fixtures		
55	(356) Overhead Conductors and Devices		
56	(357) Underground Conduit		
57	(358) Underground Conductors and Devices		
58	(359) Roads and Trails		
59	(359.1) Asset Retirement Costs for Transmission Plant		
60	TOTAL Transmission Plant (Enter Total of lines 49 thru 59)		
61	**4. DISTRIBUTION PLANT**		
62	(360) Land and Land Rights		
63	(361) Structures and Improvements		
64	(362) Station Equipment		
65	(363) Energy Storage Equipment – Distribution		
66	(364) Poles, Towers, and Fixtures		
67	(365) Overhead Conductors and Devices		
68	(366) Underground Conduit		
69	(367) Underground Conductors and Devices		
70	(368) Line Transformers		
71	(369) Services		
72	(370) Meters		
73	(371) Installations on Customer Premises		
74	(372) Leased Property on Customer Premises		
75	(373) Street Lighting and Signal Systems		
76	(374) Asset Retirement Costs for Distribution Plant		
77	TOTAL Distribution Plant (Enter Total of lines 62 thru 76)		
78	**5. REGIONAL TRANSMISSION AND MARKET OPERATION PLANT**		
79	(380) Land and Land Rights		
80	(381) Structures and Improvements		
81	(382) Computer Hardware		
82	(383) Computer Software		
83	(384) Communication Equipment		
84	(385) Miscellaneous Regional Transmission and Market Operation Plant		
85	(386) Asset Retirement Costs for Regional Transmission and Market Operation Plant		
86	TOTAL Transmission and Market Operation Plant (Enter Total of lines 79 thru 85)		
87	**6. GENERAL PLANT**		
88	(389) Land and Land Rights		
89	(390) Structures and Improvements		
90	(391) Office Furniture and Equipment		
91	(392) Transportation Equipment		
92	(393) Stores Equipment		
93	(394) Tools, Shop and Garage Equipment		
94	(395) Laboratory Equipment		
95	(396) Power Operated Equipment		
96	(397) Communication Equipment		
97	(398) Miscellaneous Equipment		
98	SUBTOTAL (Enter Total of Lines 88 thru 97)		
99	(399) Other Intangible Property		
100	(399.1) Asset Retirement Costs for General Plant		
101	TOTAL General Plant (Enter Total of Lines 98, 99 and 100)		
102	TOTAL (Accounts 101 and 106)		
103	(102) Electric Plant Purchased (See Instruction 8)		
104	(Less) (102) Electric Plant Sold (See Instruction 8)		
105	(103) Experimental Plant Unclassified		
106	TOTAL Electric Plant in Service (Enter Total of lines 102 thru 1051)		

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo., Da., Yr.)	Year/Period of Report End of _____

ELECTRIC PLANT IN SERVICE (Account 101, 102, 103 and 106)

Retirements (d)	Adjustments (e)	Transfers (f)	Balance at End of Year (g)	Line No.
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Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo., Da., Yr.)	Year/Period of Report End of _____

ELECTRIC OPERATION AND MAINTENANCE EXPENSES

If the amount for previous year is not derived from previously reported figures, explain in footnote.

Line No.	Account (a)	Amount for Current Year (b)	Amount for Previous Year (c)
1	**1. POWER PRODUCTION EXPENSES**		
2	**A. Steam Power Generation**		
3	**Operation**		
4	(500) Operation Supervision and Engineering		
5	(501) Fuel		
6	(502) Steam Expenses		
7	(503) Steam from Other Sources		
8	(Less) (504) Steam Transferred-Cr.		
9	(505) Electric Expenses		
10	(506) Miscellaneous Steam Power Expenses		
11	(507) Rents		
12	(509) Allowances		
13	TOTAL Operation (Enter Total of Lines 4 thru 12)		
14	**Maintenance**		
15	(510) Maintenance Supervision and Engineering		
16	(511) Maintenance of Structures		
17	(512) Maintenance of Boiler Plant		
18	(513) Maintenance of Electric Plant		
19	(514) Maintenance of Miscellaneous Steam Plant		
20	TOTAL Maintenance (Enter Total of Lines 15 thru 19)		
21	TOTAL Power Production Expenses-Steam Power (Enter Total lines 13 & 20)		
22	**B. Nuclear Power Generation**		
23	**Operation**		
24	(517) Operation Supervision and Engineering		
25	(518) Fuel		
26	(519) Coolants and Water		
27	(520) Steam Expenses		
28	(521) Steam from Other Sources		
29	(Less) (522) Steam Transferred-Cr.		
30	(523) Electric Expenses		
31	(524) Miscellaneous Nuclear Power Expenses		
32	(525) Rents		
33	TOTAL Operation (Enter Total of lines 24 thru 32)		
34	**Maintenance**		
35	(528) Maintenance Supervision and Engineering		
36	(529) Maintenance of Structures		
37	(530) Maintenance of Reactor Plant Equipment		
38	(531) Maintenance of Electric Plant		
39	(532) Maintenance of Miscellaneous Nuclear Plant		
40	TOTAL Maintenance (Enter Total of lines 35 thru 39)		
41	TOTAL Power Production Expenses-Nuclear Power (Enter Total of lines 33 & 40)		
42	**C. Hydraulic Power Generation**		
43	**Operation**		
44	(535) Operation Supervision and Engineering		
45	(536) Water for Power		
46	(537) Hydraulic Expenses		
47	(538) Electric Expenses		
48	(539) Miscellaneous Hydraulic Power Generation Expenses		
49	(540) Rents		
50	TOTAL Operation (Enter Total of Lines 44 thru 49)		
52	**Maintenance**		
53	(541) Maintenance Supervision and Engineering		
54	(542) Maintenance of Structures		
55	(543) Maintenance of Reservoirs, Dams, and Waterways		
56	(544) Maintenance of Electric Plant		
57	(545) Maintenance of Miscellaneous Hydraulic Plant		
58	TOTAL Maintenance (Enter Total of lines 53 thru 57)		
59	TOTAL Power Production Expenses-Hydraulic Power (Total of Lines 50 and 58)		

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ELECTRIC OPERATION AND MAINTENANCE EXPENSES (Continued)

Line No.	Accounts (a)	Amount for Current Year (b)	Amount for Previous Year (c)
60	**D. Other Power Generation**		
61	**Operation**		
62	(546) Operation Supervision and Engineering		
63	(547) Fuel		
64	(548) Generation Expenses		
65	(548.1) Operation of Energy Storage Equipment		
66	(549) Miscellaneous Other Power Generation Expenses		
67	(550) Rents		
68	TOTAL Operation (Enter Total of lines 62 thru 67)		
69	**Maintenance**		
70	(551) Maintenance Supervision and Engineering		
71	(552) Maintenance of Structures		
72	(553) Maintenance of Generating and Electric Plant		
73	(553.1) Maintenance of Energy Storage Equipment		
74	(554) Maintenance of Miscellaneous Other Power Generation Plant		
75	TOTAL Maintenance (Enter Total of lines 70 thru 74)		
76	TOTAL Power Production Expenses-Other Power (Enter Total of lines 68 & 75)		
77	**E. Other Power Supply Expenses**		
78	(555) Purchased Power		
79	(555.1) Power Purchased for Storage Operations		
80	(556) System Control and Load Dispatching		
81	(557) Other Expenses		
82	TOTAL Other Power Supply Expenses (Enter Total of lines 78 thru 81)		
83	TOTAL Power Production Expenses (Total of lines 21, 41, 59, 76 & 82)		
84	**2. TRANSMISSION EXPENSES**		
85	**Operation**		
86	(560) Operation Supervision and Engineering		
87	(561.1) Load Dispatch-Reliability		
88	(561.2) Load Dispatch-Monitor and Operate Transmission System		
89	(561.3) Load Dispatch-Transmission Service and Scheduling		
90	(561.4) Scheduling, System Control and Dispatch Services		
91	(561.5) Reliability, Planning and Standards Development		
92	(561.6) Transmission Service Studies		
93	(561.7) Generation Interconnection Studies		
94	(561.8) Reliability, Planning and Standards Development Services		
95	(562) Station Expenses		
96	(562.1) Operation of Energy Storage Equipment		
97	(563) Overhead Lines Expenses		
98	(564) Underground Lines Expenses		
99	(565) Transmission of Electricity by Others		
100	(566) Miscellaneous Transmission Expenses		
101	(567) Rents		
102	TOTAL Operation (Enter Total of lines 85 thru 101)		
103	**Maintenance**		
104	(568) Maintenance Supervision and Engineering		
105	(569) Maintenance of Structures		
106	(569.1) Maintenance of Computer Hardware		
107	(569.2) Maintenance of Computer Software		
108	(569.3) Maintenance of Communication Equipment		
109	(569.4) Maintenance of Miscellaneous Regional Transmission Plant		
110	(570) Maintenance of Station Equipment		
111	(570.1) Maintenance of Energy Storage Equipment		
112	(571) Maintenance of Overhead Lines		
113	(572) Maintenance of Underground Lines		
114	(573) Maintenance of Miscellaneous Transmission Plant		

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo., Da., Yr.)	Year/Period of Report End of _____

ELECTRIC OPERATION AND MAINTENANCE EXPENSES (Continued)

If the amount for previous year is not derived from previously reported figures, explain in footnote.

Line No.	Account (a)	Amount for Current Year (b)	Amount for Previous Year (c)
115	TOTAL Maintenance (Enter Total of lines 104 thru 114)		
116	TOTAL Transmission Expenses (Enter Total of lines 102 and 115)		
117	**3. REGIONAL MARKET EXPENSES**		
118	**Operation**		
119	(575.1) Operation Supervision		
120	(575.2) Day-Ahead and Real-Time Market Facilitation		
121	(575.3) Transmission Rights Market Facilitation		
122	(575.4) Capacity Market Facilitation		
123	(575.5) Ancillary Services Market Facilitation		
124	(575.6) Market Monitoring and Compliance		
125	(575.7) Market Facilitation, Monitoring and Compliance Services		
126	(575.8) Rents		
127	Total Operation (Lines 119 thru 126)		
128	**Maintenance**		
129	(576.1) Maintenance of Structures and Improvements		
130	(576.2) Maintenance of Computer Hardware		
131	(576.3) Maintenance of Computer Software		
132	(576.4) Maintenance of Communication Equipment		
133	(576.5) Maintenance of Miscellaneous Market Operation Plant		
134	Total Maintenance (Lines 129 thru 133)		
135	TOTAL Regional Transmission and Market Operation Expenses (Enter Total of lines 127 and 134)		
136	**4. DISTRIBUTION EXPENSES**		
137	**Operation**		
138	(580) Operation Supervision and Engineering		
139	(581) Load Dispatching		
140	(582) Station Expenses		
141	(582.1) Operation of Energy Storage Equipment		
142	(583) Overhead Line Expenses		
143	(584) Underground Line Expenses		
144	(585) Street Lighting and Signal System Expenses		
145	(586) Meter Expenses		
146	(587) Customer Installations Expenses		
147	(588) Miscellaneous Expenses		
148	(589) Rents		
149	TOTAL Operation (Enter Total of lines 138 thru 148)		
150	**Maintenance**		
151	(590) Maintenance Supervision and Engineering		
152	(591) Maintenance of Structure		
153	(592) Maintenance of Station Equipment		
154	(592.2) Maintenance of Energy Storage Equipment		
155	(593) Maintenance of Overhead Lines		
156	(594) Maintenance of Underground Lines		
157	(595) Maintenance of Line Transformers		
158	(596) Maintenance of Street Lighting and Signal Systems		
159	(597) Maintenance of Meters		
160	(598) Maintenance of Miscellaneous Distribution Plant		
161	TOTAL Maintenance (Enter Total of lines 151 thru 160)		
162	TOTAL Distribution Expenses (Enter Total of lines 149 and 161)		

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ELECTRIC OPERATION AND MAINTENANCE EXPENSES (Continued)

If the amount for previous year is not derived from previously reported figures, explain in footnote.

Line No.	Account (a)	Amount for Current Year (b)	Amount for Previous Year (c)
163	**5. CUSTOMER ACCOUNTS EXPENSES**		
164	**Operation**		
165	(901) Supervision		
166	(902) Meter Reading Expenses		
167	(903) Customer Records and Collection Expenses		
168	(904) Uncollectible Accounts		
169	(905) Miscellaneous Customer Accounts Expenses		
170	TOTAL Customer Accounts Expenses (Total of lines 165 thru 169)		
171	**6. CUSTOMER SERVICE AND INFORMATIONAL EXPENSES**		
172	**Operation**		
173	(907) Supervision		
174	(908) Customer Assistance Expenses		
175	(909) Informational and Instructional Expenses		
176	(910) Miscellaneous Customer Service and Informational Expenses		
177	TOTAL Customer Service and Information. Expenses (Total lines 173 thru 176)		
178	**7. SALES EXPENSES**		
179	**Operation**		
180	(911) Supervision		
181	(912) Demonstrating and Selling Expenses		
182	(913) Advertising Expenses		
183	(916) Miscellaneous Sales Expenses		
184	TOTAL Sales Expenses (Enter Total of lines 180 thru 184)		
185	**8. ADMINISTRATIVE AND GENERAL EXPENSES**		
186	**Operation**		
187	(920) Administrative and General Salaries		
188	(921) Office Supplies and Expenses		
189	(Less) (922) Administrative Expenses Transferred-Credit		
190	(923) Outside Services Employed		
191	(924) Property Insurance		
192	(925) Injuries and Damages		
193	(926) Employee Pensions and Benefits		
194	(927) Franchise Requirements		
195	(928) Regulatory Commission Expenses		
196	(929) (Less) Duplicate Charges-Cr.		
197	(930.1) General Advertising Expenses		
198	(930.2) Miscellaneous General Expenses		
199	(931) Rents		
200	TOTAL Operation (Enter Total of lines 187 thru 199)		
201	**Maintenance**		
202	(935) Maintenance of General Plant		
203	TOTAL Administrative & General Expenses (Total of lines 199 and 201)		
204	TOTAL Electric Operation and Maintenance Expenses (Total of lines 83, 116, 135, 162, 170, 177, 184, and 203)		

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo., Da., Yr.)	Year/Period of Report End of _____

ELECTRIC PRODUCTION, OTHER POWER SUPPLY, TRANSMISSION, **REGIONAL MARKET,** AND DISTRIBUTION EXPENSES

Report Electric production, other power supply expenses, transmission, regional market, and distribution expenses through the reporting period.

Line No.	Account (a)	Year to Date Quarter
1	**1. POWER PRODUCTION AND OTHER SUPPLY EXPENSES**	
2	Steam Power Generation - Operation (500-509)	
3	Steam Power Generation – Maintenance (510-515)	
4	Total Power Production Expenses - Steam Power	
5	Nuclear Power Generation – Operation (517-525)	
6	Nuclear Power Generation – Maintenance (528-532)	
7	Total Power Production Expenses - Nuclear Power	
8	Hydraulic Power Generation – Operation (535-540.1)	
9	Hydraulic Power Generation – Maintenance (541-545.1)	
10	Total Power Production Expenses - Hydraulic Power	
11	Other Power Generation – Operation (546-550.1)	
12	Other Power Generation – Maintenance (551-554.1)	
13	Total Power Production Expenses - Other Power	
14	**Other Power Supply Expenses**	
15	Purchased Power (555)	
16	(555.1) Power Purchased for Storage Operations	
17	System Control and Load Dispatching (556)	
18	Other Expenses (557)	
19	Total Other Power Supply Expenses (line 15-18)	
20	Total Power Production Expenses (Total of lines 4, 7, 10, 13 and 19)	
21	**2. TRANSMISSION EXPENSES**	
22	**Transmission Operation Expenses**	
23	(560) Operation Supervision and Engineering	
24	(561.1) Load Dispatch-Reliability	
25	(561.2) Load Dispatch-Monitor and Operate Transmission System	
26	(561.3) Load Dispatch-Transmission Service and Scheduling	
27	(561.4) Scheduling, System Control and Dispatch Services	
28	(561.5) Reliability, Planning and Standards Development	
29	(561.6) Transmission Service Studies	
30	(561.7) Generation Interconnection Studies	
31	(561.8) Reliability, Planning and Standards Development Services	
32	(562) Station Expenses	
33	(562.1) Operation of Energy Storage Equipment	
34	(563) Overhead Line Expenses	
35	(564) Underground Line Expenses	
36	(565) Transmission of Electricity by Others	
37	(566) Miscellaneous Transmission Expenses	
38	(567) Rents	
39	(567.1) Operation Supplies and Expenses (Non-Major)	
40	TOTAL Transmission Operation Expenses (Lines 23 – 39)	

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo., Da., Yr.)	Year/Period of Report End of _____

ELECTRIC PRODUCTION, OTHER POWER SUPPLY, TRANSMISSION, **REGIONAL TRANSMISSION AND MARKET OPERATION,** AND DISTRIBUTION EXPENSES

Report Electric production, other power supply expenses, transmission, regional control and market operation, and distribution expenses through the reporting period.

Line No.	Account (a)	Year to Date Quarter
41	**Transmission Maintenance Expenses**	
42	(568) Maintenance Supervision and Engineering	
43	(569) Maintenance of Structures	
44	(569.1) Maintenance of Computer Hardware	
45	(569.2) Maintenance of Computer Software	
46	(569.3) Maintenance of Communication Equipment	
47	(569.4) Maintenance of Miscellaneous Regional Transmission Plant	
48	(570) Maintenance of Station Equipment	
49	(570.1) Maintenance of Energy Storage Equipment	
50	(571) Maintenance Overhead Lines	
51	(572) Maintenance of Underground Lines	
52	(573) Maintenance of Miscellaneous Transmission Plant	
53	(574) Maintenance of Transmission Plant	
54	TOTAL Transmission Maintenance Expenses (Lines 42 – 53)	
55	Total Transmission Expenses (Lines 40 and 54)	
56	**3. REGIONAL MARKET EXPENSES**	
57	**Regional Market Operation Expenses**	
58	(575.1) Operation Supervision	
59	(575.2) Day-Ahead and Real-Time Market Facilitation	
60	(575.3) Transmission Rights Market Facilitation	
61	(575.4) Capacity Market Facilitation	
62	(575.5) Ancillary Services Market Facilitation	
63	(575.6) Market Monitoring and Compliance	
64	(575.7) Market Facilitation, Monitoring and Compliance Services	
65	Regional Market Operation Expenses (Lines 58–64)	
66	**Regional Market Maintenance Expenses**	
67	(576.1) Maintenance of Structures and Improvements	
68	(576.2) Maintenance of Computer Hardware	
69	(576.3) Maintenance of Computer Software	
70	(576.4) Maintenance of Communication Equipment	
71	(576.5) Maintenance of Miscellaneous Market Operation Plant	
72	Regional Market Maintenance Expenses (Lines 67-71)	
73	TOTAL Regional Control and Market Operation Expenses (Lines 65 and 72)	
74	**4. DISTRIBUTION EXPENSES**	
75	Distribution Operation Expenses (580-589)	
76	Distribution Maintenance Expenses (590-598)	
77	Total Distribution Expenses (Lines 75 and 76)	
78	TOTAL (Lines 20, 55, 73, and 77)	

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PURCHASED POWER (Accounts 555 and 555.1)
(Including Power Exchanges)

1. Report all power purchases made during the year. Also report exchanges of electricity (i.e., transactions involving a balancing of debits and credits for energy, capacity, etc.) and any settlements for imbalanced exchanges.
2. Enter the name of the seller or other party in an exchange transaction in column (a). Do not abbreviate or truncate the name or use acronyms. Explain in a footnote any ownership interest or affiliation the respondent has with the seller.
3. In column (b), enter a Statistical Classification Code based on the original contractual terms and conditions of the service as follows:
RQ - for requirements service. Requirements service is service which the supplier plans to provide on an ongoing basis (i.e., the supplier includes projects load for this service in its system resource planning). In addition, the reliability of requirement service must be the same as, or second only to, the supplier's service to its own ultimate consumers.

LF - for long-term firm service. "Long-term" means five years or longer and "firm" means that service cannot be interrupted for economic reasons and is intended to remain reliable even under adverse conditions (e.g., the supplier must attempt to buy emergency energy from third parties to maintain deliveries of LF service). This category should not be used for long-term firm service firm service which meets the definition of RQ service. For all transaction identified as LF, provide in a footnote the termination date of the contract
defined as the earliest date that either buyer or seller can unilaterally get out of the contract.

IF - for intermediate-term firm service. The same as LF service expect that "intermediate-term" means longer than one year but less than five years.

SF - for short-term service. Use this category for all firm services, where the duration of each period of commitment for service is one year or less.

LU - for long-term service from a designated generating unit. "Long-term" means five years or longer. The availability and reliability of service, aside from transmission constraints, must match the availability and reliability of the designated unit.

IU - for intermediate-term service from a designated generating unit. The same as LU service expect that "intermediate-term" means longer than one year but less than five years.

EX - For exchanges of electricity. Use this category for transactions involving a balancing of debits and credits for energy, capacity, etc. and any settlements for imbalanced exchanges.

OS - for other service. Use this category only for those services which cannot be placed in the above-defined categories, such as all non-firm service regardless of the Length of the contract and service from designated units of Less than one year. Describe the nature of the service in a footnote for each adjustment.

Line No.	Name of Company or Public Authority (Footnote Affiliations) (a)	Statistical Classification (b)	FERC Rate Schedule or Tariff Number (c)	Average Monthly Billing Demand (MW) (d)	Actual Demand (MW)		
					Average Monthly NCP Demand Total (e)	Average Monthly CP Demand (f)	MegaWatt Hours Purchased (Excluding for Energy Storage) (g)
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							
14							
	Total						

Name of Respondent	This Report Is: (1) An Original (2) A Resubmission	Date of Report (Mo, Da, Yr) / /	Year/Period of Report End of Year/Qtr

PURCHASED POWER (Accounts 555 and 555.1) (Continued)
(Including Power Exchanges)

AD - for out-of-period adjustment. Use this code for any accounting adjustments or "true-ups" for service provided in prior reporting years. Provide an explanation in a footnote for each adjustment.

4. In column (c), identify the FERC Rate Schedule Number or Tariff, or, for non-FERC jurisdictional sellers, include an appropriate designation for the contract. On separate lines, list all FERC rate schedules, tariffs or contract designations under which service, as identified in column (b), is provided.
5. For requirements RQ purchases and any type of service involving demand charges imposed on a monthly (or longer) basis, enter the monthly average billing demand in column (d), the average monthly non-coincident peak (NCP) demand in column (e), and the average monthly coincident peak (CP) demand in column (f). For all other types of service, enter NA in columns (d), (e) and (f). Monthly NCP demand is the maximum metered hourly (60-minute integration) demand in a month. Monthly CP demand is the metered demand during the hour (60-minute integration) in which the supplier's system reaches its monthly peak. Demand reported in columns (e) and (f) must be in megawatts. Footnote any demand not stated on a megawatt basis and explain.
6. Report in column (g) the megawatt hours shown on bills rendered to the respondent. Report in columns (h) and (i) the megawatt hours of power exchanges received and delivered, used as the basis for settlement. Do not report net exchange.
7. Report demand charges in column (j), energy charges in column (k), and the total of any other types of charges, including out-of-period adjustments, in column (l). Explain in a footnote all components of the amount shown in column (l). Report in column (m) the total charge shown on bills received as settlement by the respondent. For power exchanges, report in column (m) the settlement amount for the net receipt of energy. If more energy was delivered than received, enter a negative amount. If the settlement amount (l) include credits or charges other than incremental generation expenses, or (2) excludes certain credits or charges covered by the agreement, provide an explanatory footnote.
8. The data in column (g) through (n) totals to the last line of the schedule. The total amount in column (g) must be reported as Purchases on Page 401, line 10. The total amount in column (h) must be reported as Purchases for Energy Storage on Page 401, line 11. The total amount in column (i) must be reported as Exchange Received on Page 401, line 12. The total amount in column (i) must be reported as Exchange Delivered on Page 401, line 13.
9. Footnote entries as required and provide explanations following all required data.

MegaWatt Hours Purchased for Energy Storage (h)	POWER EXCHANGES		COST/SETTLEMENT OF POWER				Line No.
	MegaWatt Hours Received (i)	MegaWatt Hours Delivered (j)	Demand Charges ($) (k)	Energy Charges ($) (l)	Other Charges ($) (m)	Total (k+ l+m) of Settlement ($) (n)	
							1
							2
							3
							4
							5
							6
							7
							8
							9
							10
							11
							12
							13
							14

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AMOUNTS INCLUDED IN ISO/RTO SETTLEMENT STATEMENTS

1. The respondent shall report below the details called for concerning amounts it recorded in Account 555, Purchase Power, Account 555.1, Power Purchased for Storage Operations, and Account 447, Sales for Resale, for items shown on ISO/RTO Settlement Statements. Transactions should be separately netted for each ISO/RTO administered energy market for purposes of determining whether an entity is a net seller or purchaser in a given hour. Net megawatt hours are to be used as the basis for determining whether a net purchase or sale has occurred. In each monthly reporting period, the hourly sale and purchase net amounts are to be aggregated and separately reported in Account 447, Sales for Resale, Account 555, Purchased Power, or Account 555.1, Power Purchased for Storage Operations, respectively.

Line No.	Description of Item(s) (a)	Balance at End of Quarter 1 (b)	Balance at End of Quarter 2 (c)	Balance at End of Quarter 3 (d)	Balance at End of Year (e)
1	Energy				
2	Net Purchases (Account 555)				
3	Net Purchases (Account 555.1)				
4	Net Sales (Account 447)				
5	Transmission Rights				
6	Ancillary Services				
7	Other Items (list separately)				
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
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19					
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42					
43					
44					
45	Total				

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ELECTRIC PLANT IN SERVICE (Account 101, 102, 103 and 106)

Report below the information called for concerning the disposition of electric energy generated, purchased, exchanged and wheeled during the year.

Line No.	Item (a)	MegaWatt Hours (b)	Line No.	Item (a)	MegaWatt Hours (b)
1	SOURCES OF ENERGY			DISPOSITION OF ENERGY	
2	Generation (Excluding Station Use)			Sales to Ultimate Consumers (Including Interdepartmental Sales)	
3	Steam			Requirements Sales for Resale (See Instruction 4, Page 311)	
4	Nuclear			Non-Requirements Sales for Resale (See Instruction 4, Page 311)	
5	Hydro-Conventional			Energy Furnished Without Charge	
6	Hydro=Pumped Storage			Energy Used by Company (Electric Department Only, Excluding Station Use)	
7	Other			Total Energy Losses	
8	Less Energy for Pumping			TOTAL (Enter Total of Lines 22 Through 27) MUST EQUAL LINE 20 UNDER SOURCES	
9	Net Generation (Enter Total of Lines 3 through 8)				
10	Purchases (other than for Energy Storage)				
11	Purchases for Energy Storage				
	Power Exchanges				
12	Received				
13	Delivered				
14	Net Exchanges (Line 12 minus Line 13)				
15	Transmission for Others (Wheeling)				
16	Received				
17	Delivered				
18	Net Transmission for Others (Line 16 minus line 17)				
19	Net Transmission for Others (Losses)				
20	TOTAL (Enter Total of Lines 9, 10, 11, 14, 18 and 19				

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ENERGY STORAGE OPERATIONS (Large Plants)

1. Large Plants are plants of 10,000 KW or more.
2. In columns (a) (b) and (c) report the name of the energy storage project, functional classification (Production, Transmission, Distribution), and location.
3. In column (d), report Megawatt hours (MWH) purchased, generated, or received in exchange transactions for storage.
4. In columns (e), (f) and (g) report MWHs delivered to the grid to support production, transmission and distribution. The amount reported in column (d) should include MWhs delivered/provided to a generator's own load requirements or used for the provision of ancillary services.
5. In columns (h), (i), and (j) report MWHs lost during conversion, storage and discharge of energy.
6. In column (k) report the MWHs sold.
7. In column (l), report revenues from energy storage operations. In a footnote, disclose the revenue accounts and revenue amounts related to the income generating activity.
8. In column (m), report the cost of power purchased for storage operations and reported in Account 555.1, Power Purchased for Storage Operations. If power was purchased from an affiliated seller specify how the cost of the power was determined. In columns (n) and (o), report fuel costs for storage operations associated with self-generated power included in Account 501 and other costs associated with self-generated power.
9. In columns (q), (r) and (s) report the total project plant costs including but not exclusive of land and land rights, structures and improvements, energy storage equipment, turbines, compressors, generators, switching and conversion equipment, lines and equipment whose primary purpose is to integrate or tie energy storage assets into the power grid, and any other costs associated with the energy storage project included in the property accounts listed. In addition, report the energy storage operation and maintenance expenses associated with each function.

Line No.	Name of the Energy Storage Project (a)	Functional Classification (b)	Location of the Project (c)	MWHs (d)
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
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23				
24				
25				
26				
27				
28				
29				
30				
31				
32				
33				
34				
35	TOTAL			

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ENERGY STORAGE OPERATIONS (Large Plants) (Continued)

	MWHs delivered to the grid to support			MWHs Lost During Conversion, Storage and Discharge of Energy			MWHs Sold	Revenues from the Sale of Stored Energy
Line No.	Production (e)	Transmission (f)	Distribution (g)	Production (h)	Transmission (i)	Distribution (j)	(k)	(l)
1								
2								
3								
4								
5								
6								
7								
8								
9								
10								
11								
12								
13								
14								
15								
16								
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Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo., Da., Yr.)	Year/Period of Report End of _____

ENERGY STORAGE OPERATIONS (Large Plants) (Continued

Line No.	Power Purchased for Storage Operations (555.1) (Dollars) (m)	Fuel Costs from associated fuel accounts for Storage Operations Associated with Self-Generated Power (Dollars) (n)	Other Costs Associated with Self-Generated Power (Dollars) (o)	Project Costs included in (p)	Production (Dollars) (q)	Transmission (Dollars) (r)	Distribution (Dollars) (s)
1				Account 101			
2				Account 103			
3				Account 106			
4				Account 107			
5				Other			
6							
7							
8							
9				Total Project Costs			
10							
11							
12				Storage Operation and Maintenance Costs by Function (Dollars)			
13							
14							
15							
16							
17							
18							
19							
20				Operation Expenses			
21				Maintenance Expenses			
22							
23							
24							
25							
26							
27							
28							
29							
30				Total Operations and Maintenance Costs			

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo., Da., Yr.)	Year/Period of Report End of _____

ENERGY STORAGE OPERATIONS (Small Plants)

1. Small Plants are plants less than 10,000 KW.
2 In columns (a), (b) and (c) report the name of the energy storage project, functional classification (Production, Transmission, Distribution), and location.
3. In column (d), report project plant cost including but not exclusive of land and land rights, structures and improvements, energy storage equipment and any other costs associated with the energy storage project.
4. In column (e), report operation expenses excluding fuel, (f), maintenance expenses, (g) fuel costs for storage operations and (h) cost of power purchased for storage operations and reported in Account 555.1, Power Purchased for Storage Operations. If power was purchased from an affiliated seller specify how the cost of the power was determined.
5. If any other expenses, report in column (i) and footnote the nature of the item(s).

Line No.	Name of the Energy Storage Project (a)	Functional Classification (b)	Location of the Project (c)	Project Cost (d)
1				
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35				
36	TOTAL			

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo., Da., Yr.)	Year/Period of Report End of _____

ENERGY STORAGE OPERATIONS (Small Plants)

	Plant Operating Expenses				
Line No.	Operations (Excluding Fuel used in Storage Operations) (e)	Maintenance (f)	Cost of fuel used in storage operations (g)	Account No. 555.1, Power Purchased for Storage Operations (h)	Other Expenses (i)
1					
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3					
4					
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6					
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[FR Doc. 2012–15763 Filed 7–6–12; 8:45 am]
BILLING CODE 6717–01–C

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