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

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. APHIS–2007–0158]

RIN 0579–AD30

Information From Foreign Regions Applying for Recognition of Animal Health Status

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations that govern the importation of animals and animal products by consolidating the list of factors APHIS considers when evaluating the animal health status of a foreign region and by setting out new factors APHIS will consider when evaluating a region as historically free of a specific disease. These changes will make clearer the types of information APHIS needs from a requesting region in order to conduct an evaluation.

DATES: *Effective Date:* August 27, 2012.

FOR FURTHER INFORMATION CONTACT: Dr. Kelly Rhodes, Regionalization Evaluation Services, Sanitary Trade Issues Team, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 851–3300.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 92, ''Importation of Animals and Animal Products; Procedures for Requesting Recognition of Regions'' (referred to below as the regulations), set forth the process by which a foreign government may request recognition of the animal health status of a region.

Section 92.2 of the regulations requires that such requests be accompanied by information regarding the region that will enable the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture to evaluate the request.

On December 28, 2011, we published in the **Federal Register** (76 FR 81404–81408, Docket No. APHIS–2007–0158) a proposal [1] to amend the regulations by consolidating the 11 factors listed in § 92.2(b) that APHIS considers when evaluating the animal health status of a foreign region into 8 factors. We also proposed to establish criteria for recognizing a region as historically free of a specific disease. Our intent was to make clearer the types of information APHIS needs from a requesting region to conduct an evaluation. Additionally, although our regulations focus on requests from foreign regions, we noted that APHIS could initiate an evaluation of the disease status of a foreign region and, if we did, would conduct the evaluation using these same factors. We also proposed to remove a statement in § 92.2(d) that supporting information submitted with country requests will be made available to the public prior to initiation of rulemaking. We proposed to replace it with a statement that a list of regions that have requested recognition of their animal health status will be available to the public, and to leave in place a statement in § 92.2(f) that when APHIS makes its evaluation available for public comment, the public will have access to the information upon which APHIS based its evaluation, as well as the evaluation itself.

We solicited comments concerning our proposal for 60 days ending February 27, 2012. We received 12 comments (including two from the same person) by that date. They were from an organization representing pork producers, an organization representing cattle farmers and ranchers, an organization representing U.S. consumers, a wildlife conservation society, a State board of animal health, foreign governments, and individuals.

Six commenters supported the proposed changes.

Three commenters objected to the proposed rule. Two of the three said that they oppose the concept of regionalization for animal health status. Two also said they were concerned about APHIS' ability to predict outbreaks or detect disease threats under the current 11 factors and oppose finalizing a rule predicated on those factors. They cited several instances where regions APHIS had recognized as free of a disease had subsequently experienced an outbreak of that disease. One commenter also said that APHIS should not adopt international criteria for evaluating a region as historically free of a disease until we have conducted a scientific study to determine whether such recommendations are, in fact, capable of adequately assessing whether a country is historically free of a disease.

We are making no changes to the proposed rule in response to these comments. Regionalization is an important principle of the World Trade Organization Agreement on the Application of Sanitary and Phytosanitary Measures (WTO–SPS Agreement). Regionalization is based on recognition that pest and disease conditions may vary across a country as a result of ecological, environmental, and epidemiological factors, and on the premise that these differences should be taken into account in developing science-based regulatory measures. The United States has successfully applied the concept for decades in domestic disease control and eradication programs, and regionalization of the United States for bluetongue and other diseases has facilitated exports.

Our evaluations of regions for animal health closely consider a broad range of factors widely accepted by the international community for assessing the disease risks associated with a region. As discussed above, we provide an opportunity for the public to view and comment on our evaluations and the information upon which they are based prior to making a final determination. Finding that a region is free of a disease based on such an evaluation does not guarantee, however, that the region will always remain free of that disease. Our evaluations enable us to determine whether a disease is present in a region at a given time, ensure that the region has safeguards in place to protect against introduction of the disease, and ensure that the region is capable of detecting and containing

[1] To view the proposed rule and the comments we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2007-0158.*

the disease should it be introduced despite these measures.

Two commenters did not speak for or against the specific changes, but raised other issues, as follows.

One expressed concern that the reason for the changes was to expedite the evaluations for animal health status. The commenter stated that this should not be done at the expense of preventing foreign animal disease introductions into the United States.

We agree and point out that we are not changing the way we conduct evaluations. Our goal is to expedite the process of a region supplying us with the necessary information to conduct an evaluation.

One commenter expressed concern that APHIS emphasizes geographic, or zonal, freedom from disease over other approaches to trade in animal products that effectively mitigate disease risks. He mentioned compartmentalization and commodity-based trade as two alternatives. As examples of the latter, he cited the international standards for trade in fresh beef from regions that vaccinate for foot-and-mouth disease and the international standards for trade in milk and deboned beef from regions where the risk of bovine spongiform encephalopathy is neither negligible nor controlled. He stated that eradication of livestock diseases may not always be realistic or feasible, especially in places like Africa, where the means for achieving zone freedom (fences, for example) can conflict with wildlife preservation efforts (e.g., ensuring wildlife have space and freedom to roam).

We are making no changes to the proposed rule in response to this comment. While this rulemaking addresses factors we consider when assessing the disease status of a geographic area, APHIS' regulations also include commodity-based requirements that allow for the importation of a variety of products from regions not considered free of diseases of concern. These requirements are contained largely in 9 CFR part 94. Inquiries regarding these requirements or requests for approval of new requirements may be directed to the National Center for Import and Export: Telephone (301) 851–3300 or email *AskNCIE.Products@aphis.usda.gov.*

Additionally, several of the commenters addressed specific provisions of the proposal.

One commenter objected to the proposal to allow APHIS to initiate an evaluation of a foreign country's disease status in the absence of a request from that foreign country, stating that multinational meat packers might lobby APHIS to conduct such evaluations in order to source meat and livestock.

We are making no changes to the proposed rule in response to this comment. If there is a U.S. market for meat or livestock from a foreign region but APHIS has not yet evaluated its disease risk, the foreign government of that region will likely request an evaluation because of the value those exports would have for the foreign region. In any case, as stated in the proposed rule, APHIS anticipates that most evaluations will be done at the request of a foreign country. There may be instances, however, when it will be beneficial for APHIS to initiate an evaluation, and we reserve the right to do so. Even in such cases, we could not conduct the evaluation without the cooperation of the foreign government, which would need to supply information and allow access for any necessary site visits. As with any evaluation, there would be opportunity for the public to review and comment on the evaluation and proposed disease status.

One commenter objected to our proposal to remove the statement in § 92.2(d) that supporting information submitted with country requests will be made available to the public prior to initiation of rulemaking. The commenter stated withholding such information will severely limit APHIS' transparency. Another commenter expressed concern that this change would reduce the amount of time that supporting information regarding a country's disease status is available to the public.

We are making no change in response to these comments. The intent of this statement was to assure the public that they will have access to, and opportunity to comment on, the information upon which APHIS bases its evaluation, as well as the evaluation itself. As discussed in the proposed rule, this has been our practice, and it will continue to be our practice. Moreover, there will be no change in when we make the supporting information available. We will continue to make both the supporting information and the evaluation available when we announce our intention to recognize the animal health status of a region and open the public comment period. We were concerned that the statement we proposed to remove suggested that the supporting information might be made available sooner, perhaps at the time of the initial submission of the request, when the information may be incomplete or inadequate. Additionally, this is not the only information APHIS relies upon to make its determination. In addition to information provided by the requesting country, we also gather information from literature, reports, and site visits and consider all of this in preparing our evaluation. We believe that the public should consider all of the information together, and that it could be confusing or misleading to release it in stages.

One commenter requested that, when we make available to the public a list of regions that have requested recognition of their animal health status, we include an indication of the animal species and diseases under evaluation with respect to each region. Another commenter recommended that we encourage foreign jurisdictions to specify the type of animal or product they wish to export and that we also make that information available to the public when we have it.

We agree with the suggestions. Paragraph § 92.2(d) in this final rule provides that APHIS will list on its Web site each region that has requested APHIS recognition of its animal health status, the disease(s) under evaluation, and, if the information is available, the animal(s) or product(s) the region wishes to export.

One commenter said that while the proposed changes would facilitate the work of foreign governments in submitting information, he remains concerned about the length of time it can take to complete assessments. The commenter referenced provisions in Annex C of the WTO–SPS Agreement that recommend that Members publish the standard processing period for evaluation requests or communicate the anticipated processing period to the applicant upon request.

We are making no changes to the proposed rule in response to this comment. Because the time required for each evaluation varies, estimates must be made on a case-by-case basis, which APHIS will communicate with the applicant upon request, consistent with Annex C.

One commenter asked what we mean by the wording ''safely granted'' in proposed § 92.2(e), which says: ''If, after review and evaluation of the information submitted in accordance with paragraph (b) or (c) of this section, APHIS believes the request can be safely granted, APHIS will indicate its intent and make its evaluation available for public comment through a document published in the **Federal Register**.''

We mean that APHIS has determined that imports from the region would present a low risk of introducing a particular disease into the United States and may be safely imported.

A few commenters also made suggestions or raised issues not directly

related to the changes we proposed, including expanding APHIS' oversight of other animals, including rodents; data sharing among regulatory agencies; conducting post-mortem examinations of a representative sample of imported livestock to rule out ''potential disease''; and the agreement between the European Commission and the United States on sanitary measures. Because these matters are outside the scope of this rulemaking, we are not addressing them here.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, with the change discussed above.

Executive Order 12866 and Regulatory Flexibility Act

This final rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities. The analysis is summarized below. Copies of the full analysis are available on the Regulations.gov Web site (see footnote 1 in this document for a link to Regulations.gov) or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

The economic analysis identifies importers and producers of animals and animal products as the small entities most likely to be affected by this action and considers the reduction in time between receipt of a request by APHIS and initiation of an evaluation.

Based on the information presented in the analysis, we expect that decreasing the amount of time and APHIS resources required to conduct such an evaluation would not have a significant economic effect on the entities affected.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

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

Paperwork Reduction Act

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

List of Subjects in 9 CFR Part 92

Animal diseases, Imports, Livestock, Poultry and poultry products, Region, Reporting and recordkeeping requirements.

Accordingly, we are amending 9 CFR part 92 as follows:

PART 92—IMPORTATION OF ANIMALS AND ANIMAL PRODUCTS; PROCEDURES FOR REQUESTING RECOGNITION OF REGIONS

■ 1. The authority citation for part 92 continues to read as follows:

Authority: 7 U.S.C. 1622 and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

■ 2. In § 92.2, paragraphs (a) through (f) are revised to read as follows:

§ 92.2 Application for recognition of the animal health status of a region.

(a) The representative of the national government(s) of any country or countries who has the authority to make such a request may request that APHIS recognize the animal health status of a region.[1] Such requests must be made in English and must be sent to the Administrator, c/o National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231. (Where possible, include a copy of the request and accompanying information in electronic format.)

(b) Requests for recognition of the animal health status of a region, other than requests submitted in accordance with paragraph (c) of this section, must include, in English, the following information about the region. More detailed information regarding the specific types of information that will enable APHIS to most expeditiously conduct an evaluation of the request is available at *http://www.aphis.usda.gov/import_export/animals/reg_request.shtml* or by contacting the Director, Sanitary Trade Issues Team, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737.

(1) Scope of the evaluation being requested.

(2) Veterinary control and oversight.

(3) Disease history and vaccination practices.

(4) Livestock demographics and traceability.

(5) Epidemiological separation from potential sources of infection.

(6) Surveillance.

(7) Diagnostic laboratory capabilities.

(8) Emergency preparedness and response.

(c) Requests for recognition that a region is historically free of a disease based on the amount of time that has elapsed since the disease last occurred in a region, if it has ever occurred, must include, in English, the following information about the region. More detailed information regarding the specific types of information that will enable APHIS to most expeditiously conduct an evaluation of the request is available at *http://www.aphis.usda.gov/import_export/animals/reg_request.shtml* or by contacting the Director, Sanitary Trade Issues Team, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737. For a region to be considered historically free of a disease, the disease must not have been reported in domestic livestock for at least the past 25 years and must not have been reported in wildlife for at least the past 10 years.

(1) Scope of the evaluation being requested.

(2) Veterinary control and oversight.

(3) Disease history and vaccination practices

(4) Disease notification.

(5) Disease detection.

(6) Barriers to disease introduction.

(d) A list of those regions that have requested APHIS' recognition of their animal health status, the disease(s) under evaluation, and, if available, the animal(s) or product(s) the region wishes to export, is available at *http://www.aphis.usda.gov/import_export/animals/reg_request.shtml.*

(e) If, after review and evaluation of the information submitted in accordance with paragraph (b) or (c) of this section, APHIS believes the request can be safely granted, APHIS will indicate its intent and make its evaluation available for public comment through a document published in the **Federal Register.**

(f) APHIS will provide a period of time during which the public may comment on its evaluation. During the comment period, the public will have access to the information upon which APHIS based its evaluation, as well as the evaluation itself. Once APHIS has reviewed all comments received, it will make a final determination regarding

[1] Additionally, APHIS may choose to initiate an evaluation of the animal health status of a foreign region on its own initiative. In such cases, APHIS will follow the same evaluation and notification procedures set forth in this section.

the request and will publish that determination in the **Federal Register.**

* * * * *

Done in Washington, DC, this 23rd day of July 2012.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2012–18324 Filed 7–26–12; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 29

[Docket No. FAA–2012–0785; Special Conditions No. 29–027–SC]

Special Conditions: Agusta S.p.A. Model AW139 and AB139 Helicopter, Installation of a Search and Rescue (SAR) Automatic Flight Control System (AFCS)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Agusta S.p.A. (Agusta) Model AW139 and AB139 helicopters. These model helicopters, as modified by Agusta, will have novel or unusual design features associated with installing an optional SAR AFCS. The applicable airworthiness standards do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards the Administrator considers necessary to show a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is July 18, 2012. We must receive your comments by September 25, 2012.

ADDRESSES: Send comments identified by docket number [FAA–2012–0785] using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery of Courier:* Deliver comments to the ''Mail'' address between 9 a.m., and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

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

Docket: You can read the background documents or comments received at *http://www.regulations.gov.* Follow the online instructions for accessing the docket or go to the Docket Operations in Room @12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m., and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: FAA, Aircraft Certification Service, Rotorcraft Directorate, Regulations and Policy Group (ASW–111), Attn: Stephen Barbini, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5196; facsimile (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Reason for No Prior Notice and Comment Before Adoption

The substance of these special conditions has been subjected to the notice and comment period previously and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Further, a delay in the effective date of these special conditions would significantly delay issuance of the design approval and thus delivery of the helicopter, which is imminent. Therefore, the FAA has determined that prior public notice and comment are unnecessary, impracticable, and contrary to the public interest, and finds good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment.

Comments Invited

While we did not precede this with a notice of proposed special conditions, we invite interested people to take part in this action by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive by the closing date for comments. We will consider comments filed late if it is possible to do so without incurring additional expense or delay. We may change these special conditions based on the comments we receive.

Background and Discussion

On November 11, 2008, Agusta applied for a change to Type Certificate (TC) No. R00002RD to install an optional SAR AFCS in the Model AB139 and AW139 helicopters. The AB139 and AW139 models are transport category helicopters certificated to Category A and Category B requirements, and instrument flight certificated under the requirements of Appendix B to 14 CFR part 29, Amendment 29–40.

There is a need to use dedicated AFCS upper modes, in which a fully coupled autopilot provides operational SAR profiles, for SAR operations conducted over water in offshore areas clear of obstructions. The SAR modes enable the helicopter pilot to fly fully coupled maneuvers, to include predefined search patterns during cruise flight, and to transition from cruise flight to a stabilized hover and departure (transition from hover to cruise flight). The SAR AFCS also includes an auxiliary crew control that allows another crewmember (such as a hoist operator) to have limited authority to control the helicopter's longitudinal and lateral position during hover operations.

Flight operations conducted over water at night may have an extremely limited visual horizon with little visual reference to the surface even when conducted under Visual Meteorological Conditions. Consequently, the certification requirements for SAR modes must meet Appendix B to 14 CFR part 29 for helicopter instrument flight. While this appendix prescribes airworthiness criteria for instrument flight, it does not consider operations below instrument flight minimum speed (V_{MINI}), whereas the SAR modes allow for coupled operations at low speed, all-azimuth flight to zero airspeed (hover).

Since SAR operations have traditionally been a public use mission, the use of SAR modes in civil operations requires special airworthiness standards (special conditions) to maintain a level of safety

consistent with Category A and Instrument Flight Rule (IFR) certification. In this regard, 14 CFR part 29 lacks adequate airworthiness standards for AFCS SAR mode certification to include flight characteristics, performance, and installed equipment and systems.

Type Certification Basis

Under 14 CFR 21.101, Agusta must show the AW139 and AB139 model helicopters, as changed, continue to meet either the applicable provisions of the rules incorporated by reference in TC No. R00002RD or the applicable regulations in effect on the date of application for the change, depending on the significance of the change as defined by 14 CFR 21.101. The regulations incorporated by reference in the TC are commonly referred to as the ''original type certification basis.'' The regulations incorporated by reference in R00002RD are as follows:

(a) 14 CFR 21.29 and Part 29, Amendments 29–1 through 29–45.

(b) Appendix B to Part 29, Amendment 29–40.

(c) 14 CFR part 36, Appendix H, Amendment 36–1 through Amendment 36–25.

(d) Special Condition No. 29–0010–SC, High Intensity Radiated Fields (HIRF), dated Feb. 19, 2004.

(e) Equivalent Level of Safety Findings issued against:

(1) 14 CFR 29.1305, as documented in AB139 FAA Memo dated Dec. 20, 2004.

(2) 14 CFR 29.1321, as documented in AB139 FAA Memo dated Dec. 20, 2004.

Regulatory Basis for Special Conditions

If the Administrator finds the applicable airworthiness standards (i.e., 14 CFR part 29) do not contain adequate or appropriate safety standards for the Agusta model AW139 and AB139 helicopters because of a novel or unusual design feature, special conditions are prescribed under 14 CFR 21.16.

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

Special conditions are initially applicable to the model for which they are issued. Should the TC for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same TC be modified to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model.

Novel or Unusual Design Features

The Agusta model AW139 and AB139 helicopters will incorporate the following novel or unusual design features:

The SAR system is composed of a navigation computer with SAR modes, an AFCS that provides coupled SAR functions, hoist operator control, a hover speed reference system, and two radio altimeters. The AFCS coupled SAR functions include:

(a) Hover hold at selected height above the surface.

(b) Ground speed hold.

(c) Transition down and hover to a waypoint under guidance from the navigation computer.

(d) SAR pattern, transition down, and hover near a target over which the helicopter has flown.

(e) Transition up, climb, and capture a cruise height.

(f) Capture and track SAR search patterns generated by the navigation computer.

(g) Monitor the preselected hover height with automatic increase in collective if the aircraft height drops below the safe minimum height.

These SAR modes are intended to be used over large bodies of water in areas clear of obstructions. Further, use of the modes that transition down from cruise to hover will include operation at airspeeds below V_{MINI}.

The SAR system only entails navigation, flight control, and coupled AFCS operation of the helicopter. The system does not include the additional equipment that may be required for over water flight or external loads to meet other operational requirements.

Applicability

These special conditions apply to the Agusta Model AW139 and AB139 helicopters. Should Agusta apply at a later date for a change to the TC to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well under the provisions of § 21.101(d).

Conclusion

This action affects only certain novel or unusual design features on two model helicopters (i.e., AW139 and AB139 helicopters). It is not a rule of general applicability.

List of Subjects in 14 CFR Part 29

Aircraft, Aviation safety.

■ 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 Agusta Model AW139 and AB139 helicopters when the optional Search and Rescue (SAR) Automatic Flight Control System (AFCS) is installed:

In addition to the part 29 certification requirements for Category A and helicopter instrument flight (Appendix B), the following additional requirements must be met for certification of the SAR AFCS:

(a) *SAR Flight Modes.* The coupled SAR flight modes must provide:

(1) Safe and controlled flight in three axes (lateral and longitudinal position/speed and height/vertical speed) at all airspeeds from instrument flight minimum speed (V_{MINI}) to a hover within the maximum demonstrated wind envelope.

(2) Automatic transition to the helicopter instrument flight (Appendix B) envelope as part of the normal SAR mode sequencing.

(3) A pilot-selectable Go-Around mode that safely interrupts any other coupled mode and automatically transitions the helicopter to the instrument flight (Appendix B) envelope.

(4) A means to prevent unintended flight below a safe minimum height. Pilot-commanded descent below the safe minimum height is acceptable provided the alerting requirements in (b)(7)(i) alert the pilot of this descent below safe minimum height.

(b) *SAR Mode System Architecture.* To support the integrity of the SAR modes, the following system architecture is required:

(1) A system for limiting the engine power demanded by the AFCS when any of the automatic piloting modes are engaged, so full authority digital engine control power limitations, such as torque and temperature, are not exceeded.

(2) A system providing the aircraft height above the surface and final pilot-selected height at a location on the instrument panel in a position acceptable to the FAA that will make it plainly visible to and usable by any pilot at their station.

(3) A system providing the aircraft heading and the pilot-selected heading at a location on the instrument panel in a position acceptable to the FAA that will make it plainly visible to and usable by any pilot at their station.

(4) A system providing the aircraft longitudinal and lateral ground speeds

and the pilot-selected longitudinal and lateral ground speeds when used by the AFCS in the flight envelope where airspeed indications become unreliable. This information must be presented at a location on the instrument panel in a position acceptable to the FAA that is plainly visible to and usable by any pilot at their station.

(5) A system providing wind speed and wind direction when automatic piloting modes are engaged or transitioning from one mode to another.

(6) A system that monitors for flight guidance deviations and failures, and contains an alerting function that provides the flight crew with enough information to take appropriate corrective action.

(7) The alerting system must provide visual or aural alerts, or both, to the flight crew under any of the below conditions:

(i) When the stored or pilot-selected safe minimum height is reached.

(ii) When a SAR mode system malfunction occurs.

(iii) When the AFCS changes modes automatically from one SAR mode to another.

For normal transitions from one SAR mode to another, a single visual or aural alert may suffice. For a SAR mode malfunction or a mode having a time-critical component, the flight crew alerting system must activate early enough to allow the flight crew to take timely and appropriate action. The alerting system means must be designed to alert the flight crew in order to minimize crew errors that could create an additional hazard.

(8) The SAR system hoist operator control is considered a flight control with limited authority and must comply with the following:

(i) The hoist operator control must be designed and located to provide for convenient operation and to prevent confusion and inadvertent operation.

(ii) The helicopter must be safely controllable by the hoist operator control throughout the range of that control.

(iii) The hoist operator control may not interfere with the safe operation of the helicopter.

(iv) Pilot and copilot flight controls must be able to smoothly override the limited control authority of the hoist operator control, without exceptional piloting skill, alertness, or strength, and without the danger of exceeding any other limitation because of the override.

(9) The reliability of the AFCS must be related to the effects of its failure. The occurrence of any failure condition that would prevent continued safe flight and landing must be extremely improbable. For any failure condition of the AFCS which is not shown to be extremely improbable:

(i) The helicopter must be safely controllable and capable of continued safe flight without exceptional piloting skill, alertness, or strength. Additional unrelated probable failures affecting the control system must be evaluated.

(ii) The AFCS must be designed so that it cannot create a hazardous deviation in the flight path or produce hazardous loads on the helicopter during normal operation or in the event of a malfunction or failure, assuming corrective action begins within an appropriate period of time. Where multiple systems are installed, subsequent malfunction conditions must be evaluated in sequence unless their occurrence is shown to be improbable.

(10) A functional hazard assessment and a system safety assessment must be provided to the FAA that addresses the failure conditions associated with SAR operations.

(i) For SAR catastrophic failure conditions, changes may be required to the following:

(A) System architecture.

(B) Software and complex electronic hardware design assurance levels.

(C) High Intensity Radiated Field (HIRF) test levels.

(D) Instructions for continued airworthiness.

(ii) The assessments must consider all the systems required for SAR operations to include the AFCS, all associated AFCS sensors (for example, radio altimeter), and primary flight displays. Electrical and electronic systems with SAR catastrophic failure conditions (for example, AFCS) must comply with the § 29.1317(a)(4) HIRF requirements.

(c) *SAR Mode Performance Requirements.*

(1) Demonstrate the SAR modes for the requested flight envelope, including the following minimum sea-state and wind conditions:

(i) *Sea State:* Wave height of 2.5 meters (8.2 feet), considering both short and long swells.

(ii) *Wind:* 25 knots headwind; 17 knots for all other azimuths.

(2) The selected hover height and hover velocity must be captured (to include the transition from one captured mode to another captured mode) accurately and smoothly and not exhibit any significant overshoot or oscillation.

(3) The minimum use height (MUH) for the SAR modes must be no more than the maximum loss of height following any single failure or any combination of failures not shown to be extremely improbable, plus an additional 15 feet. The MUH is the minimum height at which any SAR AFCS mode may be engaged.

(4) The SAR mode system must be usable up to the maximum certified gross weight of the aircraft or to the lower of the following weights:

(i) Maximum emergency flotation weight.

(ii) Maximum hover Out-of-Ground Effect (OGE) weight.

(iii) Maximum demonstrated weight.

(d) *Flight Characteristics.*

(1) The basic aircraft must meet all of the part 29 airworthiness criteria for helicopter instrument flight (Appendix B).

(2) For SAR mode coupled flight below V_{MINI}, at the maximum demonstrated winds, the helicopter must be able to maintain any required flight condition and make a smooth transition from any flight condition to any other flight condition without requiring exceptional piloting skill, alertness, or strength, and without exceeding the limit load factor. This requirement also includes aircraft control through the hoist operator's control.

(3) For SAR modes at airspeeds below V_{MINI}, the following requirements of Appendix B to part 29 must be met and will be used as an extension to the IFR certification envelope of the basic aircraft:

(i) *Static Longitudinal Stability:* the requirements of paragraph IV of Appendix B are not applicable.

(ii) *Static Lateral-Directional Stability:* The requirements of paragraph V of Appendix B are not applicable.

(iii) *Dynamic Stability:* The requirements of paragraph VI of Appendix B are replaced with the following two paragraphs:

(A) Any oscillation must be damped and any aperiodic response must not double in amplitude in less than 10 seconds. This requirement must also be met with degraded upper mode(s) of the AFCS. An ''upper mode'' is a mode that utilizes a fully coupled autopilot to provide an operational SAR profile.

(B) After any upset, the AFCS must return the aircraft to the last commanded position within 10 seconds or less.

(4) With any of the upper mode(s) of the AFCS engaged, the pilot must be able to manually recover the aircraft and transition to the normal (Appendix B) IFR flight profile envelope without exceptional skill, alertness, or strength.

(e) *One-Engine Inoperative (OEI) Performance Information.*

(1) The following performance information must be provided in the

Rotorcraft Flight Manual Supplement (RFMS):

(i) OEI performance information and emergency procedures, providing the maximum weight that will provide a minimum clearance of 15 feet above the surface, following failure of the critical engine in a hover. The maximum weight must be presented as a function of the hover height for the temperature and pressure altitude range requested for certification. The effects of wind must be reflected in the hover performance information.

(ii) Hover OGE performance with the critical engine inoperative for OEI continuous and time-limited power ratings for those weights, altitudes, and temperatures for which certification is requested.

Note: These OEI performance requirements do not replace performance requirements that may be needed to comply with the airworthiness or operational standards (14 CFR 29.865 or 14 CFR part 133) for external loads or human external cargo.

(f) *RFMS.*

(1) The RFMS must contain, at a minimum:

(i) Limitations necessary for safe operation of the SAR system to include:

(A) Minimum crew requirements.

(B) Maximum SAR weight.

(C) Engagement criteria for each of the SAR modes to include MUH (as determined in paragraph (c)(3)).

(ii) Normal and emergency procedures for operation of the SAR system (to include operation of the hoist operator control), with AFCS failure modes, AFCS degraded modes, and engine failures.

(iii) Performance information:

(A) OEI performance and height-loss.

(B) Hover OGE performance information, utilizing OEI continuous and time-limited power ratings.

(C) The maximum wind envelope demonstrated in flight test.

(g) *Flight Demonstration.*

(1) Before approval of the SAR system, an acceptable flight demonstration of all the coupled SAR modes is required.

(2) The AFCS must provide fail-safe operations during coupled maneuvers. The demonstration of fail-safe operations must include a pilot workload assessment associated with manually flying the aircraft to an altitude greater than 200 feet above the surface and an airspeed of at least the best rate of climb airspeed (V_y).

(3) For any failure condition of the SAR system not shown to be extremely improbable, the pilot must be able to make a smooth transition from one flight mode to another without exceptional piloting skill, alertness, or strength.

(4) Failure conditions that are not shown to be extremely improbable must be demonstrated by analysis, ground testing, or flight testing. For failures demonstrated in flight, the following normal pilot recovery times are acceptable:

(i) *Transition modes (Cruise-to-Hover/Hover-to-Cruise) and Hover modes:* Normal pilot recognition plus 1 second.

(ii) *Cruise modes:* Normal pilot recognition plus 3 seconds.

(5) All AFCS malfunctions must include evaluation at the low-speed and high-power flight conditions typical of SAR operations. Additionally, AFCS hard-over, slow-over, and oscillatory malfunctions, particularly in yaw, require evaluation. AFCS malfunction testing must include a single or a combination of failures (e.g., erroneous data from and loss of the radio altimeter, attitude, heading, and altitude sensors) that are not shown to be extremely improbable.

(6) The flight demonstration must include the following environmental conditions:

(i) Swell into wind.

(ii) Swell and wind from different directions.

(iii) Cross swell.

(iv) Swell of different lengths (short and long swell).

Issued in Fort Worth, Texas, on July 18, 2012.

Kimberly K. Smith,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2012–18199 Filed 7–26–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0675; Directorate Identifier 2012–NM–120–AD; Amendment 39–17131; AD 2012–13–51]

RIN 2120–AA64

Airworthiness Directives; Gulfstream Aerospace LP (Type Certificate Previously Held by Israel Aircraft Industries, Ltd.) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Gulfstream Aerospace LP (Type Certificate previously held by Israel Aircraft Industries, Ltd.) Model Gulfstream G150 airplanes. This emergency AD was sent previously to all known U.S. owners and operators of these airplanes. This AD requires a one-time detailed or borescope inspection of the left- and right-hand inboard vent holes for debris or obstructions, and repair if necessary. This AD was prompted by a report indicating that an inboard vent tube hole was completely covered with sealant, which blocked airflow through the vent. Under these conditions, the rise of internal pressure during pressure fueling or due to thermal expansion is sufficient to damage the wing. We are issuing this AD to detect and correct compromised integrity of the wing structure.

DATES: This AD is effective August 13, 2012 to all persons except those persons to whom it was made immediately effective by emergency AD 2012–13–51, issued on June 26, 2012, which contained the requirements of this amendment.

The Director of the Federal Register approved the incorporation by reference of a certain publication identified in the AD as of August 13, 2012.

We must receive comments on this AD by September 10, 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:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD, contact Gulfstream Aerospace Corporation, P.O. Box 2206, Mail Station D–25, Savannah, Georgia 31402–2206; telephone 800–810–4853; fax 912–965–3520; email *pubs@gulfstream.com*; Internet *http://www.gulfstream.com/product_support/technical_pubs/pubs/index.htm.*

Examining the AD Docket

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

evaluation, any comments received, and other information. The street address for the Docket Operations Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Tom Groves, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–227–1503; fax: 425–227–1149; email: *tom.groves@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

On June 26, 2012, we issued emergency AD 2012–13–51, which requires a one-time detailed or borescope inspection of the left- and right-hand inboard vent holes for debris or obstructions, and repair if necessary. Emergency AD 2012–13–51 also requires reporting positive inspection findings to the manufacturer. This action was prompted by a report from the Civil Aviation Authority of Israel (CAAI), which is the airworthiness authority for Israel, indicating that an unsafe condition may exist on Gulfstream Aerospace LP Model Gulfstream G150 airplanes. The CAAI advises that fasteners protruding from the lower wing surface were discovered during a post-flight inspection. Investigation revealed structural damage to (and separation of) ribs from wing planks.

Further inspection showed that the inboard vent tube hole was completely covered with sealant, which blocked airflow through the vent. This condition was also found on some airplanes in production. Under these conditions, the rise of internal pressure during pressure fueling or due to thermal expansion is sufficient to damage the wing. This condition, if not detected and corrected, could compromise the integrity of the wing structure.

Relevant Service Information

Gulfstream Aerospace LP has issued Gulfstream G150 Alert Service Bulletin 150–28A–146, dated June 22, 2012. The service information describes procedures for a one-time detailed or borescope inspection of the left- and right-hand inboard vent holes for debris and obstructions. The service information specifies to contact the manufacturer if any debris or obstruction is found. The CAAI mandated this service bulletin and issued Emergency Airworthiness Directive 28–12–06–18, dated June 24, 2012 (referred to after this as ''the MCAI''), to ensure the continued airworthiness of these airplanes in Israel.

FAA's Determination and Requirements of This AD

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

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design, we issued emergency AD 2012–13–51 to detect and correct compromised integrity of the wing structure. The AD requires a one-time detailed or borescope inspection of the left- and right-hand inboard vent holes for debris or obstructions, and repair if necessary. The AD also requires reporting positive inspection findings to the manufacturer.

We found that immediate corrective action was required; therefore, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual notices issued on June 26, 2012, to all known U.S. owners and operators of Gulfstream Aerospace LP (Type Certificate previously held by Israel Aircraft Industries, Ltd.) Model Gulfstream G150 airplanes. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective to all persons.

Interim Action

We consider this AD interim action. We may consider further rulemaking when additional information is available.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because we received a report indicating that an inboard vent tube hole was completely covered with sealant, which blocked airflow through the vent. Under these conditions, the rise of internal pressure during pressure fueling or due to thermal expansion is sufficient to damage the wing. We are issuing this AD to detect and correct compromised integrity of the wing structure. Therefore, we find that notice and opportunity for prior public comment are impracticable and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment. However, we invite you to send any written data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number FAA–2012–0675 and Directorate Identifier 2012–NM–120–AD at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Costs of Compliance

We estimate that this AD affects 58 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	Up to 18 work-hours × $85 per hour = up to $1,530	$0	Up to $1,530	Up to $88,740.

We have received no definitive data that would enable us to provide cost estimates 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

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2012–13–51 Gulfstream Aerospace LP (Type Certificate Previously Held by Israel Aircraft Industries, Ltd.): Amendment 39–17131; Docket No. FAA–2012–0675; Directorate Identifier 2012–NM–120–AD.

(a) Effective Date

This AD is effective August 13, 2012 to all persons except those persons to whom it was made immediately effective by emergency AD 2012–13–51, issued on June 26, 2012, which contained the requirements of this amendment.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Gulfstream Aerospace LP (Type Certificate previously held by Israel Aircraft Industries, Ltd.) Model Gulfstream G150 airplanes, certificated in any category, serial numbers 201 through 290 inclusive.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 28: Fuel.

(e) Unsafe Condition

This AD was prompted by a report indicating that an inboard vent tube hole was completely covered with sealant, which blocked airflow through the vent. Under these conditions, the rise of internal pressure during pressure fueling or due to thermal expansion is sufficient to damage the wing. We are issuing this AD to detect and correct compromised integrity of the wing structure.

(f) Compliance

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

(g) Inspection and Repair

Before further flight: Do a one-time detailed or borescope inspection of the left- and right-hand inboard vent holes for debris and obstructions, in accordance with the Accomplishment Instructions of Gulfstream G150 Alert Service Bulletin 150–28A–146, dated June 22, 2012. If any debris or obstruction is found, before further flight, repair in accordance with a method approved by either the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the Civil Aviation Authority of Israel (CAAI) (or its delegated agent).

(h) Reporting Requirement

(1) Submit a report of positive findings of the inspection required by paragraph (g) of this AD to Gulfstream Aerospace CMP, fax 800–944–1775 or 912–963–0265, at the applicable time specified in paragraph (h)(1)(i) or (h)(1)(ii) of this AD. The report must include the inspection date and results, a description of any finding, the airplane serial number, and the number of flight hours and landings on the airplane.

(i) If the inspection was done on or after the effective date of this AD: Submit the report within 10 days after the inspection.

(ii) If the inspection was done before the effective date of this AD: Submit the report within 10 days after the effective date of this AD.

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

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Branch, send it to the attention of the person identified in the Related Information section of this AD. Information may be emailed to: *9-ANM-116-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. The AMOC approval letter must specifically reference this AD.

(j) Special Flight Permit

Special flight permits, as described in Section 21.197 and Section 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199), are allowed provided the criteria in this paragraph are met. A general visual inspection must be done to detect fuel leaks, skin distortion, protruding fasteners, and loose fasteners of the left- and right-hand lower wing skins. A special flight permit is not allowed if there is any finding from the inspection. If there are no findings from the inspection, a special flight permit is allowed, provided the total wing tank fuel quantity of

the airplane (i.e., total of both wing tanks) is limited to 3,500 pounds or less.

(k) Related Information

(1) For further information about this AD, contact Tom Groves, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–227–1503; fax: 425 227–1149; email: *tom.groves@faa.gov*.

(2) Refer to MCAI Israeli Emergency Airworthiness Directive 28–12–06–18, dated June 24, 2012; and Gulfstream G150 Alert Service Bulletin 150–28A–146, dated June 22, 2012; for related information.

(l) Material Incorporated by Reference

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

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

(i) Gulfstream G150 Alert Service Bulletin 150–28A–146, dated June 22, 2012.

(ii) Reserved.

(3) For service information identified in this AD, contact Gulfstream Aerospace Corporation, P.O. Box 2206, Mail Station D–25, Savannah, Georgia 31402–2206; telephone 800–810–4853; fax 912–965–3520; email *pubs@gulfstream.com*; Internet *http://www.gulfstream.com/product_support/technical_pubs/pubs/index.htm*.

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

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

Issued in Renton, Washington, on July 13, 2012.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–17955 Filed 7–26–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0356; Directorate Identifier 2011–SW–067–AD; Amendment 39–17128; AD 2012–14–14]

RIN 2120–AA64

Airworthiness Directives; Eurocopter Deutschland GmbH Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Eurocopter Deutschland GmbH (ECD) MBB–BK 117 A–3, MBB–BK 117 A–4, MBB–BK B–1, MBB–BK 117 B–2, and MBB–BK C–1 helicopters equipped with a certain external-hoist system (hoist system). This AD requires deactivating the entire hoist system or deactivating the hoist system cable cutter function on the hoist system operator control handle (operator handle). This AD was prompted by an uncommanded activation of the hoist cable cutter function on an MBB–BK117 C–1 helicopter. The actions of this AD are intended to prevent uncommanded cutting of the hoist cable and subsequent injury to persons being lifted by the hoist.

DATES: This AD is effective August 31, 2012.

The Director of the Federal Register approved the incorporation by reference of certain documents listed in this AD as of August 31, 2012.

ADDRESSES: For service information identified in this AD, contact American Eurocopter Corporation, 2701 N. Forum Drive, Grand Prairie, TX 75052, telephone (972) 641–0000 or (800) 232–0323, fax (972) 641–3775, or at *http://www.eurocopter.com/techpub.*

You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: George Schwab, Aviation Safety Engineer, Safety Management Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone (817) 222–5110; email *george.schwab@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

On April 4, 2012, at 77 FR 20321, the **Federal Register** published our notice of proposed rulemaking (NPRM), which proposed to amend 14 CFR part 39 to include an AD that would apply to ECD Model MBB–BK 117 A–3, MBB–BK 117 A–4, MBB–BK B–1, MBB–BK 117 B–2, and MBB–BK C–1 helicopters equipped with a certain hoist system. That NPRM proposed to require deactivating the entire hoist system or deactivating the hoist system cable cutter function on the operator handle. The proposed requirements were intended to prevent uncommanded cutting of the hoist cable and subsequent injury to persons being lifted by the hoist.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD No. 2011–0126, dated July 1, 2011 (EASA AD 2011–0126), to correct an unsafe condition for the ECD Model MBB–BK 117 A–3, MBB–BK 117 A–4, MBB–BK B–1, MBB–BK 117 B–2, and MBB–BK C–1 helicopters equipped with a certain hoist system. EASA AD 2011–0126 requires deactivation of the affected external hoist system by pulling and securing the related circuit breakers, or by removing the hoist boom.

After EASA AD 2011–0126 was issued, it was discovered that pulling the circuit breaker WARN ANN II degraded the annunciator system's redundant power supply, so that pilots could not be warned of a second helicopter system failure. Prompted by these findings, EASA issued superseding EASA AD No. 2011–0131, dated July 8, 2011 (EASA AD 2011–0131), to require pulling only three circuit breakers (CABLE CUTTER, WINCH CONT, and WINCH BOOM), while circuit breaker WARN ANN II remains inserted.

EASA advises that since EASA AD 2011–0131 was issued ''a corrective action has been developed to establish an adequate safety level, while a terminating action is under

investigation but currently not available.'' EASA subsequently issued the current EASA AD No. 2011–0148, dated August 5, 2011 (EASA AD 2011–0148), which retains the requirements of EASA AD 2011–0131 and requires modification of the helicopter wiring and operator handle, part number (P/N) 76803, a revision to the Rotorcraft Flight Manual and Supplement, and repetitive inspections of the operator handle. EASA AD 2011–0148 also requires implementing a 10-year time frame for overhaul of the operator handle.

Comments

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

FAA's Determination

These helicopters have been approved by the aviation authority of Germany and are approved for operation in the United States. Pursuant to our bilateral agreement with Germany, EASA, its technical representative, has notified us of the unsafe condition described in the EASA AD. We are issuing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs and that air safety and the public interest require adopting the AD requirements as proposed.

Interim Action

We consider this AD to be an interim action. The design approval holder is currently developing a terminating action to address the unsafe condition identified in this AD. Once this terminating action is developed, approved, and available, we might consider additional rulemaking.

Differences Between This AD and the EASA AD

This AD applies to the ECD Model MBB–BK 117 A–4 model. The EASA AD makes no mention of this model. The EASA AD also applies to the MBB–BK 117 A–1 model. Eurocopter informs us that the MBB–BK 117 A–1 model no longer exists, so we did not include it in our AD. The EASA AD requires temporary revisions to the Rotorcraft Flight Manual and its supplements; this AD does not. The EASA AD requires overhaul of the operator handle every ten years; this AD does not.

Related Service Information

ECD has issued Emergency Alert Service Bulletin MBB–BK117–80–166, Revision 1, dated August 4, 2011 (ASB). The ASB specifies the deactivation of the cable cutter function on the operator handle. After the cable cutter function on the operator handle has been deactivated, the rescue winch may be used.

Costs of Compliance

We estimate that this AD will affect about 12 helicopters of U.S. registry.

We estimate the following costs to comply with this AD:

- Option 1: Pull and secure three circuit breakers. We estimate that this task will require about one half-hour to complete. At $85 per work-hour, the labor cost will total about $43. No parts will be needed, so we estimate the total cost per helicopter to be $43, or $516 for the fleet.
- Option 2: Remove the hoist boom from the helicopter. We estimate that this task will require 1.5 hours to complete at $85 per work-hour for a total labor cost of about $128. No parts will be needed, so we estimate the total cost per helicopter to be $128, or $1,536 for the fleet.
- Option 3: We estimate that modifying the hoist operator handle will require four work-hours at $85 per work-hour for a total labor cost of $340 per helicopter. Parts will cost about $92. Inspecting the hoist-operator handle for damage will take about one half-hour for a labor cost of about $43. For 12 monthly inspections per year, the annual cost will total $516. We estimate that replacing the operator handle with a new operator handle will require 0.25 work hour at $85 an hour for a labor cost of about $21 per helicopter. Parts will cost about $18,500 for a total cost of $18,521 per helicopter. Total costs per helicopter will vary, depending on whether repairs are needed.

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 helicopters identified in this rulemaking action.

Regulatory Findings

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

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

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

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

(3) Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction; and

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2012–14–14 Eurocopter Deutschland GmbH Helicopters: Amendment 39–17128; Docket No. FAA–2012–0356; Directorate Identifier 2011–SW–067–AD.

(a) Applicability

This AD applies to Model MBB–BK 117 A–3, MBB–BK 117 A–4, MBB–BK B–1, MBB–BK 117 B–2, and MBB–BK 117 C–1 helicopters with an external hoist system (hoist system) Part Number (P/N) 117–80403 or P/N 117–804061 installed, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as an uncommanded cutting of the hoist cable.

This condition could result in loss of the helicopter hoist and load and subsequent injury to persons being lifted by the hoist.

(c) Effective Date

This AD becomes effective August 31, 2012.

(d) Compliance

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

(e) Required Actions

(1) Before the next hoist operation or within 30 days, whichever comes first, comply with either paragraph (1)(i), (1)(ii), or (1)(iii):

(i) Deactivate the hoist system by pulling the CABLE CUTTER, WINCH CONT, and WINCH BOOM circuit breakers and securing each circuit breaker with a cable tie; or

(ii) Deactivate the hoist system by removing the hoist boom from the helicopter; or

(iii) Deactivate the external hoist operator handle cable-cutter function by accomplishing the following:

(A) Modify the helicopter wiring and the operator handle, P/N 76803, in accordance with the Accomplishment Instructions, Paragraph 3.B.1 (b), of Eurocopter Emergency Alert Service Bulletin MBB–BK117–80–166, Revision 1, dated August 4, 2011 (ASB).

(B) Inspect the operator handle P/N 76803 and the coiled cable of the operator handle for damage in accordance with Paragraph 3.B.1.(a)(2) of the ASB. Damage is also defined as any condition that could prevent the part's ability to perform its intended function.

(1) If the operator handle or the coiled cable of the operator handle has damage, replace the operator handle with an airworthy operator handle P/N 76803, before the next hoist operation.

(2) At intervals not to exceed 30 days, repeat the inspection in Paragraph (1)(iii)(B) of the Required Actions section of this AD.

(2) Before installing an affected hoist system on any helicopter, comply with Paragraph (1) of the Required Actions section of this AD.

(3) Before installing an operator handle P/N 76803 on any helicopter, comply with Paragraph (1)(iii)(A) of the Required Actions section of this AD.

(f) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: George Schwab, Aviation Safety Engineer, Safety Management Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone (817) 222–5110; email *george.schwab@faa.gov.*

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office, before operating any aircraft complying with this AD through an AMOC.

(g) Additional Information

The subject of this AD is addressed in the European Aviation Safety Agency (EASA) AD No. 2011–0126, dated July 1, 2011; EASA AD No. 2011–0131, dated July 8, 2011; and EASA AD No. 2011–0148, dated August 5, 2011.

(h) Subject

Joint Aircraft Service Component (JASC) Code: 2597, Equipment/furnishing system wiring.

(i) Material Incorporated by Reference

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

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

(i) Eurocopter Emergency Alert Service Bulletin MBB–BK117–80–166, Revision 1, dated August 4, 2011.

(3) For service information identified in this AD, contact American Eurocopter Corporation, 2701 N. Forum Drive, Grand Prairie, TX 75052, telephone (972) 641–0000 or (800) 232–0323, fax (972) 641–3775, or at *http://www.eurocopter.com/techpub.*

(4) You may review the service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

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

Issued in Fort Worth, Texas, on July 11, 2012.

Kim Smith,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2012–17604 Filed 7–26–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0766; Directorate Identifier 2012–SW–056–AD; Amendment 39–17133; AD 2012–15–04]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Helicopters

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

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for Eurocopter France (Eurocopter) Model EC155B1 helicopters with a certain automated flight control system installed. This AD requires changing the minimum required crew for instrument flight rules (IFR) operations from one pilot to two. This AD is prompted by a report that an EC155B1 helicopter experienced significant intermittent roll oscillations while coupled to the autopilot. These actions are intended to decrease the pilot's workload while experiencing any oscillations during landing, which could result in possible loss of control of the helicopter.

DATES: This AD becomes effective August 13, 2012.

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

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

- *Federal eRulemaking Docket:* Go to *http://www.regulations.gov.* Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

FOR FURTHER INFORMATION CONTACT: Clark Davenport, Aviation Safety Engineer, Safety Management Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *clark.davenport@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not provide you with notice and

an opportunity to provide your comments prior to it becoming effective. However, we invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that resulted from adopting this AD. The most helpful comments reference a specific portion of the AD, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit them only one time. We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this rulemaking during the comment period. We will consider all the comments we receive and may conduct additional rulemaking based on those comments.

Discussion

During a flight test of a Model EC155B1 helicopter, intermittent uncommanded roll oscillations were discovered during coupled instrument landing system (ILS) and localizer (LOC) approaches. The aircraft, which was coupled to the autopilot when these oscillations occurred, was not able to provide a stabilized approach from the final approach fix through the decision altitude or the minimum descent altitude. These intermittent oscillations occur during the landing phase of a flight, at an altitude of 500 feet or less above ground level, and result in higher single-pilot workload.

After an investigation, Eurocopter determined that these oscillations were caused by software in the automated flight control system (AFCS) that does not adequately filter the electronic ''noise'' from the U.S. ILS and LOC signals. This behavior of the autopilot was not experienced by aircraft operating in European airspace. An additional FAA flight test of an EC155B1 with unmodified AFCS software coupled to various ILS signals confirmed the oscillations, and that they can roll the helicopter up to +/−15 degrees.

Eurocopter is developing a software modification that will update the filtering algorithms for U.S. category 1 ILS and LOC signals. Until this update is approved by the European Aviation Safety Agency and validated by the FAA, we have determined that single pilot IFR operations constitute an unsafe condition for this model helicopter.

FAA's Determination

These helicopters have been approved by the aviation authority of France and are approved for operation in the United States. We are issuing this AD because we evaluated all the relevant information and determined that an unsafe condition exists and is likely to exist or develop on other helicopters of the same type design.

AD Requirements

This AD requires, before further flight, changing the minimum flight crew requirements for IFR operations from one pilot to two by revising the rotorcraft flight manual (RFM) Operating Limitations section.

Interim Action

We consider this AD to be an interim action. The design approval holder is currently developing a modification that will address the unsafe condition identified in this AD. Once this modification is developed, approved, and available, we might consider additional rulemaking.

Costs of Compliance

We estimate that this AD will affect six helicopters of U.S. Registry. We estimate that operators may incur the following costs in order to comply with this AD. Revising the RFM will require about .25 hour at an average labor rate of $85 per work-hour, for a total cost per helicopter of about $22 and a total cost to U.S operator fleet of $132.

FAA's Justification and Determination of the Effective Date

Providing an opportunity for public comments prior to adopting these AD requirements would delay implementing the safety actions needed to correct this known unsafe condition. Therefore, we find that the risk to the flying public justifies waiving notice and comment prior to the adoption of this rule because the required corrective actions must be accomplished before further flight.

Since an unsafe condition exists that requires the immediate adoption of this AD, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in less than 30 days.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed, I certify that this AD:

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2012–15–04 EUROCOPTER FRANCE: Amendment 39–17133; Docket No. FAA–2012–0766; Directorate Identifier 2012–SW–056–AD.

(a) Applicability

This AD applies to Model EC155B1 helicopters with an automated flight control system part number (P/N) 416–00297–161 and software level P/N 704A47–1332–79 installed, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as intermittent uncommanded roll oscillations during coupled instrument landing system and localizer approaches with the autopilot coupled, which could result in subsequent loss of control of the helicopter.

(c) Effective Date

This AD becomes effective August 13, 2012.

(d) Compliance

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

(e) Required Actions

Before further flight, revise the Operating Limitations section of Eurocopter EC 155B1 Flight Manual Section 2.1, by inserting a copy of this AD into the Flight Manual or by making pen and ink changes as follows. Under paragraph 5, Minimum Flight Crew/Maximum Personnel Transport Capability, beneath ''Minimum flight crew,'' remove the phrase ''—one pilot in right-hand seat'' and replace it as follows:

—VFR: One pilot in right-hand seat.

—IFR: Two pilots required.

(f) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Clark Davenport, Aviation Safety Engineer, Safety Management Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *clark.davenport@faa.gov.*

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office, before operating any aircraft complying with this AD through an AMOC.

(g) Subject

Joint Aircraft Service Component (JASC) Code: 2210: Autopilot System.

Issued in Fort Worth, Texas, on July 16, 2012.

Kim Smith,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2012–17960 Filed 7–26–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2012–0274; Airspace Docket No. 12–ANM–4]

Establishment of Class E Airspace; Roundup, MT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Roundup Airport, Roundup, MT, to accommodate aircraft using new Area Navigation (RNAV) Global Positioning System (GPS) standard instrument approach procedures at Roundup Airport. This improves the safety and management of Instrument Flight Rules (IFR) operations at the airport.

DATES: Effective date, 0901 UTC, September 20, 2012. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Eldon Taylor, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4537.

SUPPLEMENTARY INFORMATION:

History

On May 9, 2012, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to establish controlled airspace at Roundup, MT (77 FR 27148). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. The FAA received three comments, all from the National Business Aviation Association (NBAA).

The NBAA comments recommended that the FAA lower some of the adjacent Class E airspace, which is beyond the TAAs, down to 1,200 feet above the surface to accommodate orderly en route descent into the respective TAA because the NBAA feels that aircraft will not have enough airspace to access the TAAs. The airspace in question includes the following areas where Class E begins at 14,500 feet MSL: The large area to the north, the two smaller areas to the west, and the small area to the east. The NBAA is also concerned that the Minimum Instrument Flight Rules Altitude (MIA) outside the 1,200 feet above the surface would affect air traffic services into the TAAs from the north, west and east. Finally, the commenter points out that extending the Class E 1,200-foot area would provide relief to Salt Lake City Air Route Traffic Control Center (ARTCC).

The FAA believes that lowering this airspace is outside the scope of this rulemaking at this time, and would not serve the immediate purpose of establishing the airspace necessary for the safety of aircraft within the Roundup, MT, airport area.

Class E airspace designations are published in paragraph 6005, of FAA Order 7400.9V dated August 9, 2011, and effective September 15, 2011, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in that Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by establishing Class E airspace, extending upward from 700 feet above the surface, at Roundup Airport, to accommodate IFR aircraft executing new RNAV (GPS) standard instrument approach procedures at the airport. This action is necessary for the safety and management of IFR operations.

The FAA has determined this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation because the anticipated impact is minimal. This rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act because this is a routine matter that will only affect air traffic procedures and air navigation. The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 discusses the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of

airspace. This regulation is within the scope of that authority because it establishes additional controlled airspace at Roundup Airport, Roundup, MT.

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9V, Airspace Designations and Reporting Points, dated August 9, 2011, and effective September 15, 2011 is amended as follows:

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

* * * * *

ANM MT E5 Roundup, MT [New]

Roundup Airport, MT
(Lat. 46°28′30″ N., long. 108°32′36″ W.)

That airspace extending from 700 feet above the surface within a 7.6-mile radius of the Roundup Airport; that airspace extending upward from 1,200 feet above the surface within an area bounded by a line beginning at lat. 46°53′00″ N., long. 109°17′00″ W.; lat. 47°04′00″ N., long. 108°04′00″ W.; lat. 46°51′00″ N., long. 107°39′00″ W.; lat. 46°32′00″ N., long. 107°27′00″ W.; lat. 46°06′00″ N., long. 107°42′00″ W.; lat. 45°54′00″ N., long. 109°01′00″ W.; lat. 46°10′00″ N., long. 109°33′00″ W.; lat. 46°32′00″ N., long. 109°37′00″ W.; thence to the point of beginning.

Issued in Seattle, Washington, on July 19, 2012.

Robert Henry,

Acting Manager, Operations Support Group, Western Service Center.

[FR Doc. 2012–18146 Filed 7–26–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1978

[Docket Number: OSHA–2008–0026]

RIN 1218–AC36

Procedures for the Handling of Retaliation Complaints Under the Employee Protection Provision of the Surface Transportation Assistance Act of 1982 (STAA), as Amended

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: This document provides the final text of regulations governing employee protection (or ''whistleblower'') claims under the Surface Transportation Assistance Act of 1982 (STAA), as amended, implementing statutory changes to STAA enacted into law on August 3, 2007, as part of the Implementing Recommendations of the 9/11 Commission Act of 2007. On August 31, 2010, the Occupational Safety and Health Administration (OSHA) published an interim final rule (IFR) for STAA whistleblower complaints in the **Federal Register** and requested public comment on the IFR. This final rule implements changes to the IFR in response to comments received, where appropriate. This final rule also finalizes changes to the procedures for handling whistleblower complaints under STAA that were designed to make them more consistent with OSHA's procedures for handling retaliation complaints under Section 211 of the Energy Reorganization Act of 1974, and other whistleblower provisions. It also sets forth interpretations of STAA.

DATES: This final rule is effective on July 27, 2012.

FOR FURTHER INFORMATION CONTACT: Sandra Dillon, Director, Office of the Whistleblower Protection Program, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3112, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2199. This is not a toll-free number. This **Federal Register** publication is available in alternative formats: large print, electronic file on computer disk (Word Perfect, ASCII, Mates with Duxbury Braille System), and audiotape.

SUPPLEMENTARY INFORMATION:

I. Background

Among other provisions of the Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Commission Act), Public Law 110–53, 121 Stat. 266, section 1536 re-enacted the whistleblower provision in STAA, 49 U.S.C. 31105 (previously referred to as ''Section 405''), with certain amendments. The regulatory revisions described herein reflect these statutory changes and also seek to clarify and improve OSHA's procedures for handling STAA whistleblower claims, as well as to set forth interpretations of STAA. To the extent possible within the bounds of applicable statutory language, these revised regulations are designed to be consistent with the procedures applied to claims under other whistleblower statutes administered by OSHA, including Section 211 of the Energy Reorganization Act of 1974 (ERA), 42 U.S.C. 5851, the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR21), 49 U.S.C. 42121, and Title VIII of the Sarbanes-Oxley Act of 2002 (SOX), 18 U.S.C. 1514A. Responsibility for receiving and investigating complaints under 49 U.S.C. 31105 has been delegated by the Secretary of Labor (Secretary) to the Assistant Secretary of Labor for Occupational Safety and Health (Assistant Secretary). Secretary's Order 1–2012 (Jan. 18, 2012), 77 FR 3912 (Jan. 25, 2012). Hearings on determinations by the Assistant Secretary are conducted by the Office of Administrative Law Judges, and appeals from decisions by administrative law judges (ALJs) are decided by the Department of Labor's Administrative Review Board (ARB) (Secretary's Order 1–2010), 75 FR 3924–01 (Jan. 25, 2010).

II. Summary of Statutory Changes to STAA Whistleblower Provisions

The 9/11 Commission Act amended 49 U.S.C. 31105, and the related definitions provision at 49 U.S.C. 31101, by making the changes described below.

Expansion of Protected Activity

Before passage of the 9/11 Commission Act, STAA protected certain activities related to commercial motor vehicle *safety.* The 9/11 Commission Act expanded STAA's coverage to commercial motor vehicle *security.* In particular, 49 U.S.C. 31105(a)(1)(A) previously made it

unlawful for a person to discharge, discipline, or discriminate against an employee regarding pay, terms, or privileges of employment because the employee, or another person at the employee's request, filed a complaint or began a proceeding related to a violation of a commercial motor vehicle safety regulation, standard or order, or testified or planned to testify in such a proceeding. The 9/11 Commission Act expanded this provision to include complaints and proceedings related to violations of commercial motor vehicle security regulations, standards, and orders.

Prior to the 2007 amendments, paragraph (a)(1)(B)(i) of STAA's whistleblower provision prohibited a person from discharging, disciplining, or discriminating against an employee regarding pay, terms or privileges of employment for refusing to operate a vehicle in violation of a regulation, standard, or order related to commercial motor vehicle safety or health. The statute also protected any employee who refused to operate a vehicle because he or she had a reasonable apprehension of serious injury to himself or herself or the public because of the vehicle's unsafe condition. The recent STAA amendments expanded these protections to cover: (1) Any employee who refuses to operate a vehicle in violation of regulations, standards, or orders related to commercial motor vehicle security; and (2) any employee who refuses to operate a vehicle because he or she has a reasonable apprehension of serious injury to himself or herself or the public due to the vehicle's hazardous security condition.

Before the statutory amendments, paragraph (a)(2) of STAA's whistleblower provision provided that an employee's apprehension of serious injury was reasonable only if a reasonable person in the circumstances then confronting the employee would have concluded that the ''unsafe condition'' of the vehicle established a real danger of accident, injury, or serious impairment to health. Moreover, to qualify for protection under this provision the employee had to have sought from the employer, and been unable to obtain, correction of the ''unsafe condition.'' The August 2007 amendments replaced the term ''unsafe condition'' with the phrase ''hazardous safety or security condition'' throughout this paragraph.

The 9/11 Commission Act added a new paragraph to 49 U.S.C. 31105(a)(1)(A)(ii), making it unlawful for a person to discharge, discipline or discriminate against an employee regarding pay, terms or privileges of employment because of a perception that the employee has filed or is about to file a complaint or has begun or is about to bring a proceeding concerning a violation of a commercial motor vehicle safety or security regulation, standard, or order. Paragraph (a)(1)(C) of 49 U.S.C. 31105 is also new and makes it unlawful to discharge, discipline, or discriminate against an employee regarding pay, terms, or privileges of employment because the employee accurately reports hours on duty pursuant to 49 U.S.C. Chapter 315. The recent statutory amendments also added paragraph (a)(1)(D) to 49 U.S.C. 31105. This paragraph prohibits discharging, disciplining or discriminating against an employee regarding pay, terms or privileges of employment because the employee cooperates, or is perceived as being about to cooperate, with a safety or security investigation by the Secretary of Transportation, the Secretary of Homeland Security, or the National Transportation Safety Board. Finally, the 9/11 Commission Act inserted paragraph (a)(1)(E) into 49 U.S.C. 31105. This provision prohibits a person from discharging, disciplining, or discriminating against an employee regarding pay, terms or privileges of employment because the employee furnishes, or is perceived as having furnished or being about to furnish, information to the Secretary of Transportation, the Secretary of Homeland Security, the National Transportation Safety Board, or any Federal, State, or local regulatory or law enforcement agency about the facts concerning any accident or incident resulting in injury or death to an individual or damage to property occurring in connection with commercial motor vehicle transportation.

Legal Burdens of Proof for STAA Complaints

Prior to the 9/11 Commission Act, the parties' burdens of proof in STAA actions were understood to be analogous to those developed for retaliation claims under Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e *et seq. See, e.g., Clean Harbors Envtl. Servs., Inc.* v. *Herman,* 146 F.3d 12, 21–22 (1st Cir. 1998); *Yellow Freight Sys., Inc.* v. *Reich,* 27 F.3d 1133, 1138 (6th Cir. 1994). The plaintiff's prima facie case could be carried by a sufficient showing that (1) he or she engaged in protected activity; (2) he or she suffered an adverse action; and (3) a causal connection existed between the two events. *Id.* The ARB also required proof that the employer was aware that the employee had engaged in the protected activity. *See, e.g., Baughman* v. *J.P. Donmoyer, Inc.,* No. 05–1505, 2007 WL 3286335, at *3 (ARB Oct. 31, 2007).

Once the complainant made this showing, an inference of retaliation arose and the burden shifted to the employer to produce evidence of a legitimate, non-retaliatory reason for the adverse action. *Clean Harbors,* 146 F.3d at 21; *Yellow Freight,* 27 F.3d at 1138. If the employer met this burden of production, the inference of retaliation was rebutted and the burden shifted back to the complainant to show by a preponderance of the evidence that the legitimate reason was a pretext for unlawful retaliation. *Id.* Where there was evidence that the employer acted out of mixed motives, *i.e.,* it acted for both permissible and impermissible reasons, the employer bore ''the burden of establishing by a preponderance of the evidence that it would have taken the adverse employment action in the absence of the employee's protected activity.'' *Clean Harbors,* 146 F.3d at 21–22.

The 9/11 Commission Act amended paragraph (b)(1) of 49 U.S.C. 31105 to state that STAA whistleblower complaints will be governed by the legal burdens of proof set forth in AIR21 at 49 U.S.C. 42121(b). AIR21 contains whistleblower protections for employees in the aviation industry. Under AIR21, a violation may be found only if the complainant demonstrates that protected activity was a contributing factor in the adverse action described in the complaint. 49 U.S.C. 42121(b)(2)(B)(iii). Relief is unavailable if the employer demonstrates by clear and convincing evidence that it would have taken the same adverse action in the absence of the protected activity. 49 U.S.C. 42121(b)(2)(B)(iv). *See Vieques Air Link, Inc.* v. *Dep't of Labor,* 437 F.3d 102, 108–09 (1st Cir. 2006) (per curiam) (burdens of proof under AIR21).

Written Notification of Complaints and Findings

Prior to the 9/11 Commission Act, STAA's whistleblower provision required the Secretary to notify persons when complaints were filed against them. The statute has now been amended at paragraph (b)(1) to clarify that this notice must be in writing. Similarly, the 9/11 Commission Act amended paragraph (b)(2)(A) of 49 U.S.C. 31105 to clarify that the Secretary's findings must be in writing.

Expansion of Remedies

Paragraph (b)(3)(A) of 49 U.S.C. 31105 previously compelled the Secretary, upon finding a violation of STAA's

whistleblower provision, to order the employer to take affirmative action to abate the violation, reinstate the complainant to his or her former position with the same pay and terms and privileges of employment, and pay compensatory damages, including backpay. The 9/11 Commission Act amended paragraph (b)(3)(A)(iii) to reflect existing law on damages in STAA whistleblower cases and expressly provide for the award of interest on backpay as well as compensation for any special damages sustained as a result of the unlawful discrimination, including litigation costs, expert witness fees, and reasonable attorney fees. The 2007 amendments also added a new provision to 49 U.S.C. 31105, paragraph (b)(3)(C), authorizing punitive damage awards of up to $250,000.

De Novo Review

The August 2007 amendments added paragraph (c) to 49 U.S.C. 31105. That paragraph provides for de novo review of a STAA whistleblower claim by a United States district court in the event that the Secretary has not issued a final decision within 210 days after the filing of a complaint and the delay is not due to the complainant's bad faith. The provision provides that the court will have jurisdiction over the action without regard to the amount in controversy and that the case will be tried before a jury at the request of either party.

Preemption and Employee Rights

The 9/11 Commission Act added a new provision to 49 U.S.C. 31105 at paragraph (f) clarifying that nothing in the statute preempts or diminishes any other safeguards against discrimination provided by Federal or State law. The 2007 amendments to STAA also added a provision at paragraph (g) in 49 U.S.C. 31105 stating that nothing in STAA shall be deemed to diminish the rights, privileges, or remedies of any employee under any Federal or State law or under any collective bargaining agreement. New paragraph (g) further states that rights and remedies under 49 U.S.C. 31105 ''may not be waived by any agreement, policy, form, or condition of employment.''

Miscellaneous Provisions

The 9/11 Commission Act added a new provision to 49 U.S.C. 31105 at paragraph (h) regarding the circumstances in which the Secretary of Transportation and the Secretary of Homeland Security may disclose the names of employees who have provided information about certain alleged violations. In addition, the amendments added a new paragraph (i) to 49 U.S.C. 31105, which provides that the Secretary of Homeland Security will establish a process by which any person may report motor carrier vehicle security problems, deficiencies or vulnerabilities. Neither of these amendments significantly impacts OSHA's handling of whistleblower complaints under STAA.

Definition of ''Employee''

Definitions applicable to STAA are found at 49 U.S.C. 31101. That section defines ''employee'' as a driver of a commercial motor vehicle (including an independent contractor when personally operating a commercial motor vehicle), a mechanic, a freight handler, or an individual not an employer, who (i) directly affects commercial motor vehicle safety in the course of employment by a commercial motor carrier; and (ii) is not an employee of the Federal, State or local government acting in the course of employment. The 9/11 Commission Act incorporated this definition into the whistleblower section of STAA, 49 U.S.C. 31105, at paragraph (j), and expanded it to include employees who directly affect commercial motor vehicle security in the course of employment by a commercial motor carrier.

III. Summary of Rulemaking Proceedings

On August 31, 2010, OSHA published in the **Federal Register** an IFR implementing statutory changes to STAA enacted into law on August 3, 2007, as part of the 9/11 Commission Act, Public Law 110–53, 121 Stat. 266, as well as making other improvements to Part 1978. 75 FR 53544 (Aug. 31, 2010). In addition to promulgating the IFR, OSHA's notice included a request for public comment on the interim rules by November 1, 2010. There were no objections to most of the IFR and thus OSHA has adopted the IFR, except as noted.

In response to the IFR, three organizations—the Government Accountability Project (GAP), the National Whistleblower Center (NWC), and the Transportation Trades Department, AFL–CIO (TTD), filed comments with the agency within the public comment period. OSHA has reviewed and considered these comments and now adopts this final rule, which has been revised in part to address problems perceived by the agency and the commenters.

General Comments

NWC made several comments addressing particular provisions of the rule. These comments have been addressed, and changes to the regulatory provisions have been explained in the Summary and Discussion of Regulatory Provisions (below), where applicable. GAP commented that ''these rules reasonably interpret statutory requirements and in some instances [will] significantly improve [OSHA] procedures to investigate whistleblower complaints.'' GAP specifically expressed support for the following provisions: .103(b), .103(d), .104(c), .104(d), and certain aspects of .104(f). Finally, TTD expressed its support for the interim final rules in general, commenting that the ''rules implement improved procedures for handling whistleblower complaints under [STAA].'' TTD believes that the changes ''provide important protections for transportation workers,'' and TTD applauded OSHA for moving forward with the rulemaking. TTD's comments went on to suggest some changes and modifications to other interim final rules that were submitted on the same docket as the STAA interim final rule, namely the Procedures for the Handling of Retaliation Complaints Under the National Transit System Security Act and the Federal Railroad Safety Act. Those specific comments were not relevant to STAA and thus have not been addressed in the regulatory text.

IV. Summary and Discussion of Regulatory Provisions

The regulatory provisions in this part have been made to reflect the 9/11 Commission Act's amendments to STAA, to make other improvements to the procedures for handling STAA whistleblower cases, to interpret some provisions of STAA, and, to the extent possible within the bounds of applicable statutory language, to be consistent with regulations implementing the whistleblower provisions of the following statutes, among others, that are also administered and enforced by OSHA: the Safe Drinking Water Act, 42 U.S.C. 300j–9(i); the Federal Water Pollution Control Act, 33 U.S.C. 1367; the Toxic Substances Control Act, 15 U.S.C. 2622; the Solid Waste Disposal Act, 42 U.S.C. 6971; the Clean Air Act, 42 U.S.C. 7622; the ERA; the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9610 (all regulations for these statutory provisions jointly codified at 29 CFR part 24); AIR21, codified at 29 CFR part 1979; SOX, codified at 29 CFR part

1980; the Pipeline Safety Improvement Act of 2002, 49 U.S.C. 60129, codified at 29 CFR part 1981; the National Transit Systems Security Act, 6 U.S.C. 1142, the Federal Railroad Safety Act, 49 U.S.C. 20109, codified at 29 CFR part 1982; and the Consumer Product Safety Improvement Act, 15 U.S.C. 2087, codified at 29 CFR part 1983. The section numbers of these STAA regulations correspond as closely as possible with the numbering in the regulations implementing other whistleblower statutes administered by OSHA.

These regulatory provisions use more appropriate terminology. First, cases brought under the whistleblower provisions of STAA are referred to as actions alleging ''retaliation'' rather than ''discrimination.'' This terminology, which has already been used in the regulations implementing the ERA and the other whistleblower statutes covered by 29 CFR part 24, is not intended to have substantive effect. It simply reflects the fact that claims brought under these whistleblower provisions are prototypical retaliation claims. A retaliation claim is a specific type of discrimination claim that focuses on actions taken as a result of an employee's protected activity rather than as a result of an employee's characteristics (*e.g.,* race, gender, or religion).

Second, before the issuance of the IFR, the regulations referred to persons named in STAA whistleblower complaints as ''named persons,'' but in these regulations they are referred to as ''respondents.'' Again, this wording is not intended to have any substantive impact on the handling of STAA whistleblower cases. This wording simply reflects a preference for more conventional terminology.

Section 1978.100 Purpose and Scope

This section describes the purpose of the regulations implementing STAA's whistleblower provision and provides an overview of the procedures contained in the regulations. Paragraph (a) of this section includes an updated citation reference to the correct section of the United States Code where STAA's whistleblower provision is located and to reflect the recent statutory amendments extending coverage to activities pertaining to commercial motor vehicle security matters. Minor editorial revisions made to paragraph (b) of this section in the IFR are continued here.

The express inclusion of certain provisions in Part 1978 should not be read to suggest that similar legal principles may not be implied under other OSHA whistleblower rules. In other words, the canon of construction *expressio unius est exclusio alterius* (the expression of one thing is the exclusion of another) should not be applied in comparing these rules to other OSHA whistleblower rules. *See United States* v. *Vonn,* 535 U.S. 55, 65 (2002) (canon not applied when contrary to intent of drafters). For example, the express references to oral and internal complaints in these rules do not imply that oral and internal complaints are not protected under other OSHA whistleblower statutes.

Section 1978.101 Definitions

This section includes general definitions applicable to STAA's whistleblower provision. The definitions are organized in alphabetical order and minor edits made to clarify regulatory text in the IFR are adopted here.

A definition of ''business days'' in paragraph (c) clarifies that the term means days other than Saturdays, Sundays, and Federal holidays. This definition is consistent with 29 CFR 1903.22(c), an OSHA regulation interpreting the analogous term ''working days'' in section 10 of the Occupational Safety and Health Act of 1970 (OSH Act), 29 U.S.C. 659, in the same way.

The regulations in effect before the IFR defined ''commercial motor carrier'' as a person who satisfied the definitions of ''motor carrier'' and ''motor private carrier'' in 49 U.S.C. 10102(13) and 10102(16). The IFR replaced that definition with: ''Commercial motor carrier means any person engaged in a business affecting commerce between States or between a State and a place outside thereof who owns or leases a commercial motor vehicle in connection with that business, or assigns employees to operate such a vehicle.'' This definition of ''commercial motor carrier'' reflects the Secretary's longstanding practice of giving that phrase expansive meaning, *i.e.,* including within its reach all motor carriers in or affecting commerce. *See, e.g., Arnold* v. *Associated Sand and Gravel Co.,* ALJ No. 92–STA–19, 1992 WL 752791, at *3 (Sec'y Aug. 31, 1992) (appropriate to give the term ''commercial'' its legal meaning; ''legislative history of the STAA * * * additionally militates in favor of construing the term expansively to describe motor carriers 'in' or 'affecting' commerce''). In addition, this definition of ''commercial motor carrier'' is more consistent with the statutory definition of ''employer.'' *See* 49 U.S.C. 31101(3). The definition in the IFR has been adopted here.

The statutory definition of ''commercial motor vehicle'' in paragraph (e) included in the IFR has been revised in the final rule. Rather than reiterate the statutory definition, the final rule simply refers to the definition of this term as provided in the statute, 49 U.S.C. 31101(1). This change is intended to ensure that the regulation refers to the appropriate statutory definition, should it be amended in the future. The definition of ''employee'' reflects the statutory amendment expanding coverage to individuals whose work directly affects commercial motor vehicle security. In addition, the statutory definitions of ''employer'' and ''State'' are in this section at paragraphs (i) and (n) respectively, and a paragraph at the end of this section clarifies that any future statutory amendments will govern in lieu of the definitions contained in section 1978.101. A definition of ''complaint'' in paragraph (g) clarifies the scope of activities protected by STAA's whistleblower provisions. *See* discussion of section 1978.102 (Obligations and prohibited acts) below.

The definition of ''complainant'' in paragraph (f) in the IFR has been changed slightly. The word ''whistleblower'' has been deleted because it is unnecessary.

A sentence has been added to the definition of ''employee'' in section 1978.101(h) to include former employees and applicants. Such language is included in the definition of ''employee'' in other OSHA whistleblower rules, such as those under the National Transit Systems Security Act and the Federal Railroad Safety Act (29 CFR 1982.101(d)), SOX (29 CFR 1980.101(g)), and the OSH Act (29 CFR 1977.5(b)). This interpretation is consistent with the Supreme Court's interpretation of the term ''employee'' in 42 U.S. C. 2000e–3a, the anti-retaliation provision of Title VII of the Civil Rights Act of 1964, to include former employees. *Robinson* v. *Shell Oil Co.,* 519 U.S. 337 (1997). Among the Court's reasons for this interpretation were the lack of temporal modifiers for the term ''employee''; the reinstatement remedy, which only applies to former employees; and the remedial purpose of preventing workers from being deterred from whistleblowing because of a fear of blacklisting. These reasons apply equally to the anti-retaliation provision of STAA and the other whistleblower provisions enforced by OSHA.

The definition of ''person'' in paragraph (k) is basically the same as the one in the IFR except for the

addition of ''organized'' before the word ''group.'' The definition reflects the statutory definition of ''person'' for the STAA whistleblower provision in 49 App. U.S.C. 2301(4) that existed before the 1994 codification of Title 49 of the United States Code, dealing with transportation. *See* Public Law 103–272, 108 Stat. 984. The provision at 49 App. U.S.C. 2301(4) stated: '' 'person' means one or more individuals, partnerships, associations, corporations, business trusts, or any other organized group of individuals.'' The definition of ''person'' was deleted from the codification because it was regarded as unnecessary due to the Dictionary Act's definition of ''person'' in 1 U.S.C. 1, which states that the term ''includes'' entities, such as individuals and corporations, which for the most part are the same as the entities listed in the definition in this rule. *See* note after 49 U.S.C. 31101. Changes in codifications are not intended to make substantive changes in a statute unless the congressional intent to do so is clear. *Muniz* v. *Hoffman,* 422 U.S. 454, 472 n.11 (1975); *Carbo* v. *United States,* 364 U.S. 611, 618–19 (1961). The congressional intent to rely on the definition of ''person'' in 1 U.S.C. 1 does not indicate an intent to change the definition. Practically all of the entities listed in 49 App. U.S.C. 2314 are the same as the ones specifically listed in 1 U.S.C. 1. Some of the entities are different, but the Dictionary Act definition, using the word ''includes,'' is not an exclusive list. *Federal Land Bank* v. *Bismarck Lumber Co.,* 314 U.S. 95, 100 (1941) (''* * * term 'including' is not one of all-embracing definition, but connotes simply an illustrative application of the general principle.''). Furthermore, because the term ''person'' includes an individual and it is a ''person'' who is prohibited from engaging in the retaliation described in 49 U.S.C. 31105, a corporate officer or other individual responsible for the retaliation is individually liable under the STAA whistleblower provision. *Smith* v. *Lake City Enterprises, Inc., Crystle Morgan, and Donald Morgan,* Nos. 09–033, 08–091, 2010 WL 3910346, at *6 (ARB Sept. 24, 2010) (corporate president and sole shareholder individually liable under STAA), citing *Wilson* v. *Bolin Assocs., Inc.,* ALJ No. 1991–STA–004 (Sec'y Dec. 30, 1991). Section 1978.102 has been corrected to reflect the fact that the statute imposes obligations on ''person[s].''

Section 1978.102 Obligations and Prohibited Acts

This section describes the activities that are protected under STAA and the conduct that is prohibited in response to any protected activities. Insertion of this section in the IFR resulted in the renumbering of many subsequent sections; that renumbering is continued in the final rule. The discussion below highlights some significant interpretations of STAA in these provisions, but it is by no means exhaustive.

Among other prohibited acts, it is unlawful under STAA for a person to retaliate against an employee because the employee, or someone acting pursuant to the employee's request, has filed a complaint related to a violation of a commercial motor vehicle safety or security regulation, standard or order. 49 U.S.C. 31105(a)(1)(A)(i). STAA's whistleblower provision also prohibits a person from retaliating against an employee because the person perceives that the employee has filed or was about to file such a complaint. 49 U.S.C. 31105(a)(1)(A)(ii).

The Secretary has long taken the position that these provisions of STAA, as well as similarly worded provisions in other whistleblower statutes enforced by OSHA, cover both written and oral complaints to the employer or a government agency. The U.S. Supreme Court held that an analogous whistleblower provision in the Fair Labor Standards Act (FLSA), 29 U.S.C. 215(a)(3), protects oral as well as written complaints. *Kasten* v. *Saint-Gobain Performance Plastics Corp.,* 131 S.Ct. 1325, 1329 (2011). Among other things, the FLSA forbids employers from discriminating against any employee ''because such employee has filed any complaint.'' Although the Court examined ''filed any complaint'' in the FLSA, the decision is applicable to analogous language in STAA, as well as in other OSHA whistleblower statutes. *See Northcross* v. *Board of Education of the Memphis City Schools,* 412 U.S. 427, 427–28 (1973) (statutes in pari materia should be construed similarly). Specifically, Congress's intent in passing the whistleblower provision of STAA was to encourage employee reporting of noncompliance with safety regulations. *Brock* v. *Roadway Exp., Inc.,* 481 U.S. 252, 258 (1987). As with the FLSA, those employees who are in the best position to report complaints under this provision may find it difficult or impractical to reduce a complaint to writing. It is particularly important for STAA to cover oral as well as written complaints because in many cases truck drivers are out on the road and the only way they can communicate immediate concerns about violations of safety and security regulations is via CB radio or phone. Requiring that complaints of safety concerns and violations be in writing would undermine the basic purpose of the statute. Furthermore, since the passage of the STAA whistleblower provision, the ARB and federal courts have consistently held that protected activity under STAA includes oral, informal, and unofficial complaints about violations of commercial motor vehicle regulations. *See, e.g., Harrison* v. *Roadway Express, Inc.,* No. 00–048, 2002 WL 31932546, at *4 (ARB Dec. 31, 2002) (''[C]omplaints about violations of commercial motor vehicle regulations may be oral, informal or unofficial.''), *aff'd on other grounds,* 390 F.3d 752 (2d Cir. 2004); *see also, e.g., Calhoun* v. *Dep't of Labor,* 576 F.3d 201, 212 (4th Cir. 2009) (citing *Yellow Freight Sys., Inc.* v. *Reich,* 8 F.3d 980, 986 (4th Cir. 1993)) for the proposition that ''written or oral'' complaints can be protected under STAA). *Cf. Power City Elec., Inc.,* No. C–77–197, 1979 WL 23049, at *2 (E.D. Wash. Oct. 23, 1979) (noting that the term ''filed'', as used in Section 11(c) of the Occupational Safety and Health Act, 29 U.S.C. 660(c), ''is not limited to a written form of complaint.''). As the Court noted in *Kasten,* long-standing interpretations suggest that such views are ''reasonable'' and ''consistent with the Act.'' *Kasten,* 131 S.Ct. at 1335. For these reasons, sections 1978.102(b)(1) and 1978.102(e)(1) cover the filing of written *and* oral complaints with employers or government agencies, and the definition of the term ''complaint,'' reflecting this intent, in the IFR in section 1978.101 is reiterated here. Similarly, the words ''orally or in writing'' have been added after the words ''filed'' and ''file'' in sections 1978.102(b)(1) and .102(e)(2) to clarify that the protected activity includes oral as well as written communication.

Sections 1978.102(b)(1) and 1978.102(e)(2) clarify the long-standing position of the Secretary, supported by the courts of appeals, that under STAA and other OSHA whistleblower statutes the filing of a complaint is protected, whether the complaint is filed with an employer, a government agency, or others. Similarly, the definition of ''complaint'' in section 1978.101(g) states that the term includes complaints to employers, government agencies, and others. *See* 29 CFR 1977.9(c) (section 11(c) of the OSH Act protects complaints to an employer); *McKoy* v. *North Fork Services Joint Venture,* No. 04–176, 2007 WL 1266925, at *3 (ARB Apr. 30, 2007) (complaining to employer about violations of environmental statutes is protected activity). STAA does not specify the

entities to whom a complaint may be filed in order to be protected. The preamble to the interim final rule noted: ''The Secretary has long taken the position that these provisions of STAA, as well as similarly worded provisions in other whistleblower statutes enforced by OSHA, cover both written and oral complaints *to the employer or a government agency.''* 75 FR 53544, 53547 (Aug. 31, 2010) (emphasis added). In particular, the Secretary has ruled that complaints to an employer are protected under STAA in order to promote the statute's goal of highway safety. *Israel* v. *Branrich, Inc.,* No. 09–069, 2011 WL 5023051, at *4 (ARB Sept. 29. 2011); *Davis* v. *H.R. Hill, Inc.,* ALJ No.1986–STA–018 (Sec'y Mar. 19, 1987). This interpretation has been adopted by courts of appeals. *Calhoun* v. *Dep't of Labor,* 576 F.3d 201, 212 (4th Cir. 2009); *Clean Harbors Envt'l Services, Inc.* v. *Herman,* 146 F.3d 12, 19–21 (1st Cir. 1998). *Cf. Minor* v. *Bostwick Laboratories, Inc.,* 669 F.3d 428 (4th Cir. 2012) (analogous anti-retaliation provision of Fair Labor Standards Act protects complaints to an employer).

In describing the conduct that is prohibited under STAA, the final rule adds the words ''harass, suspend, demote'' to paragraphs (b), (c), and (e) to make this rule more consistent with other OSHA whistleblower rules.

Section 1978.103 Filing of Retaliation Complaints

This section (formerly section 1978.102) was revised in the IFR to make it more consistent with the regulatory procedures for other OSHA-administered whistleblower laws; that revision is adopted here with minor editorial corrections.

Complaints filed under STAA's whistleblower provision need not be in any particular form. Complainants have always been permitted to file STAA whistleblower complaints either orally or in writing. In light of this longstanding practice, OSHA will continue to accept STAA whistleblower complaints in either oral or written form. Allowing STAA whistleblower complaints to be filed orally is also consistent with OSHA's practice under other OSHA whistleblower laws. Language has been added to paragraph (b) to clarify that when a complaint is made orally, OSHA will reduce the complaint to writing. In addition, paragraph (b) provides that if an employee is not able to file a complaint in English, OSHA will accept the complaint in any other language.

Language in paragraph (c) of the IFR providing that the complaint should be filed with the ''* * * OSHA Area Director responsible for enforcement activities in the geographical area where the employee resides or was employed * * *'' has been changed. ''Area Director'' has been changed to ''office'' in recognition of the possibility that organizational changes may take place.

Language in paragraph (d) clarifies the date on which a complaint will be considered ''filed,'' *i.e.,* the date of postmark, facsimile transmittal, electronic communication transmittal, telephone call, hand-delivery, delivery to a third-party commercial carrier, or in-person filing at an OSHA office. To be timely, a complaint must be filed within 180 days of the occurrence of the alleged violation. Under *Delaware State College* v. *Ricks,* 449 U.S. 250, 258 (1980), this is considered to be when the retaliatory decision has been both made and communicated to the complainant. In other words, the limitations period commences once the employee is aware or reasonably should be aware of the employer's decision. *Equal Emp't Opportunity Comm'n* v. *United Parcel Serv., Inc.,* 249 F.3d 557, 561–62 (6th Cir. 2001).

Provisions dealing with tolling of the 180-day period for the filing of STAA whistleblower complaints were deleted in the IFR for consistency with other OSHA whistleblower regulations, which do not contain this language; the final rule makes no changes in this regard. This revision is not intended to change the way OSHA handles untimely complaints under any whistleblower laws. A sentence in the regulatory text clarifies that filing deadlines may still be tolled based on principles developed in applicable case law. *See, e.g., Donovan* v. *Hahner, Foreman & Harness, Inc.,* 736 F.2d 1421, 1423–29 (10th Cir. 1984).

Finally, paragraph (e), ''Relationship to Section 11(c) complaints,'' conforms to similar provisions implementing other OSHA whistleblower programs and more clearly describes the relationship between Section 11(c) complaints and STAA whistleblower complaints. Section 11(c) of the OSH Act generally prohibits employers from retaliating against employees for filing safety or health complaints or otherwise initiating or participating in proceedings under the OSH Act. In some circumstances an employee covered by STAA may engage in activities that are protected under STAA and Section 11(c) of the OSH Act. For example, a freight handler loading cargo onto a commercial motor vehicle may complain about both the overloading of that vehicle (a safety complaint protected by STAA) and also about an unsafe forklift (a safety complaint covered by the OSH Act). In practice, OSHA would investigate whether either or both of these protected activities caused the firing. Paragraph (e) now clarifies that STAA whistleblower complaints that also allege facts constituting an 11(c) violation will be deemed to have been filed under both statutes. Similarly, Section 11(c) complaints that allege facts constituting a violation of STAA's whistleblower provision will also be deemed to have been filed under both laws. In these cases, normal procedures and timeliness requirements under the respective statutes and regulations will be followed.

OSHA notes that a complaint of retaliation filed with OSHA under STAA is not a formal document and need not conform to the pleading standards for complaints filed in federal district court articulated in *Bell Atlantic Corp.* v. *Twombly,* 550 U.S. 544 (2007) and *Ashcroft* v. *Iqbal,* 556 U.S. 662 (2009). *See Sylvester* v. *Parexel Int'l, Inc.,* ARB Case No. 07–123, 2011 WL 2165854, at *9–10 (ARB May 26, 2011) (holding whistleblower complaints filed with OSHA under analogous provisions in the Sarbanes-Oxley Act need not conform to federal court pleading standards). Rather, the complaint filed with OSHA under this section simply alerts the agency to the existence of the alleged retaliation and the complainant's desire that the agency investigate the complaint. Upon the filing of a complaint with OSHA, the Assistant Secretary is to determine whether ''the complaint, supplemented as appropriate by interviews of the complainant'' alleges ''the existence of facts and evidence to make a prima facie showing.'' 29 CFR 1978.104(e). As explained in section 1978.104(e), if the complaint, supplemented as appropriate, contains a prima facie allegation, and the respondent does not show clear and convincing evidence that it would have taken the same action in the absence of the alleged protected activity, OSHA conducts an investigation to determine whether there is reasonable cause to believe that retaliation has occurred. *See* 49 U.S.C. 42121(b)(2), 29 CFR 1978.104(e).

Section 1978.104 Investigation

This section (formerly section 1978.103) more closely conforms to the regulations implementing other whistleblower provisions administered by OSHA. Former paragraph (f) in section 1978.102, which deals with the notice sent to employers when complaints are filed against them, is in paragraph (a) in section 1978.104, where

it more appropriately appears under the ''Investigation'' heading. In addition, OSHA here adopts minor revisions made to that paragraph in the IFR to be more consistent with similar provisions in other OSHA whistleblower regulations. Of particular note, OSHA adopts language in the IFR which was added requiring OSHA to send the Federal Motor Carrier Safety Administration (FMCSA) a copy of the notice that goes to the employer. This has been standard practice in any event. Minor editorial changes to the language of the IFR have been made.

Former section 1978.103(a), which simply stated that OSHA would investigate and gather data as it deemed appropriate, was deleted in the IFR as unnecessary; that deletion remains. The language in paragraph (a) of the IFR relating to the provision of information to respondent's counsel has been deleted because when the respondent is first notified about the complaint the respondent is usually not represented by counsel. Paragraph (b) conforms to other OSHA whistleblower regulations. Language describing the persons who can be present and the issues that can be addressed at OSHA's meetings with respondents was deleted in the IFR and is not present in the final rule, but this deletion is not substantive.

Paragraph (c) specifies that throughout the investigation the agency will provide to the complainant (or the complainant's legal counsel, if the complainant is represented by counsel) a copy of all of respondent's submissions to the agency that are responsive to the complainant's whistleblower complaint. Before providing such materials to the complainant, the agency will redact them, if necessary, in accordance with the Privacy Act of 1974, 5 U.S.C. 552a, and other applicable confidentiality laws. The phrase ''if necessary'' has been added because not all of respondent's submissions will contain confidential information. Paragraph (d) addresses confidentiality in investigations. Minor editorial changes have been made.

Paragraph (e) reflects the incorporation of the AIR21 burdens of proof provision by the second sentence of 49 U.S.C. 31105(b)(1), which was added by the 9/11 Commission Act. This paragraph generally conforms to similar provisions in the regulations implementing the AIR21 and ERA whistleblower laws. All of these statutes now require that a complainant make an initial prima facie showing that protected activity was ''a contributing factor'' in the adverse action alleged in the complaint, *i.e.,* that the protected activity, alone or in combination with other factors, affected in some way the outcome of the employer's decision. *Ferguson* v. *New Prime, Inc.,* No. 10–75, 2011 WL 4343278, at *3 (ARB Aug. 31, 2011); *Clarke* v. *Navajo Express,* No. 09–114, 2011 WL 2614326, at *3 (ARB June 29, 2011). The complainant will be considered to have met the required burden if the complaint on its face, supplemented as appropriate through interviews of the complainant, alleges the existence of facts and either direct or circumstantial evidence to meet the required showing. Complainant's burden may be satisfied, for example, if he or she shows that the adverse action took place shortly after protected activity, giving rise to the inference that it was a contributing factor in the adverse action. Language from some of OSHA's other whistleblower regulations, including those implementing AIR21 and ERA, setting forth specific elements of the complainant's prima facie case, has been carried over into these regulations.

The revised STAA provision specifically bans retaliation against employees because of their perceived protected activity. This provision clarifies existing whistleblower law. *See Reich* v. *Hoy Shoe Co.,* 32 F.3d 361, 368 (8th Cir. 1994) (''Construing § 11(c), the OSH Act's anti-retaliation provision, to protect employees from adverse employment actions because they are suspected of having engaged in protected activity is consistent with * * * the specific purposes of the anti-retaliation provisions.''). However, the references in this section to perceived protected activity have been deleted here because the concept is covered by the language of paragraph (e)(2)(ii) on suspected protected activity. Also, the final rule adds language clarifying that the revised STAA provision protects not only actual protected activity but also activity about to be undertaken.

If the complainant does not make the required prima facie showing, the investigation must be discontinued and the complaint dismissed. *See Trimmer* v. *U.S. Dep't of Labor,* 174 F.3d 1098, 1101 (10th Cir. 1999) (noting that the burden-shifting framework of the ERA, which is the same framework now found in the AIR21 law and STAA, served a ''gatekeeping function'' that ''stemm[ed] frivolous complaints''). Even in cases where the complainant successfully makes a prima facie showing, the investigation must be discontinued if the employer demonstrates, by clear and convincing evidence, that it would have taken the same adverse action in the absence of the protected activity. *Cf. Ferguson, supra* (analogous burden shift in litigation); *Clarke, supra* (same). Thus, OSHA must dismiss a complaint under STAA and not investigate (or cease investigating) if either: (1) The complainant fails to meet the prima facie showing that protected activity or the perception of protected activity was a contributing factor in the adverse action; or (2) the employer rebuts that showing by clear and convincing evidence that it would have taken the same adverse action absent the protected activity or the perception thereof. The final rule makes other minor editorial corrections.

Former section 1978.103(c) was moved to paragraph (f) of this section in the IFR; that change remains. In the IFR minor revisions were made to this paragraph to conform to similar paragraphs in the regulations implementing the AIR21 and SOX whistleblower provisions; those changes remain. The provision allows 10 business days (rather than 5 days) for the respondent to present evidence in support of its position against an order of preliminary reinstatement. Paragraph (f) of this section has been revised to provide complainants with copies of the same materials provided to respondents under this paragraph, except to the extent that confidentiality laws require redaction.

NWC and GAP commented on the provisions in section 1978.104. NWC noted that to conduct a full and fair investigation, OSHA needs to obtain the available, responsive information from both parties. If one party does not have the information submitted by the other, NWC explained, that party cannot help the investigation by providing available information to shed light on the matter. NWC also suggested that the phrase ''other applicable confidentiality laws'' be replaced with more specific language describing the confidentiality laws that might apply to a respondent's answer.

GAP commented that while it was pleased with the provisions in section 1978.104 providing copies of respondent's submissions to complainants and protecting witness confidentiality, it was concerned that the procedures under section 1978.104(f) ''disenfranchise[d] the victim, giving only one side of the dispute the chance to participate in the most significant step of the process'' and that ''[a]t a minimum, this procedural favoritism means there will not be an even playing field in the administrative hearing.'' GAP advocated removing section 1978.104(f).

OSHA agrees with NWC and GAP that the input of both parties in the investigation is important to ensuring

that OSHA reaches the proper outcome during its investigation. To that end, in response to the comments, the procedures under STAA have been revised to contain the following safeguards aimed at ensuring that complainants and respondents have equal access to information during the course of the OSHA investigation:

- Section 1978.104(c) provides that, throughout the investigation, the agency will provide the complainant (or the complainant's legal counsel if the complainant is represented by counsel) a copy of all of respondent's submissions to the agency that are responsive to the complainant's whistleblower complaint, with confidential information redacted as necessary, and the complainant will have an opportunity to respond to such submissions; and
- Section 1978.104(f) provides that the complainant will receive a copy of the materials that must be provided to the respondent under that paragraph, with confidential information redacted as necessary.

Regarding NWC's suggestion that OSHA provide more specific information about the confidentiality laws that may protect portions of the information submitted by a respondent, OSHA anticipates that the vast majority of respondent submissions will not be subject to any confidentiality laws. However, in addition to the Privacy Act, a variety of confidentiality provisions may protect information submitted during the course of an investigation. For example, a respondent may submit confidential business information, the disclosure of which would violate the Trade Secrets Act, 18 U.S.C. 1905. While the agency recognizes that a respondent must meet a high standard to show that the information it submits is protected and that it has a responsibility to independently evaluate claims that submissions contain confidential business information not subject to disclosure, it believes that the provision as drafted appropriately allows it to address legitimate claims of confidentiality.

With regard to GAP's comment that section 1978.104(f) should be removed, OSHA notes the purpose of 1978.104(f) is to ensure compliance with the Due Process Clause of the Fifth Amendment, as interpreted in the Supreme Court's ruling in *Brock* v. *Roadway Express, Inc.,* 481 U.S. 252, 264 (1987), requiring OSHA to give the respondent the opportunity to review the substance of the evidence and respond, prior to ordering preliminary reinstatement.

Nonetheless, while recognizing that the purpose of section 1978.104(f) is to ensure that the respondents have been afforded due process prior to OSHA ordering preliminary reinstatement, OSHA appreciates that complainants wish to stay informed regarding their cases and may continue to have valuable input, even at this late stage in the investigation. Thus, under these rules, OSHA will provide complainants with a copy of the materials sent to the respondent under section 1978.104(f), with materials redacted in accordance with confidentiality laws.

Section 1978.105 Issuance of Findings and Preliminary Orders

Paragraph (a) in section 1978.104, as it existed before the IFR, now at paragraph (a) in this section, was updated in the IFR to reflect the recent amendments to STAA expanding available remedies; the final rule adopts those revisions. Minor editorial corrections have been made in the final rule. If the Assistant Secretary concludes that there is reasonable cause to believe that a violation has occurred, he or she will order appropriate relief. Such order will include, where appropriate: a requirement that the respondent take affirmative action to abate the violation; reinstatement of the complainant to his or her former position with the same compensation, terms, conditions and privileges of the complainant's employment; payment of compensatory damages (backpay with interest and compensation for any special damages sustained as a result of the retaliation, including any litigation costs, expert witness fees, and reasonable attorney fees which the complainant has incurred); and payment of punitive damages up to $250,000. The final rule adds the words ''take affirmative action'' in connection with abatement of the violation because the statute uses this important term of labor law, found in the National Labor Relations Act at 29 U.S.C. 160(c) and Title VII of the Civil Rights Act of 1964, as amended, at 42 U.S.C. 2000e–5(g)(1). The word ''same'' has been inserted before ''compensation'' because this language is in the statute. A minor wording change, the deletion of the word ''together'', has been made in the final rule. The discussion of punitive damages has been put in a separate sentence to track the statute.

In appropriate circumstances, in lieu of preliminary reinstatement, OSHA may order that the complainant receive the same pay and benefits that he or she received prior to his or her termination, but not actually return to work. *Smith, supra,* at *8 (front pay under STAA). Such front pay or economic reinstatement is also employed in cases arising under Section 105(c) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 815(c)(2). *See, e.g., Secretary of Labor ex rel. York* v. *BR&D Enters., Inc.,* 23 FMSHRC 697, 2001 WL 1806020, at *1 (ALJ June 26, 2001). Congress intended that complainants be preliminarily reinstated to their positions if OSHA finds reasonable cause that they were discharged in violation of STAA's whistleblower provision. When a violation is found, the norm is for OSHA to order immediate, preliminary reinstatement. Neither an employer nor an employee has a statutory right to choose economic reinstatement. Rather, economic reinstatement is designed to accommodate situations in which evidence establishes to OSHA's satisfaction that reinstatement is inadvisable for some reason, notwithstanding the employer's retaliatory discharge of the complainant. In such situations, actual reinstatement might be delayed until after the administrative adjudication is completed as long as the complainant continues to receive his or her pay and benefits and is not otherwise disadvantaged by a delay in reinstatement. There is no statutory basis for allowing the employer to recover the costs of economically reinstating a complainant should the employer ultimately prevail in the whistleblower litigation.

In ordering interest on backpay, the agency has determined that, instead of computing the interest due by compounding quarterly the Internal Revenue Service interest rate for the underpayment of taxes, which under 26 U.S.C. 6621 is generally the Federal short-term rate plus three percentage points, interest will be compounded daily. The Secretary believes that daily compounding of interest better achieves the make-whole purpose of a backpay award. Daily compounding of interest has become the norm in private lending and recently was found to be the most appropriate method of calculating interest on backpay by the National Labor Relations Board. *See Jackson Hosp. Corp.* v. *United Steel, Paper & Forestry, Rubber, Mfg., Energy, Allied Indus. & Serv. Workers Int'l Union,* 356 NLRB No. 8, 2010 WL 4318371, at *3–4 (2010). Additionally, interest on tax underpayments under the Internal Revenue Code, 26 U.S.C. 6621, is compounded daily pursuant to 26 U.S.C. 6622(a).

Paragraph (a)(2) of this section requires the Assistant Secretary to notify the parties if he or she finds that a violation has not occurred. Former section 1978.104(c), which provided for

the suspension of 11(c) complaints pending the outcome of STAA proceedings, was deleted in the IFR; the final rule adopts that revision. As described above, section 1978.103(e) adequately describes the relationship between STAA and 11(c) complaints.

Paragraph (b) clarifies that OSHA need not send the original complaint to the Chief Administrative Law Judge when it issues its findings and preliminary order; a copy of the complaint will suffice. Former section 1978.105(b)(1) was moved to section 1978.105(c) in the IFR; the final rule adopts that revision. This paragraph states that the Assistant Secretary's preliminary order will be effective 30 days after receipt, or on the compliance date set forth in the preliminary order, whichever is later, unless an objection is filed. It also clarifies that any preliminary order requiring reinstatement will be effective immediately. This paragraph mirrors existing provisions in other OSHA whistleblower regulations. Minor editorial changes have been made in the final rule.

Subpart B—Litigation

Section 1978.106 Objections to the Findings and the Preliminary Order and Request for a Hearing

Minor revisions were made to paragraph (a), formerly section 1978.105(a), in the IFR to conform to other OSHA whistleblower regulations; the final rule adopts those revisions. Other minor revisions have been made in the final rule. The paragraph clarifies that with respect to objections to the findings and preliminary order, the date of the postmark, fax, or electronic communication transmittal is considered the date of the filing; if the objection is filed in person, by hand-delivery, or other means, the objection is filed upon receipt. The filing of objections is also considered a request for a hearing before an ALJ. The amended language also clarifies that in addition to filing objections with the Chief Administrative Law Judge, the parties must serve a copy of their objections on the other parties of record and the OSHA official who issued the findings and order. The requirement in the IFR that objections be served on the Assistant Secretary and the Associate Solicitor for Occupational Safety and Health has been deleted because such service is unnecessary. A failure to serve copies of the objections on the appropriate parties does not affect the ALJ's jurisdiction to hear and decide the merits of the case. *See Shirani* v. *Calvert Cliffs Nuclear Power Plant, Inc.,* No. 04–101, 2005 WL 2865915, at *7 (ARB Oct. 31, 2005).

The title to former section 1978.105(b) was deleted in the IFR because it was unnecessary; the final rule adopts that revision. In addition, as previously mentioned, former paragraph (b)(1) in section 1978.105 was moved to new paragraph (c) in section 1978.105; the final rule adopts that revision. Finally, some minor, non-substantive revisions were made in the IFR to former 1978.105(b)(2), now at 1978.106(b), and additional language was added to that paragraph to clarify that all provisions of the ALJ's order, with the exception of any order for preliminary reinstatement, will be stayed upon the filing of a timely objection; the final rule adopts those revisions. A respondent may file a motion to stay OSHA's preliminary reinstatement order with the Office of Administrative Law Judges. However, such a motion will be granted only on the basis of exceptional circumstances. A stay of the Assistant Secretary's preliminary order of reinstatement would be appropriate only where the respondent can establish the necessary criteria for a stay, i.e. the respondent would suffer irreparable injury; the respondent is likely to succeed on the merits; a balancing of possible harms to the parties favors the respondent; and the public interest favors a stay.

Section 1978.107 Hearings

Former section 1978.106, which became section 1978.107 in the IFR, was titled ''Scope of rules; applicability of other rules; notice of hearing.'' The title was changed to ''Hearings,'' the title assigned to similar sections in other OSHA whistleblower regulations. The final rule adopts those revisions. Other minor revisions have been made in the final rule.

Minor revisions were made to paragraph (a) in the IFR, which adopted the rules of practice and procedure and the rules of evidence for administrative hearings before the Office of Administrative Law Judges, codified at 29 CFR part 18; those revisions have been adopted here. However, in the final rule the reference to the ALJ rules of evidence has been deleted. This change is discussed below. Changes were also made in the IFR to paragraph (b) to conform to other OSHA whistleblower regulations. The requirements for the ALJ to set a hearing date within 7 days and to commence a hearing within 30 days were deleted, and language was added in the IFR to clarify that hearings will commence expeditiously and be conducted de novo and on the record. The language in the IFR is not intended to change case-handling practices. The final rule adopts those revisions.

Paragraph (b) has been modified in the final rule to add language providing that ALJs have broad discretion to limit discovery in order to expedite the hearing. This provision furthers an important goal of STAA—to have unlawfully terminated employees reinstated as quickly as possible.

Paragraph (c), which deals with situations in which both the complainant and the respondent object to the findings and/or preliminary order, was revised in the IFR, consistent with the changes made to paragraph (b), to remove language stating that hearings shall commence within 30 days of the last objection received. The final rule adopts those revisions.

Former paragraph (d), dealing with the ALJ's discretion to order the filing of prehearing statements, was deleted in the IFR as unnecessary; the final rule adopts that change.

A new paragraph (d) has been added to this section. It provides that in ALJ proceedings formal rules of evidence will not apply, but rules or principles designed to assure production of the most probative evidence will be applied. Furthermore, the ALJ may exclude evidence that is immaterial, irrelevant, or unduly repetitious. This evidence provision differs from the practice under the STAA IFR (section 1978.107(a)) and the original STAA rules (section 1978. 106(a)) to follow the ALJ rules of evidence in 29 CFR part 1918. The new provision is consistent with the Administrative Procedure Act, which provides at 5 U.S.C. 556(d): ''* * * Any oral or documentary evidence may be received, but the agency as a matter of policy shall provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence * * *.'' *See also Federal Trade Commission* v. *Cement Institute,* 333 U.S. 683, 705–06 (1948) (administrative agencies not restricted by rigid rules of evidence). Furthermore, it is inappropriate to apply the technical rules of evidence in Part 18 because complainants often appear *pro se.* Also, hearsay evidence is often appropriate in whistleblower cases, as there often is no relevant evidence other than hearsay to prove discriminatory intent. ALJs have the responsibility to determine the appropriate weight to be given to such evidence. For these reasons, the interests of determining all of the relevant facts are best served by not having strict evidentiary rules.

Section 1978.108 Role of Federal Agencies

Former section 1978.107, titled ''Parties,'' was moved in the IFR to section 1978.108 with the new title ''Role of Federal agencies.'' The final rule adopts that change. This conforms to the terminology used in OSHA's other whistleblower regulations.

Former paragraphs (a), (b), and (c) in section 1978.107 were combined in section 1978.108(a)(1) in the IFR; that revision remains. The changes which were made to these paragraphs are not intended to be substantive, *i.e.,* there is no intent to change the rights to party status currently afforded the Assistant Secretary, complainants, or respondents. The Assistant Secretary, represented by an attorney from the appropriate Regional Solicitor's Office, will still generally assume the role of prosecuting party in STAA whistleblower cases in which the respondent objects to the findings or preliminary order. This continues longstanding practice in STAA cases. The public interest generally requires the Assistant Secretary's continued participation in such matters. Relatively few private attorneys have developed adequate expertise in representing STAA whistleblower complainants, and complainants in the motor carrier industry have been more likely to proceed *pro se* than employees covered by OSHA's other whistleblower programs. Where the complainant, but not the respondent, objects to the findings or order, the regulations retain the Assistant Secretary's discretion to participate as a party or amicus curiae at any stage of the proceedings, including the right to petition for review of an ALJ decision.

Paragraph (a)(2) clarifies that if the Assistant Secretary assumes the role of prosecuting party in accordance with paragraph (a)(1), he or she may, upon written notice to the other parties, withdraw as the prosecuting party in the exercise of prosecutorial discretion. If the Assistant Secretary withdraws, the complainant will become the prosecuting party, and the ALJ will issue appropriate orders to regulate the course of future proceedings.

Paragraph (a)(3) provides that copies of documents in all cases must be sent to all parties, or, if represented by counsel, to them. If the Assistant Secretary is a party, documents shall be sent to the Regional Solicitor's Office representing the Assistant Secretary. This is a departure from the IFR, which also required distribution of documents to the Assistant Secretary and, where he or she was a party, to the Associate Solicitor for Occupational Safety and Health. Experience has shown that the additional distribution was not necessary. In the interest of saving time and resources the requirements for this additional distribution are being deleted.

Paragraph (b) states that the Federal Motor Carrier Safety Administration (FMCSA), an agency of the U.S. Department of Transportation, may participate in the proceedings as amicus curiae at its own discretion. This paragraph also permits the FMCSA to request copies of all documents, regardless of whether it is participating in the case. This provision mirrors similar language in the regulations implementing other OSHA-administered whistleblower laws.

The provisions formerly at section 1978.108, which described the manner in which STAA whistleblower cases would be captioned or titled, were deleted in the IFR. It is unnecessary to continue to include that material in these regulations.

Section 1978.109 Decisions and Orders of the Administrative Law Judge

This section sets forth the content of the decision and order of the ALJ, and includes the standards for finding a violation under STAA's whistleblower provision. Minor editorial revisions have been made in the final rule. References to the perception of protected activity have been deleted in the final rule. This concept is adequately covered by section 1978.104(e)(2)(ii) (employer knowledge shown by suspicion of protected activity). The title of this section conforms to the title assigned to similar provisions in other OSHA whistleblower regulations. Before the issuance of the IFR, section 1978.109 addressed decisions of both the ALJs and the ARB. In conformance with other OSHA whistleblower regulations, these two topics were separated by the IFR into individual sections; this separation remains in the final rule. Section 1978.109 covers only ALJ decisions and section 1978.110 addresses ARB decisions.

Former paragraph (a) was divided in the IFR among multiple paragraphs in this section and otherwise revised to reflect the parties' new burdens of proof and to conform more closely to the regulations implementing other OSHA-administered whistleblower laws. Those changes remain in the final rule. In litigation, the statutory burdens of proof require a complainant to prove that the alleged protected activity was a ''contributing factor'' in the alleged adverse action. If the complainant satisfies his or her burden, the employer, to escape liability, must prove by ''clear and convincing evidence'' that it would have taken the same action in the absence of the protected activity.

A contributing factor is ''any factor which, alone or in connection with other factors, tends to affect in any way the outcome of the decision.'' *Clarke, supra,* at *3. The complainant (whenever this term is used in this paragraph, it also refers to the Assistant Secretary) can succeed by providing either direct or indirect proof of contribution. Direct evidence is ''smoking gun'' evidence that conclusively connects the protected activity and the adverse action and does not rely upon inference. If the complainant does not produce direct evidence, he or she must proceed indirectly, or inferentially, by proving by a preponderance of the evidence that a motive prohibited by STAA was the true reason for the adverse action. One type of circumstantial evidence is evidence that discredits the respondent's proffered reasons for the adverse action, demonstrating instead that they were pretexts for retaliation. *Id.* Another type of circumstantial evidence is temporal proximity between the protected activity and the adverse action. *Ferguson, supra,* at *2. The respondent may avoid liability if it ''demonstrates by clear and convincing evidence'' that it would have taken the same adverse action in any event. Clear and convincing evidence is evidence indicating that the thing to be proved is highly probable or reasonably certain. *Clarke, supra,* at *3. This burden of proof regimen supersedes the one in effect before the 2007 amendments to STAA. *Id.* at 7, n.1.

The requirements that the ALJ close the record within 30 days after the filing of the objection and issue a decision within 30 days after the close of the record are not in these rules because procedures for issuing decisions, including their timeliness, are addressed by the Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges at 29 CFR 18.57.

Section 1978.109(c), which is similar to provisions in other OSHA whistleblower regulations, provides that the Assistant Secretary's determinations about when to proceed with an investigation and when to dismiss a complaint without completing an investigation are discretionary decisions not subject to review by the ALJ. The ALJ hears cases de novo and, therefore, may not remand cases to the Assistant Secretary to conduct an investigation or

make further factual findings. If there otherwise is jurisdiction, the ALJ will hear the case on the merits or dispose of the matter without a hearing if warranted by the facts and circumstances.

Section 1978.109(d)(1) now describes the relief the ALJ can award upon finding a violation and reflects the recent statutory amendments (see earlier discussion of section 1978.105(a)). The language of the IFR has been slightly modified to clarify the available remedies. The requirement to take appropriate affirmative action to abate the violation is separated from the other remedies, as it is in the STAA remedy provision, 49 U.S.C. 31105(b)(3)(A). Affirmative action to abate the violation, required by section 31105(b)(3)(A)(i), includes a variety of measures in addition to others in (3)(A), such as posting notices about STAA orders and rights, as well as expungement of adverse comments in a personnel record. *Scott* v. *Roadway Express, Inc.,* No. 01–065, 2003 WL 21269144, at *1–2 (ARB May 29, 2003) (posting notices of STAA orders and rights); *Pollock* v. *Continental Express,* Nos. 07–073, 08–051, 2010 WL 1776974, at *9 (ARB Apr. 7, 2010) (expungement of adverse references). Other minor wording changes have been made. In addition, paragraph (d)(2) in this section requires the ALJ to issue an order denying the complaint if he or she determines that the respondent has not violated STAA.

Before the IFR, ALJs' decisions and orders were subject to automatic review by the ARB. These procedures were unique to STAA whistleblower cases and resulted in a heavy STAA caseload for the ARB. This made it more difficult for the ARB to promptly resolve the cases on its docket and delayed the resolution of STAA cases in which the parties were mutually satisfied with the ALJ's decision and order. Overall, requiring mandatory ARB review of every STAA whistleblower case is an inefficient use of limited resources. In conformance with the procedures used for the other whistleblower cases investigated by OSHA and adjudicated by ALJs, these regulations provide for ARB review of an ALJ's decision only if one or more of the parties to the case files a petition requesting such review. These procedures for review of ALJ decisions apply to all ALJ decisions issued on or after the effective date of the IFR, August 31, 2010. The final rule adopts these revisions.

In the IFR, former section 1978.109(b) was deleted, although much of its content was moved to paragraph (e); the final rule adopts those revisions. Section 1978.109(e), which borrows language from similar provisions in other OSHA whistleblower regulations, gives parties 14 days after the date of the ALJ's decision to file a petition for review with the ARB. If no petition for review is filed within that timeframe, the ALJ's decision is final and all portions of the order become effective. Paragraph (e), in addition to giving parties14 days to seek review before the ARB, clarifies that any orders relating to reinstatement will be effective immediately upon receipt of the decision by the respondent.

In the IFR, all of the provisions in former section 1978.109, which codified the automatic review process, primarily former paragraphs (c)(1) and (c)(2), were deleted. The content of former paragraph (c)(3), regarding the standard for ARB review of ALJ decisions, was moved to new section 1978.110(b). The content of former paragraph (c)(4), which required the ARB to issue an order denying the complaint if it determined that the respondent had not violated the law, was moved to section 1978.110(e). Former paragraph (c)(5), which required service of the ARB decision on all parties, became a part of section 1978.110(c). The final rule adopts all those revisions.

OSHA has revised the period for filing a timely petition for review with the ARB to 14 days rather than 10 business days. With this change, the final rule expresses the time for a petition for review in a way that is consistent with the other deadlines for filings before the ALJs and the ARB in the rule, which are also expressed in days rather than business days. This change also makes the final rule congruent with the 2009 amendments to Rule 6(a) of the Federal Rules of Civil Procedure and Rule 26(a) of the Federal Rules of Appellate Procedure, which govern computation of time before those tribunals and express filing deadlines as days rather than business days. Accordingly, the ALJ's order will become the final order of the Secretary 14 days after the date of the decision, rather than after 10 business days, unless a timely petition for review is filed. As a practical matter, this revision does not substantively alter the window of time for filing a petition for review before the ALJ's order becomes final.

Section 1978.110 Decisions and Orders of the Administrative Review Board

This section is borrowed largely from existing regulations implementing other OSHA whistleblower laws. Minor editorial corrections have been made in the final rule. In accordance with the decision to discontinue automatic ARB review of ALJ decisions, paragraph (a) of this section gives the parties 14 days from the date of the ALJ's decision to file a petition for review with the ARB. If no timely petition for review is filed, the decision of the ALJ becomes the final decision of the Secretary, and is not subject to judicial review. Paragraph (a) also clarifies that the date of the postmark, fax, electronic communication transmittal, or hand-delivery will be deemed the date of filing; if the petition is filed in person, by hand-delivery or other means, the petition is considered filed upon receipt. In its comments, NWC suggested that the filing period be extended from 10 business days to 30 days to make this section parallel to the provision in 1978.105(c), which allows for 30 days within which to file an objection. OSHA declines to extend the filing period to 30 days because the 14-day filing period is consistent with the practices and procedures followed in OSHA's other whistleblower programs. Furthermore, parties may file a motion for extension of time to appeal an ALJ's decision, and the ARB has discretion to grant such extensions. However, as explained above, OSHA has revised the period to petition for review of an ALJ decision to 14 days rather than 10 business days. As a practical matter, this revision does not substantively alter the window of time for filing a petition for review before the ALJ's order becomes final.

With regard to section 1978.110(a), NWC urged deletion of the provision that ''[t]he parties should identify in their petitions for review the legal conclusions or orders to which they object, or the objections will ordinarily be deemed waived.'' NWC commented that parties should be allowed to add additional grounds for review in subsequent briefs and that allowing parties to do so would further the goal of deciding cases on the merits. OSHA's inclusion of this provision is not intended to limit the circumstances in which parties can add additional grounds for review as a case progresses before the ARB, but rather the rules include this provision to put the public on notice of the possible consequences of failing to specify the basis of a petition to the ARB. OSHA recognizes that while the ARB has held in some instances that an exception not specifically urged may be deemed waived, the ARB also has found that the rules provide for exceptions to this general rule. *See, e.g., Furland* v. *American Airlines, Inc.,* Nos. 09–102, 10–130, 2011 WL 3413364, at *7, n.5 (ARB Jul. 27, 2011), *petition for review*

filed, (11th Cir. Oct. 3, 2011) (No. 11–14419–C) (where a complainant consistently made an argument throughout the administrative proceedings the argument was not waived simply because it appeared in the complainant's reply brief to the ARB rather than in the petition for review); *Avlon* v. *American Express Co.,* No. 09–089, 2011 WL 4915756, at *4–5, n.1 (ARB Sept. 14, 2011) (consideration of an argument not specifically raised in complainant's petition for review is believed to be within the authority of the ARB, and parallel provisions in Sarbanes-Oxley whistleblower regulations do not mandate that the ARB must limit its review to ALJ conclusions assigned as error in the petition for review); *Brookman* v. *Levi Strauss,* No. 07–074, 2008 WL 7835844, at *5 (ARB Jul. 23, 2008) (concurring with the ALJ's findings despite Complainant's failure to specifically identify objections and invoke ARB review). However, recognizing that the interim final rule may have suggested too stringent a standard, the phrase ''will ordinarily'' has been replaced with ''may.''

Consistent with the procedures for petitions for review under other OSHA-administered whistleblower laws, paragraph (b) provides that the ARB has discretion to accept or reject review in STAA whistleblower cases. Congress intended these whistleblower cases to be expedited, as reflected by the recent amendment to STAA providing for a hearing de novo in district court if the Secretary has not issued a final decision within 210 days of the filing of the complaint. Making review of STAA whistleblower cases discretionary may assist in furthering that goal.

The ARB has 30 days to decide whether to grant a petition for review. If the ARB does not grant the petition, the decision of the ALJ becomes the final decision of the Secretary. This section further provides that when the ARB accepts a petition for review, it will review the ALJ's factual determinations under the substantial evidence standard, a standard previously set forth in section 1978.109(c)(3) before the issuance of the IFR. If a timely petition for review is filed with the ARB, relief ordered by the ALJ is inoperative while the matter is pending before the ARB, except that orders of reinstatement will be effective pending review. Paragraph (b) does provide that in exceptional circumstances the ARB may grant a motion to stay an ALJ's order of reinstatement. A stay of a reinstatement order is only appropriate when the respondent can establish the necessary criteria for a stay, *i.e.,* the respondent will suffer irreparable injury; the respondent is likely to succeed on the merits; a balancing of possible harms to the parties favors the respondent; and the public interest favors a stay.

Paragraph (c), which provides that the ARB will issue a final decision within 120 days of the conclusion of the ALJ hearing, was revised to state that the conclusion of the ALJ hearing will be deemed to be 14 days after the date of the decision of the ALJ, rather than after 10 business days, unless a motion for reconsideration has been filed with the ALJ in the interim. Like the revision to section 1978.110(a), explained above, this revision does not substantively alter the length of time before the ALJ hearing will be deemed to have been concluded. This paragraph further provides for the ARB's decision in all cases to be served on all parties, the Chief Administrative Law Judge, the Assistant Secretary, and the Associate Solicitor for Occupational Safety and Health.

Paragraph (d) describes the remedies the ARB can award if it concludes that the respondent has violated STAA's whistleblower provision (see earlier discussion of section 1978.109(d)(1)). In addition, under paragraph (e), if the ARB determines that the respondent has not violated STAA, it will issue an order denying the complaint. Paragraph (f) clarifies that the procedures for seeking review before the ARB apply to all cases in which ALJ decisions were issued on or after the effective date of the IFR, August 31, 2010.

Subpart C—Miscellaneous Provisions.

Section 1978.111 Withdrawal of STAA Complaints, Findings, Objections, and Petitions for Review; Settlement

This section provides procedures and time periods for the withdrawal of complaints, the withdrawal of findings and/or preliminary orders by the Assistant Secretary, the withdrawal of objections to findings and/or preliminary orders, and the withdrawal of petitions for review of ALJ decisions. It also provides for the approval of settlements at the investigative and adjudicative stages of the case. Minor editorial changes have been made in the final rule.

Paragraph (a) permits a complainant to withdraw orally or in writing his or her complaint to the Assistant Secretary, at any time prior to the filing of objections to the Assistant Secretary's findings and/or preliminary order. The Assistant Secretary confirms in writing the complainant's desire to withdraw and will determine whether to approve the withdrawal. The Assistant Secretary will notify all parties if the withdrawal is approved. Paragraph (a) clarifies that complaints that are withdrawn pursuant to settlement agreements prior to the filing of objections must be approved in accordance with the settlement approval procedures in paragraph (d). In addition, paragraph (a) clarifies that the complainant may not withdraw his or her complaint after the filing of objections to the Assistant Secretary's findings and/or preliminary order. Paragraph (c) addresses situations in which parties seek to withdraw either objections to the Assistant Secretary's findings and/or preliminary order or petitions for review of ALJ decisions. Paragraph (c) provides that a party may withdraw objections to the Assistant Secretary's findings and/or preliminary order at any time before the findings and preliminary order become final by filing a written withdrawal with the ALJ. Similarly, if a case is on review with the ARB, a party may withdraw a petition for review of an ALJ's decision at any time before that decision becomes final by filing a written withdrawal with the ARB. The ALJ or the ARB, depending on where the case is pending, will determine whether to approve the withdrawal of the objections or the petition for review. Paragraph (c) clarifies that if the ALJ approves a request to withdraw objections to the Assistant Secretary's findings and/or preliminary order, and there are no other pending objections, the Assistant Secretary's findings and preliminary order will become the final order of the Secretary. Likewise, if the ARB approves a request to withdraw a petition for review of an ALJ decision, and there are no other pending petitions for review of that decision, the ALJ's decision will become the final order of the Secretary. Finally, paragraph (c) provides that if objections or a petition for review are withdrawn because of settlement, the settlement must be submitted for approval in accordance with paragraph (d).

Paragraph (d)(1) states that a case may be settled at the investigative stage if the Assistant Secretary, the complainant, and the respondent agree. The Assistant Secretary's approval of a settlement reached by the respondent and the complainant demonstrates his or her consent and achieves the consent of all three parties. Minor, non-substantive changes are being made to paragraph (d)(2). Paragraph (d)(3) is being deleted because the withdrawal of the Assistant Secretary as a party as a matter of prosecutorial discretion is adequately covered by section .107(a)(2). Paragraph (e), borrowing language from similar

provisions in other OSHA whistleblower regulations, clarifies that settlements approved by the Assistant Secretary, the ALJ, or the ARB will constitute the final order of the Secretary and may be enforced in federal district court pursuant to 49 U.S.C. 31105(e).

Section 1978.112 Judicial Review

This section describes the statutory provisions for judicial review of decisions of the Secretary and, in cases where judicial review is sought, requires the ARB to submit the record of proceedings to the appropriate court pursuant to the Federal Rules of Appellate Procedure and the local rules of such court. Non-substantive revisions to paragraphs (a), (b), and (c) were made in the IFR and are continued here. Minor editorial changes from the IFR were made in the final rule. In the final rule a reference to the transmission of the record to a court of appeals by an ALJ has been made because parties may file petitions for review of those decisions in the courts of appeals where they have previously requested review by the ARB and the ARB has denied review.

Former section 1978.112, which addressed postponement due to the pendency of proceedings in other forums, including grievance-arbitration proceedings under collective bargaining agreements, and deferral to the outcomes of such proceedings, was deleted in the IFR to conform to other OSHA whistleblower regulations, which do not contain similar provisions; that deletion remains. This is a non-substantive change. Postponement and deferral principles will still be applied in accordance with case law.

Section 1978.113 Judicial Enforcement

In the IFR, non-substantive revisions were made to this section, which describes the Secretary's power under STAA's whistleblower provision to obtain judicial enforcement of orders, including orders approving settlement agreements; the final rule adopts those revisions. Minor editorial corrections have been made in the final rule.

Section 1978.114 District Court Jurisdiction of Retaliation Complaints under STAA

This section deals with the recent amendment to STAA, 49 U.S.C. 31105(c), allowing a complainant in a STAA whistleblower case to bring an action in district court for de novo review if there has been no final decision of the Secretary and 210 days have passed since the filing of the complaint and the delay was not due to the complainant's bad faith. Section 1978.114 has been drafted to reflect the Secretary's position that it would not be reasonable to construe the statute to permit a complainant to initiate an action in federal court after the Secretary issues a final decision, even if the date of the final decision is more than 210 days after the filing of the administrative complaint. In the Secretary's view, the purpose of the ''kick-out'' provision is to aid the complainant in receiving a prompt decision. That goal is not implicated in a situation where the complainant already has received a final decision from the Secretary. In addition, permitting the complainant to file a new case in district court in such circumstances could conflict with the parties' rights to seek judicial review of the Secretary's final decision in the court of appeals. The regulations have been drafted in accordance with this position. Minor editorial corrections have been made in the final rule.

The IFR did not note that 49 U.S.C. 31105(c) guarantees the right to a jury trial at the request of either party in these cases. This rule notes that statutory provision.

In this section, OSHA eliminated the requirement that complainants provide the agency 15 days advance notice before filing a de novo complaint in district court. Instead, this section provides that within seven days after filing a complaint in district court, a complainant must provide a file-stamped copy of the complaint to the Assistant Secretary, the ALJ, or the ARB, depending on where the proceeding is pending. A copy of the complaint also must be provided to the OSHA official who issued the findings and/or preliminary order, the Assistant Secretary, and the Associate Solicitor, Division of Occupational Safety and Health, U.S. Department of Labor. This provision is necessary to notify the agency that the complainant has opted to file a complaint in district court. This provision is not a substitute for the complainant's compliance with the requirements for service of process of the district court complaint contained in the Federal Rules of Civil Procedure and the local rules of the district court where the complaint is filed. The reference to the OSHA Regional Administrator in the IFR has been changed in the final rule to a reference to the OSHA official who issued the findings and/or preliminary order to reflect the possibility (not currently contemplated) of future organizational changes.

This change responds to NWC's comment that the 15-day advance notice requirement for filing a suit in district court should be eliminated because it inhibits complainants' access to federal courts. OSHA believes that a provision for notifying the agency of the district court complaint is necessary to avoid unnecessary expenditure of agency resources once a complainant has decided to remove the case to federal district court. OSHA believes that the revised provision adequately balances the complainant's interest in ready access to federal court and the agency's interest in receiving prompt notice that the complainant no longer wishes to continue with the administrative proceeding.

Section 1978.115 Special Circumstances; Waiver of Rules

This section provides that in circumstances not contemplated by these rules or for good cause the ALJ or the ARB may, upon application and three days notice to the parties, waive any rule or issue such orders as justice or the administration of STAA's whistleblower provision requires.

In the IFR, OSHA deleted former section 1978.114, which provided that the time requirements imposed on the Secretary by these regulations are directory in nature and that a failure to meet those requirements did not invalidate any action by the Assistant Secretary or Secretary under STAA; that deletion remains. These principles are well-established in the case law, *see, e.g., Roadway Express* v. *Dole,* 929 F.2d 1060, 1066 (5th Cir. 1991), and this provision, which was unique to OSHA's STAA regulations, is unnecessary. The deletion of this provision is a non-substantive amendment. No significant change in STAA practices or procedures is intended.

V. Paperwork Reduction Act

This rule contains a reporting provision (filing a retaliation complaint, section 1978.103) which was previously reviewed and approved for use by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1995, Public Law 104–13, 109 Stat. 163 (1995). The assigned OMB control number is 1218–0236.

VI. Administrative Procedure Act

The notice and comment rulemaking procedures of Section 553 of the Administrative Procedure Act (''APA'') do not apply to ''interpretive rules, general statements of policy, or rules of agency organization, procedure, or practice.'' 5 U.S.C. 553(b)(A). Part 1978 sets forth interpretive rules and rules of agency procedure and practice within

the meaning of that section. Therefore, publication in the **Federal Register** of a notice of proposed rulemaking and request for comments was not required. Although part 1978 was not subject to the notice and comment procedures of the APA, the Assistant Secretary sought and considered comments to enable the agency to improve the rules by taking into account the concerns of interested persons.

Furthermore, because this rule is procedural and interpretive rather than substantive, the normal requirement of 5 U.S.C. 553(d) that a rule be effective 30 days after publication in the **Federal Register** is inapplicable. The Assistant Secretary also finds good cause to provide an immediate effective date for this rule. It is in the public interest that the rule be effective immediately so that parties may know what procedures are applicable to pending cases. Furthermore, most of the provisions of this rule were in the IFR and have already been in effect since August 31, 2010.

VII. Executive Order 12866, Executive Order 13563; Unfunded Mandates Reform Act of 1995; Executive Order 13132

The agency has concluded that this rule is not a ''significant regulatory action'' within the meaning of Executive Order 12866, reaffirmed by Executive Order 13563, because it is not likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866. Therefore, no regulatory impact analysis has been prepared.

Because no notice of proposed rulemaking was published, no statement is required under Section 202 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532. In any event, this rulemaking is procedural and interpretive in nature and is thus not expected to have a significant economic impact. Finally, this rule does not have ''federalism implications.'' The rule does not have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government'' and therefore is not subject to Executive Order 13132 (Federalism).

VIII. Regulatory Flexibility Analysis

The agency has determined that the regulation will not have a significant economic impact on a substantial number of small entities. The regulation sets forth procedures and interpretations, many of which were necessitated by statutory amendments enacted by Congress. Additionally, the regulatory revisions are necessary for the sake of consistency with the regulatory provisions governing procedures under other whistleblower statutes administered by OSHA. Furthermore, no certification to this effect is required and no regulatory flexibility analysis is required because no proposed rule has been issued.

List of Subjects in 29 CFR Part 1978

Administrative practice and procedure, Employment, Highway safety, Investigations, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements, Safety, Transportation, Whistleblowing.

Authority and Signature

This document was prepared under the direction and control of David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health.

Signed at Washington, DC, on July 18, 2012.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

Accordingly, for the reasons set out in the preamble part 1978 of Title 29 of the Code of Federal Regulations is revised to read as follows:

PART 1978—PROCEDURES FOR THE HANDLING OF RETALIATION COMPLAINTS UNDER THE EMPLOYEE PROTECTION PROVISION OF THE SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982 (STAA), AS AMENDED

Subpart A—Complaints, Investigations, Findings, and Preliminary Orders

Sec.
1978.100 Purpose and scope.
1978.101 Definitions.
1978.102 Obligations and prohibited acts.
1978.103 Filing of retaliation complaints.
1978.104 Investigation.
1978.105 Issuance of findings and preliminary orders.

Subpart B—Litigation

1978.106 Objections to the findings and the preliminary order and request for a hearing.
1978.107 Hearings.
1978.108 Role of Federal agencies.
1978.109 Decisions and orders of the administrative law judge.
1978.110 Decisions and orders of the Administrative Review Board.

Subpart C—Miscellaneous Provisions

1978.111 Withdrawal of STAA complaints, findings, objections, and petitions for review; settlement.
1978.112 Judicial review.
1978.113 Judicial enforcement.
1978.114 District court jurisdiction of retaliation complaints under STAA.
1978.115 Special circumstances; waiver of rules.

Authority: 49 U.S.C. 31101 and 31105; Secretary's Order 1–2012 (Jan. 18, 2012), 77 FR 3912 (Jan. 25, 2012); Secretary's Order 1–2010 (Jan. 15, 2010), 75 FR 3924 (Jan. 25, 2010).

Subpart A—Complaints, Investigations, Findings, and Preliminary Orders

§ 1978.100 Purpose and scope.

(a) This part sets forth, the procedures for, and interpretations of, the employee protection (whistleblower) provision of the Surface Transportation Assistance Act of 1982 (STAA), 49 U.S.C. 31105, as amended, which protects employees from retaliation because the employee has engaged in, or is perceived to have engaged in, protected activity pertaining to commercial motor vehicle safety, health, or security matters.

(b) This part establishes procedures under STAA for the expeditious handling of retaliation complaints filed by employees, or by persons acting on their behalf. These rules, together with those rules codified at 29 CFR part 18, set forth the procedures for submission of complaints, investigations, issuance of findings and preliminary orders, objections to findings and orders, litigation before administrative law judges (ALJs), post-hearing administrative review, and withdrawals and settlements. This part also sets forth interpretations of STAA.

§ 1978.101 Definitions.

(a) *Act* means the Surface Transportation Assistance Act of 1982 (STAA), as amended.

(b) *Assistant Secretary* means the Assistant Secretary of Labor for Occupational Safety and Health or the person or persons to whom he or she delegates authority under the Act.

(c) *Business days* means days other than Saturdays, Sundays, and Federal holidays.

(d) *Commercial motor carrier* means any person engaged in a business affecting commerce between States or between a State and a place outside thereof who owns or leases a commercial motor vehicle in connection with that business, or assigns employees to operate such a vehicle.

(e) *Commercial motor vehicle* means a vehicle as defined by 49 U.S.C. 31101(1).

(f) *Complainant* means the employee who filed a STAA complaint or on whose behalf a complaint was filed.

(g) *Complaint,* for purposes of § 1978.102(b)(1) and (e)(1), includes both written and oral complaints to employers, government agencies, and others.

(h) *Employee* means a driver of a commercial motor vehicle (including an independent contractor when personally operating a commercial motor vehicle), a mechanic, a freight handler, or an individual not an employer, who:

(1) Directly affects commercial motor vehicle safety or security in the course of employment by a commercial motor carrier; and

(2) Is not an employee of the United States Government, a State, or a political subdivision of a State acting in the course of employment.

(3) The term includes an individual formerly performing the work described above or an applicant for such work.

(i) *Employer* means a person engaged in a business affecting commerce that owns or leases a commercial motor vehicle in connection with that business, or assigns an employee to operate the vehicle in commerce, but does not include the Government, a State, or a political subdivision of a State.

(j) *OSHA* means the Occupational Safety and Health Administration of the United States Department of Labor.

(k) *Person* means one or more individuals, partnerships, associations, corporations, business trusts, legal representatives, or any other organized group of individuals.

(l) *Respondent* means the person alleged to have violated 49 U.S.C. 31105.

(m) *Secretary* means the Secretary of Labor or persons to whom authority under the Act has been delegated.

(n) *State* means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

(o) Any future statutory amendments that affect the definition of a term or terms listed in this section will apply in lieu of the definition stated herein.

§ 1978.102 Obligations and prohibited acts.

(a) No person may discharge or otherwise retaliate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because the employee engaged in any of the activities specified in paragraphs (b) or (c) of this section. In addition, no person may discharge or otherwise retaliate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because a person acting pursuant to the employee's request engaged in any of the activities specified in paragraph (b).

(b) It is a violation for any person to intimidate, threaten, restrain, coerce, blacklist, discharge, discipline, harass, suspend, demote, or in any other manner retaliate against any employee because the employee or a person acting pursuant to the employee's request has:

(1) Filed orally or in writing a complaint with an employer, government agency, or others or begun a proceeding related to a violation of a commercial motor vehicle safety or security regulation, standard, or order; or

(2) Testified or will testify at any proceeding related to a violation of a commercial motor vehicle safety or security regulation, standard, or order.

(c) It is a violation for any person to intimidate, threaten, restrain, coerce, blacklist, discharge, discipline, harass, suspend, demote, or in any other manner retaliate against any employee because the employee:

(1) Refuses to operate a vehicle because:

(i) The operation violates a regulation, standard, or order of the United States related to commercial motor vehicle safety, health, or security; or

(ii) He or she has a reasonable apprehension of serious injury to himself or herself or the public because of the vehicle's hazardous safety or security condition;

(2) Accurately reports hours on duty pursuant to Chapter 315 of Title 49 of the United States Code; or

(3) Cooperates with a safety or security investigation by the Secretary of Transportation, the Secretary of Homeland Security, or the National Transportation Safety Board; or

(4) Furnishes information to the Secretary of Transportation, the Secretary of Homeland Security, the National Transportation Safety Board, or any Federal, State, or local regulatory or law enforcement agency as to the facts relating to any accident or incident resulting in injury or death to an individual or damage to property occurring in connection with commercial motor vehicle transportation.

(d) No person may discharge or otherwise retaliate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because the person perceives that the employee has engaged in any of the activities specified in paragraph (e) of this section.

(e) It is a violation for any person to intimidate, threaten, restrain, coerce, blacklist, discharge, discipline, harass, suspend, demote, or in any other manner retaliate against any employee because the employer perceives that:

(1) The employee has filed orally or in writing or is about to file orally or in writing a complaint with an employer, government agency, or others or has begun or is about to begin a proceeding related to a violation of a commercial motor vehicle safety or security regulation, standard or order;

(2) The employee is about to cooperate with a safety or security investigation by the Secretary of Transportation, the Secretary of Homeland Security, or the National Transportation Safety Board; or

(3) The employee has furnished or is about to furnish information to the Secretary of Transportation, the Secretary of Homeland Security, the National Transportation Safety Board, or any Federal, State, or local regulatory or law enforcement agency as to the facts relating to any accident or incident resulting in injury or death to an individual or damage to property occurring in connection with commercial motor vehicle transportation.

(f) For purposes of this section, an employee's apprehension of serious injury is reasonable only if a reasonable individual in the circumstances then confronting the employee would conclude that the hazardous safety or security condition establishes a real danger of accident, injury or serious impairment to health. To qualify for protection, the employee must have sought from the employer, and been unable to obtain, correction of the hazardous safety or security condition.

§ 1978.103 Filing of retaliation complaints.

(a) *Who may file.* An employee who believes that he or she has been retaliated against by an employer in violation of STAA may file, or have filed by any person on the employee's behalf, a complaint alleging such retaliation.

(b) *Nature of filing.* No particular form of complaint is required. A complaint may be filed orally or in writing. Oral

complaints will be reduced to writing by OSHA. If the complainant is unable to file a complaint in English, OSHA will accept the complaint in any other language.

(c) *Place of filing.* The complaint should be filed with the OSHA office responsible for enforcement activities in the geographical area where the employee resides or was employed, but may be filed with any OSHA officer or employee. Addresses and telephone numbers for these officials are set forth in local directories and at the following Internet address: *http://www.osha.gov.*

(d) *Time for filing.* Within 180 days after an alleged violation of STAA occurs, any employee who believes that he or she has been retaliated against in violation of STAA may file, or have filed by any person on the employee's behalf, a complaint alleging such retaliation. The date of the postmark, facsimile transmittal, electronic communication transmittal, telephone call, hand-delivery, delivery to a third-party commercial carrier, or in-person filing at an OSHA office will be considered the date of filing. The time for filing a complaint may be tolled for reasons warranted by applicable case law.

(e) *Relationship to section 11(c) complaints.* A complaint filed under STAA alleging facts that would also constitute a violation of section 11(c) of the Occupational Safety and Health Act, 29 U.S.C. 660(c), will be deemed to be a complaint under both STAA and section 11(c). Similarly, a complaint filed under section 11(c) that alleges facts that would also constitute a violation of STAA will be deemed to be a complaint filed under both STAA and section 11(c). Normal procedures and timeliness requirements under the respective statutes and regulations will be followed.

§ 1978.104 Investigation.

(a) Upon receipt of a complaint in the investigating office, the Assistant Secretary will notify the respondent of the filing of the complaint by providing the respondent with a copy of the complaint, redacted in accordance with the Privacy Act of 1974, 5 U.S.C. 552a and other applicable confidentiality laws. The Assistant Secretary will also notify the respondent of the respondent's rights under paragraphs (b) and (f) of this section. The Assistant Secretary will provide a copy of the unredacted complaint to the complainant (or complainant's legal counsel, if complainant is represented by counsel) and to the Federal Motor Carrier Safety Administration.

(b) Within 20 days of receipt of the notice of the filing of the complaint provided under paragraph (a) of this section, the respondent may submit to the Assistant Secretary a written statement and any affidavits or documents substantiating its position. Within the same 20 days, the respondent may request a meeting with the Assistant Secretary to present its position.

(c) Throughout the investigation, the agency will provide to the complainant (or the complainant's legal counsel, if complainant is represented by counsel) a copy of all of respondent's submissions to the agency that are responsive to the complainant's whistleblower complaint. Before providing such materials to the complainant, the agency will redact them, if necessary, in accordance with the Privacy Act of 1974, 5 U.S.C. 552a, and other applicable confidentiality laws. The agency will also provide the complainant with an opportunity to respond to such submissions.

(d) Investigations will be conducted in a manner that protects the confidentiality of any person who provides information on a confidential basis, other than the complainant, in accordance with part 70 of this title.

(e)(1) A complaint will be dismissed unless the complainant has made a prima facie showing that protected activity was a contributing factor in the adverse action alleged in the complaint.

(2) The complaint, supplemented as appropriate by interviews of the complainant, must allege the existence of facts and evidence to make a prima facie showing as follows:

(i) The employee engaged in a protected activity, either actual activity or activity about to be undertaken;

(ii) The respondent knew or suspected, actually or constructively, that the employee engaged in the protected activity;

(iii) The employee suffered an adverse action; and

(iv) The circumstances were sufficient to raise the inference that the protected activity was a contributing factor in the adverse action.

(3) For purposes of determining whether to investigate, the complainant will be considered to have met the required burden if the complaint on its face, supplemented as appropriate through interviews of the complainant, alleges the existence of facts and either direct or circumstantial evidence to meet the required showing, *i.e.,* to give rise to an inference that the respondent knew or suspected that the employee engaged in protected activity and that the protected activity was a contributing factor in the adverse action. The burden may be satisfied, for example, if the complainant shows that the adverse action took place shortly after the protected activity, giving rise to the inference that it was a contributing factor in the adverse action. If the required showing has not been made, the complainant (or the complainant's legal counsel, if complainant is represented by counsel) will be so notified and the investigation will not commence.

(4) Notwithstanding a finding that a complainant has made a prima facie showing, as required by this section, an investigation of the complaint will not be conducted or will be discontinued if the respondent demonstrates by clear and convincing evidence that it would have taken the same adverse action in the absence of the complainant's protected activity.

(5) If the respondent fails to make a timely response or fails to satisfy the burden set forth in the prior paragraph, the Assistant Secretary will proceed with the investigation. The investigation will proceed whenever it is necessary or appropriate to confirm or verify the information provided by the respondent.

(f) Prior to the issuance of findings and a preliminary order as provided for in § 1978.105, if the Assistant Secretary has reasonable cause, on the basis of information gathered under the procedures of this part, to believe that the respondent has violated the Act and that preliminary reinstatement is warranted, the Assistant Secretary will again contact the respondent (or the respondent's legal counsel, if respondent is represented by counsel) to give notice of the substance of the relevant evidence supporting the complainant's allegations as developed during the course of the investigation. This evidence includes any witness statements, which will be redacted to protect the identity of confidential informants where statements were given in confidence; if the statements cannot be redacted without revealing the identity of confidential informants, summaries of their contents will be provided. The complainant will also receive a copy of the materials that must be provided to the respondent under this paragraph. Before providing such materials to the complainant, the agency will redact them, if necessary, in accordance with the Privacy Act of 1974, 5 U.S.C. 552a, and other applicable confidentiality laws. The respondent will be given the opportunity to submit a written response, to meet with the investigators, to present statements from witnesses in

support of its position, and to present legal and factual arguments. The respondent must present this evidence within 10 business days of the Assistant Secretary's notification pursuant to this paragraph, or as soon thereafter as the Assistant Secretary and the respondent can agree, if the interests of justice so require.

§ 1978.105 Issuance of findings and preliminary orders.

(a) After considering all the relevant information collected during the investigation, the Assistant Secretary will issue, within 60 days of the filing of the complaint, written findings as to whether there is reasonable cause to believe that the respondent has retaliated against the complainant in violation of STAA.

(1) If the Assistant Secretary concludes that there is reasonable cause to believe that a violation has occurred, the Assistant Secretary will accompany the findings with a preliminary order providing relief. Such order will require, where appropriate: affirmative action to abate the violation; reinstatement of the complainant to his or her former position, with the same compensation, terms, conditions and privileges of the complainant's employment; and payment of compensatory damages (backpay with interest and compensation for any special damages sustained as a result of the retaliation, including any litigation costs, expert witness fees, and reasonable attorney fees which the complainant has incurred). Interest on backpay will be calculated using the interest rate applicable to underpayment of taxes under 26 U.S.C. 6621 and will be compounded daily. The preliminary order may also require the respondent to pay punitive damages up to $250,000.

(2) If the Assistant Secretary concludes that a violation has not occurred, the Assistant Secretary will notify the parties of that finding.

(b) The findings and, where appropriate, the preliminary order will be sent by certified mail, return receipt requested, to all parties of record (and each party's legal counsel if the party is represented by counsel). The findings and, where appropriate, the preliminary order will inform the parties of the right to object to the findings and/or the order and to request a hearing. The findings and, where appropriate, the preliminary order also will give the address of the Chief Administrative Law Judge, U.S. Department of Labor. At the same time, the Assistant Secretary will file with the Chief Administrative Law Judge a copy of the original complaint and a copy of the findings and/or order.

(c) The findings and the preliminary order will be effective 30 days after receipt by the respondent (or the respondent's legal counsel if the respondent is represented by counsel), or on the compliance date set forth in the preliminary order, whichever is later, unless an objection and request for a hearing have been timely filed as provided at § 1978.106. However, the portion of any preliminary order requiring reinstatement will be effective immediately upon the respondent's receipt of the findings and the preliminary order, regardless of any objections to the findings and/or the order.

Subpart B—Litigation

§ 1978.106 Objections to the findings and the preliminary order and request for a hearing.

(a) Any party who desires review, including judicial review, must file any objections and a request for a hearing on the record within 30 days of receipt of the findings and preliminary order pursuant to § 1978.105(c). The objections and request for a hearing must be in writing and state whether the objections are to the findings and/or the preliminary order. The date of the postmark, facsimile transmittal, or electronic communication transmittal is considered the date of filing; if the objection is filed in person, by hand-delivery or other means, the objection is filed upon receipt. Objections must be filed with the Chief Administrative Law Judge, U.S. Department of Labor, and copies of the objections must be mailed at the same time to the other parties of record and the OSHA official who issued the findings.

(b) If a timely objection is filed, all provisions of the preliminary order will be stayed, except for the portion requiring preliminary reinstatement, which will not be automatically stayed. The portion of the preliminary order requiring reinstatement will be effective immediately upon the respondent's receipt of the findings and preliminary order, regardless of any objections to the order. The respondent may file a motion with the Office of Administrative Law Judges for a stay of the Assistant Secretary's preliminary order of reinstatement, which shall be granted only based on exceptional circumstances. If no timely objection is filed with respect to either the findings or the preliminary order, the findings and/or the preliminary order will become the final decision of the Secretary, not subject to judicial review.

§ 1978.107 Hearings.

(a) Except as provided in this part, proceedings will be conducted in accordance with the rules of practice and procedure for administrative hearings before the Office of Administrative Law Judges, codified at subpart A of part 18 of this title.

(b) Upon receipt of an objection and request for hearing, the Chief Administrative Law Judge will promptly assign the case to an ALJ who will notify the parties, by certified mail, of the day, time, and place of hearing. The hearing is to commence expeditiously, except upon a showing of good cause or unless otherwise agreed to by the parties. Hearings will be conducted de novo on the record. Administrative law judges have broad discretion to limit discovery in order to expedite the hearing.

(c) If both the complainant and the respondent object to the findings and/or order, the objections will be consolidated and a single hearing will be conducted.

(d) Formal rules of evidence will not apply, but rules or principles designed to assure production of the most probative evidence will be applied. The ALJ may exclude evidence that is immaterial, irrelevant, or unduly repetitious.

§ 1978.108 Role of Federal agencies.

(a)(1) The complainant and the respondent will be parties in every proceeding. In any case in which the respondent objects to the findings or the preliminary order the Assistant Secretary ordinarily will be the prosecuting party. In any other cases, at the Assistant Secretary's discretion, the Assistant Secretary may participate as a party or participate as amicus curiae at any stage of the proceeding. This right to participate includes, but is not limited to, the right to petition for review of a decision of an ALJ, including a decision approving or rejecting a settlement agreement between the complainant and the respondent.

(2) If the Assistant Secretary assumes the role of prosecuting party in accordance with paragraph (a)(1) of this section, he or she may, upon written notice to the ALJ or the Administrative Review Board, as the case may be, and the other parties, withdraw as the prosecuting party in the exercise of prosecutorial discretion. If the Assistant Secretary withdraws, the complainant will become the prosecuting party and the ALJ or the Administrative Review Board, as the case may be, will issue appropriate orders to regulate the course of future proceedings.

(3) Copies of documents in all cases shall be sent to the parties or, if they are represented by counsel, to the latter. In cases in which the Assistant Secretary is a party, copies of documents shall be sent to the Regional Solicitor's Office representing the Assistant Secretary.

(b) The Federal Motor Carrier Safety Administration, if interested in a proceeding, may participate as amicus curiae at any time in the proceeding, at its discretion. At the request of the Federal Motor Carrier Safety Administration, copies of all documents in a case must be sent to that agency, whether or not that agency is participating in the proceeding.

§ 1978.109 Decisions and orders of the administrative law judge.

(a) The decision of the ALJ will contain appropriate findings, conclusions, and an order pertaining to the remedies provided in paragraph (d) of this section, as appropriate. A determination that a violation has occurred may be made only if the complainant has demonstrated by a preponderance of the evidence that protected activity was a contributing factor in the adverse action alleged in the complaint.

(b) If the complainant or the Assistant Secretary has satisfied the burden set forth in the prior paragraph, relief may not be ordered if the respondent demonstrates by clear and convincing evidence that it would have taken the same adverse action in the absence of any protected activity.

(c) Neither the Assistant Secretary's determination to dismiss a complaint without completing an investigation pursuant to § 1978.104(e) nor the Assistant Secretary's determination to proceed with an investigation is subject to review by the ALJ, and a complaint may not be remanded for the completion of an investigation or for additional findings on the basis that a determination to dismiss was made in error. Rather, if there otherwise is jurisdiction, the ALJ will hear the case on the merits or dispose of the matter without a hearing if the facts and circumstances warrant.

(d)(1) If the ALJ concludes that the respondent has violated the law, the ALJ will issue an order that will require, where appropriate: affirmative action to abate the violation; reinstatement of the complainant to his or her former position with the same compensation, terms, conditions, and privileges of the complainant's employment; payment of compensatory damages (backpay with interest and compensation for any special damages sustained as a result of the retaliation, including any litigation costs, expert witness fees, and reasonable attorney fees which the complainant may have incurred); and payment of punitive damages up to $250,000. Interest on backpay will be calculated using the interest rate applicable to underpayment of taxes under 26 U.S.C. 6621 and will be compounded daily.

(2) If the ALJ determines that the respondent has not violated the law, an order will be issued denying the complaint.

(e) The decision will be served upon all parties to the proceeding, the Assistant Secretary, and the Associate Solicitor, Division of Occupational Safety and Health, U.S. Department of Labor. Any ALJ's decision requiring reinstatement or lifting an order of reinstatement by the Assistant Secretary will be effective immediately upon receipt of the decision by the respondent. For ALJ decisions issued on or after the effective date of the interim final rule, August 31, 2010, all other portions of the ALJ's order will be effective 14 days after the date of the decision unless a timely petition for review has been filed with the Administrative Review Board (ARB), U.S. Department of Labor. Any ALJ decision issued on or after the effective date of the interim final rule, August 31, 2010, will become the final order of the Secretary unless a petition for review is timely filed with the ARB and the ARB accepts the decision for review.

§ 1978.110 Decisions and orders of the Administrative Review Board.

(a) The Assistant Secretary or any other party desiring to seek review, including judicial review, of a decision of the ALJ must file a written petition for review with the ARB, which has been delegated the authority to act for the Secretary and issue final decisions under this part. The parties should identify in their petitions for review the legal conclusions or orders to which they object, or the objections may be deemed waived. A petition must be filed within 14 days of the date of the decision of the ALJ. The date of the postmark, facsimile transmittal, or electronic communication transmittal will be considered to be the date of filing; if the petition is filed in person, by hand-delivery or other means, the petition is considered filed upon receipt. The petition must be served on all parties and on the Chief Administrative Law Judge at the time it is filed with the ARB. Copies of the petition for review and all briefs must be served on the Assistant Secretary and, in cases in which the Assistant Secretary is a party, on the Associate Solicitor, Division of Occupational Safety and Health, U.S. Department of Labor.

(b) If a timely petition for review is filed pursuant to paragraph (a) of this section, the decision of the ALJ will become the final order of the Secretary unless the ARB, within 30 days of the filing of the petition, issues an order notifying the parties that the case has been accepted for review. If a case is accepted for review, the decision of the ALJ will be inoperative unless and until the ARB issues an order adopting the decision, except that any order of reinstatement will be effective while review is conducted by the ARB unless the ARB grants a motion by the respondent to stay that order based on exceptional circumstances. The ARB will specify the terms under which any briefs are to be filed. The ARB will review the factual determinations of the ALJ under the substantial evidence standard. If no timely petition for review is filed, or the ARB denies review, the decision of the ALJ will become the final order of the Secretary. If no timely petition for review is filed, the resulting final order is not subject to judicial review.

(c) The final decision of the ARB will be issued within 120 days of the conclusion of the hearing, which will be deemed to be 14 days after the date of the decision of the ALJ, unless a motion for reconsideration has been filed with the ALJ in the interim. In such case, the conclusion of the hearing is the date the motion for reconsideration is ruled upon or 14 days after a new decision is issued. The ARB's final decision will be served upon all parties and the Chief Administrative Law Judge by mail. The final decision also will be served on the Assistant Secretary, and on the Associate Solicitor, Division of Occupational Safety and Health, U.S, Department of Labor, even if the Assistant Secretary is not a party.

(d) If the ARB concludes that the respondent has violated the law, the ARB will issue a final order providing relief to the complainant. The final order will require, where appropriate: affirmative action to abate the violation; reinstatement of the complainant to his or her former position with the same compensation, terms, conditions, and privileges of the complainant's employment; payment of compensatory damages (backpay with interest and compensation for any special damages sustained as a result of the retaliation, including any litigation costs, expert witness fees, and reasonable attorney fees the complainant may have incurred); and payment of punitive damages up to $250,000. Interest on

backpay will be calculated using the interest rate applicable to underpayment of taxes under 26 U.S.C. 6621 and will be compounded daily.

(e) If the ARB determines that the respondent has not violated the law, an order will be issued denying the complaint.

(f) Paragraphs (a) and (b) of this section apply to all cases in which the decision of the ALJ was issued on or after August 31, 2010.

Subpart C—Miscellaneous Provisions

§ 1978.111 Withdrawal of STAA complaints, findings, objections, and petitions for review; settlement.

(a) At any time prior to the filing of objections to the Assistant Secretary's findings and/or preliminary order, a complainant may withdraw his or her complaint by notifying the Assistant Secretary, orally or in writing, of his or her withdrawal. The Assistant Secretary then will confirm in writing the complainant's desire to withdraw and determine whether to approve the withdrawal. The Assistant Secretary will notify the parties (and each party's legal counsel if the party is represented by counsel) of the approval of any withdrawal. If the complaint is withdrawn because of settlement, the settlement must be submitted for approval in accordance with paragraph (d) of this section. A complainant may not withdraw his or her complaint after the filing of objections to the Assistant Secretary's findings and/or preliminary order.

(b) The Assistant Secretary may withdraw the findings and/or preliminary order at any time before the expiration of the 30-day objection period described in § 1978.106, provided that no objection has been filed yet, and substitute new findings and/or a new preliminary order. The date of the receipt of the substituted findings or order will begin a new 30-day objection period.

(c) At any time before the Assistant Secretary's findings and/or preliminary order become final, a party may withdraw objections to the Assistant Secretary's findings and/or preliminary order by filing a written withdrawal with the ALJ. If a case is on review with the ARB, a party may withdraw a petition for review of an ALJ's decision at any time before that decision becomes final by filing a written withdrawal with the ARB. The ALJ or the ARB, as the case may be, will determine whether to approve the withdrawal of the objections or the petition for review. If the ALJ approves a request to withdraw objections to the Assistant Secretary's findings and/or order, and there are no other pending objections, the Assistant Secretary's findings and/or order will become the final order of the Secretary. If the ARB approves a request to withdraw a petition for review of an ALJ decision, and there are no other pending petitions for review of that decision, the ALJ's decision will become the final order of the Secretary. If objections or a petition for review are withdrawn because of settlement, the settlement must be submitted for approval in accordance with paragraph (d) of this section.

(d)(1) *Investigative settlements.* At any time after the filing of a STAA complaint and before the findings and/or order are objected to or become a final order by operation of law, the case may be settled if the Assistant Secretary, the complainant, and the respondent agree to a settlement. The Assistant Secretary's approval of a settlement reached by the respondent and the complainant demonstrates the Assistant Secretary's consent and achieves the consent of all three parties.

(2) *Adjudicatory settlements.* At any time after the filing of objections to the Assistant Secretary's findings and/or order, the case may be settled if the participating parties agree to a settlement and the settlement is approved by the ALJ if the case is before the ALJ or by the ARB, if the ARB has accepted the case for review. A copy of the settlement will be filed with the ALJ or the ARB, as the case may be.

(e) Any settlement approved by the Assistant Secretary, the ALJ, or the ARB will constitute the final order of the Secretary and may be enforced in United States district court pursuant to 49 U.S.C. 31105(e).

§ 1978.112 Judicial review.

(a) Within 60 days after the issuance of a final order under §§ 1978.109 and 1978.110, any person adversely affected or aggrieved by the order may file a petition for review of the order in the United States Court of Appeals for the circuit in which the violation allegedly occurred or the circuit in which the person resided on the date of the violation.

(b) A final order is not subject to judicial review in any criminal or other civil proceeding.

(c) If a timely petition for review is filed, the record of a case, including the record of proceedings before the ALJ, will be transmitted by the ARB or the ALJ, as the case may be, to the appropriate court pursuant to the Federal Rules of Appellate Procedure and the local rules of such court.

§ 1978.113 Judicial enforcement.

Whenever any person has failed to comply with a preliminary order of reinstatement or a final order, including one approving a settlement agreement issued under STAA, the Secretary may file a civil action seeking enforcement of the order in the United States district court for the district in which the violation was found to have occurred.

§ 1978.114 District court jurisdiction of retaliation complaints under STAA.

(a) If there is no final order of the Secretary, 210 days have passed since the filing of the complaint, and there is no showing that there has been delay due to the bad faith of the complainant, the complainant may bring an action at law or equity for de novo review in the appropriate district court of the United States, which will have jurisdiction over such an action without regard to the amount in controversy. The action shall, at the request of either party to such action, be tried by the court with a jury.

(b) Within seven days after filing a complaint in federal court, a complainant must file with the Assistant Secretary, the ALJ, or the ARB, depending on where the proceeding is pending, a copy of the file-stamped complaint. A copy of the complaint also must be served on the OSHA official who issued the findings and/or preliminary order, the Assistant Secretary, and the Associate Solicitor, Division of Occupational Safety and Health, U.S. Department of Labor.

§ 1978.115 Special circumstances; waiver of rules.

In special circumstances not contemplated by the provisions of these rules, or for good cause shown, the ALJ or the ARB on review may, upon application, after three days notice to all parties, waive any rule or issue such orders as justice or the administration of STAA requires.

[FR Doc. 2012–17994 Filed 7–26–12; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2012–0692]

Drawbridge Operation Regulation; Sacramento River, Sacramento, CA

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 Tower Drawbridge across the Sacramento River, mile 59.0, at Sacramento, CA. The deviation is necessary to allow the community to participate in the Fleet Feet Event, Run to Remember 10K. This deviation allows the bridge to remain in the closed-to-navigation position during the event.

DATES: This deviation is effective from 9:30 a.m. to 10:30 a.m. on September 9, 2012.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2012–0692 and are available online by going to *http://www.regulations.gov,* inserting USCG–2012–0692 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 David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District; telephone 510–437–3516, email *David.H.Sulouff@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 California Department of Transportation has requested a temporary change to the operation of the Tower Drawbridge, mile 59.0, Sacramento River, at Sacramento, CA. The Tower Drawbridge navigation span provides a vertical clearance of 30 feet above Mean High Water in the closed-to-navigation position. The draw opens on signal from May 1 through October 31 from 6 a.m. to 10 p.m. and from November 1 through April 30 from 9 a.m. to 5 p.m. At all other times the draw shall open on signal if at least four hours notice is given, as required by 33 CFR 117.189(a). Navigation on the waterway is commercial and recreational.

The drawspan will be secured in the closed-to-navigation position from 9:30 a.m. to 10:30 a.m. on September 9, 2012 to allow the community to participate in the Fleet Feet Event, Run To Remember 10K. This temporary deviation has been coordinated with waterway users. There are no scheduled river boat cruises or anticipated levee maintenance during this deviation period. No objections to the proposed temporary deviation were raised. Vessels that can transit the bridge, while in the closed-to-navigation position, may continue to do so at any time. In the event of an emergency the drawspan can be opened with 15 minutes advance notice.

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: July 17, 2012.

D.H. Sulouff,

District Bridge Chief, Eleventh Coast Guard District.

[FR Doc. 2012–18342 Filed 7–26–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2011–1109]

RIN 1625–AA09

Drawbridge Operation Regulation; Sturgeon Bay Ship Canal, Sturgeon Bay, WI

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the drawbridge operating schedule for the Maple-Oregon and Michigan Street Bridges across the Sturgeon Bay Ship Canal, at miles 4.17 and 4.3, in Sturgeon Bay, Wisconsin. The establishment of this schedule is necessary due to the construction of the Maple-Oregon Street Bridge and the completed rehabilitation of the Michigan Street Bridge. This final rule also confirms the winter drawbridge schedules for all three drawbridges over Sturgeon Bay Ship Canal, including the two previously mentioned bridges as well as the Bayview Bridge at mile 3.0.

DATES: This rule is effective August 27, 2012.

ADDRESSES: Comments and related materials received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2011–1109 and are available online by going to *http://www.regulations.gov,* inserting USCG–2011–1109 in the ''Keyword'' box, and then clicking ''Search.'' This material is also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Lee D. Soule, Bridge Management Specialist, U.S. Coast Guard, telephone 216–902–6085, email *lee.d.soule@uscg.mil,* or fax 216–902–6088. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

A. Regulatory History and Information

On April 12, 2012, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulation; Sturgeon Bay Ship Canal, Sturgeon Bay, WI, in the **Federal Register** (77 FR 21890). We did not receive any comments on the proposed rule. No public meeting was requested, and none was held.

B. Basis and Purpose

This rule establishes drawbridge schedules following the construction of the new Maple-Oregon Street Bridge and the extensive rehabilitation of the existing Michigan Street Bridge. This final rule is expected to provide for the safe and efficient passage of vessels requiring drawbridge openings, as well as the efficient movement of vehicular traffic in Sturgeon Bay.

The Sturgeon Bay Ship Canal is approximately 8.6 miles long and provides a navigable connection between Lake Michigan and Green Bay. The area experiences a significant increase in vehicular and vessel traffic during the peak tourist and navigation season between Memorial Day and Labor Day each year. There are a total of three highway drawbridges across the waterway. The Michigan Street Bridge provides unlimited vertical clearance in the open position and 14 feet in the closed position. Maple-Oregon Bridge provides unlimited vertical clearance in the open position and 25 feet in the closed position. Bayview Bridge also provides unlimited vertical clearance in the open position and 42 feet in the closed position. Both Michigan Street and Maple-Oregon Bridges serve the downtown Sturgeon Bay area and are located approximately 750 feet apart on the canal.

A final rule was published on October 24, 2005 in the **Federal Register** (70 FR 61380) to allow for one opening per hour at the Michigan Street Bridge for recreational vessels while the Maple-Oregon Bridge was constructed and the Michigan Street Bridge was

rehabilitated. The final rule also included a requirement to open at any time if 20 or more vessels gathered waiting for bridge openings. A temporary final rule was published on June 5, 2009 in the **Federal Register** (74 FR 26954), effective from June 1, 2009 to November 15, 2010 that essentially shifted the one bridge opening per hour at Michigan Street Bridge to the Maple-Oregon Bridge while the rehabilitation of Michigan Street was completed and the bridge was kept in the open-to-navigation position. With both Michigan Street and Maple-Oregon Bridges operational, the one opening per hour schedule for Michigan Street is considered too restrictive for vessels and could create an unsafe condition for vessel traffic that may be between the two closely located drawbridges while waiting for bridge openings.

The Coast Guard issued a notice of temporary deviation from regulations that was published on May 17, 2011 in the **Federal Register** (76 FR 28309) with request for comments to implement a test drawbridge schedule for Michigan Street and Maple-Oregon Street Bridges between May 27, 2011 and September 16, 2011. The test schedule required the Michigan Street Bridge to open for recreational vessels twice an hour, on the hour and half-hour, 24 hours a day, 7 days a week, and required the Maple-Oregon Bridge to open for recreational vessels twice an hour, on the quarter hour and three-quarter hour, during the same times. The test schedule also included a change to the current regulation that required the bridge to open if 20 or more vessels gathered at the bridge waiting for a scheduled opening. Local opinion was that an opening if at least 10 vessels were gathered would be a safer maximum number of vessels.

The Coast Guard coordinated with all local stakeholders before, during, and after the test drawbridge schedule and did not receive any adverse comments to the test schedule.

The Wisconsin Department of Transportation (WDOT) requested scheduled drawbridge openings for both Michigan Street and Maple-Oregon Bridges so vehicular traffic congestion would not develop on downtown Sturgeon Bay streets due to unscheduled bridge openings. This rule provides at least two bridge openings per hour for both Michigan Street and Maple-Oregon Street bridges, compared to the one bridge opening per hour that was in place during the construction and rehabilitation of the two highway bridges. It also retains the requirement during the test schedule to open if at least 10 vessels have accumulated at either bridge waiting for an opening. This rule also establishes the winter operating date for Maple-Oregon Bridge (January 1 through March 14) and rearranges the order of the three drawbridges to be presented geographically in the regulatory language.

C. Discussion of Comments, Changes and the Final Rule

The Coast Guard provided a 30-day comment period in conjunction with the NPRM and no comments were received. The regulatory text published in the NPRM has not changed in this final rule.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 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 Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under that Order. This rule is expected to improve traffic congestion and safety in the vicinity of the drawbridge and does not exclude bridge openings for vessel traffic.

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 did not receive any comments from the Small Business Administration on this rule. 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.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. 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 calls for no 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 it 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 INTFORMATION 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 might 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

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

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 guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction. Under figure 2–1, paragraph (32)(e) of the Instruction an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 117.1101 to read as follows:

§ 117.1101 Sturgeon Bay.

(a) The Bayview (State Route 42/57) Bridge, mile 3.0 at Sturgeon Bay, shall open on signal, except from December 1 through March 14, the draw shall open on signal if notice is given at least 12 hours in advance of intended passage.

(b) The draw of the Maple-Oregon Bridge, mile 4.17 at Sturgeon Bay, shall open on signal, except as follows:

(1) From March 15 through December 31, need open on signal for recreational vessels only on the quarter hour and three-quarter hour, 24 hours a day, if needed. However, if more than 10 vessels have accumulated at the bridge, or vessels are seeking shelter from severe weather, the bridge shall open on signal. This drawbridge, along with the Michigan Street drawbridge, shall open simultaneously for larger commercial vessels, as needed.

(2) From January 1 through March 14, the draw shall open on signal if notice is given at least 12 hours in advance of intended passage.

(c) The draw of the Michigan Street Bridge, mile 4.3 at Sturgeon Bay, shall open on signal, except as follows:

(1) From March 15 through December 31, need open on signal for recreational vessels only on the hour and half-hour, 24 hours a day, if needed. However if more than 10 vessels have accumulated at the bridge, or vessels are seeking shelter from severe weather, the bridge shall open on signal. This drawbridge, along with the Maple-Oregon Street drawbridge, shall open simultaneously for larger commercial vessels, as needed.

(2) From January 1 through March 14, the draw shall open on signal if notice is given at least 12 hours in advance of intended passage.

Dated: July 18, 2012.

M.N. Parks,

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

[FR Doc. 2012–18405 Filed 7–26–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2012–0682]

Drawbridge Operation Regulation; Neches River, Beaumont, TX

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 Kansas City Southern vertical lift span bridge across the Neches River, mile 19.5, at Beaumont, Texas. The deviation is necessary to replace south vertical lift joints on the bridge. This deviation allows the bridge to remain closed to navigation for eight consecutive hours.

DATES: This deviation is effective from 7 a.m. through 3 p.m. on Wednesday, August 8, 2012.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2012–0682 and are available online by going to *http://www.regulations.gov,* inserting USCG–2012–0682 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 Kay Wade, Bridge Administration Branch, Coast Guard; telephone 504–671–2128, email *Kay.B.Wade@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 Kansas City Southern Railroad has

requested a temporary deviation from the operating schedule of the vertical lift span bridge across the Neches River at mile 19.5 in Beaumont, Texas. The vertical clearance of the bridge in the closed-to-navigation position is 13 feet above Mean High Water and 140 feet above Mean High Water in the open-to-navigation position.

In accordance with 33 CFR 117.971, the vertical lift span of the bridge is automated and normally not manned but will open on signal for the passage of vessels. This deviation allows the vertical lift span of the bridge to remain closed to navigation from 7 a.m. to 3 p.m. on Wednesday, August 8, 2012.

The closure is necessary in order to replace the south vertical lift joints on the bridge, which allow the bridge to be raised. This maintenance is essential for the continued operation of the bridge. Notices will be published in the Eighth Coast Guard District Local Notice to Mariners and will be broadcast via the Coast Guard Broadcast Notice to Mariners System.

Navigation on the waterway consists of commercial and recreational fishing vessels, small to medium crew boats, and small tugs with and without tows. No alternate routes are available for the passage of vessels; however, the closure was coordinated with waterway interests who have indicated that they will be able to adjust their operations around the proposed work schedule. Small vessels may pass under the bridge while in the closed-to-navigation position provided caution is exercised.

The bridge will be able to open manually in the event of an emergency, but it will take about one hour to do so.

Due to prior experience and coordination with waterway users, it has been determined that this closure will not have a significant effect on vessels that use the waterway.

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: July 17, 2012.

David M. Frank,

Bridge Administrator.

[FR Doc. 2012–18401 Filed 7–26–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2012–0611]

Drawbridge Operation Regulation; New Jersey Intracoastal Waterway (NJICW); Atlantic City, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Fifth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Route 30/Absecon Boulevard Bridge across Beach Thorofare, NJICW mile 67.2 and the US40–322 (Albany Avenue) across Inside Thorofare, NJICW mile 70.0, both at Atlantic City, NJ. The deviation is necessary to ensure the safety of the heavy volumes of vehicular traffic that would be transiting over the bridges for the annual Air Show at Bader Field located within the city limits. This deviation allows the drawbridges to remain closed to navigation to accommodate the free movement of vehicles for the 2012 Air Show.

DATES: This deviation is effective from 8:30 a.m. until 6 p.m. on Friday August 17, 2012.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2012–0611 and are available online by going to *http://www.regulations.gov,* inserting USCG–2012–0611 in the ''Keyword'' box and then clicking ''Search''. This material is also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Terrance Knowles, Environmental Protection Specialist, Fifth Coast Guard District; telephone 757–398–6587, email *Terrance.A.Knowles@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 New Jersey Department of Transportation requested a temporary deviation from the current operating regulations of the Route 30/Absecon Boulevard Bridge across Beach Thorofare, NJICW mile 67.2 and the US40–322 (Albany Avenue) across Inside Thorofare, NJICW mile 70.0, both at Atlantic City, NJ. The temporary deviation has been requested to ensure the safety of the heavy volumes of vehicular traffic that would be transiting over the bridges for the annual Air Show at Bader Field located within the city limits. The specific operating requirements for these drawbridges are normally planned for the third or fourth Wednesday of August, of every year. However, to celebrate the tenth anniversary of the 2012 Air Show and to accommodate for a larger crowd, Atlantic City—the host city, requested to reschedule the event to Friday, August 17, 2012. Under this temporary deviation, on Friday, August 17, 2012, the draws for both bridges will open every two hours on the hour from 10 a.m. until 3 p.m.; and need not open from 8:30 a.m. to 10 a.m. and from 3 p.m. to 6 p.m.

Route 30/Absecon Boulevard Bridge

The current operating regulation for the Route 30/Absecon Boulevard Bridge across Beach Thorofare is outlined at 33 CFR 117.733(e) which requires that the bridge shall open on signal if at least four hours of notice is given; except that from April 1 through October 31, from 7 a.m. to 11 p.m., the draw need only open on the hour; on July 4, the draw need not open from 9:40 p.m. until 11:15 p.m. to accommodate the annual July 4th fireworks show. Should inclement weather prevent the fireworks event from taking place as planned, the draw need not open from 9:40 p.m. until 11:15 p.m. on July 5th to accommodate the annual July 4th fireworks show; on the third or fourth Wednesday of August the draw will open every two hours on the hour from 10 a.m. until 4 p.m. and need not open from 4 p.m. until 8 p.m. to accommodate the annual Air Show. In the closed position to vessels, the vertical clearance for this bascule-type bridge is 20 feet above mean high water.

US40–322 (Albany Avenue) Bridge

The current operating regulation for the US40–322 (Albany Avenue) Bridge across Inside Thorofare is outlined at 33 CFR 117.733(f) shall open on signal except that year-round, from 11 p.m. to 7 a.m.; and from November 1 through March 31 from 3 p.m. to 11 p.m., the draw need only open if at least four hours notice is given; from June 1 through September 30, from 9 a.m. to 4 p.m. and from 6 p.m. to 9 p.m., the draw need only open on the hour and half hour; and from 4 p.m. to 6 p.m., the draw need not open; on July 4, the draw need not open from 9:40 p.m. until 11:15 p.m., to accommodate the annual

July 4th fireworks show. Should inclement weather prevent the fireworks event from taking place as planned, the draw need not open from 9:40 p.m. until 11:15 p.m. on July 5th to accommodate the annual July 4th fireworks show; and on the third or fourth Wednesday of August, the draw will open every two hours on the hour from 10 a.m. until 4 p.m. and need not open from 4 p.m. until 8 p.m. to accommodate the annual Air Show. In the closed position to vessels, the vertical clearance for this bascule-type bridge is 10 feet above mean high water.

The majority of the vessels that transit the bridges this time of the year are recreational boats. Vessels able to pass through the bridges in the closed positions may do so at anytime. Both bridges will be able to open for emergencies. The Atlantic Ocean is an alternate route for vessels unable to pass through the bridges in closed positions. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the closure periods for the bridge so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: July 18, 2012.

Waverly W. Gregory, Jr.,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2012–18345 Filed 7–26–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 219

RIN 0596–AD02

National Forest System Land Management Planning; Correction

AGENCY: Forest Service, USDA.

ACTION: Correcting amendments.

SUMMARY: The Department of Agriculture (USDA) published a National Forest System land management planning rule in the **Federal Register**, on April 9, 2012, (77 FR 21162).

Errors have been found in the rule with respect to punctuation, hyphenation, and wording. The errors have been corrected in the rule published today.

DATES: These corrections are effective July 27, 2012.

ADDRESSES: Written inquiries about this correction document may be sent to the Director, Ecosystem Management Coordination Staff, USDA Forest Service, 1400 Independence Ave. SW., Mailstop Code 1104, Washington, DC 20250–1104.

FOR FURTHER INFORMATION CONTACT: Ecosystem Management Coordination staff's Planning Specialist Regis Terney at 202–205–1552.

SUPPLEMENTARY INFORMATION:

Background

This document makes technical corrections to Title 36, Code of Federal Regulations, Part 219—Planning, Subpart A—National Forest System Land Management Planning (36 CFR part 219, subpart A). One technical correction at 36 CFR 219.11(d)(4) concerns the wording describing the maximum size for openings that may be cut in one harvest operation. The wording should have said ''maximum size for openings'' instead of ''maximize size for openings.''

At 36 CFR 219.17(b)(2) and (b)(3), the reference to ''36 CFR part 209'' should be ''36 CFR part 219'' and reference to ''parts 200 to 209'' should be ''parts 200 to 299'' and, therefore, technical corrections have been made to Title 36, Code of Federal Regulations, Part 219—Planning, Subpart A—National Forest System Land Management Planning (36 CFR part 219, subpart A), § 219.17(b)(2) and (b)(3). The correct reference in section 219.17(b)(2) and (3) is '' (36 CFR Part 219, published at 36 CFR Parts 200 to 299, revised as of July 1, 2010).''

In addition, corrections have been made to punctuation, hyphenation, and wording errors. The punctuation, hyphenation, and word corrections do not change the content of the rule. These specific changes are as follows:

In § 219.4, paragraph (a), the acronym ''NEPA'' is spelled out; in paragraph (a)(2), the term ''Government'' is capitalized; and in paragraph (a)(3)(b)(2)(iii), the word ''to'' has been added.

In § 219.6 paragraph (a)(1), the word ''contained'' has been removed from the first sentence.

In § 219.7 paragraph (c)(2)(viii), the word ''which'' has been changed to ''that.''

In § 219.11 paragraph (d)(4) ''maximize'' has been changed to ''maximum'' and in paragraph (d)(4)(ii) ''60-days'' has been hyphenated.

In § 219.19 Definitions, changes have been made in definitions as follows: at ''*Collaboration or collaborative process*'' the comma has been removed from ''October, 2007;'' at ''*Connectivity*'' the term ''long distance'' has been hyphenated; at ''*Cultural Services*'' a comma was added after the term ''experiences;'' and at ''*Source water protection areas*'' ''the'' was added to ''Environmental Protection Agency.''

Need for Correction

As published, the final regulations contain errors which may be misleading and, therefore, need to be changed. Other changes are to make the document grammatically correct.

List of Subjects in 36 CFR Part 219

Administrative practice and procedure, Environmental impact statements, Indians, Intergovernmental relations, National forests, Reporting and recordkeeping requirements, Science and technology.

Accordingly, 36 CFR part 219 is corrected by making the following correcting amendments:

PART 219—PLANNING

■ 1. The authority citation for part 219 continues to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 1604, 1613.

■ 2. In § 219.4 revise paragraph (a) introductory text, and paragraphs (a)(2), and (b)(2)(iii) to read as follows:

§ 219.4 Requirements for public participation.

(a) *Providing opportunities for participation.* The responsible official shall provide opportunities to the public for participating in the assessment process; developing a plan proposal, including the monitoring program; commenting on the proposal and the disclosure of its environmental impacts in accompanying National Environmental Policy Act (NEPA) documents; and reviewing the results of monitoring information. When developing opportunities for public participation, the responsible official shall take into account the discrete and diverse roles, jurisdictions, responsibilities, and skills of interested and affected parties; the accessibility of the process, opportunities, and information; and the cost, time, and available staffing. The responsible official should be proactive and use contemporary tools, such as the Internet, to engage the public, and should share information in an open way with interested parties. Subject to the notification requirements in § 219.16, the responsible official has the discretion to determine the scope,

methods, forum, and timing of those opportunities. The Forest Service retains decisionmaking authority and responsibility for all decisions throughout the process.

* * * * *

(2) *Consultation with federally recognized Indian Tribes and Alaska Native Corporations.* The Department recognizes the Federal Government has certain trust responsibilities and a unique legal relationship with federally recognized Indian Tribes. The responsible official shall honor the government-to-government relationship between federally recognized Indian Tribes and the Federal Government. The responsible official shall provide to federally recognized Indian Tribes and Alaska Native Corporations the opportunity to undertake consultation consistent with Executive Order 13175 of November 6, 2000, and 25 U.S.C. 450 note.

* * * * *

(b) * * *

(2) * * *

(iii) Opportunities for the plan to address the impacts identified or to contribute to joint objectives; and

* * * * *

■ 3. In § 219.6 revise paragraph (a)(1) to read as follows:

§ 219.6 Assessment.

* * * * *

(a) * * *

(1) Identify and consider relevant existing information in governmental or non-governmental assessments, plans, monitoring reports, studies, and other sources of relevant information. Such sources of information may include State forest assessments and strategies, the Resources Planning Act assessment, ecoregional assessments, non-governmental reports, State comprehensive outdoor recreation plans, community wildfire protection plans, public transportation plans, State wildlife data and action plans, and relevant Agency or interagency reports, resource plans or assessments. Relevant private information, including relevant land management plans and local knowledge, will be considered if publicly available or voluntarily provided.

* * * * *

■ 4. In § 219.7 revise paragraph (c)(2)(viii) to read as follows:

§ 219.7 New plan development or plan revision.

* * * * *

(c) * * *

(2) * * *

(viii) Identify the suitability of areas for the appropriate integration of resource management and uses, with respect to the requirements for plan components of §§ 219.8 through 219.11, including identifying lands that are not suitable for timber production (§ 219.11).

* * * * *

■ 5. In § 219.11 revise paragraph (d)(4) introductory text, and paragraph (d)(4)(ii) to read as follows:

§ 219.11 Timber requirements based on the NFMA.

* * * * *

(d) * * *

(4) Where plan components will allow clearcutting, seed tree cutting, shelterwood cutting, or other cuts designed to regenerate an even-aged stand of timber, the plan must include standards limiting the maximum size for openings that may be cut in one harvest operation, according to geographic areas, forest types, or other suitable classifications.

* * * * *

(ii) Plan components may allow for size limits exceeding those established in paragraphs (d)(4) introductory text and (d)(4)(i) of this section on an individual timber sale basis after ''60-days'' public notice and review by the regional forester.

* * * * *

■ 6. In § 219.17 revise paragraphs (b)(2) and (b)(3) to read as follows:

§ 219.17 Effective dates and transition.

* * * * *

(b) * * *

(2) *Initiating plan amendments.* All plan amendments initiated after May 9, 2012, are subject to the objection process in subpart B of this part. With respect to plans approved or revised under a prior planning regulation, including the transition provisions of the reinstated 2000 rule (36 CFR part 219, published at 36 CFR parts 200 to 299, revised as of July 1, 2010), plan amendments may be initiated under the provisions of the prior planning regulation for 3 years after May 9, 2012, and may be completed and approved under those provisions (except for the optional appeal procedures of the prior planning regulation); or may be initiated, completed, and approved under the requirements of this part. After the 3-year transition period, all plan amendments must be initiated, completed, and approved under the requirements of this part.

(3) *Plan development, plan amendments, or plan revisions initiated before this part.* For plan development, plan amendments, or plan revisions that were initiated before May 9, 2012, the responsible official may complete and approve the plan, plan amendment, or plan revision in conformance with the provisions of the prior planning regulation, including its transition provisions (36 CFR part 219, published at 36 CFR parts 200 to 299, revised as of July 1, 2010), or may conform the plan, plan amendment, or plan revision to the requirements of this part. If the responsible official chooses to complete an ongoing planning process under the provisions of the prior planning regulation, but chooses to allow for an objection rather than an administrative appeal, the objection process in subpart B of this part shall apply. When the responsible official chooses to conform an ongoing planning process to this part, public notice must be made (§ 219.16(a)(5)). An objection process may be chosen only if the public is provided the opportunity to comment on a proposed plan, plan amendment, or plan revision, and associated environmental analysis.

* * * * *

■ 7. In § 219.19 revise the definitions of *Collaboration or collaborative process* and *Connectivity,* revise paragraph (4) of the definition of *Ecosystem services,* and revise the *definition of Source water protection areas to read as follows:*

§ 219.19 Definitions.

* * * * *

Collaboration or collaborative process. A structured manner in which a collection of people with diverse interests share knowledge, ideas, and resources while working together in an inclusive and cooperative manner toward a common purpose. Collaboration, in the context of this part, falls within the full spectrum of public engagement described in the Council on Environmental Quality's publication of October 2007: Collaboration in NEPA—A Handbook for NEPA Practitioners.

Connectivity. Ecological conditions that exist at several spatial and temporal scales that provide landscape linkages that permit the exchange of flow, sediments, and nutrients; the daily and seasonal movements of animals within home ranges; the dispersal and genetic interchange between populations; and the long-distance range shifts of species, such as in response to climate change.

* * * * *

Ecosystem services. * * *

(4) *Cultural services,* such as educational, aesthetic, spiritual and cultural heritage values, recreational experiences, and tourism opportunities.

* * * * *

Source water protection areas. The area delineated by a State or Tribe for

a public water system (PWS) or including numerous PWSs, whether the source is ground water or surface water or both, as part of a State or tribal source water assessment and protection program (SWAP) approved by the Environmental Protection Agency under section 1453 of the Safe Drinking Water Act (42 U.S.C. 300h–3(e)).

* * * * *

Dated: July 19, 2012.

Thomas L. Tidwell,

Chief, Forest Service.

[FR Doc. 2012–18322 Filed 7–26–12; 8:45 am]

BILLING CODE 3410–11–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2012–0272; FRL–9702–6]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Control of Iron and Steel Production Installations; Sintering Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Maryland State Implementation Plan (SIP) submitted by the Maryland Department of the Environment (MDE) on June 30, 2009. The revisions amend the visible emissions requirements of the Maryland SIP's regulation for the Control of Iron and Steel Production Installations only as they apply to sintering plants. The sintering plant located at the Sparrows Point steelmaking facility (Sparrows Point) is the only sintering plant located in the State of Maryland. The revisions exempt the sintering plant from the visible emissions section of the regulation for the Control of Iron and Steel Production Installations contingent upon the source's two wet scrubbers, used to control emissions of particulate matter, continuously monitoring compliance with specified pressure drop and flow rate operating parameters. EPA is approving these revisions because they provide for a continuous means of determining compliance with the applicable SIP emission rate for particulate matter from the sintering plant located at Sparrows Point, and because that emission rate has been demonstrated to protect and maintain the National Ambient Air Quality Standards (NAAQS) for PM_{10} (particulate matter consisting of particles with an aerodynamic diameter less than or equal to 10 micrometers). EPA is approving these revisions in accordance with the requirements of the Clean Air Act (CAA).

DATES: This rule is effective on September 25, 2012 without further notice, unless EPA receives adverse written comment by August 27, 2012. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2012–0272 by one of the following methods:

A. *www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *Email: spink.marcia@epa.gov.*

C. *Mail:* EPA–R03–OAR–2012–0272, Marcia L. Spink, Associate Director for Policy & Science, Air Protection Division, Mailcode 3AP00, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. 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–R03–OAR–2012–0272. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

FOR FURTHER INFORMATION CONTACT: Marcia L. Spink, Associate Director for Policy & Science, Air Protection Division (215) 814–2104, or by email at *spink.marcia@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On June 30, 2009, MDE submitted formal revisions (#09–02) to its SIP. The SIP revisions consist of amendments to Regulation .03 Visible Emissions under (Code of Maryland administrative regulations) COMAR 26.11.10 Control of Iron and Steel Production Installations as they apply only to sintering plants. There is only one sintering plant located in Maryland. The one sintering plant affected by this regulation is located at Sparrows Point. Its particulate matter emissions are controlled by two wet (water) scrubbers each equipped with two fans. Under the current Maryland SIP, this sintering plant is subject to visible emissions and particulate matter standards. The current SIP requires that after demonstrating compliance with the applicable SIP particulate matter emission rate for sintering plants, a person may not cause or permit the discharge of visible fugitive emissions into the outdoor atmosphere, other than water in an uncombined form, which is greater than 10 percent opacity as averaged over any consecutive 6-minute period. The sintering plant's applicable SIP emission rate for particulate matter

is 0.03 grains per dry standard cubic foot (gr/dscf).

The visible emissions standards for sintering plants found in Regulation .03 Visible Emissions under COMAR 26.11.10 Control of Iron and Steel Production Installations was originally established to allow the use of a Method 9 observation test as additional means of determining compliance, in addition to stack testing, with the sintering plant's applicable SIP particulate matter emission rate of .03 gr/dscf. In 2007, MDE amended Regulation .03 Visible Emissions under COMAR 26.11.10 to exempt the sintering plant at Sparrows Point from the visible emissions requirement and to establish open-ended requirements for the scrubbers' flow rates and pressure drops. Under the 2007 version of the regulation, MDE intended to establish specific flow rate and pressure drop parameters during a future stack test and to include them in the Title V permit for the sintering plant located at Sparrows Point. Upon further consideration, the MDE concurred with EPA that the SIP must stand on its own to protect the NAAQS, and that such open-ended requirements were not appropriate for inclusion in the SIP. Therefore, effective as of June 29, 2009, MDE again amended Regulation .03 under COMAR 26.11.10 to require that the two scrubbers of the sintering plant located at Sparrows Point meet specific flow rate and pressure drop parameters at all times under defined specific operating scenarios. During a stack test that demonstrated compliance with the SIP's applicable particulate matter emission rate of .03 gr/dscf, the flow rates and pressure drops of the two scrubbers were continuously monitored. Specific flow rate (in gallons per minute) and pressure drop (in inches of water) parameters for the scrubbers, established from the parameters monitored during the complying stack test, are now specified in the amended version of Regulation .03 under COMAR 26.11.10. Therefore, under the 2009 amended version of the regulation, the sintering plant at Sparrows Point is exempt from the visible emissions requirement of Regulation .03 under COMAR 26.11.10 when demonstrating compliance with the SIP's applicable particulate matter emission limit of 0.03 gr/dscf by continuously monitoring the flow rate and pressure drop parameters of the scrubbers and by providing that monitoring data to MDE. This monitoring data must demonstrate that the scrubbers are meeting the flow rate and pressure drop parameters which are now specifically included in the amended version of Regulation .03 under COMAR 26.11.10. Under Regulation .03 of COMAR 26.11.10, the exemption from the visible emissions requirement is contingent upon the sintering plant scrubbers operating in compliance with the conditions of subsection D. of the regulation which specifies the pressure drop and flow rate parameters established as previously described. The regulation also requires stack testing to be performed every 2.5 years.

Modeling has been performed in support of this SIP revision to demonstrate that the SIP's 0.03 gr/dscf applicable emission rate for particulate matter is protective of the NAAQS for PM_{10}, and that protection is not dependent upon the visible emissions standard. A description of the modeling analyses conducted by MDE and the results are included in MDE's June 30, 2009 SIP revision submittal which is in the docket of this rulemaking. No SIP particulate matter emission rate relaxations are being approved as part of this SIP revision.

II. Summary of SIP Revision

Regulation .03 Visible Emissions under COMAR 26.11.10, at subsection A. General, (2) Exceptions, paragraph (f) has been amended to exempt visible emissions from sintering plant scrubbers that are in compliance with the conditions of subsection D. of the regulation. Regulation .03 under COMAR 26.11.10 has been amended to revise subsection D. to require:

(1) The owner or operator of the sintering plant shall ensure continuous compliance with the .03 gr/dscf applicable particulate matter emission rate by maintaining the hourly average scrubber pressure drop and water flow rate to each of the two scrubbers (referred to as Scrubber North and Scrubber South) as follows:

(2) Scrubber Operating Conditions and Requirements.

Operating conditions	Pressure drop (inches of water)		Water flow rate (gallons per minute)	
	North	South	North	South
2 scrubbers each with 2 fans	33	39	3,796	3,718
2 scrubbers each with a wind box fan	23	32	3,679	3,705
North scrubber with 2 fans and South scrubber with a wind box fan	33	32	3,710	3,818
South scrubber with 2 fans and North scrubber with a wind box fan	32	33	3,818	3,710
North scrubber with 2 fans	33	.....	3,488	.....
South scrubber with 2 fans	.....	33	.....	3,488

(3) One or more of the scrubbers be in operation while the sintering plant is in operation.

(4) Compliance with the 0.03 gr/dscf emission limit requirement for particulate matter is achieved if at any time the hourly block average of scrubber pressure drop and flow rate are not less than the values in D(2) of this regulation.

(5) The scrubber pressure drop and flow rate shall be monitored by a continuous monitoring system and the monitoring system data made available to MDE upon request.

(6) Stack Testing Requirements.

(a) The affected sintering plant shall be stack tested for particulate matter not less than once each 2.5 years. During a compliance stack test, the scrubber pressure drop and flow rate shall be recorded as hourly block averages.

(b) If the scrubber pressure drop and water flow rate determined during a compliance stack test differ from the values in D(2) of this regulation, the owner or operator may request that MDE change to the values in D(2) of this regulation to reflect the revised values.

(c) Upon receiving such a request, the MDE may propose amending the regulation to include the revised values. Any amendment shall be submitted to the EPA as a SIP revision.

EPA has determined that these revisions to Regulation .03 Visible Emissions under COMAR 26.11.10 Control of Iron and Steel Production Installations as they apply to the sintering plant located at Sparrows Point are approvable because they provide for a continuous means of determining compliance with SIP's applicable particulate matter emission limit of 0.03 gr/dscf which has been demonstrated to protect and maintain the NAAQS for PM_{10}.

III. Final Action

EPA is approving the SIP revisions to Regulation .03 Visible Emissions under COMAR 26.11.10 submitted by MDE on June 30, 2009. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on September 25, 2012 without further notice unless EPA receives adverse comment by August 27, 2012. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

IV. Statutory and Executive Order Reviews

A. General Requirements

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

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

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

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 25, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action to approve a revision to Regulation .03 Visible Emissions under COMAR 26.11.10 Control of Iron and Steel Production Installations as they apply to sintering plants may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter.

Dated: July 10, 2012.

W.C. Early,

Acting Regional Administrator, Region III.

Therefore, 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

■ 2. In § 52.1070, the table in paragraph (c) is amended by revising the entry for COMAR 26.11.10.03 to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED REGULATIONS, TECHNICAL MEMORANDA, AND STATUTES IN THE MARYLAND SIP

Code of Maryland administrative regulations (COMAR) citation	Title/subject	State effective date	EPA approval date	Additional explanation/ citation at 40 CFR 52.1100
*	*	*	*	*
26.11.10 Control of Iron and Steel Production Installations				
*	*	*	*	*
26.11.10.03	Visible Emissions	6/29/09	7/27/2012 [Insert page number where the document begins].	Revised paragraphs A. and D. of 26.11.10.03 for Sintering Plants.
*	*	*	*	*

* * * * *

[FR Doc. 2012–18094 Filed 7–26–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2012–0443; FRL–9702–4]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Removal of Administrative Requirements From the Regulation for the Control of Motor Vehicle Emissions in Northern Virginia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia. This revision removes four internal State administrative requirements from the Virginia SIP regulations for the control of motor vehicle emissions in the Northern Virginia Area. This action is being taken under the Clean Air Act (CAA).

DATES: This rule is effective on September 25, 2012 without further notice, unless EPA receives adverse written comment by August 27, 2012. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2012–0443 by one of the following methods:

A. *www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *Email: frankford.harold@epa.gov.*

C. *Mail:* EPA–R03–OAR–2012–0443, Harold A. Frankford, Mailcode 3AP00, U.S. Environmental Protection Agency, Region III, 1650 Arch Street Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. 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–R03–OAR–2012–0443. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford, (215) 814–2108, or by email at *frankford.harold@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. On April 19, 2012, the Virginia Department of Environmental Quality (DEQ) submitted a revision to its State Implementation Plan (SIP).

I. Summary of SIP Revision

The revision consists of the removal of four administrative regulations from SIP-approved regulations 9VAC5 Chapter 91 (Regulation for the Control of Motor Vehicle Emissions in the Northern Virginia Area) pertaining to the establishment of regulations (Regulation 5–91–40), hearings and proceedings (Regulation 5–91–60), variances (Regulation 5–91–80), and

procedural information and guidance (Regulation 5–91–110). Virginia has already repealed these four regulations from the State-enforceable version of 9VAC5, Chapter 91. However, Virginia has indicated in its SIP revision submittal that the regulations being removed from Chapter 91 do exist in the State-enforceable 9VAC5 Chapter 170 entitled Regulation for General Administration.

II. EPA Evaluation

EPA has determined that these administrative regulations need not be included in the Virginia SIP, as they describe internal State administrative procedures, and have no specific relationship to any pollutant control strategy under the CAA. While the CAA does require public hearings to be held on prospective SIP revisions, such requirements are found in 40 CFR 51.102. Similarly, in cases where Virginia grants variances of significant duration, the DEQ must submit such variances to EPA as separate SIP revisions.

III. General Information Pertaining to SIP Submittals from the Commonwealth of Virginia

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) ''privilege'' for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1–1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information (1) That are generated or developed before the commencement of a voluntary environmental assessment; (2) that are prepared independently of the assessment process; (3) that demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) that are required by law.

On January 12, 1998, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege Law, Va. Code § 10.1–1198, precludes granting a privilege to documents and information ''required by law,'' including documents and information ''required by Federal law to maintain program delegation, authorization or approval,'' since Virginia must ''enforce Federally authorized environmental programs in a manner that is no less stringent than their Federal counterparts * * *.'' The opinion concludes that ''[r]egarding § 10.1–1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by Federal law to maintain program delegation, authorization or approval.'' Virginia's Immunity law, Va. Code Sec. 10.1–1199, provides that ''[t]o the extent consistent with requirements imposed by Federal law,'' any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1998 opinion states that the quoted language renders this statute inapplicable to enforcement of any Federally authorized programs, since ''no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with Federal law, which is one of the criteria for immunity.''

Therefore, EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its program consistent with the Federal requirements. In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on Federal enforcement authorities, EPA may at any time invoke its authority under the CAA, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the CAA is likewise unaffected by this, or any, state audit privilege or immunity law.

IV. Final Action

EPA is approving the removal of Regulations 5–91–40, 5–91–60, 5–91–80, and 5–91–110 from the Virginia SIP, as requested by the Virginia DEQ on April 19, 2012. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on September 25, 2012 without further notice unless EPA receives adverse comment by August 27, 2012. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

V. Statutory and Executive Order Reviews

A. General Requirements

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

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

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

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 25, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking.

This action to remove four internal administrative requirements from the regulation for the control of motor vehicle emissions in the Northern Virginia Area may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference.

Dated: July 10, 2012.

W.C. Early,

Acting Regional Administrator, Region III.

Therefore, 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for 40 CFR part 52 continues to read as follows:

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

§ 52.2420 [Amended]

■ 2. In § 52.2420, the table in paragraph (c) is amended by removing the entries for Sections ''5–91–40'', ''5–91–60'', ''5–91–80'', and ''5–91–110'' from the table.

[FR Doc. 2012–18104 Filed 7–26–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2011–0829; FRL–9354–6]

Titanium Dioxide; 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 titanium dioxide (CAS Reg. No. 13463–67–7) when used as an inert ingredient (Ultraviolet-stabilizer) (UV), at no more than 5% in pesticide formulations containing the active ingredient napropamide, used in or on growing crops. United Phosphorus, Inc. submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an amendment to an existing requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of titanium dioxide.

DATES: This regulation is effective July 27, 2012. Objections and requests for hearings must be received on or before September 25, 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–2011–0829, 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.*

FOR FURTHER INFORMATION CONTACT: David Lieu, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–0079; email address: *lieu.david@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.*

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

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2011–0829 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 25, 2012. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit a copy of your non-CBI objection or hearing request, identified by docket ID number EPA–HQ–OPP–2011–0829, 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. Petition for Exemption

In the **Federal Register** of November 9, 2011 (76 FR 69692) (FRL–9325–1), EPA issued a notice pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the filing of a pesticide petition (PP 1E7918) by United Phosphorus, Inc., 630 Freedom Business Center, Suite 402, King of Prussia, PA 19406. The petition requested that 40 CFR 180.1195 be amended by modifying an exemption from the requirement of a tolerance for residues of titanium dioxide (CAS Reg. No. 13463–67–7) when used as an inert ingredient, UV-stabilizer, at no more than 5% in pesticide formulations containing the active ingredient napropamide. That notice referenced a summary of the petition prepared by United Phosphorus, Inc., the petitioner, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

III. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term ''inert'' is not intended to imply nontoxicity; the ingredient may or may not be chemically active. Generally, EPA has exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

IV. Aggregate Risk Assessment and Determination of Safety

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 tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. * * *''

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be clearly demonstrated that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with FFDCA section 408(c)(2)(A), and the factors specified in FFDCA section 408(c)(2)(B), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for titanium dioxide including exposure resulting from the exemption established by this action. EPA's assessment of exposures and risks associated with titanium dioxide follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered their validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the

sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the adverse effects caused by titanium dioxide as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies are discussed in this unit.

A substantial proportion of the toxicity data provided in this unit has been taken from comprehensive reviews and publications from The International Agency for Research on Cancer (IARC), World Health Organization (WHO) and National Cancer Institute (NCI). The titanium dioxide acute toxicity studies show low toxicity near limit doses. Titanium dioxide is also not a skin sensitizer. A 28-day lung instillation studies demonstrated slight fibrogenic effects comparable to that of a nuisance dust. A 90-day lung instillation study showed statistically significant signs of inflammation immediately after exposure but they were absent after 1-month. Many subchronic and chronic oral toxicity studies were performed on different species including rats, mice, dogs, cats, rabbits and guinea pigs. The doses ranged up to 100,000 parts per million (ppm) (5,000 milligrams/kilograms/day (mg/kg/day)) with study durations up to 2 years. None of these studies showed mortality or adverse toxicological effects caused by titanium dioxide. No reproductive or developmental studies were available for review in the toxicity database. Mutagenicity studies including sister chromatid exchange assays, *in vitro* micronucleus assays, comet assays, reverse mutation tests and chromosome aberration test produced mixed results but overall these tests showed that titanium dioxide is not mutagenic. Titanium dioxide is not carcinogenic via the oral, intraperitoneal or subcutaneous routes of exposure in rats or mice; however, there is concern via the inhalation route. In inhalation studies, tumors present in the lungs are thought to have been a localized fibrogenic effect caused by overloading of the lungs with high concentrations of titanium dioxide particles over a prolonged period of time. The concentrations used in these studies are near limit dose levels. Actual environmentally anticipated exposures of titanium dioxide based on the use patterns of products that would contain titanium dioxide are orders of magnitude less than that allowed by the Occupational Safety and Health Administration's (OSHA) Permissible Exposure Limit (PEL). Specific information on the studies received and the nature of the adverse effects caused by titanium dioxide can be found at *http://www.regulations.gov* in the document ''Titanium Dioxide (TiO_2). Risk Assessment to Support Proposed Amendment to Exemption from the Requirement of a Tolerance When used as an Inert Ingredient in Pesticide Formulations under 40 CFR 180.1195,'' in docket ID number EPA–HQ–OPP–2011–0829.

B. Toxicological Points of Departure/Levels of Concern

The available toxicity studies on titanium dioxide via oral route of exposure clearly demonstrate lack of toxicity. The several studies in mice, rats, dogs, cats, rabbits and other species of varying durations do not indicate toxicity at very high doses (e.g., 50,000 ppm or 2,500 mg/kg/day dietary exposure for 2 years in rats). No end point of concern via oral route of exposure has been identified in the available database. Therefore, dietary exposure was not estimated. This conclusion is in agreement with the conclusion of the WHO Committee on Food Coloring Materials that no Acceptable Daily Intake (ADI) need be set for the use of titanium dioxide based on the range of acute, sub-acute and chronic toxicity assays, all showing low mammalian toxicity. Similarly, no significant toxicity of titanium dioxide is expected via the dermal route of exposure. The available inhalation studies indicate that the primary toxicity of titanium dioxide is due to deposition of the inhaled particles and also suggest equivocal evidence of carcinogenicity due to prolonged exposure to titanium dioxide particles. No direct exposure to titanium dioxide particles is expected in pesticide napropamide formulations (less than 5% in formulations).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses and drinking water.* In evaluating dietary exposure to titanium dioxide, EPA considered exposure under the proposed exemption from the requirement of a tolerance. EPA assessed dietary exposures from titanium dioxide in food as follows:

An exposure assessment for titanium dioxide was not conducted because no endpoint of concern was identified in the database.

2. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., textiles (clothing and diapers), carpets, swimming pools, and hard surface disinfection on walls, floors, tables). Based on the use pattern provided by the registrant and use limitations/restrictions there are no residential uses and thus no residential exposures are expected.

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

EPA has not found titanium dioxide to share a common mechanism of toxicity with any other substances, and titanium dioxide does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that titanium dioxide does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative*.

D. Safety Factor for Infants and Children

In general. Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the Food Quality Protection Act (FQPA) Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

There were no significant hazards identified in the available data at levels at or below the limit dose of 1,000 mg/kg/day. Thus, due to its low potential hazard and the lack of a hazard endpoint, it was determined that a quantitative risk assessment using safety factors applied to a point of departure protective of an identified hazard endpoint is not appropriate for titanium dioxide. For the same reasons that a quantitative risk assessment based on a safety factor approach is not appropriate for titanium dioxide, an FQPA SF is not

needed to protect the safety of infants and children.

E. Aggregate Risks and Determination of Safety

Titanium dioxide has two exemptions from the requirement of a tolerance: pesticide formulations applied to growing crops, 40 CFR 180.920; and pesticide formulations applied to animals, 40 CFR 180.930. Titanium dioxide is also approved for use as a colorant in food (21 CFR 73.575), in drugs (21 CFR 73.1575), and in cosmetics (21 CFR 73.2575; 21 CFR 73.3126). There has also been a previous exemption from requirement of a tolerance for residues in or on growing crops, when used as an inert ingredient (UV protectant) in microencapsulated formulations of the insecticide lambda-cyhalothrin at no more than 3.0% by weight or the formulations (40 CFR 180.1195). There was also no aggregate risk assessments performed since there was no single exposure, dietary or drinking water endpoints of concern.

Taking into consideration all available information on titanium dioxide, EPA has determined that there is a reasonable certainty that no harm to any population subgroup, including infants and children, will result from aggregate exposure to titanium dioxide under reasonable foreseeable circumstances. Therefore, the establishment of an exemption from tolerance under 40 CFR 180.1195 for residues of titanium dioxide when used as an inert ingredient (UV stabilizer) in pesticide formulations of napropamide at no more than 5% of the product formulation is considered safe under FFDCA section 408.

V. Other Considerations

A. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency 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. 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 Nation 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 titanium dioxide.

VI. Conclusions

Therefore, an exemption from the requirement of a tolerance is established under 40 CFR 180.1195 for titanium dioxide (CAS Reg. No.13463–67–7) when used as an inert ingredient (UV-stabilizer) at no more than 5% in pesticide formulations containing the active ingredient napropamide in pesticide formulations.

VII. Statutory and Executive Order Reviews

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. 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 in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4).

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

VIII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 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: July 18, 2012.

G. Jeffrey Herndon,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. Section 180.1195 is revised to read as follows:

§ 180.1195 Titanium dioxide.

Titanium dioxide (CAS Reg. No. 13463–67–7) is exempted from the requirement of a tolerance for residues in or on growing crops, when used as an inert ingredient (UV protectant) in microencapsulated formulations of the insecticide lambda cyhalothrin at no more than 3.0% by weight of the formulation and as an inert ingredient (UV-stabilizer) at no more than 5% in pesticide formulations containing the active ingredient napropamide.

[FR Doc. 2012–18374 Filed 7–26–12; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3830

[WO–620–1990–00–24 1A]

RIN 1004–AE27

Administration of Mining Claims and Sites

AGENCY: Bureau of Land Management, Interior.

ACTION: Interim final rule.

SUMMARY: The Bureau of Land Management (BLM) is issuing this rule to amend regulations on locating, recording, and maintaining mining claims or sites. In this rule, the BLM amends its regulations to respond to a recent law that changes the way the maintenance fee is calculated for unpatented placer mining claims. The law specifies that the holder of an unpatented placer mining claim must pay the initial and annual maintenance fee for each 20 acres or portion thereof contained in the claim; and reiterates that an initial maintenance fee payment is due at the time of recording the claim with the BLM and that the annual maintenance fee is due on or before September 1 of each year.

DATES: The interim final rule is effective July 27, 2012. If you wish to comment on the interim final rule, you should submit your comments by September 25, 2012.

ADDRESSES: *Mail:* Director (630), Bureau of Land Management, U.S. Department of the Interior, 1849 C St. NW., Washington, DC 20240, Attention: 1004–AE27.

Personal or messenger delivery: U.S. Department of the Interior, Bureau of Land Management, 20 M St. SE., Room 2134LM, Attention: Regulatory Affairs, Washington, DC 20003.

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions at this Web site.

FOR FURTHER INFORMATION CONTACT: Sonia Santillan at 202–912–7123, in the Solid Minerals Group as to program matters or the substance of the interim final rule or Ian Senio in the Division of Regulatory Affairs at 202–912–7440 for information relating to the rulemaking process generally. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, 24 hours a day, 7 days a week to contact the above individuals.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures
II. Background
III. Discussion of Interim Final Rule
IV. Procedural Matters

I. Public Comment Procedures

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

You may mail comments to Director (630), Bureau of Land Management, U.S. Department of the Interior, 1849 C St. NW., Washington, DC 20240, Attention: 1004–AE27;

You may deliver comments to U.S. Department of the Interior, Bureau of Land Management, 20 M St. SE., Room 2134LM, Attention: Regulatory Affairs, Washington, DC 20003; or

You may access and comment on the interim final rule at the Federal eRulemaking Portal by following the instructions at that site (see **ADDRESSES**).

Written comments on the interim final rule should be specific, should be confined to issues pertinent to the interim final rule, and should explain the reason for any recommended change. Where possible, comments should reference the specific section or paragraph of the proposal which the commenter is addressing.

The BLM need not consider, or include in the administrative record for the final rule, comments that the BLM receives after September 25, 2012 or comments delivered to an address other than those listed above.

Public Availability of Comments

Comments, including names, street addresses, and other contact information of respondents, will be available for public review at BLM's offices at the U.S. Department of the Interior, Bureau of Land Management, 20 M St. SE., Room 2134LM, Washington, DC 20003, during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday, except Federal holidays. They will also be available at the Federal eRulemaking Portal *http://www.regulations.gov.* Follow the instructions at this Web site.

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.

II. Background

The BLM has responsibility for the collection of fees for placer and lode mining claims and mill and tunnel sites on Federal lands. During fiscal year (FY) 2011, claimants recorded 58,775 new claims and sites with the BLM. In addition, the BLM processed maintenance fee payments for 375,958 claims and sites. The BLM deposits the collected fees into a special fund, and Congress appropriates money to the BLM from the fund to pay for the administration of the Mining Law program, which includes mining claim recording and fee collection, processing grandfathered patent applications, processing applications for plans of operations, inspecting operations, and enforcing the regulations.

Since 1992, Congress has passed several laws requiring claimants to pay various fees when locating, recording, and maintaining mining claims or sites on Federal lands. This rule implements Section 430 of the Consolidated Appropriations Act, 2012 (the FY2012 Appropriations Act), Public Law 112–74, 125 Stat. 786, enacted on December 23, 2011, which amended 30 U.S.C. 28f.

III. Discussion of Interim Final Rule

Why the Rule Is Being Published on an Interim Final Basis

The BLM is adopting this interim final rule solely to implement the requirements of Section 430 of the FY2012 Appropriations Act, which amended 30 U.S.C. 28f. The BLM is not making any other changes to the regulations at 43 CFR part 3830.

The Department of the Interior for good cause finds under 5 U.S.C. 553(b)(3)(B) that notice and public procedure for this rule are unnecessary and that this rule may properly take effect upon publication. The reasons are as follows:

- This rule merely codifies statutorily imposed procedural changes;

• The law precludes the BLM from exercising discretion as to the level of fees or when they are due;

• Publishing the regulations in final form gives the public notification of the change so that placer mining claim holders can correctly calculate the amount of the maintenance fee based on the acreage in their existing placer mining claims or when they locate new placer mining claims; and

• Publishing the regulations in final form gives time to placer mining claim holders whose claims are greater than 20 acres to reduce the size of their claims before September 1, 2012, if they do not wish to pay the adjusted fees.

The Department also determines that the exceptions under 5 U.S.C. 553(d) apply and there is good cause to place the rule into effect on the date of publication. First, the matters addressed in the rule are statutorily required. Second, the payments this rule affects are payable to the BLM at the time of initial recording and annually thereafter. Because claims and sites are continuously being recorded with the BLM, this interim final rule serves as notification to all placer mining claim holders that they must begin paying the newly established fees upon recordation.

How the Rule Operates

Under previous law, initial and annual maintenance fee payments were the same amount for all placer claims, whether the placer mining claim was 20 acres or 160 acres (the maximum size allowed). This interim final rule specifies that for placer mining claims greater than 20 acres in size, the claimant must pay an additional fee for each 20 acres or portion thereof.

The fees under this rule are due for all existing placer mining claims, starting with the maintenance fee payment due on or before September 1, 2012, for the 2013 assessment year. For new placer mining claims, the rule is effective immediately and the fees under this rule are due when the placer claim is first recorded with the BLM as well as annually thereafter on or before September 1. For example, under this regulation, a claimant who records a new 66-acre placer mining claim must pay an initial maintenance fee of $560 ($140 for each of the first three 20-acre portions of the claim, plus $140 for the additional 6-acre portion thereof), as well as the $34 location fee (see 43 CFR 3830.21(a)(2)), and $15 processing fee (see 43 CFR 3000.12), for a total of $609. Each year, the annual maintenance fee for this hypothetical 66-acre placer claim would be $560.

IV. Procedural Matters

Regulatory Planning and Review (Executive Order 12866 and Executive Order 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. This interim final rule will not meet any of Executive Order 12866 criteria for significance as follows:

(a) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The economic analysis accompanying this rule indicates that the increase in fees for placer mining claims in excess of 20 acres will be approximately $8 million per year. The BLM makes this estimate on the basis of approximately 35,000 placer mining claims for which claimants paid maintenance fees at the end of FY 2011. Of these, approximately 21,000 placer mining claims exceeded 20 acres.

(b) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. This rule only impacts the BLM's regulatory program by implementing a law that gives the BLM no discretion as to how to apply new fees for placer mining claims and will not affect actions taken or planned by another agency.

(c) This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(d) This rule does not raise novel legal or policy issues. The rule simply implements a statute requiring fees for placer mining claims.

Executive Order 13563 reaffirms the principles of Executive Order 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. This interim final rule has been developed in a manner consistent with these requirements.

Regulatory Flexibility Act

The BLM certifies that this interim final rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The rule will not have an impact because the fees paid by small entities will not change sufficiently to cause a significant economic impact. Using Internal Revenue Service data from 2008, the BLM estimates that the average placer claimant that will be affected by this rulemaking will pay an extra $800 annually. This amount equals about one per cent of a claimant's average annual income in 2008, which was $77,311. Moreover, this rule does not change the small miner maintenance fee waiver program, which further reduces any potential impact on small miners. A final Regulatory Flexibility Analysis is not required, and a Small Entity Compliance Guide is not required.

For the purposes of this section, a ''small entity'' is an individual, limited partnership, or small company, at ''arm's length'' from the control of any parent companies, with fewer than 500 employees or less than $5 million in revenue. This definition is consistent with Small Business Administration regulations at 13 CFR 121.201. Please see the economic analysis at the address in the **ADDRESSES** section of this rule for additional information.

Small Business Regulatory Enforcement Fairness Act

This interim final rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act.

• This rule does not have an annual effect on the economy of $100 million or more. The maintenance fee for placer mining claims is changing and will now be calculated based on the acreage of the claim. However, even with the additional maintenance fees collected for placer mining claims containing more than 20 acres, the annual effect on the economy will not meet or exceed $100 million. The total maintenance fee collected for placer mining claims that exceed 20 acres is being adjusted so that placer mining claims containing more acreage will bear a proportional amount of the administrative costs associated with the administration of all claims and sites;

• This rule does not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government

agencies, or geographic regions. The changes implemented by this rule are likely to leave all other economic aspects of the BLM Mining Law program unaffected; and

• This rule does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), the BLM finds that:

• This interim final rule does not ''significantly or uniquely'' affect small governments and does not impact small government entities in any regard. A Small Government Agency Plan is unnecessary.

• This rule does not produce a Federal mandate of $100 million or greater in any year.

The rule is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act. The changes in this rule would not require anything of any non-Federal governmental entity.

Executive Order 12630, Takings

In accordance with Executive Order 12630, the BLM finds that the rule does not have takings implications. A takings implication assessment is not required. This rule does not substantially change BLM policy. Nothing in this rule constitutes a taking.

Executive Order 13132, Federalism

In accordance with Executive Order 12612, the BLM finds that this interim final rule does not have significant Federalism effects. A Federalism assessment is not required. This rule does not change the role of or responsibilities among Federal, State, and local governmental entities, nor does it relate to the structure and role of states or have direct, substantive, or significant effects on states.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, the BLM finds that this interim final rule does not include policies that have tribal implications. Because this rule does not make significant substantive changes in the regulations and does not specifically involve Indian reservation lands (which are closed to the operation of the Mining Law), the BLM finds that the rule will have no implications for Indians, Indian tribes, and tribal governments.

Executive Order 12988, Civil Justice Reform

In accordance with Executive Order 12988, the BLM finds that this interim final rule does not unduly burden the judicial system, and therefore meets the requirements of sections 3(a) and 3(b)(2) of the Order. The BLM consulted with the Department of the Interior's Office of the Solicitor throughout the drafting process.

Paperwork Reduction Act

The BLM has determined this interim final rule does not contain any new information collection requirements that the Office of Management and Budget (OMB) must approve under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The OMB has approved the information collection requirements in the regulations under OMB control number 1004–0114 that pertain to the payment of mining claim recordation and maintenance fees.

National Environmental Policy Act (NEPA)

This interim final rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 (NEPA) is not required because this rule is administrative in nature and is covered by a categorical exclusion. This rule will result in no new surface disturbing activities and therefore will have no effect on ecological or cultural resources. In promulgating this rule, the government is conducting routine and continuing government business of an administrative nature having limited context and intensity. Therefore, it is categorically excluded from environmental review under section 102(2)(C) of NEPA, pursuant to 43 CFR 46.205. The rule does not meet any of the extraordinary circumstances criteria for categorical exclusions listed at 43 CFR 46.215. Under Council on Environmental Quality regulations (40 CFR 1508.4) and the environmental policies and procedures of the Department, the term ''categorical exclusion'' means a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect on procedures adopted by a Federal agency and for which, therefore, neither an environmental assessment nor an environmental impact statement is required.

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This interim final rule is not a significant energy action. It will not have an adverse effect on energy supplies. The rule pertains primarily to non-energy minerals, and does not impose requirements that are not statutory or impose new requirements.

Clarity of This Regulation

Executive Order 12866 requires each agency to write regulations that are simple and easy to understand. We invite your comments on how to make this interim final rule easier to understand, including answers to questions such as the following:

1. Are the requirements in the regulations clearly stated?
2. Do the regulations contain technical language or jargon that interferes with their clarity?
3. Does the format of the regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?
4. Would the regulations be easier to understand if they were divided into more (but shorter) sections?
5. Is the description of the regulations in the **SUPPLEMENTARY INFORMATION** section of this preamble helpful in understanding the proposed regulations? How could this description be more helpful in making the regulations easier to understand?

Please send any comments you have on the clarity of the regulations to the address as specified in the **ADDRESSES** section.

Author

The principal author of this interim final rule is Sonia Santillan in the Solid Minerals Group assisted by the Division of Regulatory Affairs, Washington Office, BLM.

List of Subjects in 43 CFR Part 3830

Mineral royalties; Mines; Public lands—mineral resources; Reporting and recordkeeping requirements.

For the reasons stated in the preamble and under the authorities stated below, the BLM amends 43 CFR part 3830 as follows:

PART 3830—LOCATING, RECORDING, AND MAINTAINING MINING CLAIMS OR SITES; GENERAL PROVISIONS

■ 1. Revise the authority citation for part 3830 to read as follows:

Authority: 18 U.S.C 1001, 3571; 30 U.S.C. 22, 28, 28k, 242, 611; 31 U.S.C. 9701; 43

U.S.C. 2, 1201, 1212, 1457, 1474, 1740, 1744; 115 Stat. 414; Pub. L. 112–74, 125 Stat. 786.

Subpart D—BLM Service Charge and Fee Requirements

■ 2. Amend § 3830.21 by revising paragraphs (a) and (d) of the table to read as follows:

§ 3830.21 What are the different types of service charges and fees?

* * * * *

Transaction	Amount due per mining claim or site	Waiver available
(a) Recording a mining claim or site location (part 3833)	A total sum which includes: (1) The processing fee for notices of location found in the fee schedule in § 3000.12 of this chapter; (2) A one-time $34 location fee; and (3)(i) For lode claims, mill sites and tunnel sites, an initial $140 maintenance fee; or (ii) For placer claims, an initial $140 maintenance fee for each 20 acres of the placer claim or portion thereof.	No.
* * *	* * *	*
(d) Maintaining a mining claim or site for one assessment year (part 3834).	(1) For lode claims, mill sites and tunnel sites, an annual maintenance fee of $140 must be paid on or before September 1 each year. (2) For placer claims, a $140 annual maintenance fee for each 20 acres of the placer claim or portion thereof must be paid on or before September 1 each year.	Yes. See part 3835.
* * *	* * *	*

Marcilynn A. Burke,

Acting Assistant Secretary, Land and Minerals Management.

[FR Doc. 2012–18352 Filed 7–26–12; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1002

[Docket No. EP 542 (Sub-No. 20)]

Fees for Services Performed in Connection With Licensing and Related Services—2012 Update

AGENCY: Surface Transportation Board, DOT.

ACTION: Final rules.

SUMMARY: The Board adopts its 2012 user-fee update and revises its fee schedule to reflect some increases to its full cost calculations, the result of *no* wage & salary increases given in January 2012, no change to publication costs from their 2011 levels, coupled with both increases and decreases to the Board's three overhead cost factors.

DATES: This rule is effective August 26, 2012.

FOR FURTHER INFORMATION CONTACT: David T. Groves, (202) 245–0327, or Barbara Saddler (202) 245–0362. [TDD for the hearing impaired: 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: The Board's regulations at 49 CFR 1002.3 provide for an annual update of the Board's entire user-fee schedule. Fees are generally revised based on the cost study formula set forth at 49 CFR 1002.3(d). The fee changes adopted here, reflect a combination of the unchanged wage and salary costs from the 2011 User Fee Update decision; no change in publication costs; plus changes to the three Board overhead cost factors (two increased & one decreased from their comparable 2011 levels), resulting from the mechanical application of the update formula in 49 CFR 1002.3(d). Results from the formula application indicate that justified fee amounts in this 2012 update decision either remain *unchanged* (61 fee or sub-fee items) or *increase* (64 fee or sub-fee items) from their respective 2011 update levels. No *new* fee items are proposed in this proceeding. Therefore, the Board finds that notice and comment are unnecessary for this proceeding. *See Regulations Governing Fees For Services—1990 Update,* 7 I.C.C.2d 3 (1990); *Regulations Governing Fees For Services—1991 Update,* 8 I.C.C.2d 13 (1991); and *Regulations Governing Fees For Services—1993 Update,* 9 I.C.C.2d 855 (1993).

The Board concludes that the fee changes adopted here will not have a significant economic impact on a substantial number of small entities because the Board's regulations provide for waiver of filing fees for those entities that can make the required showing of financial hardship.

Additional information is contained in the Board's decision. To obtain a free copy of the full decision, visit the Board's Web site at *http://www.stb.dot.gov* or call the Board's Information Officer at (202) 245–0245. [Assistance for the hearing impaired is available through Federal Information Relay Services (FIRS): (800) 877–8339.]

List of Subjects in 49 CFR Part 1002

Administrative practice and procedure, Common carriers, and Freedom of information.

Decided: July 17, 2012.

By the Board, Chairman Elliott, Vice Chairman Mulvey, and Commissioner Begeman.

Jeffrey Herzig,

Clearance Clerk.

For the reasons set forth in the preamble, title 49, chapter X, part 1002, of the Code of Federal Regulations is amended as follows:

PART 1002—FEES

■ 1. The authority citation for part 1002 continues to read as follows:

Authority: 5 U.S.C. 552(a)(4)(A) and 553; 31 U.S.C. 9701 and 49 U.S.C. 721(a).

■ 2. In § 1002.2, paragraph (f) is revised as follows:

§ 1002.2 Filing fees.

* * * * *

(f) *Schedule of filing fees.*

Type of proceeding	Fee
PART I: Non-Rail Applications or Proceedings to Enter Upon a Particular Financial Transaction or Joint Arrangement:	
(1) An application for the pooling or division of traffic	$4,500
(2) (i) An application involving the purchase, lease, consolidation, merger, or acquisition of control of a motor carrier of passengers under 49 U.S.C. 14303.	2,100
(ii) A petition for exemption under 49 U.S.C. 13541 (other than a rulemaking) filed by a non-rail carrier not otherwise covered.	3,300
(iii) A petition to revoke an exemption filed under 49 U.S.C. 13541(d)	2,700
(3) An application for approval of a non-rail rate association agreement. 49 U.S.C. 13703	28,400
(4) An application for approval of an amendment to a non-rail rate association agreement:	
(i) Significant amendment	4,700
(ii) Minor amendment	100
(5) An application for temporary authority to operate a motor carrier of passengers. 49 U.S.C. 14303(i)	500
(6) A notice of exemption for transaction within a motor passenger corporate family that does not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with motor passenger carriers outside the corporate family.	1,700
(7)–(10) [Reserved].	
PART II: Rail Licensing Proceedings other than Abandonment or Discontinuance Proceedings:	
(11) (i) An application for a certificate authorizing the extension, acquisition, or operation of lines of railroad. 49 U.S.C. 10901.	7,400
(ii) Notice of exemption under 49 CFR 115031–115035	1,800
(iii) Petition for exemption under 49 U.S.C. 10502	12,900
(12) (i) An application involving the construction of a rail line	76,700
(ii) A notice of exemption involving construction of a rail line under 49 CFR 115036	1,800
(iii) A petition for exemption under 49 U.S.C. 10502 involving construction of a rail line	76,700
(iv) A request for determination of a dispute involving a rail construction that crosses the line of another carrier under 49 U.S.C. 10902(d).	250
(13) A Feeder Line Development Program application filed under 49 U.S.C. 10907(b)(1)(A)(i) or 10907(b)(1)(A)(ii)	2,600
(14) (i) An application of a class II or class III carrier to acquire an extended or additional rail line under 49 U.S.C. 10902.	6,300
(ii) Notice of exemption under 49 CFR 115041–115045	1,800
(iii) Petition for exemption under 49 U.S.C. 10502 relating to an exemption from the provisions of 49 U.S.C. 10902.	6,800
(15) A notice of a modified certificate of public convenience and necessity under 49 CFR 115021–115024	1,700
(16) An application for a land-use-exemption permit for a facility existing as of October 16, 2008 under 49 U.S.C. 10909.	6,200
(17) An application for a land-use-exemption permit for a facility not existing as of October 16, 2008 under 49 U.S.C. 10909.	21,700
(18)–(20) [Reserved].	
PART III: Rail Abandonment or Discontinuance of Transportation Services Proceedings:	
(21) (i) An application for authority to abandon all or a portion of a line of railroad or discontinue operation thereof filed by a railroad (except applications filed by Consolidated Rail Corporation pursuant to the Northeast Rail Service Act [Subtitle E of Title XI of Pub. L. 97–35], bankrupt railroads, or exempt abandonments).	22,800
(ii) Notice of an exempt abandonment or discontinuance under 49 CFR 1152.50	3,700
(iii) A petition for exemption under 49 U.S.C. 10502	6,500
(22) An application for authority to abandon all or a portion of a line of a railroad or operation thereof filed by Consolidated Rail Corporation pursuant to Northeast Rail Service Act.	450
(23) Abandonments filed by bankrupt railroads	1,900
(24) A request for waiver of filing requirements for abandonment application proceedings	1,800
(25) An offer of financial assistance under 49 U.S.C. 10904 relating to the purchase of or subsidy for a rail line proposed for abandonment.	1,600
(26) A request to set terms and conditions for the sale of or subsidy for a rail line proposed to be abandoned	23,300
(27) (i) A request for a trail use condition in an abandonment proceeding under 16 U.S.C.1247(d)	250
(ii) A request to extend the period to negotiate a trail use agreement	450
(28)–(35) [Reserved].	
PART IV: Rail Applications to Enter Upon a Particular Financial Transaction or Joint Arrangement:	
(36) An application for use of terminal facilities or other applications under 49 U.S.C. 11102	19,400
(37) An application for the pooling or division of traffic. 49 U.S.C. 11322	10,500
(38) An application for two or more carriers to consolidate or merge their properties or franchises (or a part thereof) into one corporation for ownership, management, and operation of the properties previously in separate ownership. 49 U.S.C. 11324:	
(i) Major transaction	1,533,500
(ii) Significant transaction	306,700
(iii) Minor transaction	7,600
(iv) Notice of an exempt transaction under 49 CFR 11802(d)	1,700
(v) Responsive application	7,600
(vi) Petition for exemption under 49 U.S.C. 10502	9,600
(vii) A request for waiver or clarification of regulations filed in a major financial proceeding as defined at 49 CFR 11802(a).	5,600
(39) An application of a non-carrier to acquire control of two or more carriers through ownership of stock or otherwise. 49 U.S.C. 11324:	
(i) Major transaction	1,533,500
(ii) Significant transaction	306,700
(iii) Minor transaction	7,600
(iv) A notice of an exempt transaction under 49 CFR 11802(d)	1,300

Type of proceeding	Fee
(v) Responsive application	7,600
(vi) Petition for exemption under 49 U.S.C. 10502	9,600
(vii) A request for waiver or clarification of regulations filed in a major financial proceeding as defined at 49 CFR 11802(a).	5,600
(40) An application to acquire trackage rights over, joint ownership in, or joint use of any railroad lines owned and operated by any other carrier and terminals incidental thereto. 49 U.S.C. 11324:	
(i) Major transaction	1,533,500
(ii) Significant transaction	306,700
(iii) Minor transaction	7,600
(iv) Notice of an exempt transaction under 49 CFR 11802(d)	1,200
(v) Responsive application	7,600
(vi) Petition for exemption under 49 U.S.C. 10502	9,600
(vii) A request for waiver or clarification of regulations filed in a major financial proceeding as defined at 49 CFR 11802(a).	5,600
(41) An application of a carrier or carriers to purchase, lease, or contract to operate the properties of another, or to acquire control of another by purchase of stock or otherwise. 49 U.S.C. 11324:	
(i) Major transaction	1,533,500
(ii) Significant transaction	306,700
(iii) Minor transaction	7,600
(iv) Notice of an exempt transaction under 49 CFR 11802(d)	1,400
(v) Responsive application	7,600
(vi) Petition for exemption under 49 U.S.C. 10502	6,800
(vii) A request for waiver or clarification of regulations filed in a major financial proceeding as defined at 49 CFR 11802(a).	5,600
(42) Notice of a joint project involving relocation of a rail line under 49 CFR 11802(d)(5)	2,400
(43) An application for approval of a rail rate association agreement. 49 U.S.C. 10706	71,800
(44) An application for approval of an amendment to a rail rate association agreement. 49 U.S.C. 10706:	
(i) Significant amendment	13,300
(ii) Minor amendment	100
(45) An application for authority to hold a position as officer or director under 49 U.S.C. 11328	800
(46) A petition for exemption under 49 U.S.C. 10502 (other than a rulemaking) filed by rail carrier not otherwise covered.	8,200
(47) National Railroad Passenger Corporation (Amtrak) conveyance proceeding under 45 U.S.C. 562	250
(48) National Railroad Passenger Corporation (Amtrak) compensation proceeding under Section 402(a) of the Rail Passenger Service Act.	250
(49)–(55) [Reserved].	
PART V: Formal Proceedings:	
(56) A formal complaint alleging unlawful rates or practices of carriers:	
(i) A formal complaint filed under the coal rate guidelines (Stand-Alone Cost Methodology) alleging unlawful rates and/or practices of rail carriers under 49 U.S.C. 10704(c)(1).	350
(ii) A formal complaint involving rail maximum rates filed under the Simplified-SAC methodology	350
(iii) A formal complaint involving rail maximum rates filed under the Three Benchmark methodology	150
(iv) All other formal complaints (except competitive access complaints)	350
(v) Competitive access complaints	150
(vi) A request for an order compelling a rail carrier to establish a common carrier rate	250
(57) A complaint seeking or a petition requesting institution of an investigation seeking the prescription or division of joint rates or charges. 49 U.S.C. 10705.	9,100
(58) A petition for declaratory order:	
(i) A petition for declaratory order involving a dispute over an existing rate or practice which is comparable to a complaint proceeding.	1,000
(ii) All other petitions for declaratory order	1,400
(59) An application for shipper antitrust immunity. 49 U.S.C. 10706(a)(5)(A)	7,200
(60) Labor arbitration proceedings	250
(61) (i) An appeal of a Surface Transportation Board decision on the merits or petition to revoke an exemption pursuant to 49 U.S.C. 10502(d).	250
(ii) An appeal of a Surface Transportation Board decision on procedural matters except discovery rulings	350
(62) Motor carrier undercharge proceedings	250
(63) (i) Expedited relief for service inadequacies: A request for expedited relief under 49 U.S.C. 11123 and 49 CFR part 1146 for service emergency.	250
(ii) Expedited relief for service inadequacies: A request for temporary relief under 49 U.S.C. 10705 and 11102, and 49 CFR part 1147 for service inadequacy.	250
(64) A request for waiver or clarification of regulations except one filed in an abandonment or discontinuance proceeding, or in a major financial proceeding as defined at 49 CFR 11802(a).	600
(65)–(75) [Reserved].	
PART VI: Informal Proceedings:	
(76) An application for authority to establish released value rates or ratings for motor carriers and freight forwarders of household goods under 49 U.S.C. 14706.	1,200
(77) An application for special permission for short notice or the waiver of other tariff publishing requirements	100
(78) The filing of tariffs, including supplements, or contract summaries	1 per page. (25 min. charge.)
(79) Special docket applications from rail and water carriers:	
(i) Applications involving $25,000 or less	75
(ii) Applications involving over $25,000	150
(80) Informal complaint about rail rate applications	600

Type of proceeding	Fee
(81) Tariff reconciliation petitions from motor common carriers:	
(i) Petitions involving $25,000 or less	75
(ii) Petitions involving over $25,000	150
(82) Request for a determination of the applicability or reasonableness of motor carrier rates under 49 U.S.C. 13710(a)(2) and (3).	250
(83) Filing of documents for recordation. 49 U.S.C. 11301 and 49 CFR 1177.3(c).	$42 per document.
(84) Informal opinions about rate applications (all modes)	250
(85) A railroad accounting interpretation	1,100
(86) (i) A request for an informal opinion not otherwise covered	1,500
(ii) A proposal to use on a voting trust agreement pursuant to 49 CFR part 1013 and 49 CFR 11804(b)(4)(iv) in connection with a major control proceeding as defined at 49 CFR 11802(a).	5,200
(iii) A request for an informal opinion on a voting trust agreement pursuant to 49 CFR 1013.3(a) not otherwise covered.	500
(87) Arbitration of Certain Disputes Subject to the Statutory Jurisdiction of the Surface Transportation Board under 49 CFR part 1108:	
(i) Complaint	75
(ii) Answer (per defendant), Unless Declining to Submit to Any Arbitration	75
(iii) Third Party Complaint	75
(iv) Third Party Answer (per defendant), Unless Declining to Submit to Any Arbitration	75
(v) Appeals of Arbitration Decisions or Petitions to Modify or Vacate an Arbitration Award	150
(88) Basic fee for STB adjudicatory services not otherwise covered	250
(89)–(95) [Reserved]	
PART VII: Services:	
(96) Messenger delivery of decision to a railroad carrier's Washington, DC, agent	33 per delivery.
(97) Request for service or pleading list for proceedings	25 per list.
(98) Processing the paperwork related to a request for the Carload Waybill Sample to be used in a Surface Transportation Board or State proceeding that:.	
(i) Does not require a **Federal Register** notice:	
(a) Set cost portion	150
(b) Sliding cost portion	$48 per party.
(ii) Does require a **Federal Register** notice:	
(a) Set cost portion	400
(b) Sliding cost portion	$48 per party.
(99) (i) Application fee for the Surface Transportation Board's Practitioners' Exam	150
(ii) Practitioners' Exam Information Package	25
(100) Carload Waybill Sample data:	
(i) Requests for Public Use File for all years prior to the most current year Carload Waybill Sample data available, provided on CD–R.	$250 per year.
(ii) Specialized programming for Waybill requests to the Board	$112 per hour.

* * * * *

[FR Doc. 2012–17923 Filed 7–26–12; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 120306154–2241–02]

RIN 0648–XA920

Atlantic Highly Migratory Species; 2012 Atlantic Bluefin Tuna Quota Specifications

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

ACTION: Final rule.

SUMMARY: NMFS establishes 2012 quota specifications for the Atlantic bluefin tuna (BFT) fisheries. This action is necessary to implement binding recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT), as required by the Atlantic Tunas Convention Act (ATCA), and to achieve domestic management objectives under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Effective August 27, 2012 through December 31, 2012.

ADDRESSES: Supporting documents, including the 2011 Environmental Assessment, Regulatory Impact Review, and Final Regulatory Flexibility Analysis, as well as others, such as the Fishery Management Plans and the scoping document described below may be downloaded from the HMS Web site at *www.nmfs.noaa.gov/sfa/hms/*. These documents also are available by request to Sarah McLaughlin at the telephone number below.

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

SUPPLEMENTARY INFORMATION: Atlantic bluefin tuna (BFT) are managed under the dual authority of the Magnuson-Stevens Act and ATCA. The United States is an active member of ICCAT, which implements binding conservation and management recommendations for species including bluefin tuna. ATCA authorizes the Secretary of Commerce (Secretary) to promulgate regulations, as may be necessary and appropriate, to implement ICCAT recommendations. The authority to issue regulations under the Magnuson-Stevens Act and ATCA has been delegated from the Secretary to the Assistant Administrator for Fisheries, NMFS.

Background

ICCAT Recommendation 10–03 (Supplemental Recommendation by ICCAT concerning Western Atlantic Bluefin Tuna) established the total allowable catch for western Atlantic bluefin tuna for 2011 and 2012, including the United States' bluefin tuna quota. Through a final rule (76 FR 39019, July 5, 2011), NMFS implemented the United States' baseline quota and set domestic BFT fishing category quotas per the allocations

established in the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan (Consolidated HMS FMP) and as allowed in implementing regulations (71 FR 58058, October 2, 2006) (See Table 1, first column). The baseline quota and category subquotas are codified (See Table 1, second column) and will be effective until changed. Additionally, consistent with the Consolidated HMS FMP and NMFS implementing regulations, and as allowed by ICCAT recommendation, certain adjustments are made to the baseline quotas for underharvest from the previous year. This final action adjusts the quota as appropriate and allowable for the 2012 fishing year. Further background information, including the need for the 2012 BFT quota specifications, was provided in the preamble to the proposed rule (77 FR 15712, March 16, 2012) and is not repeated here.

Changes From the Proposed Rule

NMFS determines the amount of BFT quota actually available for the year by adjusting the ICCAT-recommended baseline BFT quota for overharvest or underharvest from the previous fishing year and any accounting for dead discards. At the time the proposed rule was prepared, NMFS used the 2010 estimate of 122.3 mt as a proxy for potential 2012 dead discards because the BFT dead discard estimate for 2011 was not yet available. The more recent 2011 dead discard estimate, 145.2 mt, became available from the NMFS Southeast Fisheries Science Center in mid-June 2012. As anticipated and explained to the public at the proposed rule stage, NMFS is using the more recent dead discard estimate as a proxy in this final rule because it is the best available and most complete information NMFS currently has regarding dead discards.

Based on data available as of June 5, 2012, landings for 2011 totaled 738.5 mt. Adding the 2011 dead discard estimate (145.2 mt) results in a preliminary 2011 total catch of 883.7 mt, which is 159.9 mt less than the amount of quota (inclusive of dead discards) allowed under ICCAT Recommendation 10–03 (948.7 mt plus 94.9 mt of 2010 underharvest carried forward to 2011, totaling 1,043.6 mt). Thus, the underharvest for 2011 is approximately 160 mt. The current ICCAT recommendation limits the amount of underharvest the United States may carry forward to 2012 to 10 percent of the total U.S. quota or 94.9 mt.

As proposed, NMFS is accounting up front (i.e., at the beginning of the fishing year) for half of the expected dead discards for 2012, using the best available estimate of dead discards (2011), and deducting that portion directly from the Longline category subquota. This is the same approach that NMFS took for the final 2011 BFT quota specifications. Accounting for dead discards in the Longline category in this way may provide further incentive for pelagic longline fishermen to reduce interactions that can result in dead discards.

Regarding the unharvested 2011 BFT quota, NMFS had proposed to carry the 94.9 mt of available underharvest forward to 2012 and distribute that amount in the same manner as specified for 2011 (i.e., half to the Longline category and half to the Reserve category), and stated that any necessary adjustments to the 2012 specifications would be made in the final rule after considering updated 2011 landings information and the 2011 dead discard estimate. NMFS also stated that it could allocate the amount carried forward in another manner after considering domestic management needs for 2012.

During preparation of the final rule, NMFS closed the southern area incidental Longline bluefin tuna fishery on May 29, 2012 (77 FR 31546), and the northern area incidental Longline bluefin tuna fishery on June 30, 2012 (77 FR 38011), for the remainder of the year, because landings had met the codified subquotas for those areas. While pelagic longline fishing for swordfish and other target species may continue in the northern and southern Longline areas (with the separation at 31° N. lat., around the Georgia/Florida border), BFT may no longer be retained, possessed, or landed by longline vessels in those areas. Given that the incidental Longline fishery for bluefin tuna in these areas is over, accounting for these landings now is appropriate and allows for greater transparency than year-end accounting. The incidental Longline fishery for bluefin tuna in the Northeast Distant gear restricted area, an area far offshore the northeastern United States, remains open at this time under a separate, ICCAT-recommended allocation of 25 mt.

Taking all of this information into consideration, NMFS is deducting half of the estimated dead discards up front, is applying 76.2 of the 94.9 mt (the available underharvest) to the Longline category, and is maintaining the remaining underharvest (18.7 mt) in the Reserve category. Providing this amount to the Longline category adjusts the Longline South and Longline North subquotas to the amount actually taken in those areas this year, as detailed below. Consistent with determination criteria at § 635.27(a)(8), NMFS may allocate any portion of the Reserve category quota for inseason or annual adjustments to any other quota category. In the proposed rule, NMFS anticipated the possibility of such moderate alterations between the proposed and final amounts and distribution, based on updated information and management objectives.

The incidental Longline fishery for bluefin tuna in the Northeast Distant gear restricted area, an area far offshore the northeastern United States, remains open at this time under a separate, ICCAT-recommended allocation of 25 mt.

2012 Quota Specifications

Specifically, NMFS in this final rule deducts half of the 2011 dead discard estimate of 145.2 mt (i.e., 72.6 mt) directly from the baseline Longline category quota of 74.8 mt and applies 76.2 of the 94.9 mt allowed to be carried forward to 2012 to the Longline category (i.e., 74.8 − 72.6 + 76.2 = 78.4 mt adjusted Longline subquota, not including the 25-mt allocation set aside by ICCAT for the Northeast Distant gear restricted area (NED)). NMFS adds the remainder of the 2011 underharvest that can be carried forward to 2012 (18.7 mt) to the Reserve category's baseline allocation of 23.1 mt, for an adjusted Reserve category quota of 41.8 mt for 2012. For the directed fishing categories (i.e., the Angling, General, Harpoon, Purse Seine categories) as well as the Trap category, NMFS is not adjusting the codified baseline BFT quotas and subquotas that were established in July 2011 (76 FR 39019, July 5, 2011).

Thus, in accordance with ICCAT Recommendation 10–03, the domestic category allocations established in the Consolidated HMS FMP, and regulations regarding annual adjustments at § 635.27(a)(10), NMFS establishes BFT quota specifications for the 2012 fishing year as follows, and as shown in the fifth column of Table 1): General category—435.1 mt; Harpoon category—36 mt; Purse Seine category—171.8 mt; Angling category—182 mt; Longline category—78.4 mt; and Trap category—0.9 mt. The Longline category quota of 78.4 mt is subdivided as follows: 27.6 mt to pelagic longline vessels landing BFT north of 31° N. latitude, and 50.8 mt to pelagic longline vessels landing BFT south of 31° N. latitude. NMFS accounts for landings under the 25-mt NED allocation separately from other Longline category landings. The amount allocated to the Reserve category for inseason adjustments, scientific research

collection, potential overharvest in any category except the Purse Seine category, and potential quota transfers is 41.8 mt.

As described in the proposed rule, NMFS considers the deduction of half of the dead discard estimate from the Longline category a transitional approach from the method used for 2007 through 2010—in which the full dead discard estimate was deducted from the Longline category quota up front—that is appropriate to use again for 2012 as NMFS begins developing Amendment 7 to the Consolidated HMS FMP (Amendment 7) (77 FR 24161, April 23, 2012). Several potential management measures included in the Amendment 7 scoping document (see **ADDRESSES**) are intended to reduce and account for bluefin tuna dead discards. After public scoping on Amendment 7 has been completed, NMFS will prepare a draft Environmental Impact Statement and proposed rule. Management of the BFT fisheries continues under the current Consolidated HMS FMP, implementing regulations, and ICCAT recommendations.

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Table 1. Final 2012 Atlantic Bluefin Tuna Quotas and Quota Specifications (in metric tons)

		2012 Quota Specifications		
Category (% share of baseline quota)	**Baseline Allocation for 2011 and 2012 (per 2010 ICCAT Recommendation and Consolidated HMS FMP allocations)**	**Dead Discard Deduction (1/2 of 2011 proxy of 145.2 mt)**	**2011 Underharvest to Carry Forward to 2012 (94.9 mt total)**	**Adjusted 2012 Fishing Year Quota**
Total (100)	**923.7***			**946.0**
Angling (19.7)	**182.0** **SUBQUOTAS:** **School 94.9** **Reserve 17.6** **North 36.5** **South 40.8** **LS/SM 82.9** **North 39.1** **South 43.8** **Trophy 4.2** **North 1.4** **South 2.8**			**182.0** **SUBQUOTAS:** **School 94.9** **Reserve 17.6** **North 36.5** **South 40.8** **LS/SM 82.9** **North 39.1** **South 43.8** **Trophy 4.2** **North 1.4** **South 2.8**
General (47.1)	**435.1** **SUBQUOTAS:** **Jan 23.1** **Jun-Aug 217.6** **Sept 115.3** **Oct-Nov 56.6** **Dec 22.6**			**435.1** **SUBQUOTAS:** **Jan 23.1** **Jun-Aug 217.6** **Sept 115.3** **Oct-Nov 56.6** **Dec 22.6**
Harpoon (3.9)	**36.0**			**36.0**
Purse Seine (18.6)	**171.8**			**171.8**
Longline (8.1)	**74.8** **SUBQUOTAS:** **North (-NED) 29.9** **NED 25.0*** **South 44.9**	**-72.6**	**+76.2** **North 26.7** **South 39.5**	**78.4** **SUBQUOTAS:** **North (-NED) 27.6** **NED 25.0*** **South 50.8**
Trap (0.1)	**0.9**			**0.9**
Reserve (2.5)	**23.1**		**+18.7**	**41.8**

*25-mt ICCAT set-aside to account for bycatch of BFT in pelagic longline fisheries in the NED not included in totals at top of table.

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Comments and Responses

NMFS received five written comments on the proposed rule, and oral comments from the 13 participants who attended the two public hearings that NMFS held in Gloucester, MA, and Silver Spring, MD. Few of the comments NMFS received were focused specifically on the proposed quota specifications. The majority of those comments generally supported the proposed adjustment of the baseline BFT quota and subquotas. Below, NMFS summarizes and responds to all comments made specifically on the proposed rule received during the comment period. In addition, NMFS received comments on issues that were not part of this rulemaking. These comments are summarized under ''Other Issues'' below. Finally, NMFS addresses a comment received after the end of the comment period from the Center for Biological Diversity, the

Plaintiff in an ongoing legal case regarding bluefin tuna management.

A. 2012 Quota Specifications

Comment 1: One commenter stated that NMFS' proposed methodology to allocate the quotas is appropriate because it is the same methodology used in 2011 and it allows for continued participation by all of the fishery's user groups. Another stated that NMFS should hold each category directly accountable for its own overharvests.

Response: The approach used for these final 2012 quota specifications is an appropriate continuation of the approach used in 2011 as a transition from the method used from 2007 through 2010. Changes in ICCAT's approach to western Atlantic bluefin tuna management in 2006 (i.e., discontinuation of the dead discard allowance and a new provision that the western BFT Total Allowable Catch include dead discards) have had implications for NMFS's domestic management of the fishery quota subcategories, as now the total of U.S. landings and dead discards is limited by the U.S. quota. Through this interim approach, NMFS is balancing the needs of the pelagic longline fishery to continue fishing for swordfish and Atlantic tunas with the needs of directed bluefin tuna fisheries participants. This action may provide some incentive for pelagic longline fishermen to reduce BFT interactions that can result in dead discards. Regarding the comment that NMFS should hold each subcategory accountable for its own dead discard, at this time there are no estimates of dead discards in other categories upon which to hold them accountable. NMFS is considering how best to modify data collection programs to provide dead discard estimates in the future in Amendment 7.

Comment 2: One commenter requested that if, based on final 2011 dead discard information, the amount of 2011 underharvest that the United States could carry forward to 2012 is less than the amount anticipated in the proposed rule (94.9 mt), NMFS should deduct the difference from the Longline category quota. Another commenter requested that NMFS take any difference from the Reserve category quota and asked that NMFS not give out extra quota for directed fisheries to land as that could result in an overharvest of the U.S. BFT quota.

Response: Because final landings and dead discard information for 2011 indicates that the amount of 2011 underharvest is greater than 94.9 mt, the full 94.9 will be available as anticipated in the proposed rule, and no adjustment is necessary. Therefore, the question of how to divide a reduced amount of underharvest between the Longline category and the Reserve is moot. However, after considering the updated 2011 BFT landings information and final dead discard estimate, NMFS has decided to apply 76.2 of the 94.9 mt (the available underharvest) to the Longline category and maintain the remainder (18.7 mt) in the Reserve category.

Comment 3: One commenter expressed concern that NMFS may, in order to stay within the ICCAT-recommended U.S. quota, close directed BFT fisheries in the event that unused quota, including the Reserve quota, is insufficient to account for Longline category landings overharvests and dead discards.

Response: The United States must account for dead discards, regardless of which fishery they occur in, to comply with ICCAT recommendations. It is important to consider that the BFT quota allocations in the Consolidated HMS FMP were based on historic landings and were established initially in 1992. Baseline quotas were modified in 1995 and 1997, but have remained the same since implementation of the 1999 FMP, when a separate discard allowance was provided for in the ICCAT BFT recommendation. Following ICCAT's elimination of the dead discard allowance and change to include dead discards within TACs in 2006, NMFS has not modified the allocation scheme to include dead discards in the baseline quotas. The United States has accounted for this mortality as part of the domestic specification calculation process for the last several years and reports dead discard estimates to ICCAT annually. Regarding the concern about potential closure, NMFS manages each fishing category to its landings quota for a given year, and it is highly unlikely that NMFS would close a fishery prior to the available quota for that category being met.

As indicated above and below, through Amendment 7, NMFS is considering how best to reduce and account for BFT dead discards and methods to improve reporting and monitoring of discards and landings.

Comment 4: NMFS should add to the Reserve category quota the shares of the two purse seine vessels that historically have participated in the BFT Purse Seine category fishery but that have recently been sold and are involved in non-tuna fisheries.

Response: The current BFT quota regulations, which implement the allocation shares set out in the Consolidated HMS FMP, require that NMFS make equal allocations of the available Purse Seine category quota to the Purse Seine category permit holders that request allocation for a given fishing year (§ 635.27(a)(4)(iii)). Thus, current regulations do not allow NMFS to initially allocate the Purse Seine category quota the way the commenter requests. Any change to the procedures for initially allocating Purse Seine category quota would require amendment to the Consolidated HMS FMP. NMFS is currently in the scoping process of Amendment 7, with comments on the scoping document (see **ADDRESSES**) being accepted through July 15, 2012.

B. Other Issues

NMFS received comments on issues beyond the scope of this rulemaking, as outlined under seven subheadings below. NMFS has included several of these topics in the scoping document for Amendment 7. NMFS has also requested comments and/or suggestions on any of the Consolidated HMS FMP management objectives, as well as any potential management measures that may achieve those objectives so they can be incorporated for future public input. Potential management measures include, but are not limited to: revision of baseline quota allocations, reduction of and accounting for dead discards; new and/or modified time and area closures; and methods to improve reporting and monitoring of discards and landings. The potential measures listed in the scoping document are intended to be catalysts for scoping, and should not be viewed as the entire range of options NMFS is taking into consideration.

(1) BFT Baseline Quotas and Allocations

NMFS received various requests to consider catch data rather than just landings data to establish a more effective distribution of quota, enabling better quota utilization and fewer discards; to provide all categories with more quota if the Total Allowable Catch increases; and to reduce all BFT quotas by 50 percent.

(2) Bycatch and Dead Discards

NMFS received a request to use the term ''regulatory discards'' rather than ''dead discards,'' to provide a clear explanation of the dead discards estimation methodology that is understandable by laypersons, to require observer coverage and logbook use for all permit categories, and to calculate the anticipated reduction in dead discards from weak hook use in the Gulf of Mexico when considering a

proxy for the 2011 dead discard estimate.

(3) Permits

NMFS received a request to change all BFT permits from open access to limited access. The commenter stated that the open access nature of the fishery compounds the quota allocation issue.

(4) Data

NMFS received a comment that the Angling category landings are completely estimated and may be significantly incorrect, and a comment that NMFS should collect more information on all BFT (commercial and recreational), whether landed or discarded dead.

(5) ICCAT

NMFS received a comment that the stock assessment science considered by ICCAT lags behind what the U.S. fishermen are seeing on the water, resulting in U.S. fishermen fighting among themselves while eastern Atlantic and Mediterranean BFT fishermen benefit. Some commenters stated that the U.S. delegation to ICCAT should renegotiate the BFT recommendation to increase quotas and the amount of underharvest allowed to be carried forward from one year to the next and should pursue two-year balancing periods for increased flexibility.

(6) Inseason BFT Fishery Management

NMFS received requests to set the General category daily retention limit for June through August at four fish, to close the Longline category southern area BFT fishery as soon as the quota is met, and to carefully monitor pelagic longline activity on the east coast of Florida.

(7) Public Hearings

NMFS received a request to hold hearings in all areas, despite budget restraints, so that all affected fishermen have the opportunity to present their perspectives on any rule that may affect them. Another commenter requested that NMFS hold more meetings generally, with at least half being conducted in metropolitan areas rather than specifically in areas where participants profit from fisheries.

C. Comment From the Center for Biological Diversity

On May 4, 2012, 18 days after the comment period for this proposed rule ended, the Center for Biological Diversity (Center) submitted comments on the rule, including a request that NMFS supplement the Environmental Assessment prepared for the final 2011 quota rule (76 FR 39019, July 5, 2011) to consider information about the Deepwater Horizon/BP oil spill and alleged illegal fishing on the eastern Atlantic and Mediterranean BFT stock, due to the potential effects of mixing on western Atlantic BFT stock recovery. The Center claims that the proposed 2012 quota specifications would violate National Standards 1 and 2 by carrying forward any of the 2011 bluefin tuna underharvest to 2012 and allocating it to fishermen, because they argue that the proposed rule fails to prevent overfishing and use the best available science on the effects of the Deepwater Horizon/BP oil spill and the effects of mixing of eastern and western BFT stocks. Under National Standard 1, conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the U.S. fishing industry. Under National Standard 2, conservation and management measures shall be based upon the best scientific information available. In December 2011, the Center filed a complaint against the Secretary of Commerce, NOAA, and NMFS, regarding a November 2011 final rule implementing Adjustments to the Atlantic Bluefin Tuna General and Harpoon Category Regulations (76 FR 74003, November 30, 2011). The Center claims that the rule violated the Magnuson-Stevens Act, the National Environmental Policy Act, and the Administrative Procedure Act.

NMFS is not required under the Administrative Procedure Act to respond to comments received following the end of a rule's comment period. NMFS typically takes late comments ''into consideration'' without formally responding to those comments, but has the option of formally addressing such comment in a final rule. Nonetheless, NMFS will respond to the Center's comments. Below, NMFS addresses the portions of the Center's comment that are relevant to this rulemaking.

Deepwater Horizon/BP Oil Spill

In 2010, in response to a petition to list BFT under the Endangered Species Act submitted by the Center, NMFS convened a status review team (Team) to review the status of western BFT. As described on pages 48 through 50 of the BFT Status Review Report (available at: *www.nmfs.noaa.gov/stories/2011/05/docs/bft_srr_final.pdf*) the Team modeled the potential effect of the Deepwater Horizon/BP oil spill on the future abundance of BFT. The Team compared projections made by the ICCAT Standing Committee on Research and Statistics (SCRS) in 2010 with similar projections that assume the number of BFT yearlings (one-year-old fish) in 2011 would be reduced by 20 percent. The value of 20 percent was based on a report by the European Space Agency that suggested that about 20 percent of the spawning habitat was oiled. The Team noted that another study suggested that considerably less than 20 percent of the spawning habitat for western BFT was affected by the spill. However, given other factors, the Team regarded 20 percent as a reasonable upper bound for the mortality rate of BFT larvae owing to the spill event. The 20 percent reduction in the 2010 year-class (2011 yearlings) results in less than a 4 percent reduction in spawning biomass when future catches are within the range historically allowed under ICCAT management (i.e., 2,500 mt or less). This result is not surprising because BFT are a relatively long-lived species and the 2010 year class is only one of multiple year classes that will contribute to the spawning biomass in any given year. If the TAC remains less than 2,500 mt, as is expected, then the western BFT stock would be expected to continue to increase despite the Deepwater Horizon/BP oil spill; if however, catches are allowed to exceed 2,500 mt, then the western stock would be expected to decline and any reduction in the 2010 year class would hasten that decline.

The Team also conducted projections using the 'MAST' model (Multistock Age-Structured Tag-Integrated assessment model), which uses electronic tagging data in an effort to account for intermixing between the eastern and western stocks, under the assumption that future catches in the western Atlantic would be 1,800 mt and future catches in the east would be 13,500 mt (slightly greater than allowed by the current management plans). The results of these modeling projections were very similar to those above. In this case, a 20-percent reduction in the 2010 year-class would be projected to cause only a 3-percent reduction in spawning biomass.

The Team also considered the potential impacts of scenarios in which 20 percent of the adult BFT were also killed in 2010, in which case the spawning biomass would be immediately reduced by 20 percent, which might lead to additional reductions in the 2011 and subsequent year-classes (relative to what they would have been in the absence of the spill), and in turn, reductions in future spawning biomass levels. The Team noted, however, the absence of any

evidence that any portion of adults were actually deleteriously affected, and noted that all of the electronically-tagged bluefin tuna that were known to have spent time in the Gulf of Mexico during the actual spill event (8 fish) survived long after leaving the Gulf of Mexico.

Best Available Science

In the 2011 SCRS Executive Summary (Section 8.5 of the recent ICCAT biennial report, which can be found at *www.iccat.int/Documents/BienRep/REP_EN_10-11_II_2.pdf*), the SCRS acknowledges that the conclusions of the 2010 assessment do not capture the full degree of uncertainty in the assessments and projections, and that an important factor contributing to uncertainty is mixing between fish of eastern and western origin. Limited analyses were conducted of the two stocks with mixing in 2008, but little new information was available in 2010. The SCRS states that management actions taken in the eastern Atlantic and Mediterranean are likely to influence recovery in the western Atlantic, because even small rates of mixing from East to West can have significant effects on the West due to the fact that the Eastern plus Mediterranean resource is much larger than that of the West. However, the extent of mixing is currently unknown, and is currently the subject of significant research.

Regarding impacts of the Deepwater Horizon/BP oil spill, NMFS considers the information summarized in the BFT Status Review to be the best scientific information of the effect of the Deepwater Horizon/BP oil spill on bluefin tuna on which to base management actions at this time and no additional information is available upon which to change that basis. Regarding catch levels in the eastern Atlantic and Mediterranean on western Atlantic BFT, NMFS considers the information summarized in the reports of the SCRS to be the best scientific information to serve as the basis of management actions at this time, both internationally and domestically, but notes that a new scientific paper on the MAST model is available. NMFS expects this new information will be reviewed and incorporated by the SCRS in the upcoming 2012 BFT stock assessments, as appropriate. Until that time, however, the SCRS assessments remain the best scientific information available.

NMFS continues to rely upon the 2010 SCRS stock assessment as the best scientific information available. That stock assessment was subject to rigorous analysis and review by a panel of experts from participating ICCAT countries. A new stock assessment is expected in fall 2012, along with a new ICCAT recommendation on total allowable catch and country quotas and other bluefin conservation and management measures. The newly available MAST that addresses mixing of eastern and western Atlantic bluefin tuna stocks will be reviewed and incorporated as appropriate in that upcoming assessment process. Thus, while the MAST model is available for review, it has not been subject to the rigorous analysis and review by ICCAT's panel of experts. Therefore, NMFS' actions in implementing the ICCAT quota consistent with the ICCAT Rebuilding Program and the 2010 stock assessment are consistent with the Magnuson-Stevens Act's National Standard 2 to utilize the best available scientific information.

The 2010 SCRS stock assessment analyzed the status of the western Atlantic bluefin tuna stock using two recruitment scenarios: a ''high recruitment'' and ''low recruitment'' scenario. SCRS concluded that there was no basis for choosing one scenario over the other (i.e., both scenarios are equally likely). Under the low recruitment scenario, the stock is considered rebuilt, overfishing is not occurring, and a total allowable catch of up to 2,500 metric tons would maintain the stock biomass above the level that can support MSY. Under the high recruitment scenario, the stock remains overfished with overfishing occurring and will not rebuild by the end of 2018 (under the 20-year rebuilding period that began in 1999) even with no catch. The SCRS indicated that a total allowable catch of 1,800 metric tons would allow the stock to grow under both recruitment scenarios. ICCAT adopted a total allowable catch of 1,750 mt, which was a reduction of 50 mt from the TAC for 2011.

The quotas as implemented remain consistent with the ICCAT Rebuilding Program that was adopted domestically in the rule implementing the 1999 FMP and that was continued in regulations under the 2006 Consolidated HMS FMP. The main objective of the ICCAT Rebuilding Program is to maintain western Atlantic bluefin tuna populations at levels that will support MSY. Therefore, NMFS' actions are consistent with National Standard 1 of the Magnuson-Stevens Act, which states that conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield (OY) for the fishery.

Carrying Underharvest Forward

NMFS maintains that the carryforward of underhavest is consistent with ICCAT Recommendation 10–03, ATCA, and the Magnuson-Stevens Act. Beginning with the 2011 fishing year, ICCAT Recommendation 10–03 limits the amount of underharvest that may be carried forward from one year to the next to no more than 10 percent of a country's quota. This amount was reduced from the 50-percent limit in the 2006 ICCAT western Atlantic BFT recommendation (06–06), which was in effect for 2007 through 2010. Prior to 2007, a country could carry forward the full amount of its underharvest to the following year. The United States has supported ICCAT's efforts to control quota stockpiling as part of bluefin tuna management recommendations, such as establishing limits on the amount of unused quota that can be carried from one year to the next, for fairness and conservation reasons.

Under ATCA, NMFS is authorized to promulgate such regulations as may be necessary and appropriate to carry out ICCAT recommendations. Under the Magnuson-Stevens Act (16 U.S.C. 1854(g)(1)(D)), NMFS is required to provide U.S. fishing vessels with ''a reasonable opportunity to harvest'' any allocation or quota to which the United States has agreed under ICCAT. To meet the multiple goals for the BFT fisheries, NMFS considers the importance of all of the national standards when making fishery management decisions, including those intended to provide reasonable fishing opportunities to a wide range of users and gear types, coastwide, throughout the calendar year.

Classification

The NMFS Assistant Administrator has determined that this final rule is consistent with the Magnuson-Stevens Act, ATCA, and other applicable law, and is necessary to achieve domestic management objectives under the Consolidated HMS FMP.

This final rule is exempt from the procedures of E.O. 12866 because this action contains no implementing regulations.

The Chief Council for Regulation of the Department of Commerce certified to the Chief Council for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here.

No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, NMFS has prepared a brochure summarizing fishery information and regulations for Atlantic tuna fisheries for 2012. This brochure also serves as the small entity compliance guide. Copies of the compliance guide are available from NMFS (see **ADDRESSES**).

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

Dated: July 24, 2012.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2012–18404 Filed 7–26–12; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 640

[Docket No. 110908576–2240–02]

RIN 0648–BB44

Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic; Amendment 11

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement Amendment 11 to the Fishery Management Plan for the Spiny Lobster Fishery in the Gulf of Mexico and South Atlantic (FMP), as prepared and submitted by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils). This final rule limits spiny lobster trap fishing in certain areas in the exclusive economic zone (EEZ) off the Florida Keys to protect threatened species of corals and addresses the requirements of a 2009 Endangered Species Act (ESA) biological opinion on the spiny lobster fishery.

DATES: This rule is effective August 27, 2012.

ADDRESSES: Electronic copies of Amendment 11, which includes a supplemental environmental impact statement and a regulatory flexibility analysis, may be obtained from the Southeast Regional Office Web site at *http://sero.nmfs.noaa.gov/sf/pdfs/Final_Spiny_Lobster_Amend_11_April_05_2012.pdf.*

FOR FURTHER INFORMATION CONTACT: Susan Gerhart, telephone: 727–824–5305, or email: *Susan.Gerhart@noaa.gov.*

SUPPLEMENTARY INFORMATION: The spiny lobster fishery of the Gulf of Mexico (Gulf) and the South Atlantic is managed under the FMP. The FMP was prepared by the Councils and implemented through regulations at 50 CFR parts 622 and 640 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

A 2009 ESA biological opinion on the continued authorization of the spiny lobster fishery contained specific terms and conditions required to implement the prescribed reasonable and prudent measures and requires NMFS and the Councils to work together to protect areas of staghorn and elkhorn coral. This final rule addresses the required measure to create new or expand existing closed areas for lobster trap fishing where colonies of these threatened species are present.

On September 19, 2011, NMFS published a notice of intent to prepare a supplemental environmental impact statement for Amendment 11 and requested public comment (76 FR 57958). On April 27, 2012, NMFS published a notice of availability for Amendment 11 and requested public comment (77 FR 25116). On May 15, 2012, NMFS published a proposed rule for Amendment 11 and requested comment (77 FR 28560). The proposed rule and Amendment 11 outline the rationale for the action contained in this final rule. A summary of the action being implemented by this final rule is provided below.

This final rule prohibits spiny lobster trap fishing in 60 closed areas that cover a total of 5.9 mi^2 (15.3 km^2), distributed throughout the South Atlantic EEZ off the Florida Keys. These areas were chosen to protect threatened coral colonies with high conservation value and areas of high coral density. The closed areas meet the applicable requirements of the 2009 ESA biological opinion.

Comments and Responses

NMFS received five public comment submissions on Amendment 11 and the proposed rule, including three comments from individuals. Two Federal agencies stated they had no comment on the rule. Specific comments related to the actions contained in Amendment 11 and the proposed rule, as well as NMFS' respective responses, are summarized below.

Comment 1: Lobster trapping destroys reefs and should be prohibited.

Response: Amendment 11 does not address the general use of traps in the lobster fishery. The purpose of Amendment 11 is to implement the specific terms and conditions of the 2009 ESA biological opinion, one of which is to create new or expand existing closed areas to protect elkhorn and staghorn coral. The purpose of this final rule is to implement Amendment 11 and is not intended to address all possible management measures for the lobster fishery as a whole. The prohibition of lobster trap fishing in the 60 areas implemented through Amendment 11 will help protect reefs in the designated areas. As explained in Amendment 11, these areas were selected by identifying elkhorn and staghorn coral colonies and applying six general criteria to choose the areas that will provide the greatest benefit. In consultation with various stakeholders, NMFS and the Councils selected areas to be closed to lobster trap fishing that protect threatened coral colonies with high conservation value and areas of high coral density.

Comment 2: Closing areas to lobster trap fishing is long overdue.

Response: The measures contained in this final rule were developed to meet specific terms and conditions of the 2009 ESA biological opinion. NMFS and the Councils gathered data on identified elkhorn and staghorn coral colonies, then worked with fishermen, scientists, and managers to select areas to close to lobster trap fishing. This colloborative and deliberative process took time, but is intended to ensure that the areas selected will protect elkhorn and staghorn coral with the highest conservation value without overly restricting access to lobster fishing areas.

Classification

The Regional Administrator, Southeast Region, NMFS has determined that this final rule is

necessary for the conservation and management of protected species described within Amendment 11, and is consistent with the FMP, the 2009 ESA biological opinion, the Magnuson-Stevens Act, and other applicable law.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here.

No substantive comments were received on the certification provided in the proposed rule (77 FR 28560, May 15, 2012). No changes to the final rule were made in response to public comments. As a result, a final regulatory flexibility analysis was not required and none was prepared.

List of Subjects in 50 CFR Part 640

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: July 23, 2012.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 640 is amended as follows:

PART 640—SPINY LOBSTER FISHERY OF THE GULF OF MEXICO AND SOUTH ATLANTIC

■ 1. The authority citation for part 640 continues to read as follows:

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

■ 2. In § 640.7, paragraph (y) is added to read as follows:

§ 640.7 Prohibitions.

* * * * *

(y) Fish for a spiny lobster using trap gear in the areas specified in § 640.22(b)(4).

■ 3. In § 640.22, paragraph (b)(4) is added to read as follows:

§ 640.22 Gear and diving restrictions.

* * * * *

(b) * * *

(4) Fishing with spiny lobster trap gear is prohibited year-round in the following areas bounded by rhumb lines connecting, in order, the points listed.

(i) Lobster Trap Gear Closed Area 1.

Point	North Lat.	West Long.
A	24°31′15.002″	81°31′00.000″
B	24°31′15.002″	81°31′19.994″
C	24°31′29.999″	81°31′19.994″
D	24°31′29.999″	81°31′00.000″
A	24°31′15.002″	81°31′00.000″

(ii) Lobster Trap Gear Closed Area 2.

Point	North Lat.	West Long.
A	24°31′20.205″	81°30′17.213″
B	24°31′17.858″	81°30′27.700″
C	24°31′27.483″	81°30′30.204″
D	24°31′29.831″	81°30′19.483″
A	24°31′20.205″	81°30′17.213″

(iii) Lobster Trap Gear Closed Area 3.

Point	North Lat.	West Long.
A	24°31′42.665″	81°30′02.892″
B	24°31′45.013″	81°29′52.093″
C	24°31′34.996″	81°29′49.745″
D	24°31′32.335″	81°30′00.466″
A	24°31′42.665″	81°30′02.892″

(iv) Lobster Trap Gear Closed Area 4.

Point	North Lat.	West Long.
A	24°31′50.996″	81°28′39.999″
B	24°31′50.996″	81°29′03.002″
C	24°31′56.998″	81°29′03.002″
D	24°31′56.998″	81°28′39.999″
A	24°31′50.996″	81°28′39.999″

(v) Lobster Trap Gear Closed Area 5.

Point	North Lat.	West Long.
A	24°32′20.014″	81°26′20.390″
B	24°32′13.999″	81°26′41.999″
C	24°32′27.004″	81°26′45.611″
D	24°32′33.005″	81°26′23.995″
A	24°32′20.014″	81°26′20.390″

(vi) Lobster Trap Gear Closed Area 6.

Point	North Lat.	West Long.
A	24°32′30.011″	81°24′47.000″
B	24°32′23.790″	81°24′56.558″
C	24°32′45.997″	81°25′10.998″
D	24°32′52.218″	81°25′01.433″
A	24°32′30.011″	81°24′47.000″

(vii) Lobster Trap Gear Closed Area 7.

Point	North Lat.	West Long.
A	24°32′46.834″	81°27′17.615″
B	24°32′41.835″	81°27′35.619″
C	24°32′54.003″	81°27′38.997″
D	24°32′59.002″	81°27′21.000″
A	24°32′46.834″	81°27′17.615″

(viii) Lobster Trap Gear Closed Area 8.

Point	North Lat.	West Long.
A	24°33′10.002″	81°25′50.995″
B	24°33′04.000″	81°26′18.996″
C	24°33′17.253″	81°26′21.839″
D	24°33′23.254″	81°25′53.838″
A	24°33′10.002″	81°25′50.995″

(ix) Lobster Trap Gear Closed Area 9.

Point	North Lat.	West Long.
A	24°33′22.004″	81°30′31.998″
B	24°33′22.004″	81°30′41.000″
C	24°33′29.008″	81°30′41.000″
D	24°33′29.008″	81°30′31.998″
A	24°33′22.004″	81°30′31.998″

(x) Lobster Trap Gear Closed Area 10.

Point	North Lat.	West Long.
A	24°33′33.004″	81°30′00.000″
B	24°33′33.004″	81°30′09.998″
C	24°33′41.999″	81°30′09.998″
D	24°33′41.999″	81°30′00.000″
A	24°33′33.004″	81°30′00.000″

(xi) Lobster Trap Gear Closed Area 11.

Point	North Lat.	West Long.
A	24°33′50.376″	81°23′35.039″
B	24°33′27.003″	81°24′51.003″
C	24°33′40.008″	81°24′54.999″
D	24°34′03.382″	81°23′39.035″
A	24°33′50.376″	81°23′35.039″

(xii) Lobster Trap Gear Closed Area 12.

Point	North Lat.	West Long.
A	24°34′00.003″	81°19′29.996″
B	24°34′00.003″	81°20′04.994″
C	24°34′24.997″	81°20′04.994″
D	24°34′24.997″	81°19′29.996″
A	24°34′00.003″	81°19′29.996″

(xiii) Lobster Trap Gear Closed Area 13.

Point	North Lat.	West Long.
A	24°35′19.997″	81°14′25.002″
B	24°35′19.997″	81°14′34.999″
C	24°35′29.006″	81°14′34.999″
D	24°35′29.006″	81°14′25.002″
A	24°35′19.997″	81°14′25.002″

(xiv) Lobster Trap Gear Closed Area 14.

Point	North Lat.	West Long.
A	24°44′37.004″	80°46′47.000″
B	24°44′37.004″	80°46′58.000″
C	24°44′47.002″	80°46′58.000″
D	24°44′47.002″	80°46′47.000″
A	24°44′37.004″	80°46′47.000″

(xv) Lobster Trap Gear Closed Area 15.

Point	North Lat.	West Long.
A	24°49′53.946″	80°38′17.646″
B	24°48′32.331″	80°40′15.530″
C	24°48′44.389″	80°40′23.879″
D	24°50′06.004″	80°38′26.003″
A	24°49′53.946″	80°38′17.646″

(xvi) Lobster Trap Gear Closed Area 16.

Point	North Lat.	West Long.
A	24°53′32.085″	80°33′22.065″
B	24°53′38.992″	80°33′14.670″
C	24°53′31.673″	80°33′07.155″
D	24°54′24.562″	80°33′14.886″
A	24°53′32.085″	80°33′22.065″

(xvii) Lobster Trap Gear Closed Area 17.

Point	North Lat.	West Long.
A	24°53′33.410″	80°32′50.247″
B	24°53′40.149″	80°32′42.309″
C	24°53′32.418″	80°32′35.653″
D	24°54′25.348″	80°32′43.302″
A	24°53′33.410″	80°32′50.247″

(xviii) Lobster Trap Gear Closed Area 18.

Point	North Lat.	West Long.
A	24°54′06.317″	80°32′34.115″
B	24°53′59.368″	80°33′41.542″
C	24°54′06.667″	80°33′48.994″
D	24°54′13.917″	80°32′41.238″
A	24°54′06.317″	80°32′34.115″

(xix) Lobster Trap Gear Closed Area 19.

Point	North Lat.	West Long.
A	24°54′06.000″	80°31′33.995″
B	24°54′06.000″	80°31′45.002″
C	24°54′36.006″	80°31′45.002″
D	24°54′36.006″	80°31′33.995″
A	24°54′06.000″	80°31′33.995″

(xx) Lobster Trap Gear Closed Area 20.

Point	North Lat.	West Long.
A	24°56′21.104″	80°28′52.331″
B	24°56′17.012″	80°29′05.995″
C	24°56′26.996″	80°29′08.996″
D	24°56′31.102″	80°28′55.325″
A	24°56′21.104″	80°28′52.331″

(xxi) Lobster Trap Gear Closed Area 21.

Point	North Lat.	West Long.
A	24°56′53.006″	80°27′46.997″
B	24°56′21.887″	80°28′25.367″
C	24°56′35.002″	80°28′36.003″
D	24°57′06.107″	80°27′57.626″
A	24°56′53.006″	80°27′46.997″

(xxii) Lobster Trap Gear Closed Area 22.

Point	North Lat.	West Long.
A	24°57′35.001″	80°27′14.999″
B	24°57′28.011″	80°27′21.000″
C	24°57′33.999″	80°27′27.997″
D	24°57′40.200″	80°27′21.106″
A	24°57′35.001″	80°27′14.999″

(xxiii) Lobster Trap Gear Closed Area 23.

Point	North Lat.	West Long.
A	24°58′58.154″	80°26′03.911″
B	24°58′48.005″	80°26′10.001″
C	24°58′52.853″	80°26′18.090″
D	24°59′03.002″	80°26′11.999″
A	24°58′58.154″	80°26′03.911″

(xxiv) Lobster Trap Gear Closed Area 24.

Point	North Lat.	West Long.
A	24°59′17.009″	80°24′32.999″
B	24°58′41.001″	80°25′21.998″
C	24°58′57.591″	80°25′34.186″
D	24°59′33.598″	80°24′45.187″
A	24°59′17.009″	80°24′32.999″

(xxv) Lobster Trap Gear Closed Area 25.

Point	North Lat.	West Long.
A	24°59′44.008″	80°25′38.999″
B	24°59′27.007″	80°25′48.997″
C	24°59′32.665″	80°25′58.610″
D	24°59′49.666″	80°25′48.612″
A	24°59′44.008″	80°25′38.999″

(xxvi) Lobster Trap Gear Closed Area 26.

Point	North Lat.	West Long.
A	25°01′00.006″	80°21′55.002″
B	25°01′00.006″	80°22′11.996″
C	25°01′18.010″	80°22′11.996″
D	25°01′18.010″	80°21′55.002″
A	25°01′00.006″	80°21′55.002″

(xxvii) Lobster Trap Gear Closed Area 27.

Point	North Lat.	West Long.
A	25°01′34.997″	80°23′12.998″
B	25°01′18.010″	80°23′44.000″
C	25°01′22.493″	80°23′46.473″
D	25°01′36.713″	80°23′37.665″
E	25°01′46.657″	80°23′19.390″
A	25°01′34.997″	80°23′12.998″

(xxviii) Lobster Trap Gear Closed Area 28.

Point	North Lat.	West Long.
A	25°01′38.005″	80°21′25.998″
B	25°01′28.461″	80°21′46.158″
C	25°01′45.009″	80°21′53.999″
D	25°01′54.553″	80°21′33.839″
A	25°01′38.005″	80°21′25.998″

(xxix) Lobster Trap Gear Closed Area 29.

Point	North Lat.	West Long.
A	25°01′53.001″	80°23′08.995″
B	25°01′53.001″	80°23′17.997″
C	25°02′01.008″	80°23′17.997″
D	25°02′01.008″	80°23′08.995″
A	25°01′53.001″	80°23′08.995″

(xxx) Lobster Trap Gear Closed Area 30.

Point	North Lat.	West Long.
A	25°02′20.000″	80°22′11.001″
B	25°02′10.003″	80°22′50.002″
C	25°02′22.252″	80°22′53.140″
D	25°02′32.250″	80°22′14.138″
A	25°02′20.000″	80°22′11.001″

(xxxi) Lobster Trap Gear Closed Area 31.

Point	North Lat.	West Long.
A	25°02′29.503″	80°20′30.503″
B	25°02′16.498″	80°20′43.501″
C	25°02′24.999″	80°20′52.002″
D	25°02′38.004″	80°20′38.997″
A	25°02′29.503″	80°20′30.503″

(xxxii) Lobster Trap Gear Closed Area 32.

Point	North Lat.	West Long.
A	25°02′34.008″	80°21′57.000″
B	25°02′34.008″	80°22′14.997″
C	25°02′50.007″	80°22′14.997″
D	25°02′50.007″	80°21′57.000″
A	25°02′34.008″	80°21′57.000″

(xxxiii) Lobster Trap Gear Closed Area 33.

Point	North Lat.	West Long.
A	25°03′11.294″	80°21′36.864″
B	25°03′02.540″	80°21′43.143″
C	25°03′08.999″	80°21′51.994″
D	25°03′17.446″	80°21′45.554″
A	25°03′11.294″	80°21′36.864″

(xxxiv) Lobster Trap Gear Closed Area 34.

Point	North Lat.	West Long.
A	25°03′30.196″	80°21′34.263″
B	25°03′39.267″	80°21′29.506″
C	25°03′35.334″	80°21′19.801″
D	25°03′26.200″	80°21′24.304″
A	25°03′30.196″	80°21′34.263″

(xxxv) Lobster Trap Gear Closed Area 35.

Point	North Lat.	West Long.
A	25°03′26.001″	80°19′43.001″
B	25°03′26.001″	80°19′54.997″
C	25°03′41.011″	80°19′54.997″
D	25°03′41.011″	80°19′43.001″
A	25°03′26.001″	80°19′43.001″

(xxxvi) Lobster Trap Gear Closed Area 36.

Point	North Lat.	West Long.
A	25°07′03.008″	80°17′57.999″
B	25°07′03.008″	80°18′10.002″
C	25°07′14.997″	80°18′10.002″
D	25°07′14.997″	80°17′57.999″
A	25°07′03.008″	80°17′57.999″

(xxxvii) Lobster Trap Gear Closed Area 37.

Point	North Lat.	West Long.
A	25°07′51.156″	80°17′27.910″
B	25°07′35.857″	80°17′37.091″
C	25°07′43.712″	80°17′50.171″
D	25°07′59.011″	80°17′40.998″
A	25°07′51.156″	80°17′27.910″

(xxxviii) Lobster Trap Gear Closed Area 38.

Point	North Lat.	West Long.
A	25°08′12.002″	80°17′09.996″
B	25°07′55.001″	80°17′26.997″
C	25°08′04.998″	80°17′36.995″
D	25°08′22.000″	80°17′20.000″
A	25°08′12.002″	80°17′09.996″

(xxxix) Lobster Trap Gear Closed Area 39.

Point	North Lat.	West Long.
A	25°08′18.003″	80°17′34.001″
B	25°08′18.003″	80°17′45.997″
C	25°08′29.003″	80°17′45.997″
D	25°08′29.003″	80°17′34.001″
A	25°08′18.003″	80°17′34.001″

(xl) Lobster Trap Gear Closed Area 40.

Point	North Lat.	West Long.
A	25°08′45.002″	80°15′50.002″
B	25°08′37.999″	80°15′56.998″
C	25°08′42.009″	80°16′00.995″
D	25°08′48.999″	80°15′53.998″
A	25°08′45.002″	80°15′50.002″

(xli) Lobster Trap Gear Closed Area 41.

Point	North Lat.	West Long.
A	25°08′58.007″	80°17′24.999″
B	25°08′58.007″	80°17′35.999″
C	25°09′09.007″	80°17′35.999″
D	25°09′09.007″	80°17′24.999″
A	25°08′58.007″	80°17′24.999″

(xlii) Lobster Trap Gear Closed Area 42.

Point	North Lat.	West Long.
A	25°09′10.999″	80°16′00.000″
B	25°09′10.999″	80°16′09.997″
C	25°09′20.996″	80°16′09.997″
D	25°09′20.996″	80°16′00.000″
A	25°09′10.999″	80°16′00.000″

(xliii) Lobster Trap Gear Closed Area 43.

Point	North Lat.	West Long.
A	25°09′28.316″	80°17′03.713″
B	25°09′14.006″	80°17′17.000″
C	25°09′21.697″	80°17′25.280″
D	25°09′36.006″	80°17′12.001″
A	25°09′28.316″	80°17′03.713″

(xliv) Lobster Trap Gear Closed Area 44.

Point	North Lat.	West Long.
A	25°10′00.011″	80°16′06.000″
B	25°10′00.011″	80°16′17.000″
C	25°10′09.995″	80°16′17.000″
D	25°10′09.995″	80°16′06.000″
A	25°10′00.011″	80°16′06.000″

(xlv) Lobster Trap Gear Closed Area 45.

Point	North Lat.	West Long.
A	25°10′29.002″	80°15′52.995″
B	25°10′29.002″	80°16′04.002″
C	25°10′37.997″	80°16′04.002″
D	25°10′37.997″	80°15′52.995″
A	25°10′29.002″	80°15′52.995″

(xlvi) Lobster Trap Gear Closed Area 46.

Point	North Lat.	West Long.
A	25°11′05.998″	80°14′25.997″
B	25°11′05.998″	80°14′38.000″
C	25°11′20.006″	80°14′38.000″
D	25°11′20.006″	80°14′25.997″
A	25°11′05.998″	80°14′25.997″

(xlvii) Lobster Trap Gear Closed Area 47.

Point	North Lat.	West Long.
A	25°12′00.998″	80°13′24.996″
B	25°11′43.008″	80°13′35.000″
C	25°11′48.007″	80°13′44.002″
D	25°12′06.011″	80°13′33.998″
A	25°12′00.998″	80°13′24.996″

(xlviii) Lobster Trap Gear Closed Area 48.

Point	North Lat.	West Long.
A	25°12′18.343″	80°14′32.768″
B	25°12′02.001″	80°14′44.001″
C	25°12′07.659″	80°14′52.234″
D	25°12′24.001″	80°14′41.001″
A	25°12′18.343″	80°14′32.768″

(xlix) Lobster Trap Gear Closed Area 49.

Point	North Lat.	West Long.
A	25°15′23.998″	80°12′29.000″
B	25°15′04.676″	80°12′36.120″
C	25°15′09.812″	80°12′50.066″
D	25°15′29.148″	80°12′42.946″
A	25°15′23.998″	80°12′29.000″

(l) Lobster Trap Gear Closed Area 50.

Point	North Lat.	West Long.
A	25°16′01.997″	80°12′32.996″
B	25°15′33.419″	80°12′52.394″
C	25°15′44.007″	80°13′08.001″
D	25°16′12.585″	80°12′48.597″
A	25°16′01.997″	80°12′32.996″

(li) Lobster Trap Gear Closed Area 51.

Point	North Lat.	West Long.
A	25°16′33.006″	80°13′30.001″
B	25°16′33.006″	80°13′41.001″
C	25°16′34.425″	80°13′41.026″
D	25°16′41.850″	80°13′37.475″
E	25°16′42.001″	80°13′30.001″
A	25°16′33.006″	80°13′30.001″

(lii) Lobster Trap Gear Closed Area 52.

Point	North Lat.	West Long.
A	25°17′04.715″	80°12′11.305″
B	25°16′17.007″	80°12′27.997″
C	25°16′23.997″	80°12′47.999″
D	25°17′11.705″	80°12′31.300″
A	25°17′04.715″	80°12′11.305″

(liii) Lobster Trap Gear Closed Area 53.

Point	North Lat.	West Long.
A	25°17′23.008″	80°12′40.000″
B	25°17′23.008″	80°12′49.997″
C	25°17′33.005″	80°12′49.997″
D	25°17′33.005″	80°12′40.000″
A	25°17′23.008″	80°12′40.000″

(liv) Lobster Trap Gear Closed Area 54.

Point	North Lat.	West Long.
A	25°20′57.996″	80°09′50.000″
B	25°20′57.996″	80°10′00.000″
C	25°21′07.005″	80°10′00.000″
D	25°21′07.005″	80°09′50.000″
A	25°20′57.996″	80°09′50.000″

(lv) Lobster Trap Gear Closed Area 55.

Point	North Lat.	West Long.
A	25°21′45.004″	80°09′51.998″

Point	North Lat.	West Long.
B	25°21′38.124″	80°09′56.722″
C	25°21′49.124″	80°10′12.728″
D	25°21′56.004″	80°10′07.997″
A	25°21′45.004″	80°09′51.998″

(lvi) Lobster Trap Gear Closed Area 56.

Point	North Lat.	West Long.
A	25°21′49.000″	80°09′21.999″
B	25°21′49.000″	80°09′31.996″
C	25°21′58.998″	80°09′31.996″
D	25°21′58.998″	80°09′21.999″
A	25°21′49.000″	80°09′21.999″

(lvii) Lobster Trap Gear Closed Area 57.

Point	North Lat.	West Long.
A	25°24′31.008″	80°07′36.997″
B	25°24′31.008″	80°07′48.999″
C	25°24′41.005″	80°07′48.999″
D	25°24′41.005″	80°07′36.997″
A	25°24′31.008″	80°07′36.997″

(lviii) Lobster Trap Gear Closed Area 58.

Point	North Lat.	West Long.
A	25°25′14.005″	80°07′27.995″
B	25°25′14.005″	80°07′44.001″
C	25°25′26.008″	80°07′44.001″
D	25°25′26.008″	80°07′27.995″
A	25°25′14.005″	80°07′27.995″

(lix) Lobster Trap Gear Closed Area 59.

Point	North Lat.	West Long.
A	25°35′13.996″	80°05′39.999″
B	25°35′13.996″	80°05′50.999″
C	25°35′24.007″	80°05′50.999″
D	25°35′24.007″	80°05′39.999″
A	25°35′13.996″	80°05′39.999″

(lx) Lobster Trap Gear Closed Area 60.

Point	North Lat.	West Long.
A	25°40′57.003″	80°05′43.000″
B	25°40′57.003″	80°05′54.000″
C	25°41′06.550″	80°05′53.980″
D	25°41′18.136″	80°05′49.158″
E	25°41′18.001″	80°05′43.000″
A	25°40′57.003″	80°05′43.000″

[FR Doc. 2012–18303 Filed 7–26–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 111213751–2102–02]

RIN 0648–XC119

Fisheries of the Exclusive Economic Zone Off Alaska; Squid in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; apportionment of reserves; request for comments.

SUMMARY: NMFS apportions an amount of the non-specified reserve to the initial total allowable catch of squid in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to allow the fisheries to continue operating. It is intended to promote the goals and objectives of the fishery management plan for the BSAI.

DATES: Effective July 24, 2012, through 2400 hrs, Alaska local time, December 31, 2012. Comments must be received at the following address no later than 4:30 p.m., Alaska local time, August 8, 2012.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2012–0147, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal *www.regulations.gov.* To submit comments via the e-Rulemaking Portal, first click the ''submit a comment'' icon, then enter NOAA–NMFS–2012–0147 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the ''Submit a Comment'' icon on that line.
- *Mail:* Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.
- *Fax:* Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Fax comments to 907–586–7557.
- *Hand delivery to the Federal Building:* Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Deliver comments to 709 West 9th Street, Room 420A, Juneau, AK.

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address) submitted voluntarily by the sender will be publicly accessible.

Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (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 initial total allowable catch (ITAC) of squid in the BSAI was established as 361 metric tons (mt) by the final 2012 and 2013 harvest specifications for groundfish of the BSAI (77 FR 10669, February 23, 2012). In accordance with § 679.20(a)(3) the Regional Administrator, Alaska Region, NMFS, has reviewed the most current available data and finds that the ITAC for squid in the BSAI needs to be supplemented from the non-specified reserve in order to promote efficiency in the utilization of fishery resources in the BSAI and allow fishing operations to continue.

Therefore, in accordance with § 679.20(b)(3), NMFS apportions from the non-specified reserve of groundfish 64 mt to the squid ITAC in the BSAI. This apportionment is consistent with § 679.20(b)(1)(i) and does not result in overfishing of a target species because the revised ITAC is equal to or less than

the specifications of the acceptable biological catch in the final 2012 and 2013 harvest specifications for groundfish in the BSAI (77 FR 10669, February 23, 2012).

The harvest specification for the 2012 ITAC included in the harvest specifications for groundfish in the BSAI is revised as follows: 425 mt for squid in the BSAI.

Classification

This action responds to the best available information recently obtained from the fishery. The 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) and 679.20(b)(3)(iii)(A) as such a requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the apportionment of the non-specified reserves of groundfish to the squid fishery in the BSAI. Immediate notification is necessary to allow for the orderly conduct and efficient operation of these fisheries, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet and processors. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of July 23, 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.

Under § 679.20(b)(3)(iii), interested persons are invited to submit written comments on this action (see **ADDRESSES**) until August 8, 2012.

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 24, 2012.

James P. Burgess,

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

[FR Doc. 2012–18386 Filed 7–24–12; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 77, No. 145
Friday, July 27, 2012

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

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

10 CFR Part 1708

Procedures for Safety Investigations

AGENCY: Defense Nuclear Facilities Safety Board.

ACTION: Proposed rule.

SUMMARY: The Defense Nuclear Facilities Safety Board (Board) is responsible for making recommendations to the Secretary of Energy and the President regarding health and safety issues at the Department of Energy's (DOE) defense nuclear facilities. In this notice, the Board proposes a rule establishing procedures for conducting preliminary and formal safety investigations of events or practices at DOE defense nuclear facilities that the Board determines have adversely affected, or may adversely affect, public health and safety. The Board's experience in conducting formal safety investigations necessitates codifying the procedures set forth in the proposed rule. These procedures, among other benefits, will ensure a more efficient investigative process, protect confidential and privileged safety information, and promote uniformity of future safety investigations.

DATES: To be considered, comments must be mailed, emailed, or delivered to the address listed below by 5 p.m. on or before August 27, 2012.

ADDRESSES: Comments should be mailed or delivered to John G. Batherson, Associate General Counsel, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW., Suite 700, Washington, DC 20004. Send comments by facsimile to (202) 208–6518. Send comments by email to John G. Batherson at *JohnB@dnfsb.gov.*

FOR FURTHER INFORMATION CONTACT: John G. Batherson, Associate General Counsel, (202) 694–7018.

SUPPLEMENTARY INFORMATION:

Background

The Board is authorized to promulgate this proposed rule pursuant to its enabling legislation in the Atomic Energy Act of 1954, as amended, at 42 U.S.C. 2286b(c), which states that the Board may prescribe regulations to carry out its responsibilities. The Board is vested with broad authority pursuant to 42 U.S.C. 2286a(a)(2) to investigate events or practices which have adversely affected, or may adversely affect, public health and safety at DOE defense nuclear facilities.

The proposed rule establishes a new Part 1708 to the Board's regulations, setting forth procedures governing the specific conduct of safety investigations. The rule is intended to state clearly the Board's policy and procedures for safety investigations convened pursuant to the Board's enabling legislation. The Board has not previously proposed a rule specifically addressing procedures to be utilized in safety investigations. Rather, the Board has conducted preliminary safety inquiries and formal safety investigations pursuant to its statutory authority, when appropriate, following standard safety investigation policies, practices, and procedures. The proposed rule is intended to formalize those practices and procedures. The experience of Board investigators was utilized in drafting the proposed rule. The proposed rule will ensure a more efficient investigative process, and promote uniformity in the investigation of events or practices that have adversely affected, or may adversely affect, health and safety of the public and workers at DOE defense nuclear facilities. The proposed rule also serves the Board's duty to protect confidential and privileged safety information.

It is imperative that Board investigators be able to obtain information from witnesses as necessary to form an understanding of the underlying causes of events or practices that have adversely affected, or may adversely affect, public health and safety at DOE defense nuclear facilities. Frank, open communications are critical if Board investigators are to be effective. The Board must also be viewed as uncompromising in maintaining non-disclosure of privileged safety information. The Board must be able to assure complete confidentiality in order to encourage future witnesses to come forward without fear of reprisal from employers.

As such, the Board requires the authority to offer witnesses enforceable assurances of confidentiality in order to encourage their full and frank testimony. Without such authority, witnesses may refrain from providing the Board with vital information affecting public health and safety, which will, in turn, frustrate the efficient operation of the Board's oversight mission. To encourage candor and facilitate the free flow of information, the Board adopts in this proposed rule procedures establishing a safety privilege to protect confidential witness statements from disclosure to the maximum extent permitted under existing law.

Matters of Regulatory Procedure

Administrative Procedure Act

This rulemaking complies with the Administrative Procedure Act and allows for a 30-day comment period. Interested persons are invited to submit written comments to the Board on this proposed rule, to be received on or before August 27, 2012. The Board will review all comments received and consider any modifications to this proposal that appear warranted in issuing its final rule.

Regulatory Flexibility Act

For purposes of the Regulatory Flexibility Act, the rule will not have a significant economic impact on a substantial number of small entities. The rule addresses only the procedures to be followed in safety investigations. Accordingly, the Board has determined that a Regulatory Flexibility Analysis is not required.

Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995, the proposed rule would not significantly or uniquely affect small governments and would not result in increased expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (as adjusted for inflation).

Executive Order 12866

In issuing this regulation, the Board has adhered to the regulatory philosophy and the applicable principles of regulation as set forth in

section 1 of Executive Order 12866, Regulatory Planning and Review. This rule has not been reviewed by the Office of Management and Budget under that Executive Order since it is not a significant regulatory action within the meaning of the Executive Order.

Executive Order 12988

The Board has reviewed this regulation in light of section 3 of Executive Order 12988, Civil Justice Reform, and certifies that it meets the applicable standards provided therein.

Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this regulation does not contain information collection requirements that require approval by the Office of Management and Budget. The Board expects the collection of information that is called for by the regulation would involve fewer than 10 persons each year.

Congressional Review Act

The Board has determined that this rulemaking does not involve a rule within the meaning of the Congressional Review Act.

List of Subjects in 10 CFR Part 1708

Administrative practice, Procedure, and Safety investigations.

For the reasons set forth in the preamble, the Defense Nuclear Facilities Safety Board proposes to add Part 1708 to 10 CFR chapter XVII to read as follows:

PART 1708—PROCEDURES FOR SAFETY INVESTIGATIONS

Sec.

1708.100 Authority to conduct safety investigations.
1708.101 Scope and purpose of safety investigations.
1708.102 Types of safety investigations.
1708.103 Request to conduct safety investigations.
1708.104 Confidentiality of safety investigations and privileged safety information.
1708.105 Promise of confidentiality.
1708.106 Limitation on participation.
1708.107 Powers of persons conducting formal safety investigations.
1708.108 Cooperation: ready access to facilities, personnel, and information.
1708.109 Rights of witnesses in safety investigations.
1708.110 Multiple interests.
1708.111 Sequestration of witnesses.
1708.112 Appearance and practice before the Board.
1708.113 Right to submit statements.
1708.114 Official transcripts.
1708.115 Final report of safety investigation.
1708.116 Procedure after safety investigations.

Authority: 42 U.S.C. 2286b(c); 42 U.S.C. 2286a(a)(2); 44 U.S.C. 3101–3107, 3301–3303a, 3308–3314.

§ 1708.100 Authority to conduct safety investigations.

(a) The Defense Nuclear Facilities Safety Board (Board) is an independent federal agency in the executive branch of the United States Government.

(b) The Board's enabling legislation authorizes it to conduct safety investigations pursuant to the Atomic Energy Act of 1954, as amended (42 U.S.C. 2286a(a)(2)).

§ 1708.101 Scope and purpose of safety investigations.

(a) The Board shall investigate any event or practice at a Department of Energy defense nuclear facility which the Board determines has adversely affected, or may adversely affect, public health and safety.

(b) The purpose of any Board investigation shall be:

(1) To determine whether the Secretary of Energy is adequately implementing standards (including all applicable Department of Energy orders, regulations, and requirements) at Department of Energy defense nuclear facilities;

(2) To ascertain information concerning the circumstances of such event or practice and its implications for such standards;

(3) To determine whether such event or practice is related to other events or practices at other Department of Energy defense nuclear facilities; and

(4) To provide to the Secretary of Energy such recommendations for changes in such standards or the implementation of such standards (including Department of Energy orders, regulations, and requirements) and such recommendations relating to data or research needs as may be prudent or necessary.

§ 1708.102 Types of safety investigations.

(a) The Board may initiate a preliminary safety inquiry or order a formal safety investigation.

(b) A preliminary safety inquiry means any inquiry conducted by the Board or its staff, other than a formal investigation. Where it appears from a preliminary safety inquiry that a formal safety investigation is appropriate, the Board's staff will so recommend to the Board.

(c) A formal safety investigation is instituted by an Order of Safety Investigation issued either after a recorded notational vote of Board Members or after convening a meeting in accordance with the Government in the Sunshine Act and voting in open or closed session, as the case may be.

(d) Orders of Safety Investigations will outline the basis for the investigation, the matters to be investigated, the Investigating Officer(s) designated to conduct the investigation, and their authority.

(e) The Office of the General Counsel shall have primary responsibility for conducting and leading a formal safety investigation. The Investigating Officer(s) shall report to the Board.

(f) The Board, or an individual Board Member authorized by the Board, may hold such closed or open hearings and sit and act at such times and places, and require the attendance and testimony of such witnesses and the production of such evidence as the Board or an authorized member may find advisable, or exercise any other applicable authority as provided in the Board's enabling legislation.

(g) Subpoenas in formal safety investigations may be issued only by signature of the Chairman, or any Member of the Board designated by the Chairman, and shall be served by any person designated by the Chairman, or otherwise as provided by law.

§ 1708.103 Request to conduct safety investigations.

(a) Any person may request that the Board perform a preliminary safety inquiry or conduct a formal safety investigation concerning a matter within the Board's jurisdiction.

(b) Actions the Board may take regarding safety investigation requests are discretionary.

(c) The Board will offer to protect the identity of a person requesting a safety investigation to the maximum extent permitted by law.

(d) Board safety investigations are wholly administrative and investigatory in nature and do not involve a determination of criminal culpability, adjudication of rights and duties, or other quasi-judicial determinations.

§ 1708.104 Confidentiality of safety investigations and privileged safety information.

(a) Information obtained during the course of a preliminary safety inquiry or a formal safety investigation may be treated as confidential, safety privileged, and non-public by the Board and its staff, to the extent permissible under existing law. The information subject to this protection includes but is not limited to: Identity of witnesses; recordings; statements; testimony; transcripts; emails; all documents, whether or not obtained pursuant to Board subpoena; any conclusions based

on privileged safety information; any deliberations or recommendations as to policies to be pursued; and all other related investigative proceedings and activities.

(b) The Board shall have the discretion to assert the safety privilege when safety information, determined by the Board as protected from release, is sought by any private or public governmental entity or by parties to litigation who attempt to compel its release.

(c) Nothing in this section voids or otherwise displaces the Board's legal obligations with respect to compliance with the Freedom of Information Act, the Government in the Sunshine Act, or any procedures or requirements contained in the Board's regulations issued pursuant to those Acts.

§ 1708.105 Promise of confidentiality.

(a) The Investigating Officer(s) may give a promise of confidentiality to any individual who provides evidence for a safety inquiry or investigation, to encourage frank and open communication.

(b) A promise of confidentiality must be explicit.

(c) A promise of confidentiality must be documented in writing.

(d) A promise of confidentiality may be given only as needed to ensure forthright cooperation of a witness and may not be given on a blanket basis to all witnesses.

(e) A promise of confidentiality must inform the witness that it applies only to information given to the Investigating Officer(s) and not to the same information if given to others.

§ 1708.106 Limitation on participation.

(a) A safety investigation under this rule is not a judicial or adjudicatory proceeding.

(b) No person or entity has standing to intervene or participate as a matter of right in any safety investigation under this regulation.

§ 1708.107 Powers of persons conducting formal safety investigations.

The Investigating Officer(s) appointed by the Board may take informal or formal statements, interview witnesses, take testimony, request production of documents, recommend issuance of subpoenas, recommend taking of testimony in a closed forum, recommend administration of oaths, and otherwise perform any lawful act authorized under the Board's enabling legislation in connection with any safety investigation ordered by the Board.

§ 1708.108 Cooperation: ready access to facilities, personnel, and information.

(a) Section 2286c(a) of the Atomic Energy Act of 1954, as amended, requires the Department of Energy to fully cooperate with the Board and provide the Board with ready access to such facilities, personnel, and information as the Board considers necessary, including ready access in connection with a safety investigation.

(b) Each contractor operating a Department of Energy defense nuclear facility under a contract awarded by the Secretary is also required, to the extent provided in such contract or otherwise with the contractor's consent, to fully cooperate with the Board and provide the Board with ready access to such facilities, personnel, and information of the contractor as the Board considers necessary in connection with a safety investigation.

(c) The Board may make a written request to persons or entities relevant to the safety investigation to preserve pertinent information, documents, and evidence, including electronically stored information, in order to preclude alteration or destruction of that information.

§ 1708.109 Rights of witnesses in safety investigations.

(a) Any person who is compelled to appear in person to provide testimony or produce documents in connection with a safety investigation is entitled to be accompanied, represented, and advised by an attorney.

(b) If an executive branch agency employee witness is represented by counsel from that same agency, counsel shall identify who counsel represents to determine whether counsel represents multiple interests in the safety investigation.

(c) Counsel for a witness may advise the witness with respect to any question asked where it is claimed that the testimony sought from the witness is outside the scope of the safety investigation, or that the witness is privileged to refuse to answer a question or to produce other evidence. For these permissible objections, the witness or counsel may object on the record to the question and may state briefly and precisely the ground therefore. If the witness refuses to answer a question, then counsel may briefly state on the record that counsel has advised the witness not to answer the question and the legal grounds for such refusal. The witness and his or her counsel shall not otherwise object to or refuse to answer any question, and they shall not otherwise interrupt any oral examination.

(d) When it is claimed that the witness has a privilege to refuse to answer a question on the grounds of self-incrimination, the witness must assert the privilege personally.

(e) Any objections made during the course of examination will be treated as continuing objections and preserved throughout the further course of testimony without the necessity for repeating them as to any similar line of inquiry.

(f) Counsel for a witness may not interrupt the examination by making any unnecessary objections or statements on the record.

(g) Following completion of the examination of a witness, such witness may make a statement on the record, and that person's counsel may, on the record, question the witness to enable the witness to clarify any of the witness's answers or to offer other evidence.

(h) The Investigating Officer(s) shall take all measures necessary to regulate the course of an investigative proceeding to avoid delay and prevent or restrain obstructionist or contumacious conduct or contemptuous language.

(i) The Investigating Officer(s) may report to the Board any instances where counsel for a witness, or other representative, has refused to comply with his or her directions, or has engaged in obstructionism or contumacy. The Board may thereupon take action as the circumstances may warrant.

(j) Witnesses appearing voluntarily do not have a right to have counsel present during questioning, although the Investigating Officer, in consultation with the Office of the General Counsel, may permit a witness appearing on a voluntary basis to be accompanied by an attorney or non-attorney representative.

§ 1708.110 Multiple interests.

(a) If counsel representing a witness appears in connection with a safety investigation, counsel shall state on the record all other persons or entities counsel represents in that investigation.

(b) When counsel does represent more than one person or entity in a safety investigation, counsel shall inform the Investigating Officer and each client of counsel's possible conflict of interest in representing that client.

(c) When an Investigating Officer, or the Board, as the case may be, in consultation with the Board's General Counsel, has concrete evidence that the presence of an attorney representing multiple interests would obstruct or impede the safety investigation, the Investigating Officer(s) or the Board may

prohibit that attorney from being present during testimony.

§ 1708.111 Sequestration of witnesses.

(a) Witnesses shall be sequestered during interviews, or during the taking of testimony, unless otherwise permitted by the Investigating Officer(s), or by the Board, as the case may be.

(b) No witness, or counsel accompanying any such witness, shall be permitted to be present during the examination of any other witness called in such proceeding, unless permitted by the Investigating Officer(s), or the Board, as the case may be.

§ 1708.112 Appearance and practice before the Board.

(a) Counsel appearing before the Board or the Investigating Officer(s) must conform to the standards of ethical conduct required of practitioners before the Courts of the United States.

(b) The Board may suspend and deny, temporarily or permanently, the privilege of appearing or practicing before the Board in any way to a person who is found:

(1) Not to possess the requisite qualifications to represent others; or

(2) To have engaged in unethical or improper professional conduct; or

(3) To have engaged in obstructionism or contumacy; or

(4) To be otherwise not qualified.

(c) Obstructionist or contumacious conduct in an investigation before the Board or the Investigating Officer(s) will be grounds for exclusion of any person from such safety investigation proceedings and for summary suspension for the duration of the course of the investigation.

(d) A witness may retain replacement counsel if original counsel is suspended or excluded.

§ 1708.113 Right to submit statements.

At any time during the course of an investigation, any person may submit documents, statements of facts, or memoranda of law for the purpose of explanation or further development of the facts and circumstances relevant to the safety matter under investigation.

§ 1708.114 Official transcripts.

(a) Official transcripts of testimony of witnesses, whether or not compelled by subpoena to appear before a Board safety investigation, shall be recorded either by an official reporter, or by any other person or means designated by the Investigating Officer or the Board's General Counsel.

(b) Such witness, after completing the compelled testimony may file a request with the Board's General Counsel to procure a copy of the official transcript of that witness's testimony. The General Counsel shall rule on the request, and may deny for good cause.

(c) Good cause for denying a witness's request to procure a transcript may include, but shall not be limited to, the protection of a trade secret, non-disclosure of confidential or proprietary business information, security sensitive operational or vulnerability information, safety privileged information, or the integrity of Board investigations.

(d) Whether or not a request is made, the witness and his or her attorney shall have the right to inspect the official transcript of the witness's own testimony, in the presence of the Investigating Officer or his designee, for purposes of conducting errata review.

(e) Transcripts of testimony are otherwise considered confidential and privileged safety information and in no case shall a copy or any reproduction of such transcript be released to any other person or entity, except as provided in paragraph (2) above or as required under the Freedom of Information Act or the Government in the Sunshine Act, or any procedures or requirements contained in Board regulations issued pursuant to those Acts.

§ 1708.115 Final report of safety investigation.

(a) The Board will complete a final report of the safety investigation fully setting forth the Board's findings and conclusions.

(b) The final report of the safety investigation is confidential and protected by the safety privilege, and is therefore not releasable.

(c) The Board in its discretion may sanitize the final report of the safety investigation by redacting confidential and safety privileged information so that the report is put in a publically releasable format.

(d) Nothing in this section voids or otherwise displaces the Board's legal obligations with respect to compliance with the Freedom of Information Act, the Government in the Sunshine Act, or any procedures or requirements contained in the Board's regulations issued pursuant to those Acts.

§ 1708.116 Procedure after safety investigations.

(a) If a formal safety investigation results in a finding that an event or practice has adversely affected, or may adversely affect, public health and safety, the Board may take any appropriate action authorized to it under its enabling statute, including, but not limited to, making a formal recommendation to the Secretary of Energy, convening a hearing, or establishing a reporting requirement.

(b) If a safety investigation yields information relating to violations of Federal criminal law involving Government officers and employees, the Board shall expeditiously refer the matter to the Department of Justice for disposition.

(c) If in the course of a safety investigation a safety issue or concern is found to be outside the Board's jurisdiction, that safety issue or concern shall be referred to the appropriate entity with jurisdiction for disposition.

(d) Statements made in connection with testimony provided to the Board in an investigation are subject to the provisions of 18 U.S.C. 1001.

Dated: July 20, 2012.

Jessie H. Roberson,

Vice Chairman.

[FR Doc. 2012–18180 Filed 7–26–12; 8:45 am]

BILLING CODE 3670–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 514

[Docket No. FDA–2012–N–0447]

Antimicrobial Animal Drug Sales and Distribution Reporting

AGENCY: Food and Drug Administration, HHS.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA or Agency) is soliciting comments regarding potential changes to its regulations relating to records and reports for approved new animal drugs. FDA is considering revisions to this regulation to incorporate the requirements of section 105 of the Animal Drug User Fee Amendments of 2008 (ADUFA 105). As part of that process, FDA is reviewing other reporting requirements applicable to antimicrobial new animal drug sponsors to determine whether additional information should be reported. Collecting data on antimicrobial drugs used in food-producing animals will assist FDA in tracking antimicrobial use trends and examining how such trends may relate to antimicrobial resistance.

DATES: Submit electronic or written comments by September 25, 2012.

ADDRESSES: You may submit comments, identified by Docket No. FDA–2012–N–0447, by any of the following methods:

Electronic Submissions

Submit electronic comments in the following way:

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

Written Submissions

Submit written submissions in the following ways:

• *Fax:* 301–827–6870.

• *Mail/Hand delivery/Courier (for paper or CD–ROM submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

Instructions: All submissions received must include the Agency name and Docket No. FDA–2012–N–0447 for this rulemaking. All comments received may be posted without change to *http://www.regulations.gov,* including any personal information provided. For additional information on submitting comments, see the ''Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Neal Bataller, Center for Veterinary Medicine (HFV–210), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–276–9062, email: *Neal.Bataller@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Section 512(*l*) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360b(*l*)) requires sponsors of approved or conditionally approved new animal drug applications to establish and maintain records and make such reports of data relating to experience with uses and other data or information received or obtained by the sponsor with respect to such animal drugs as required by regulation or order. FDA's regulation relating to records and reports for approved new animal drugs is found at 21 CFR 514.80. This regulation requires an animal drug sponsor to submit a number of different reports, including periodic drug experience reports, which must contain, among other things, drug distribution data showing the amount of the drug distributed domestically and the amount exported.

In 2008, ADUFA 105 directed the Agency to collect additional data and information about approved antimicrobial new animal drugs by amending section 512(*l*) of the FD&C Act to include new reporting requirements for sponsors of approved antimicrobial new animal drugs. Under section 512(*l*) of the FD&C Act, as amended by ADUFA 105, antimicrobial new animal drug sponsors must now also submit to FDA on an annual basis a report specifying the amount of each antimicrobial active ingredient in the sponsor's drug that is sold or distributed for use in food-producing animals. Specifically, sponsors are required to report the amount of each antimicrobial active ingredient as follows: (1) By container size, strength, and dosage form; (2) by quantities distributed domestically and quantities exported; and (3) for each dosage form, a listing of the target animals, indications, and production classes that are specified on the approved label of the product. Currently, sponsors of antimicrobial drugs that are approved and labeled for multiple animal species, including both food-producing and nonfood-producing animals, do not report sales and distribution information for each individual animal species. Only total product sales information is reported. The information must be reported for the preceding calendar year, and include separate information for each month of the calendar year, and be submitted to FDA each year by no later than March 31. ADUFA 105 also requires FDA to publish an annual summary report of the antimicrobial drug sales and distribution data it receives.

The sales and distribution information that is currently being collected from antimicrobial new animal drug sponsors in accordance with ADUFA 105 is important in supporting efforts such as the National Antimicrobial Resistance Monitoring System (NARMS), a surveillance program that tracks trends related to antimicrobial resistance in food-producing animals and humans.

A recent Government Accountability Office (GAO) report addressing antibiotic resistance concluded that sales and distribution information as currently collected by FDA does not provide sufficient data needed to analyze trends in antimicrobial resistance, such as information on actual drug use in specific food-producing animal species (Ref. 1). Having improved data would enable the Agency to better correlate resistance data in NARMS with drug exposure, thereby providing improved information for science-based decisionmaking in the approval and monitoring of safe and effective antimicrobial drugs. In addition, such information would further enhance FDA's ongoing activities related to antimicrobial resistance and is consistent with the recommendations in guidance recently issued by this Agency addressing the judicious use of medically important antimicrobial drugs in food-producing animals (Ref. 2).

II. Agency Request for Comments

A. Sales and Distribution Data by Species

FDA is considering revisions to the requirements in this Agency's regulation at § 514.80 to incorporate the requirements of ADUFA 105 and, as part of that process, is reviewing other reporting requirements applicable to antimicrobial new animal drug sponsors to determine whether additional information should be reported. FDA is soliciting public comment on whether, consistent with its authority under section 512(*l*) of the FD&C Act to collect information relating to approved new animal drugs, it should amend its regulations to require the submission of additional sales and distribution information including, for antimicrobial animal drug products that are approved and labeled for more than one food-producing animal species, an estimate of the amount of each active antimicrobial ingredient sold or distributed for use in each approved food-producing animal species. Specifically, comments should address how sponsors can both practically and accurately provide separate sales and distribution information for each species.

B. FDA's Annual Summary Report

ADUFA 105 directs FDA to issue on an annual basis a summary report of the sales and distribution data collected from sponsors of antimicrobial new animal drugs and further provides that such data must be reported by antimicrobial class. ADUFA 105 also directs FDA to independently report only those antimicrobial drug classes with three or more distinct sponsors, so as to protect confidential business information. Within these statutory parameters, FDA is seeking public comment on how best to compile and present this summary information.

C. Alternative Methods for Obtaining Antimicrobial Use Data

FDA is seeking public comment on alternative methods available to the Agency for obtaining additional data and information about the extent of antimicrobial drug use in food-producing animals. Specifically, the Agency is requesting public input on alternative methods for assessing antimicrobial use the Agency can employ within its existing authority that may further support the analysis of factors related to the development and spread of antimicrobial resistance in connection with the use of medically important antibiotics in food-producing animals.

III. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) either electronic or written comments regarding this document. It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

This advanced notice of proposed rulemaking is issued under section 512 of the FD&C Act (21 U.S.C. 360b) and under the authority of the Commissioner of Food and Drugs.

IV. References

The following references have been placed on display in the Division of Dockets Management (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday. (FDA has verified the Web site address, but we are not responsible for any subsequent changes to the Web site after this document publishes in the **Federal Register**.)

1. U.S. General Accounting Office, ''Antibiotic Resistance: Agencies Have Made Limited Progress Addressing Antibiotic Use in Animals,'' GAO–11–801, Washington, DC, General Accounting Office, 2011 (*http://www.gao.gov/new.items/d11801.pdf*).

2. Guidance for Industry #209, entitled ''The Judicious Use of Medically Important Antimicrobial Drugs in Food-Producing Animals'' (*http://www.fda.gov/AnimalVeterinary/GuidanceComplianceEnforcement/GuidanceforIndustry/default.htm*).

Dated: June 29, 2012.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2012–18366 Filed 7–26–12; 8:45 am]

BILLING CODE 4160–01–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Parts 201 and 210

[Docket No. 2012–7]

Mechanical and Digital Phonorecord Delivery Compulsory License

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Copyright Office of the Library of Congress is proposing to amend its regulations for reporting Monthly and Annual Statements of Account for the making and distribution of phonorecords under the compulsory license, 17 U.S.C. 115, to bring the regulations up to date to reflect recent and pending rate determinations by the Copyright Royalty Judges, which among other things provide new rates for limited downloads, interactive streaming and incidental digital phonorecord deliveries, and to harmonize these reporting requirements with the existing regulations for reporting the making and distribution of physical phonorecords, permanent downloads and ringtones.

DATES: Comments are due no later than September 25, 2012. Reply comments are due October 25, 2012.

ADDRESSES: The Copyright Office strongly prefers that comments be submitted electronically. A comment submission page is posted on the Copyright Office Web site at *http://www.copyright.gov/docs/section115/soa/comments/*. The Web site interface requires submitters to complete a form specifying name and other required information, and to upload comments as an attachment. To meet accessibility standards, all comments must be uploaded in a single file in either the Adobe Portable Document File (PDF) format that contains searchable, accessible text (not an image); Microsoft Word; WordPerfect; Rich Text Format (RTF); or ASCII text file format (not a scanned document). The maximum file size is 6 megabytes (MB). The name of the submitter and organization should appear on both the form and the face of the comments. All comments will be posted publicly on the Copyright Office Web site exactly as they are received, along with names and, if provided, organizations. If electronic submission of comments is not feasible, please contact the Copyright Office at (202) 707–XXXX for special instructions.

FOR FURTHER INFORMATION CONTACT: Tanya Sandros, Deputy General Counsel, or Stephen Ruwe, Attorney Advisor, Office of the General Counsel, PO Box 70400, Washington, DC 20024–0400 Telephone: (202) 707–1673. Telefax: (202) 252–3423.

SUPPLEMENTARY INFORMATION:

Background

Section 115 of the Copyright Act provides a compulsory license for reproducing and distributing phonorecords of a musical work. The mechanical license limits the exclusive rights granted to copyright owners by enabling anyone to make a phonorecord of an eligible musical work for the purpose of distributing it to the public for private use.

The mechanical license may be used once phonorecords of a nondramatic musical work have been distributed to the public in the United States under the authority of the copyright owner. In order to legally use the mechanical license, the licensee has to comply with the requirements in the statute and pay a royalty fee to the copyright owner. The mechanical license has its limitations; it is only available to make and distribute phonorecords of a musical work and it does not allow the licensee to reproduce and distribute another's sound recording, or change the ''basic melody or fundamental character of the work.'' 17 U.S.C. 115(a)(2).

The mechanical license was established in the 1909 Copyright Act as the first compulsory license in United States copyright law. Congress created the license because it wanted to make musical compositions available for public use, prevent monopoly, and at the same time ensure that compensation is provided to copyright owners. The first mechanical license was established in response to the 1908 Supreme Court holding in *White-Smith Music Publishing Co.* v. *Apollo Co.,* 209 U.S. 1 (1908). The Court decided that piano rolls were not considered 'copies' of a musical work because they did not contain a system of notation that could be read. Instead, the Court held they were merely mechanical reproductions made for the purpose of performing music. This decision prompted Congress to extend copyright protection to include the right to make mechanical devices which embody the musical work. H.R. Rep. No. 60–2222, at 9 (1909). However, Congress was concerned that extending the right of reproduction to include mechanical devices like piano rolls would enable a cartel of music publishers to exercise monopoly power over the recording of music to the possible detriment of the copyright owners of the musical work. To ensure a balance, Congress created

the first compulsory license in 1909 to allow anyone to ''cover'' (*i.e.* make a new recording of) the musical work once a copyright owner made or authorized a recording of his or her musical work, as long as the licensee adhered to the terms of the license and paid the established royalty to the copyright owner.

Whether to retain the compulsory license was a key issue during the discussions on the general revision of the copyright law in the 1960s. The outcome of this review was the decision to retain the license based on a finding that ''a compulsory licensing system is still warranted as a condition for the rights of reproducing and distributing phonorecords of copyrighted music.'' H.R. Rep. No. 83, at 66–67 (1967). In the Copyright Act of 1976, Congress reaffirmed the compulsory license and directed the Copyright Office to establish terms and regulations for the filing of Notices of Intention to Obtain a Compulsory License and for reporting Monthly and Annual Statements of Account. 17 U.S.C. 115(b)(1) and (c)(5). These regulations can now be found within 37 CFR 201.18 and 201.19.

Congress again amended the mechanical license in 1995 when Congress passed the Digital Performance Rights in Sound Recordings Act (''DPRA''). This Act amended section 115 to address the effects of new technology on copyrighted works. DPRA had two main purposes: (1) To ensure that recording artists and record companies will be protected as new technologies affect the way in which their creative works are used, and (2) to create fair and efficient licensing mechanisms that address the complex issues facing copyright owners and copyright users as a result of the rapid growth of digital audio services.

Specifically, DPRA amended the section 115 compulsory license to include the ability to distribute a phonorecord through digital transmission, *i.e.,* as a ''digital phonorecord delivery.'' The Copyright Act defines a ''digital phonorecord delivery'' in relevant part as ''each individual delivery of a phonorecord by digital transmission of a sound recording which results in a specifically identifiable reproduction by or for any transmission recipient of a phonorecord of that sound recording.'' 17 U.S.C. 115(d).

Since passage of the Copyright Royalty and Distribution Reform Act of 2003, the rates and terms for making and distributing phonorecords under the compulsory license have been established by the Copyright Royalty Judges. On January 9, 2006 the Copyright Royalty Judges published a Notice announcing commencement of a proceeding to determine rates and terms due under the compulsory license. The Copyright Royalty Judges concluded this proceeding in 2009. The new rates maintained a flat penny rate for the making and distribution of physical phonorecords, permanent digital downloads and ringtones. However, the 2009 determination adopting new rates for the section 115 compulsory license included a new definition for ringtones and it set forth more complex methods for calculating the royalty for limited downloads, interactive streaming, and incidental digital phonorecord deliveries, which included a multi-step process and specifications for five different types of services. *Final Determination of Rates and Terms of the Copyright Royalty Board,* 2006–3 CRB DPRA (74 FR 4510, January 26, 2009, amended 74 FR 6832, February 11, 2009). The Copyright Royalty Judges are also in the final stages of adopting new rates and terms for the next licensing term for these and other new services, including limited offerings, mixed service bundles, paid locker services and purchased content locker services. Proposed rule, Adjustment of Determination of Compulsory License Rates for Mechanical and Digital Phonorecords, 77 FR 29259, (May 17, 2012). The new proposed rates are based upon the same basic methodology adopted in the last rate setting proceeding.

The existing regulations addressing Statements of Account are designed to address flat penny rates, such as those that are still applicable for the making and distribution of physical phonorecords, permanent digital downloads and ringtones. However, the current regulations do not specifically accommodate the more complex methods for calculating the royalty for limited downloads, interactive streaming, incidental digital phonorecord deliveries, or the new services identified in the Copyright Royalty Judge's May 17, 2012 Notice of Proposed Rulemaking. A group of industry stakeholders comprised of Recording Industry Association of America, Inc., National Music Publishers Association, Songwriters Guild of America, Digital Media Association, Music Reports, Inc., RightsFlow, Inc., and American Association of Independent Music (collectively ''Stakeholders'') expressed their concern with this state of affairs. Following a number of meetings with the Copyright Office, the Stakeholders offered proposed solutions to a number of issues for which there was general industry-wide agreement. (Letter from Stakeholders to Copyright Office, dated April 30, 2010).

In light of the changes to the rate structure for use of the license and the Stakeholders' expressed concerns, the Office is initiating this public notice and comment proceeding to amend its regulations governing the filing of Statements of Account in order to incorporate specific reporting regulations for the making and distribution of these new digital phonorecord formats under the new rate structure established by the Copyright Royalty Judges for these configurations in the Final Determination of Rates and Terms of the Copyright Royalty Board, 2006–3 CRB DPRA, and the proposed new rates and terms for the next licensing period.

The Copyright Office is acting under the authority set forth in 17 U.S.C. 115(c)(5), which grants the Copyright Office authority to issue regulations regarding Statements of Account. ''Each monthly payment shall be made under oath and shall comply with requirements that the Register of Copyrights shall prescribe by regulation. The Register shall also prescribe regulations under which detailed cumulative annual statements of account, certified by a certified public accountant, shall be filed for every compulsory license under this section. The regulations covering both the monthly and the annual statements of account shall prescribe the form, content, and manner of certification with respect to the number of records distributed.'' 17 U.S.C. 115(c)(5).

Specifically, the Copyright Office proposes the creation of a new Part 210 in title 37 of the Code of Federal Regulations for the regulations governing use of the compulsory license. Subpart A will be reserved for regulations governing the filing of Notices of Intention to Use the Compulsory License. These regulations, currently in § 201.18, are to be incorporated into Subpart A once the Office concludes its ongoing rulemaking proceeding concerning the electronic submission of such notices with the Office. *See* 77 FR 31327 (May 25, 2012). Subparts B and C will contain Statement of Account provisions for reporting royalties for the making and distribution of phonorecords. The Statement of Account provisions in § 201.19 are currently based on the penny rate royalty formula for physical phonorecords and permanent digital phonorecord deliveries. As the a penny rate for this type of licensed activity continues under the existing and

proposed rates the Statement of Account provisions in § 201.19 are incorporated into proposed Subpart B of Part 210 with only minor amendments, as referenced herein. Subpart C, on the other hand, includes new proposed regulations modeled on the current regulations in § 201.19 and are designed to specifically accommodate the new rate structure for limited downloads, interactive streaming, incidental digital phonorecord deliveries, and the proposed new services. Adoption of regulatory amendments specific to the proposed rates and terms for limited offerings, mixed service bundles, music bundles, paid locker services and purchased content locker services set forth in proposed Subpart C are dependent upon final action by the Copyright Royalty Judges. Should the Copyright Royalty Judges not adopt the proposed rates and terms for these new services, alternative regulatory changes may be adopted in the final rules to cover these services.

In large part, the proposed regulations incorporate by reference the methodology adopted by the Copyright Royalty Judges in their 2009 determination and mirrored in the proposed regulations adopting new rates and terms for the upcoming licensing period. Nevertheless, the Office has identified a number of issues associated with the new rate structure that require careful consideration before adoption of final regulations. Prior to initiating this proceeding, the Office consulted with interested parties on these points for the purpose of understanding the extent of the issues and the need for specific regulations to address these points. Each of these points and proposed amendments to the regulations are discussed herein in light of these initial discussions. The Office seeks public comment on the proposed changes and whether additional changes are needed.

1. Issues Presented Involving Calculations of Royalties

A. Royalties for Public Performances of Musical Works That Are Applicable to the Licensed Activities

Calculation of the royalties for the making and distribution of limited DPDs, interactive streams, incidental DPDs and the proposed new services allows the licensee to deduct royalties due for public performances of musical works that are applicable to the licensed activities. 37 CFR 385.12(b)(2) and proposed 385.22(b)(2). The Office is aware that in some instances these values are unknown, and that the regulations need to address the appropriate method for accounting for this unknown element in the Statements of Account. Preliminary input from the Stakeholders has indicated general agreement that when the amount of public performance royalties to be deducted pursuant to 37 CFR 385.12(b)(2) and proposed 385.22(b)(2) is not known (*e.g.,* because neither a final nor an interim rate has yet been determined), a licensee may compute the public performance royalty based on a reasonable estimate of the expected final royalties made in accordance with U.S. Generally Accepted Accounting Principles (GAAP) and that the aggregate amount of public performance royalties then sought from the service by performance rights societies may be deducted from the royalties owed for use of the section 115 compulsory license.

The Office also observes that there may be cases in which there will be interim royalties and that therefore it is prudent to allow licensees to compute the public performance royalty based on the royalties that have been established on an interim basis. In addition, the Stakeholders generally agree that an adjustment to account for the determination of the service's aggregate final public performance royalties then would be made in an amended Annual Statement of Account for the year in which a service's aggregate final public performance royalty rate is determined.

In the past, the Copyright Office has applied GAAP when estimates are required to complete a formula under section 115. GAAP was first applied to the section 115 compulsory license in 1978 when the Office adopted its *Final Regulations of Compulsory License for Making and Distributing Phonorecords,* 45 FR 79038 (November 28, 1980). In taking this approach, the Office noted that Congress's intention was to have some assurance that record companies would not manipulate their statements when allowing an estimate to be made in the reserve calculation. ''The Office believes that the statutory requirement for an annual CPA audit, coupled with our regulatory requirements including the application of 'generally accepted accounting principles' (GAAP) to the recognition of revenue from the sale of phonorecords, should go a long way toward assuring copyright owners payment of all monies to which they are entitled—that is, statutory royalties for all phonorecords shipped, minus phonorecords returned within a reasonable time-frame.'' 45 FR 79038. Additionally the regulations stated, ''The Copyright Office believes that the application of GAAP will reduce the likelihood of unusually high reserves, thereby minimizing the possibility for losses of earned interest.'' *Id.*

Currently, GAAP applies to several different provisions in the section 115 regulations adopted by the Copyright Royalty Judges. Their regulations state that GAAP should be applied to the calculations of service revenue. 37 CFR 385.11; *also see* proposed 37 CFR 385.21. Additionally, GAAP is applied to situations where the licensee calculates an applicable percentage based on offering type. 37 CFR 385.13(b) and (c); *also see, e.g.,* proposed 37 CFR 385.23(b). Finally in 37 CFR 201.19(f)(6)(ii) of the Office's regulations, GAAP is applied not only to the reserve calculation but also to the certification statement, which states that the auditing CPA will review the statements in accordance with GAAP.

In light of the history that GAAP has had in the administration of the compulsory license, the proposed regulations adopt this approach. The Copyright Office would like comments on whether to apply GAAP for the estimate of the public performance rights royalty calculation in the absence of an interim or final rate; and alternatively if GAAP is not the right approach, identification of an alternative methodology.

B. Application of Negative Reserve Balances in Calculating Payment Amounts

Under the existing Statement of Account regulations designed to address flat penny rates, licensees are permitted to account for negative reserve balances in calculating their royalty payments. By way of explanation, a negative reserve balance exists when physical phonorecords are returned to a compulsory licensee after the corresponding reserves for returns, and all other eligible reserves, have been eliminated. The result is that the compulsory licensee has paid royalties for the returned physical phonorecords and can include that amount as a credit in calculating the royalty payment for the current accounting period. While the Stakeholders agree that a licensee is permitted to establish reserves based only on its shipments of physical phonorecords, they disagree as to whether a compulsory licensee is and should be permitted to apply a negative reserve balance to future DPD distributions.

Copyright owners have stated that negative reserve balances only apply to physical phonorecords. In doing so, they have pointed out that the existing regulations specifically state that ''[t]o the extent that the terms reserve, credit and return appear in this section, such

provisions shall not apply to digital phonorecord deliveries.'' 37 CFR 201.19(a)(9). Copyright owners have also argued that it is bad policy to allow licensees to apply royalties associated with negative reserve balances against royalties due for digital uses as it would encourage the practice of overshipping.

Record labels have stated that they understand that negative reserve balances cannot be established for DPD distributions. Nevertheless, they contend that the current regulations clearly allow credits for negative reserve balances created by returns of physical phonorecords to be applied to royalties due for digital uses. They have argued that there is no justification for requiring a compulsory licensee to pay royalties on new DPD distributions when, due to returns of physical phonorecords, it has overpaid the same copyright owner in a previous period for these same physical phonorecords that have not been distributed within the meaning of 17 U.S.C. 115(c)(2). They have added that it is absurd to think that record companies would incur additional costs to ''overship'' products.

While the Office has not proposed an amendment to allow licensees to apply a credit for a negative reserve balance to royalties due for digital uses, it would like to receive comments on whether there is statutory authority for allowing the application of a credit for negative reserve balances to digital phonorecord deliveries. Assuming there is statutory authority to allow the application of credits for negative reserve balances to the ''net balance'' owed, are there reasons to limit the application of credits for negative reserve balances to physical phonorecords? If licensees should be allowed to apply credits for negative reserve balances to royalties due for digital uses, should the credits for negative reserve balances be calculated on a per work basis or should the regulations permit the application of credits for negative reserve balances to be cross-collaterialized to royalties due to a particular copyright owner for different works? And, in what form should such regulations be established?

C. Degree of Rounding for Decimal Points

For purposes of consistency, the Copyright Office would like to address the degree of rounding appropriate when computing the royalty in the Statements of Account. It appears that the appropriate per work royalty allocation, in terms of the number of decimal places, is undetermined. Fractions of a penny can quickly add up to substantial sums of money if the volume of transactions is high. Consequently, the Office requests suggestions as to the degree of rounding that would be appropriate for reporting royalties associated with limited downloads, interactive streams, and incidental digital phonorecord deliveries made under the compulsory license. In considering the appropriate level for reporting royalty fees, the Office notes that past rates for the public performance of sound recordings and for ephemeral recordings have been set out to between four and six decimal places based upon a fraction of a dollar rate. *See* 17 CFR 380.3. Consideration should be given to whether a variance can be allowed based on the system of accounting, or whether reporting to a certain decimal place should be completely uniform.

2. Issues Presented Involving Method of Payment and Delivery of Royalties

A. Electronic Payment

The current regulations for section 115 provide that the Statements of Account shall be ''served on the copyright owner or the agent with authority to receive Monthly Statements of Account on behalf of the copyright owner to whom or which it is directed, together with the total royalty for the month covered by the Monthly Statement, by mail or by reputable courier service.'' 37 CFR 201.19(e)(7)(i). The Stakeholders have informed the Office that they agree in principle that a compulsory licensee should be able to make royalty payments by electronic funds transfer if the copyright owner and compulsory licensee (or its agent) so agree, regardless of the means of delivery of Statements of Account. They also agreed that when both the Monthly Statement of Account and payment are sent by mail or courier service, they should be sent together; otherwise they should be sent contemporaneously.

In light of the general agreement by the Stakeholders regarding payment, the Office proposes to maintain the current default requirement that payment be sent by mail or courier service. The Office also proposes to allow copyright owners and licensees to agree to alternatives to the current default methods of payment through mail or courier service. Finally, the Office proposes to maintain the requirement that when both the Monthly Statement of Account and payment are sent by mail or courier service, they should be sent together and that otherwise they should be sent contemporaneously. The Copyright Office requests comments on these proposals.

B. Electronic Statements of Account

The Stakeholders generally support the idea that the Office's section 115 regulations should permit electronic delivery of Statements of Account. However, the Stakeholders were not able to agree on the circumstances, if any, in which it should be mandatory for compulsory licensees to provide, and copyright owners to accept, Statements of Account by electronic means.

Copyright owners who have expressed an opinion to the Office on this topic support mandatory electronic reporting as a general default rule for both copyright owners and compulsory licensees. They would allow however that if any copyright owner, or its agent, does not, in the ordinary course of operating its business, conduct business via the internet, or if a compulsory licensee or its agent does not make a printable and electronically downloadable version available by posting such Statements of Account to a password-protected internet account created for the copyright owner or its agent, the copyright owner or its agent may request, and the compulsory licensee shall provide, paper Statements of Account.

Representatives of digital music services (DiMA) and licensing services (MRI, RightsFlow) support the default rule proposed by copyright owners. However, they take no position as to the need for electronic reporting between record companies and publishers, noting that consideration should be made for the unique historical business practices between record labels and publishers.

Record labels believe that the Office should not require record companies doing their own reporting to transition to electronic reporting on any particular timetable. They pointed out that in cases where neither the record company nor the publisher has felt a need to abandon paper-based processes that have worked for decades, forcing such a transition would be a massive and highly disruptive process. As such they urge that electronic reporting should be a permissible option, unless the copyright owner indicates that it would rather stick with paper reporting.

The Office is not persuaded that it is wise to compel copyright owners to accept and licensees to serve Statements of Account via an electronic transmission as a default rule. The Office is concerned that, as a practical matter, many copyright owners may not be equipped to accept Statements of Account in this manner. As such, the Office proposes to maintain the current

requirement that Statements of Account be sent by mail or courier service as a default rule.

However, the Office does understand that in many cases a copyright owner may reasonably wish to compel certain licensees, who submit voluminous Statements of Account, to serve them in electronic format. The Office notes that the regulations for filing Notices of Intention to use the compulsory license allows for filing the Notice electronically and for copyright owners to require submission of Notices of Intention in an electronic format in the case where the Notice covers more than 50 musical works. 37 CFR 201.18(f)(6). Section 201.18(a)(7) also allows copyright owners to offer alternative means for service, including by means of electronic transmission. The Office has adopted these rules to increase efficiencies for both the copyright owners and the licensees and has provided an exception to the requirement for a handwritten signature when service is made electronically. Because these rules appear to be working well and offer flexibility for electronic submissions of Notices, the Office proposes adopting parallel provisions for filing a Statement of Account, whereby copyright owners may require a licensee submitting a Statement of Account covering more than 50 works to provide the copyright owner with an electronic copy of the Statement of Account, and whereby a copyright owner may make known its willingness to accept Statements of Account and payment by means of electronic transmission. Furthermore, the Office proposes an exception to the requirement for a handwritten signature when service is made electronically, and a new provision for retention of records that support certification of Statements of Account that are served electronically. The Copyright Office requests comments on these proposals regarding submission of Statements of Account in electronic format and by electronic transmission. Additionally, the Office would like to know whether there are copyright owners that prefer paper statements and to what extent digital reporting has become the normal course of business.

C. Minimum Amount for Payment

The royalty formula is based on a percentage of income or based on the number of plays for each work. In some cases, either when revenue is small or a particular work has not received many plays, the royalty owed for payment is nominal. The Copyright Office is aware that the transactional efforts and costs to provide payment can, in some situations, be more burdensome for both copyright owners and licensees than the actual value of the payment.

It has been suggested that a minimum Monthly Statement of Account threshold should be met before payment is due in order to make processing payment for the Statements of Account more manageable. The Stakeholders have suggested that a royalty amount of at least 50 dollars should be owed to a copyright owner before payments are made, and Monthly Statements of Account are required, unless the copyright owner requests otherwise.

The question is whether this proposal is permissible under the statute. The statute states that ''royalty payments shall be made on or before the 20th of each month and shall include all royalties for the month next proceeding'' 17 U.S.C. 115(c)(5). This language seems to preclude setting a minimum amount for payment, and to date the Office has not adopted regulations to defer *de minimis* payment nor has any party raised this issue.

Interest, however, does exist today to consider regulations that would defer payment of royalties until the amount owed reached an established level as a way to avoid overly burdensome costs for making payments valued at less than the cost of making the payment. The Copyright Office requests comments on whether it has authority to adopt such a regulation and whether (and if so, why and how) the minimum payment issue should be addressed.

3. Issues Presented Involving Reporting on Statements of Account

A. Promotional Digital Phonorecord Deliveries

Promotional Digital Phonorecord Deliveries are often an important tool for record labels and services to attract new listeners, create awareness about a particular artist, and increase plays. The regulation adopted by the Copyright Royalty Judges in 37 CFR 385.14 establishes a royalty rate of zero for certain promotional digital phonorecord deliveries when they are offered for free trial periods to promote the sale or other paid use of sound recordings. *Also see* proposed 37 CFR 385.24, Free Trial Periods. Even though no royalty is owed in these circumstances, it is unclear whether licensees should give a full accounting of all the phonorecords made under the license in the Statement of Account. The Stakeholders feel that it is unnecessary to report promotional digital phonorecord deliveries in the Statements of Account.

Nevertheless, the proposed regulations require a licensee to report all phonorecords made and distributed under the section 115 license including digital promotional deliveries. This requirement would not seem to be a hardship on the licensees in light of the proposed recordkeeping requirement for the new trial periods applicable to limited offerings, mixed service bundles, music bundles, paid locker services and purchased content locker services which requires retention of complete and accurate records of the relevant authorization, identification of each sound recording of a musical work made available through the free trial period, the activity involved, and the number of plays and downloads for each recording. *See* 77 FR 29259, 29269 (May 17, 2012) (proposing new 37 CFR 385.24(a)(4)(i), (b) and (c).

The Copyright Office asks for comments on whether the statute requires that Statements of Account contain play information on promotional digital phonorecord deliveries. Specifically, the Office asks for comments that address the Register's conclusion that ''[t]here is no statutory authority for an exception to [the section 115(c)(5)] requirement for certain types of 'phonorecords.' '' *Review of Copyright Royalty Judges Determination* 74 FR 4537, 4543 (January 26, 2009). If the conclusion is that there is no statutory requirement, comments should address whether digital phonorecords offered at a promotional rate or for a free trial period should be reported and with what frequency, *e.g.,* monthly or annually.

B. Reporting the Identification of Third Party Licensees

While the Statement of Account provisions require detailed information as to the number of plays, neither the current Statement of Account provisions nor the proposed regulations require licensees to account for the location of the place of origin of the plays. The Copyright Office is aware that in many instances third parties make and distribute the phonorecords under the authority of the licensee and that different opinions exist as to whether the regulations should require the identification of these parties.

Copyright Owner stakeholders favor amending the regulations to require compulsory licensees to report on the number of Digital Phonorecord Deliveries made by each third party service operating under their authority. They believe that this information is necessarily available to compulsory licensees who need to rely on this information in order to assess whether their accounting statements are accurate. Copyright owners assert that

such information should not be kept from them and that they should be able to use the information to assess the usage and payment for their works. Furthermore, since Digital Phonorecord Deliveries are tracked electronically, they feel it is reasonable and feasible for record companies to provide this information, and believe it will ensure transparency in the digital environment.

Licensee stakeholders have a different view. They note that identifying distributors has never been required, and nothing in the Copyright Royalty Judges' determination requires imposing such new requirements for Digital Phonorecord Delivery configurations other than interactive streams and limited downloads. Moreover, they maintain that the regulations should not be amended to require this information because it would impose substantial costs on the licensees to provide unnecessary information since the Statement of Account provisions require an annual audit by a CPA to ensure reliability.

MRI, an independent licensing agent, has informed the Office that it has the ability to report the identification of the distributor, except where licensees are unable to supply the information to them and would support an agreement among the Stakeholders requiring the identification of third party distributors on statements when those statements are prepared by common agents. It did, however, have some reservations about an absolute requirement and suggested that where its principals may be unable to provide this information, some leniency should be given. This may be the case where distribution statements through third party distributors/aggregators fail to provide information to the record companies, or due to other bona fide technological limitations.

The Copyright Office would like comments concerning the views set forth above and how the alternatives could potentially affect copyright owners and licensees. To what degree would these requirements burden or benefit licensees and copyright owners?

C. Certification Language

The certification statement in 37 CFR 201.19 is meant to provide additional assurance to the copyright owner that the Statements of Account are reliable and truthful. ''The Register shall also prescribe regulations under which detailed cumulative Annual Statements of Account, certified by a certified public accountant, shall be filed for every compulsory license under this section.'' 17 U.S.C. 115(c)(5). When 17 U.S.C. 115 was first implemented by Congress, the CPA requirement was included with the intention of ensuring accurate payment to copyright owners. Congress, however, recognized that a balance was necessary. ''Neither the record-keeping nor the CPA audit requirements should be so burdensome or expensive as to undermine the Congressional intention by putting compulsory licensing out of the reach of record companies.'' 45 FR at 79039.

The Office has previously been urged to provide that the language of the CPA certification required in Annual Statements of Account is ''illustrative'' rather than required. The Office declined such a course and instead required adherence to the existing clear and unambiguous statement, which fulfills Congress's purpose in requiring certification of the Annual Statement. 43 FR at 44515–44516. For purposes of this proposed rulemaking proceeding, the Office has retained the current regulations for certifying a Statement of Account. Nevertheless, the Copyright Office is aware that licensees have expressed interest in adopting alternative methods of certifying the Statement of Account to accommodate large volumes of statements and welcomes suggestions on modifications to the process provided that any proposed alternative form of certification fits within the statutory requirements and complies with the original intentions of the CPA requirement. The CPA requirement should assure that copyright owners receive the royalties to which they are entitled, but the requirement should not burden the licensee to the point that it would prevent the compulsory license from being a practical option for record companies or services. Are there alternative certification methods that satisfy both goals and should be considered by the Office?

D. Adjustment of Timetables for Reporting

The accounting methodology and timetables for reporting overpayments or underpayments were originally set forth to accommodate the penny rate royalty for section 115. Given the increased complexity of calculating royalties for interactive streaming, limited downloads and the proposed new services in the Annual Statement of Account, an extension for statutory licensees to file their Statements of Account appears to be reasonable.

The Stakeholders' preliminary input indicates a general agreement that an extension for the deadline of the Annual Statement of Account would be appropriate because the calculation of interactive streaming/limited download royalties, for example, has increased the complexity of compiling the statement. The Stakeholders suggest extending the deadline from three months after the close of the licensee's fiscal year to six months after the close of the licensee's fiscal year. *See* 37 CFR 201.19(f)(7)(i). Based on these early discussions, the Office proposes amending its regulations and adopting the later deadline for filing the Annual Statement of Account. The Office requests comments from the relevant parties as to whether this additional time is required to create an accurate Statement of Account for annual statements.

E. Service of Statements of Account for Periods Prior to Enactment of New Regulations

Pursuant to section 115(c)(5), the Office's existing regulations require licensees to serve Monthly and Annual Statements of Account for the making and distribution of phonorecords. As explained in the introduction, the current regulations in § 201.19 are an ill fit for reporting royalties for the new digital phonorecord delivery configurations identified in 37 CFR subpart B and proposed new Subpart C of Part 385 because of the change in the rate structure. Nevertheless, the Office is required to establish regulations to cover these new types of phonorecords, including the establishment of dates for filing the Statements of Account to cover all past reporting periods since the establishment of the new rates set according to regulations, which took effect on March 1, 2009. For that reason, the Office is proposing a new regulation to address the reporting periods prior to the effective date of these regulations. Specifically, the proposed regulations require that Statements of Account for any prior accounting period shall be due 180 days after the date the regulations become effective. This should not be an undue burden on the licensees, since as a matter of good business practice, licensees should have retained the necessary records to make these filings in accordance with the records retention provision the current regulations in § 201.19.

F. Retention of Records (AKA Documentation)

The existing regulations require licensees to keep and retain in their possession all records and documents necessary and appropriate to support fully the information set forth in the Annual Statement of Account and in the Monthly Statements of Accounts for three years from the date of service of such statements. The Stakeholders have agreed in principle that it would be appropriate to extend the general record

retention period from three to five years after service of Statements of Account. In light of this agreement among the Stakeholders, the proposed regulations require retention of supporting records for five years after service of Statements of Account. The proposed amendment to this section also addresses situations in which it may be necessary to retain records even longer in the case where public performance rates have not been set at the time of filing the Statements of Account. To that end, the proposed regulation requires retention of records for a period of at least five years from the date of service of an Annual Statement of Account or for a period of at least three years from the date the relevant public performance royalty fees have been set, whichever is longer. Comment on this approach is requested.

G. Harmless Error Provision

Section 201.19 of the Office's regulations provides detailed requirements on how to prepare and file a Statement of Account, along with specific elements that are to be included. This information allows the copyright owner to evaluate the Statements of Account efficiently and aids in ensuring reliability and accuracy. Because of the detailed requirements in the regulations, licensees' accounting statements may contain inadvertent errors.

In the past, harmless error provisions have been adopted in an attempt to protect licensees from infringement liability and loss of their license for inconsequential mistakes. For this reason, a harmless error provision was included in the 2004 *Final Rule on Compulsory License for Making and Distributing Phonorecords, Including Digital Phonorecord Deliveries,* 69 FR 34578, which amended 37 CFR 201.18 setting forth the requirements for filing a Notice of Intention to obtain a compulsory license. The intent of the harmless error provision with respect to a Notice of Intention was to prevent licensees from losing the right to use the license for errors that did not affect the legal sufficiency of the Notice. 66 FR 45241, 45243. For the Notice of Intention provision, the Office further observed that it would not have any role in resolving the disputes as to whether or not an error was actually harmless, and instead left these disputes to be adjudicated in the courts. *Id.*

Interested parties representing both copyright owners and licensees have suggested that a harmless error provision should be included in the section 115 regulations. The Copyright Office has reached no preliminary determination on this point and the proposed regulations do not include a harmless error provision. However, the Copyright Office asks for comments on the Office's authority to include a harmless error provision and whether such a provision in Statement of Account regulations would be useful as a way to protect licensees from inadvertent errors that do not materially affect the adequacy of the information provided on the Statement of Account.

H. Confidentiality Provision

The Copyright Office observes that the Stakeholders' newly proposed rates for the compulsory license included provisions requiring that Statements of Account submitted to copyright owners must be kept confidential. While the proposed term illustrates a general desire among licensees and licensors for maintaining confidentiality of information contained in Statements of Account, the Copyright Office questions the need for the broadly framed confidentiality provision in the *Proposed rule, Adjustment of Determination of Compulsory License Rates for Mechanical and Digital Phonorecords* (77 FR 29259, 29262, May 17, 2012, proposing 37 CFR 385.12(f)).[1] The Office notes that the confidentiality provision negotiated by the participants in the rate proceeding does not, for example, accommodate a copyright owner's disclosure in litigation of information provided by a licensee.

Therefore, the Copyright Office asks for comments as to what would be the appropriate limits to such a requirement, as well as on its authority to require copyright owners to keep information contained in Statements of Account confidential.

[1] When the Copyright Royalty Judges published proposed regulations offered by the parties in the ongoing proceeding to set new rates and terms for use of the section 115 compulsory license, they noted that two proposed provisions appeared to exceed the scope of the requirements in the regulations governing Statements of Account and issued under the authority of the Register of Copyrights. 77 FR 29259 (May 17, 2012). They further noted that authority to issue regulations on Statements of Account is ''the exclusive domain of the Register.'' 77 FR at 29261, citing to *Division of Authority Between the Copyright Royalty Judges and the Register of Copyrights under the Section 115 Statutory License,* Final order, Docket No. 2008–1, 73 FR 48396, 48398 (January 26, 2009). The Copyright Office agrees. While the Copyright Royalty Judges do not have authority to alter the regulations governing the Statement of Accounts, the Register recognizes the Stakeholders' interest in making the statements confidential and addresses the issue here. Moreover, these proposed Statements of Account regulations would require the licensees to include all calculations on the Statements of Account, as proposed in the rate setting regulations published by the Copyright Office Judges on May 17, 2012 for public comment.

Conclusion

The section 115 compulsory license for incidental digital phonorecord delivery and interactive streaming provides a useful tool for record companies and services to further create and distribute content through new technology. The Office is proposing modifications to its regulations that will allow copyright owners to receive a full and accurate accounting of the various types of digital phonorecord deliveries that are made under the section 115 license which are subject to the rates and terms adopted under 17 U.S.C. Chapter 8. Further comments are invited regarding issues relating to this subject that have been not addressed today, but may be relevant to ensure a better system of accounting.

List of Subjects

37 CFR Part 201

Copyright.

37 CFR Part 210

Copyright, Phonorecords, Recordings.

Proposed Regulations

For the reasons set forth in the preamble, the Copyright Office proposes amending part 201 and adding part 210 to Chapter II of Title 37 of the Code of Federal Regulations as follows:

PART 201—GENERAL PROVISIONS

1. The authority citation for part 201 continues to read as follows:

Authority: 17 U.S.C. 702.

§ 201.19 [Removed and reserved]

2. Remove and reserve § 201.19.

3. Add new part 210 to read as follows:

PART 210—COMPULSORY LICENSE FOR MAKING AND DISTRIBUTING PHYSICAL AND DIGITAL PHONORECORDS OF NONDRAMATIC MUSICAL WORKS

Subpart A—[Reserved]

Sec.

210.1–210.10 [Reserved]

Subpart B—Royalties and Statements of Account Under Compulsory License for Physical Phonorecord Deliveries, Permanent Digital Downloads and Ringtones

210.11 General.

210.12 Definitions.

210.13 Accounting requirements where sales revenue is ''recognized.''

210.14 Accounting requirements for offsetting phonorecord reserves with returned phonorecords.

210.15 Situations in which a compulsory licensee is barred from maintaining reserves.

210.16 Monthly statements of account.
210.17 Annual statements of account.
210.18 Documentation.
210.19 Timing of filing statements of account.

Subpart C—Royalties and Statements of Account Under Compulsory License for Interactive Streaming, Limited Downloads and Other Digital Phonorecord Delivery Services

210.21 General.
210.22 Definitions.
210.23 Monthly statements of account.
210.24 Annual statements of account.
210.25 Amended annual statements of account.
210.26 Documentation.
210.27 Timing of filing statements of account.

Authority: 17 U.S.C. 115, 702.

Subpart A–[Reserved]

§§ 210.1–210.10 [Reserved]

Subpart B—Royalties and Statements of Account Under Compulsory License for Physical Phonorecord Deliveries, Permanent Digital Downloads and Ringtones

§ 210.11 General.

This subpart prescribes the rules pertaining to the preparation and service of Statements of Account covering compulsory licenses for the making and distribution of phonorecords, including by means of a digital phonorecord delivery, pursuant to 17 U.S.C. 115 and the regulations in 37 CFR part 385 governing rates and terms for use of musical works under compulsory license for the making and distribution of phonorecords.

§ 210.12 Definitions.

As used in this subpart:

(a) A *Monthly Statement of Account* is a statement accompanying monthly royalty payments identified in 17 U.S.C. 115(c)(5), as amended by Public Law 94–553, and required by that section to be made under the compulsory license to make and distribute phonorecords of nondramatic musical works, including by means of a digital phonorecord delivery.

(b) An *Annual Statement of Account* is a statement identified in 17 U.S.C 115(c)(5), as amended by Public Law 94–553, and required by that section to be filed for every compulsory license to make and distribute phonorecords of nondramatic musical works.

(c) A ''digital phonorecord delivery'' is each individual delivery of a phonorecord by digital transmission of a sound recording which results in a specifically identifiable reproduction by or for any transmission recipient of a phonorecord of that sound recording, regardless of whether the digital transmission is also a public performance of the sound recording or any nondramatic musical work embodied therein. The reproduction of the phonorecord must be sufficiently permanent or stable to permit it to be perceived, reproduced, or otherwise communicated for a period of more than transitory duration. Such a phonorecord may be permanent or it may be made available to the transmission recipient for a limited period of time or for a specified number of performances. A digital phonorecord delivery includes all phonorecords that are made for the purpose of making the digital phonorecord delivery.

(d) A ''ringtone'' means a phonorecord of a partial musical work distributed as a digital phonorecord delivery in a format to be made resident on a telecommunications device for use to announce the reception of an incoming telephone call or other communications or message or to alert the receiver to the fact that there is a communication or message.

(e) The term *copyright owner,* in the case of any work having more than one copyright owner, means any one of the co-owners.

(f) The service of a *Statement of Account* on a copyright owner under this subpart may be accomplished by means of service on either the copyright owner or an agent of the copyright owner with authority to receive Statements of Account on behalf of the copyright owner. In the case where the work has more than one copyright owner, the service of the Statement of Account on one co-owner or upon an agent of one of the co-owners shall be sufficient with respect to all co-owners.

(g) A *compulsory licensee* is a person or entity exercising the compulsory license to make and distribute phonorecords of nondramatic musical works as provided under 17 U.S.C. 115, including by means of a digital phonorecord delivery.

(h) A digital phonorecord delivery shall be treated as a type of phonorecord configuration, and a digital phonorecord delivery shall be treated as a phonorecord, with the following clarifications:

(1) A digital phonorecord delivery shall be treated as a phonorecord made and distributed on the date the phonorecord is digitally transmitted; and

(2) A digital phonorecord delivery shall be treated as having been *voluntarily distributed* and *relinquished from possession,* and a compulsory licensee shall be treated as having *permanently parted with possession* of a digital phonorecord delivery, on the date that the phonorecord is digitally transmitted.

(i) Except as provided in paragraph (h) of this section, a phonorecord is considered *voluntarily distributed* if the compulsory licensee has voluntarily and permanently parted with possession of the phonorecord. For this purpose, and subject to the provisions of paragraph (d) of this section, a compulsory licensee shall be considered to have ''permanently parted with possession'' of a phonorecord made under the license:

(1) In the case of phonorecords relinquished from possession for purposes other than sale, at the time at which the compulsory licensee actually first parts with possession;

(2) In the case of phonorecords relinquished from possession for purposes of sale without a privilege of returning unsold phonorecords for credit or exchange, at the time at which the compulsory licensee actually first parts with possession;

(3) In the case of phonorecords relinquished from possession for purposes of sale accompanied by a privilege of returning unsold phonorecords for credit or exchange:

(i) At the time when revenue from a sale of the phonorecord is ''recognized'' by the compulsory licensee; or

(ii) Nine months from the month in which the compulsory licensee actually first parted with possession, whichever occurs first. For these purposes, a compulsory licensee shall be considered to ''recognize'' revenue from the sale of a phonorecord when sales revenue would be recognized in accordance with generally accepted accounting principles as expressed by the American Institute of Certified Public Accountants or the Financial Accounting Standards Board, whichever would cause sales revenue to be recognized first.

(j) To the extent that the terms *reserve, credit* and *return* appear in this section, such provisions shall not apply to digital phonorecord deliveries.

(k) A *phonorecord reserve* comprises the number of phonorecords, if any, that have been relinquished from possession for purposes of sale in a given month accompanied by a privilege of return, as described in paragraph (i)(3) of this section, and that have not been considered voluntarily distributed during the month in which the compulsory licensee actually first parted with their possession. The initial number of phonorecords comprising a phonorecord reserve shall be determined in accordance with generally accepted accounting principles as expressed by the American

Institute of Certified Public Accountants or the Financial Accounting Standards Board.

(l) A *negative reserve balance* comprises the aggregate number of phonorecords, if any, that have been relinquished from possession for purposes of sale accompanied by a privilege of return, as described in paragraph (i)(3) of this section, and that have been returned to the compulsory licensee, but because all available phonorecord reserves have been eliminated, have not been used to reduce a phonorecord reserve.

(m) An *incomplete transmission* is any digital transmission of a sound recording which, as determined by means within the sole control of the distributor, does not result in a specifically identifiable reproduction of the entire sound recording by or for any transmission recipient.

(n) A *retransmission* is a subsequent digital transmission of the same sound recording initially transmitted to an identified recipient for the purpose of completing the delivery of a complete and usable reproduction of that sound recording to that recipient.

§ 210.13 Accounting requirements where sales revenue is ''recognized.''

Where under § 210.12(i)(3)(i), revenue from the sale of phonorecords is ''recognized'' during any month after the month in which the compulsory licensee actually first parted with their possession, said compulsory licensee shall reduce particular phonorecord reserves by the number of phonorecords for which revenue is being ''recognized,'' as follows:

(a) If the number of phonorecords for which revenue is being ''recognized'' is smaller than the number of phonorecords comprising the earliest eligible phonorecord reserve, this phonorecord reserve shall be reduced by the number of phonorecords for which revenue is being ''recognized.'' Subject to the time limitations of § 210.12(i)(3)(ii), the number of phonorecords remaining in this reserve shall be available for use in subsequent months.

(b) If the number of phonorecords for which revenue is being ''recognized'' is greater than the number of phonorecords comprising the earliest eligible phonorecord reserve but less than the total number of phonorecords comprising all eligible phonorecord reserves, the compulsory licensee shall first eliminate those phonorecord reserves, beginning with the earliest eligible phonorecord reserve and continuing to the next succeeding phonorecord reserves, that are completely offset by phonorecords for which revenue is being ''recognized.'' Said licensee shall then reduce the next succeeding phonorecord reserve by the number of phonorecords for which revenue is being ''recognized'' that have not been used to eliminate a phonorecord reserve. Subject to the time limitations of § 210.12(i)(3)(ii), the number of phonorecords remaining in this reserve shall be available for use in subsequent months.

(c) If the number of phonorecords for which revenue is being ''recognized'' equals the number of phonorecords comprising all eligible phonorecord reserves, the person or entity exercising the compulsory license shall eliminate all of the phonorecord reserves.

§ 210.14 Accounting requirements for offsetting phonorecord reserves with returned phonorecords.

(a) In the case of a phonorecord that has been relinquished from possession for purposes of sale accompanied by a privilege of return, as described in § 210.12(i)(3), where the phonorecord is returned to the compulsory licensee for credit or exchange before said compulsory licensee is considered to have ''permanently parted with possession'' of the phonorecord under § 210.12(i), the compulsory licensee may use such phonorecord to reduce a ''phonorecord reserve,'' as defined in § 210.12(k).

(b) In such cases, the compulsory licensee shall reduce particular phonorecord reserves by the number of phonorecords that are returned during the month covered by the Monthly Statement of Account in the following manner:

(1) If the number of phonorecords that are returned during the month covered by the Monthly Statement is smaller than the number comprising the earliest eligible phonorecord reserve, the compulsory licensee shall reduce this phonorecord reserve by the total number of returned phonorecords. Subject to the time limitations of § 210.12(i)(3), the number of phonorecords remaining in this reserve shall be available for use in subsequent months.

(2) If the number of phonorecords that are returned during the month covered by the Monthly Statement is greater than the number of phonorecords comprising the earliest eligible phonorecord reserve but less than the total number of phonorecords comprising all eligible phonorecord reserves, the compulsory licensee shall first eliminate those phonorecord reserves, beginning with the earliest eligible phonorecord reserve, and continuing to the next succeeding phonorecord reserves, that are completely offset by returned phonorecords. Said licensee shall then reduce the next succeeding phonorecord reserve by the number of returned phonorecords that have not been used to eliminate a phonorecord reserve. Subject to the time limitations of § 210.12(i)(3)(ii), the number of phonorecords remaining in this reserve shall be available for use in subsequent months.

(3) If the number of phonorecords that are returned during the month covered by the Monthly Statement is equal to or is greater than the total number of phonorecords comprising all eligible phonorecord reserves, the compulsory licensee shall eliminate all eligible phonorecord reserves. Where said number is greater than the total number of phonorecords comprising all eligible phonorecord reserves, said compulsory licensee shall establish a ''negative reserve balance,'' as defined in § 210.12(l).

(c) Except where a negative reserve balance exists, a separate and distinct phonorecord reserve shall be established for each month during which the compulsory licensee relinquishes phonorecords from possession for purposes of sale accompanied by a privilege of return, as described in § 210.12(i)(3) of this section. In accordance with paragraph (ii) of § 210.12(i)(3), any phonorecord remaining in a particular phonorecord reserve nine months from the month in which the particular reserve was established shall be considered ''voluntarily distributed''; at that point, the particular monthly phonorecord reserve shall lapse and royalties for the phonorecords remaining in it shall be paid as provided in § 210.16(d).

(d) Where a negative reserve balance exists, the aggregate total of phonorecords comprising it shall be accumulated into a single balance rather than being separated into distinct monthly balances. Following the establishment of a negative reserve balance, any phonorecords relinquished from possession by the compulsory licensee for purposes of sale or otherwise, shall be credited against such negative balance, and the negative reserve balance shall be reduced accordingly. The nine-month limit provided by § 210.12(i)(3)(ii) shall have no effect upon a negative reserve balance; where a negative reserve balance exists, relinquishment from possession of a phonorecord by the compulsory licensee at any time shall be used to reduce such balance, and shall not be considered a ''voluntary

distribution'' within the meaning of § 210.12(i).

(e) In no case shall a phonorecord reserve be established while a negative reserve balance is in existence; conversely, in no case shall a negative reserve balance be established before all available phonorecord reserves have been eliminated.

§ 210.15 Situations in which a compulsory licensee is barred from maintaining reserves.

Notwithstanding any other provisions of this section, in any case where, within three years before the phonorecord was relinquished from possession, the compulsory licensee has had final judgment entered against it for failure to pay royalties for the reproduction of copyrighted music on phonorecords, or within such period has been definitively found in any proceeding involving bankruptcy, insolvency, receivership, assignment for the benefit of creditors, or similar action, to have failed to pay such royalties, that compulsory licensee shall be considered to have ''Permanently parted with possession'' of a phonorecord made under the license at the time at which that licensee actually first parts with possession. For these purposes the ''compulsory licensee,'' as defined in § 210.12(g), shall include:

(a) In the case of any corporation, the corporation or any director, officer, or beneficial owner of twenty-five percent (25%) or more of the outstanding securities of the corporation;

(b) In all other cases, any entity or individual owning a beneficial interest of twenty-five percent (25%) or more in the entity exercising the compulsory license.

§ 210.16 Monthly statements of account.

(a) *Forms.* The Copyright Office does not provide printed forms for the use of persons serving Monthly Statements of Account.

(b) *General content.* A Monthly Statement of Account shall be clearly and prominently identified as a ''Monthly Statement of Account Under Compulsory License for Making and Distributing Phonorecords,'' and shall include a clear statement of the following information:

(1) The period (month and year) covered by the Monthly Statement;

(2) The full legal name of the compulsory licensee, together with all fictitious or assumed names used by such person or entity for the purpose of conducting the business of making and distributing phonorecords;

(3) The full address, including a specific number and street name or rural route, of the place of business of the compulsory licensee. A post office box or similar designation will not be sufficient for this purpose, except where it is the only address that can be used in that geographic location;

(4) The title or titles of the nondramatic musical work or works embodied in phonorecords made under the compulsory license and owned by the copyright owner being served with the Monthly Statement and the name of the author or authors of such work or works, if known;

(5) For each nondramatic musical work that is owned by the same copyright owner being served with the Monthly Statement and that is embodied in phonorecords covered by the compulsory license, a detailed statement of all of the information called for in paragraph (c) of this section;

(6) The total royalty payable for the month covered by the Monthly Statement, computed in accordance with the requirements of this section and the formula specified in paragraph (d) of this section, together with a Statement of Account showing in detail how the royalty was computed; and

(7) In any case where the compulsory licensee falls within the provisions of § 210.15, a clear description of the action or proceeding involved, including the date of the final judgment or definitive finding described in that paragraph.

(c) *Specific content of monthly statements: Identification and accounting of phonorecords.* (1) The information called for by paragraph (b)(5) of this section shall, with respect to each nondramatic musical work, include a separate listing of each of the following items of information:

(i) The number of phonorecords, including digital phonorecord deliveries, made during the month covered by the Monthly Statement;

(ii) The number of phonorecords that, during the month covered by the Monthly Statement and regardless of when made, were either:

(A) Relinquished from possession for purposes other than sale;

(B) Relinquished from possession for purposes of sale without any privilege of returning unsold phonorecords for credit or exchange;

(C) Relinquished from possession for purposes of sale accompanied by a privilege of returning unsold phonorecords for credit or exchange;

(D) Returned to the compulsory licensee for credit or exchange;

(E) Placed in a phonorecord reserve (except that if a negative reserve balance exists give either the number of phonorecords added to the negative reserve balance, or the number of phonorecords relinquished from possession that have been used to reduce the negative reserve balance);

(F) Never delivered due to a failed transmission; or

(G) Digitally retransmitted in order to complete a digital phonorecord delivery.

(iii) The number of phonorecords, regardless of when made, that were relinquished from possession during a month earlier than the month covered by the Monthly Statement but that, during the month covered by the Monthly Statement either have had revenue from their sale ''recognized'' under § 210.12(i)(3)(i), or were comprised in a phonorecord reserve that lapsed after nine months under § 210.12(i)(3)(ii).

(2) Each of the items of information called for by paragraph (c)(1) of this section shall also include, and if necessary shall be broken down to identify separately, the following:

(i) The catalog number or numbers and label name or names, used on the phonorecords;

(ii) The names of the principal recording artist or group engaged in rendering the performances fixed on the phonorecords;

(iii) The playing time on the phonorecords of each nondramatic musical work covered by the statement; and

(iv) Each phonorecord configuration involved (for example: single disk, long-playing disk, cartridge, cassette, reel-to-reel, digital phonorecord delivery, or a combination of them).

(v) The date of and a reason for each incomplete transmission.

(d) *Royalty payment and accounting.* (1) The total royalty called for by paragraph (b)(6) of this section shall be payable for every phonorecord ''voluntarily distributed'' during the month covered by the Monthly Statement.

(2) The amount of the royalty payment shall be calculated in accordance with the following formula:

(i) *Step 1: Compute the number of phonorecords shipped for sale with a privilege of return.* This is the total of phonorecords that, during the month covered by the Monthly Statement, were relinquished from possession by the compulsory licensee, accompanied by the privilege of returning unsold phonorecords to the compulsory licensee for credit or exchange. This total does not include:

(A) Any phonorecords relinquished from possession by the compulsory

licensee for purposes of sale without the privilege of return; and

(B) Any phonorecords relinquished from possession for purposes other than sale.

(ii) *Step 2: Subtract the number of phonorecords reserved.* This involves deducting, from the subtotal arrived at in Step 1, the number of phonorecords that have been placed in the phonorecord reserve for the month covered by the Monthly Statement. The number of phonorecords reserved is determined by multiplying the subtotal from Step 1 by the percentage reserve level established under Generally Accepted Accounting Practices. This step should be skipped by a compulsory licensee barred from maintaining reserves under § 210.15.

(iii) *Step 3: Add the total of all phonorecords that were shipped during the month and were not counted in Step 1.* This total is the sum of two figures:

(1) The number of phonorecords that, during the month covered by the Monthly Statement, were relinquished from possession by the compulsory licensee for purposes of sale, without the privilege of returning unsold phonorecords to the compulsory licensee for credit or exchange; and

(2) The number of phonorecords relinquished from possession by the compulsory licensee, during the month covered by the Monthly Statement, for purposes other than sale.

(iv) *Step 4: Make any necessary adjustments for sales revenue ''recognized,'' lapsed reserves, or reduction of negative reserve balance during the month.* If necessary, this step involves adding to or subtracting from the subtotal arrived at in Step 3 on the basis of three possible types of adjustments:

(A) *Sales revenue ''recognized.''* If, in the month covered by the Monthly Statement, the compulsory licensee ''recognized'' revenue from the sale of phonorecords that had been relinquished from possession in an earlier month, the number of such phonorecords is *added* to the Step 3 subtotal;

(B) *Lapsed reserves.* If, in the month covered by the Monthly Statement, there are any phonorecords remaining in the phonorecord reserve for the ninth previous month (that is, any phonorecord reserves from the ninth previous month that have not been offset under FOFI, the first-out-first-in accounting convention, by actual returns during the intervening months), the reserve lapses and the number of phonorecords in it is added to the Step 3 subtotal.

(C) *Reduction of negative reserve balance.* If, in the month covered by the Monthly Statement, the aggregate reserve balance for all previous months is a negative amount, the number of phonorecords relinquished from possession by the compulsory licensee during that month and used to reduce the negative reserve balance is subtracted from the Step 3 subtotal.

(D) *Incomplete transmissions.* If, in the month covered by the Monthly Statement, there are any digital transmissions of a sound recording which do not result in specifically identifiable reproductions of the entire sound recording by or for any transmission recipient, as determined by means within the sole control of the distributor, the number of such phonorecords is subtracted from the Step 3 subtotal.

(E) *Retransmitted digital phonorecords.* If, in the month covered by the Monthly Statement, there are retransmissions of a digital phonorecord to a recipient who did not receive a complete and usable phonorecord during an initial transmission, and such transmissions are made for the sole purpose of delivering a complete and usable reproduction of the initially requested sound recording to that recipient, the number of such retransmitted digital phonorecords is subtracted from the Step 3 subtotal.

(v) *Step 5: Multiply by the statutory royalty rate.* The total monthly royalty payment is obtained by multiplying the subtotal from Step 3, as adjusted if necessary by Step 4, by the statutory royalty rate of 9.1 cents or 1.75 cents per minute or fraction of playing time, whichever is larger for every physical phonorecord delivery and permanent digital download, and by the statutory royalty rate of 24.0 cents for every ringtone made and distributed.

(3) Each step in computing the monthly payment, including the arithmetical calculations involved in each step, shall be set out in detail in the Monthly Statement.

(e) *Clear statements.* The information required by paragraphs (b) and (c) of this section requires intelligible, legible, and unambiguous statements in the Monthly Statements of Account without incorporation of facts or information contained in other documents or records.

(f) *Certification.* (1) Each Monthly Statement of Account shall be accompanied by:

(i) The printed or typewritten name of the person who is the licensee certifying the Monthly Statement of Account;

(ii) If the compulsory licensee is a partnership or a corporation, by the title or official position held in the partnership or corporation by the person certifying the Monthly Statement of Account;

(iii) The date of certification;

(iv) A statement of the capacity of the person making the certification; and

(v) The following statement:

> I certify that I have examined this Monthly Statement of Account and that all statements of fact contained herein are true, complete, and correct to the best of my knowledge, information, and belief, and are made in good faith.

(2) If the Monthly Statement of Account is served by mail or by reputable courier service, certification of the Monthly Statement of Account by the licensee shall be made by handwritten signature. If the compulsory licensee is a corporation, the signature shall be that of a duly authorized officer of the corporation; if the compulsory licensee is a partnership, the signature shall be that of a partner.

(3) If the Monthly Statement of Account is served electronically, the licensee and the copyright owner shall establish a procedure to verify that the certification of the Monthly Statement of Account by the licensee is made upon proper authority.

(g) *Service.* (1) Each Monthly Statement of Account shall be served on the copyright owner or the agent with authority to receive Monthly Statements of Account on behalf of the copyright owner to whom or which it is directed, together with the total royalty for the month covered by the Monthly Statement, by mail or by reputable courier service on or before the 20th day of the immediately succeeding month. However, in the case where the licensee has served its Notice of Intention upon an agent of the copyright owner pursuant to § 201.18 of this chapter, the licensee is not required to serve Monthly Statements of Account or make any royalty payments until the licensee receives from the agent with authority to receive the Notice of Intention notice of the name and address of the copyright owner or its agent upon whom the licensee shall serve Monthly Statements of Account and the monthly royalty fees. Upon receipt of this information, the licensee shall serve Monthly Statements of Account and all royalty fees covering the intervening period upon the person or entity identified by the agent with authority to receive the Notice of Intention by or before the 20th day of the month following receipt of the notification. It shall not be necessary to file a copy of the Monthly Statement in the Copyright Office.

(2)(i) In any case where a Monthly Statement of Account is sent by mail or reputable courier service and the Monthly Statement of Account is returned to the sender because the copyright owner or agent is no longer located at that address or has refused to accept delivery, or in any case where an address for the copyright owner is not known, the Monthly Statement of Account, together with any evidence of mailing or attempted delivery by courier service, may be filed in the Licensing Division of the Copyright Office. Any Monthly Statement of Account submitted for filing in the Copyright Office shall be accompanied by a brief statement of the reason why it was not served on the copyright owner. A written acknowledgment of receipt and filing will be provided to the sender.

(ii) The Copyright Office will not accept any royalty fees submitted with Monthly Statements of Account under this section.

(iii) Neither the filing of a Monthly Statement of Account in the Copyright Office, nor the failure to file such Monthly Statement, shall have effect other than that which may be attributed to it by a court of competent jurisdiction.

(iv) No filing fee will be required in the case of Monthly Statements of Account submitted to the Copyright Office under this section. Upon request and payment of the fee specified in § 201.3(e) of this chapter, a Certificate of Filing will be provided to the sender.

(3) A separate Monthly Statement of Account shall be served for each month during which there is any activity relevant to the payment of royalties under 17 U.S.C. 115, and under this subpart. The Annual Statement of Account identified in § 210.17 of this subpart does not replace any Monthly Statement of Account.

(4) If a Monthly Statement of Account is sent by certified mail or registered mail, a mailing receipt shall be sufficient to prove that service was timely. If a Monthly Statement of Account is delivered by a reputable courier, documentation from the courier showing the first date of attempted delivery shall also be sufficient to prove that service was timely. In the absence of a receipt from the United States Postal Service showing the date of delivery or documentation showing the first date of attempted delivery by a reputable courier, the compulsory licensee shall bear the burden of proving that the Monthly Statement of Account was served in a timely manner.

(5) If a Monthly Statement of Account covers reporting for more than 50 works that are embodied in phonorecords made under the compulsory license, the copyright owner or the authorized agent may send the licensee a demand that the Monthly Statement of Account be resubmitted in an electronic format and that future Statements of Account be submitted in an electronic format. The statement may be submitted on a data storage medium widely used at the time for electronic storage of data, in the form of a flat file, word processing document or spreadsheet readable with computer software in wide use at such time, with the required information identified and/or delimited so as to be readily discernible. The Statement of Account may be submitted by means of electronic transmission (such as email) if the demand from the copyright owner or authorized agent states that such submission will be accepted. As provided in paragraph (f) of this section, the licensee and the copyright owner shall establish a procedure to verify that the certification portion of the statement is made upon the authority of the licensee.

(6) The copyright owner and the licensee or authorized agent may agree upon alternative methods of payment, provided that when the Monthly Statement of Account and payment are not sent together by mail or courier service, they shall be sent contemporaneously. Monthly Statements of Account shall be sent and payment shall be made on or before the 20th day of each month and shall include all royalties for the month next proceeding. Any Monthly Statement of Account or payment provided in accordance with such policy shall not be rendered invalid for failing to comply with the specific requirements of paragraph (g)(1) of this section regarding service by mail or by reputable courier service of the Monthly Statements of Account together with the total royalty for the month covered by the Monthly Statement.

(7) For purposes of this section, a copyright owner or an agent of a copyright owner with authority to receive a Monthly Statement of Account may make public a written policy that it will accept a Monthly Statement of Account by means of electronic transmission and include in that written policy procedures for making royalty payments. When the Monthly Statement of Account and payment are not sent together by mail or courier service, they shall be sent contemporaneously. Monthly Statements of Account shall be sent and payment shall be made on or before the 20th day of each month and shall include all royalties for the month next proceeding. Any Monthly Statement of Account or payment provided in accordance with such policy shall not be rendered invalid for failing to comply with the specific requirements of paragraph (g)(1) of this section regarding service by mail or by reputable courier service of the Monthly Statements of Account together with the total royalty for the month covered by the Monthly Statement.

§ 210.17 Annual statements of account.

(a) *Forms.* The Copyright Office does not provide printed forms for the use of persons serving Annual Statements of Account.

(b) *Annual period.* Any Annual Statement of Account shall cover the full fiscal year of the compulsory licensee.

(c) *General content.* An Annual Statement of Account shall be clearly and prominently identified as an ''Annual Statement of Account Under Compulsory License for Making and Distributing Phonorecords,'' and shall include a clear statement of the following information:

(1) The fiscal year covered by the Annual Statement;

(2) The full legal name of the compulsory licensee, together with all fictitious or assumed names used by such person or entity for the purpose of conducting the business of making and distributing phonorecords;

(3) If the compulsory licensee is a business organization, the name and title of the chief executive officer, managing partner, sole proprietor or other person similarly responsible for the management of such entity.

(4) The full address, including a specific number and street name or rural route, or the place of business of the compulsory licensee. A post office box or similar designation will not be sufficient for this purpose except where it is the only address that can be used in that geographic location;

(5) The title or titles of the nondramatic musical work or works embodied in phonorecords made under the compulsory license and owned by the copyright owner being served with the Annual Statement and the name of the author or authors of such work or works, if known;

(6) The playing time of each nondramatic musical work on such phonorecords;

(7) For each nondramatic musical work that is owned by the same copyright owner being served with the Annual Statement and that is embodied in phonorecords covered by the compulsory license, a detailed statement of all of the information called for in paragraph (d) of this section;

(8) The total royalty payable for the fiscal year covered by the Annual Statement computed in accordance with the requirements of this section, together with a statement of account showing in detail how the royalty was computed. For these purposes, the applicable royalty as specified in § 385.3 shall be payable for every phonorecord ''voluntarily distributed'' during the fiscal year covered by the Annual Statement;

(9) The total sum paid under Monthly Statements of Account by the compulsory licensee to the copyright owner being served with the Annual Statement during the fiscal year covered by the Annual Statement; and

(10) In any case where the compulsory license falls within the provisions of § 210.15, a clear description of the action or proceeding involved, including the date of the final judgment or definitive finding described in that paragraph.

(d) *Specific content of annual statements: Identification and accounting of phonorecords.* (1) The information called for by paragraph (c)(7) of this section shall, with respect to each nondramatic musical work, include a separate listing of each of the following items of information separately stated and identified for each phonorecord configuration (for example, single disk, long playing disk, cartridge, cassette, or reel-to-reel) made:

(i) The number of phonorecords made through the end of the fiscal year covered by the Annual Statement, including any made during earlier years;

(ii) The number of phonorecords which have never been relinquished from possession of the compulsory licensee through the end of the fiscal year covered by the Annual Statement;

(iii) The number of phonorecords involuntarily relinquished from possession (as through fire or theft) of the compulsory licensee during the fiscal year covered by the Annual Statement and any earlier years, together with a description of the facts of such involuntary relinquishment;

(iv) The number of phonorecords ''voluntarily distributed'' by the compulsory licensee during all years before the fiscal year covered by the Annual Statement;

(v) The number of phonorecords relinquished from possession of the compulsory licensee for purposes of sale during the fiscal year covered by the Annual Statement accompanied by a privilege of returning unsold records for credit or exchange, but not ''voluntarily distributed'' by the end of that year;

(vi) The number of phonorecords ''voluntarily distributed'' by the compulsory licensee during the fiscal year covered by the Annual Statement, together with:

(A) The catalog number or numbers, and label name or names, used on such phonorecords; and

(B) The names of the principal recording artists or groups engaged in rendering the performances fixed on such phonorecords.

(2) If the information given under paragraph (d)(1)(i) through (vi) of this section does not reconcile, the Annual Statement shall also include a clear and detailed explanation of the difference. For these purposes, the information given under such paragraphs shall be considered not to reconcile if, after the number of phonorecords given under paragraphs (d)(1)(ii), (iii), (iv) and (v) of this section are added together and that sum is deducted from the number of phonorecords given under paragraph (d)(1)(i), the result is different from the amount given under paragraph (d)(1)(vi).

(e) *Clear statement.* The information required by paragraph (c) of this section requires intelligible, legible, and unambiguous statements in the Annual Statement of Account without incorporation by reference of facts or information contained in other documents or records.

(f) *Certification.* (1) Each Annual Statement of Account shall be accompanied by:

(i) The printed or typewritten name of the person who is the licensee certifying the Annual Statement of Account;

(ii) The date of certification;

(iii) If the compulsory licensee is a partnership or a corporation, the title or official position held in the partnership or corporation who is making the certification;

(iv) A statement of the capacity of the person making the certification; and

(v) The following statement:

I certify that I have examined this Annual Statement of Account and that all statements of fact contained herein are true, complete, and correct to the best of my knowledge, information, and belief, and are made in good faith.

(2)(i) Each Annual Statement of Account shall also be certified by a licensed Certified Public Accountant. Such certification shall consist of the following statement.

We have examined the attached ''Annual Statement of Account Under Compulsory License For Making and Distributing Phonorecords'' for the fiscal year ended (date) of (name of the compulsory licensee) applicable to phonorecords embodying (title or titles of nondramatic musical works embodied in phonorecords made under the compulsory license) made under the provisions of 17 U.S.C. 115, as amended by Public Law 94–553, and applicable regulations of the United States Copyright Office. Our examination was made in accordance with generally accepted auditing standards and accordingly, included tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion the Annual Statement of Account referred to above presents fairly the number of phonorecords embodying each of the above-identified nondramatic musical works made under compulsory license and voluntarily distributed by (name of the compulsory licensee) during the fiscal year ending (date), and the amount of royalties applicable thereto under such compulsory license, on a consistent basis and in accordance with the above cited law and applicable regulations published thereunder.

_____

(City and State of Execution)

_____

(Signature of Certified Public Accountant or CPA Firm)

_____

Certificate Number

_____

Jurisdiction of Certificate

_____

(Date of Opinion)

(ii) The certificate shall be signed by an individual, or in the name of a partnership or a professional corporation with two or more shareholders. The certificate number and jurisdiction are not required if the certificate is signed in the name of a partnership or a professional corporation with two or more shareholders.

(3) If the Annual Statement of Account is served by mail or by reputable courier service, the certification of the Annual Statement of Account by the licensee shall be made by handwritten signature. If the compulsory licensee is a corporation, the signature shall be that of a duly authorized officer of the corporation; if that compulsory licensee is a partnership, the signature shall be that of a partner.

(4) If the Annual Statement of Account is served electronically, the licensee may serve an electronic facsimile of the original certification of the Annual Statement of Account signed by the licensed Certified Public Accountant. The licensee shall retain the original certification of the Annual Statement of Account signed by the licensed Certified Public Accountant, which shall be made available to the copyright owner upon demand.

(5) If the Annual Statement of Account is served electronically, the licensee and the copyright owner shall

establish a procedure to verify that the certification of the Annual Statement of Account by the licensee is made upon proper authority.

(g) *Service.* (1) Each Annual Statement of Account shall be served on the copyright owner or the agent with authority to receive Annual Statements of Account on behalf of the copyright owner to whom or which it is directed by mail or by reputable courier service on or before the 20th day of the sixth month following the end of the fiscal year covered by the Annual Statement. It shall not be necessary to file a copy of the Annual Statement in the Copyright Office. An Annual Statement of Account shall be served for each fiscal year during which at least one Monthly Statement of Account was required to have been served under § 210.16(g).

(2) In any case where the amount required to be stated in the Annual Statement of Account under paragraph (c)(8) of this section is greater than the amount stated in that Annual Statement under paragraph (c)(9) of this section, the difference between such amounts shall be delivered to the copyright owner together with the service of the Annual Statement. The delivery of such sum does not require the copyright owner to accept such sum, or to forego any right, relief, or remedy which may be available under law.

(3)(i) In any case where an Annual Statement of Account is sent by mail or by reputable courier service and is returned to the sender because the copyright owner or agent is not located at that address or has refused to accept delivery, or in any case where an address for the copyright owner is not known, the Annual Statement of Account, together with any evidence of mailing or attempted delivery by courier service, may be filed in the Licensing Division of the Copyright Office. Any Annual Statement of Account submitted for filing shall be accompanied by a brief statement of the reason why it was not served on the copyright owner. A written acknowledgment of receipt and filing will be provided to the sender.

(ii) The Copyright Office will not accept any royalty fees submitted with Annual Statements of Account under this paragraph (g)(3).

(iii) Neither the filing of an Annual Statement of Account in the Copyright Office, nor the failure to file such Annual Statement, shall have any effect other than that which may be attributed to it by a court of competent jurisdiction.

(iv) No filing fee will be required in the case of Annual Statements of Account submitted to the Copyright Office under this paragraph (g)(3). Upon request and payment of the fee specified in § 201.3(e) of this chapter, a Certificate of Filing will be provided to the sender.

(4) If an Annual Statement of Account is sent by certified mail or registered mail, a mailing receipt shall be sufficient to prove that service was timely. If an Annual Statement of Account is delivered by a reputable courier, documentation from the courier showing the first date of attempted delivery shall also be sufficient to prove that service was timely. In the absence of a receipt from the United States Postal Service showing the date of delivery or documentation showing the first date of attempted delivery by a reputable courier, the compulsory licensee shall bear the burden of proving that the Annual Statement of Account was served in a timely manner.

(5) If an Annual Statement of Account covers reporting for more than 50 works that are embodied in phonorecords made under the compulsory license, the copyright owner or the authorized agent may send the licensee a demand that the Annual Statement of Account be resubmitted in an electronic format and that future Annual Statements of Account be submitted in an electronic format. The statement may be submitted on a data storage medium widely used at the time for electronic storage of data, in the form of a flat file, word processing document or spreadsheet readable with computer software in wide use at such time, with the required information identified and/or delimited so as to be readily discernible. The Statement of Account may be submitted by means of electronic transmission (such as email) if the copyright owner or authorized agent states that such submission will be accepted. As provided in paragraph (f) of this section, the licensee and the copyright owner shall establish a procedure to verify that the certification portion of the statement is made upon the authority of the licensee.

(6) The copyright owner and the licensee or authorized agent may agree upon alternative methods of payment, provided that when the Statement of Account and payment are not sent together by mail or courier service, they shall be sent contemporaneously. Annual Statements of Account shall be sent and any additional payment shall be made on or before the 20th day of the sixth month following the end of the fiscal year covered by the Annual Statement. Any Annual Statement of Account or payment provided in accordance with such policy shall not be rendered invalid for failing to comply with the specific requirements of paragraph (g) of this section regarding service by mail or by reputable courier service of the Annual Statements of Account together with the total additional royalty covered by the Annual Statement.

(7) For purposes of this section, a copyright owner or an agent of a copyright owner with authority to receive an Annual Statement of Account may make public a written policy that it will accept an Annual Statement of Account by means of electronic transmission and include in that written policy procedures for making any additional royalty payments. When the Annual Statement of Account and any additional payment are not sent together by mail or courier service, they shall be sent contemporaneously. Annual Statements of Account shall be sent and payment shall be made on or before the 20th day of the sixth month following the end of the fiscal year covered by the Annual Statement. Any Annual Statement of Account provided in accordance with such policy shall not be rendered invalid for failing to comply with the specific requirements of this paragraph (g) regarding service by mail or by reputable courier service of the Annual Statement of Account together with any additional royalty payment.

§ 210.18 Documentation.

All compulsory licensees shall, for a period of at least five years from the date of service of an Annual Statement of Account, keep and retain in their possession all records and documents necessary and appropriate to support fully the information set forth in such Annual Statement and in Monthly Statements served during the fiscal year covered by such Annual Statement.

§ 210.19 Timing of statements of account.

Statements of Accounts for an accounting period which closes after the effective date of this regulation shall be due as provided in §§ 210.16(g)(1) and 210.17(g)(1). Statements of Account for any prior reporting period shall be due 180 days after the effective date of this regulation.

Subpart C—Royalties and Statements of Account Under Compulsory License for Interactive Streaming, Limited Downloads and Other Digital Phonorecord Delivery Services

§ 210.21 General.

This subpart prescribes the rules pertaining to the preparation and service of Statements of Account covering compulsory licenses for the making and distribution of phonorecords, by certain services which

offer digital phonorecord deliveries, pursuant to 17 U.S.C. 115 and the regulations in 37 CFR part 385 governing rates and terms for use of musical works under compulsory license for the making and distribution of phonorecords.

§ 210.22 Definitions.

As used in this subpart:

(a) A *Monthly Statement of Account* is a statement accompanying monthly royalty payments identified in 17 U.S.C. 115(c)(5), as amended by Public Law 94–553, and required by that section to be made under the compulsory license to make and distribute phonorecords of nondramatic musical works, including by means of a digital phonorecord delivery.

(b) An *Annual Statement of Account* is a statement identified in 17 U.S.C. 115(c)(5), as amended by Public Law 94–553, and required by that section to be filed for every compulsory license to make and distribute phonorecords of nondramatic musical works.

(c) A ''*digital phonorecord delivery*'' is each individual delivery of a phonorecord by digital transmission of a sound recording which results in a specifically identifiable reproduction by or for any transmission recipient of a phonorecord of that sound recording, regardless of whether the digital transmission is also a public performance of the sound recording or any nondramatic musical work embodied therein. The reproduction of the phonorecord must be sufficiently permanent or stable to permit it to be perceived, reproduced, or otherwise communicated for a period of more than transitory duration. Such a phonorecord may be permanent or it may be made available to the transmission recipient for a limited period of time or for a specified number of performances. A digital phonorecord delivery includes all phonorecords that are made for the purpose of making the digital phonorecord delivery.

(d) A *limited download* means a digital transmission of a sound recording of a musical work to an end user, other than a stream, that results in a specifically identifiable reproduction of that sound recording that is only accessible for listening if—

(1) An amount of time not to exceed 1 month from the time of the transmission (unless the service, in lieu of retransmitting the same sound recording as another limited download, separately and upon specific request of the end user made through a live network connection, reauthorizes use for another time period not to exceed 1 month), or in the case of a subscription transmission, a period of time following the end of the applicable subscription no longer than a subscription renewal period or 3 months, whichever is shorter; or

(2) A specified number of times not to exceed 12 (unless the service, in lieu of retransmitting the same sound recording as another limited download, separately and upon specific request of the end user made through a live network connection, reauthorizes use of another series of 12 or fewer plays), or in the case of a subscription transmission, 12 times after the end of the applicable subscription.

(3) A limited download is a general digital phonorecord delivery as defined in this section.

(e) An *interactive stream* means a stream of a sound recording of a musical work, where the performance of the sound recording by means of a stream is not exempt under 17 U.S.C. 114(d)(1) and does not in itself or as a result of a program in which it is included qualify for statutory licensing under 17 U.S.C. 114(d)(2).

(f) A *phonorecord* is used as a general term in this subpart to refer to all configurations of a phonorecord made and distributed under 17 U.S.C. 115, including a limited download, an incidental digital phonorecord delivery, and an interactive stream.

(g) The term *copyright owner,* in the case of any work having more than one copyright owner, means any one of the co-owners.

(h) The s*ervice of a Statement of Account* on a copyright owner under this subpart may be accomplished by means of service on either the copyright owner or an agent of the copyright owner with authority to receive Statements of Account on behalf of the copyright owner. In the case where the work has more than one copyright owner, the service of the Statement of Account on one co-owner or upon an agent of one of the co-owners shall be sufficient with respect to all co-owners.

(i) A *compulsory licensee* is a person or entity exercising the compulsory license to make and distribute phonorecords of nondramatic musical works as provided under 17 U.S.C. 115, including by means of a digital phonorecord delivery.

(j) A limited download, an incidental digital phonorecord delivery, and an interactive stream shall be treated as a type of phonorecord configuration:

(1) Distributed on the date the phonorecord is digitally transmitted; and

(2) As having been *voluntarily distributed* and *relinquished from possession* on the date that the phonorecord is digitally transmitted.

(k) An *incomplete transmission* is any digital transmission of a sound recording which, as determined by means within the sole control of the distributor, does not result in a specifically identifiable reproduction of the entire sound recording by or for any transmission recipient.

(l) A *retransmission* is a subsequent digital transmission of the same sound recording initially transmitted to an identified recipient for the purpose of completing the delivery of a complete and usable reproduction of that sound recording to that recipient.

§ 210.23 Monthly statements of accounts.

(a) *Forms.* The Copyright Office does not provide printed forms for the use of persons serving Monthly Statements of Account.

(b) *General content.* A Monthly Statement of Account shall be clearly and prominently identified as a ''Monthly Statement of Account Under Compulsory License for Making and Distributing Phonorecords,'' and shall include a clear statement of the following information:

(1) The period (month and year) covered by the Monthly Statement;

(2) The full legal name of the compulsory licensee, together with all fictitious or assumed names used by such person or entity for the purpose of conducting the business of making and distributing phonorecords.

(3) The full address, including a specific number and street name or rural route, of the place of business of the compulsory licensee. A post office box or similar designation will not be sufficient for this purpose, except where it is the only address that can be used in that geographic location;

(4) The title or titles of the nondramatic musical work or works embodied in phonorecords made under the compulsory license and owned by the copyright owner being served with the Monthly Statement and the name of the author or authors of such work or works, if known;

(5) For each nondramatic musical work that is owned by the same copyright owner being served with the Monthly Statement and that is embodied in phonorecords covered by the compulsory license, a detailed statement of all of the information called for in paragraph (c) of this section;

(6) The total royalty payable for the month covered by the Monthly Statement, computed in accordance with the requirements of this section specified in paragraph (d) of this

section, together with a Statement of account showing in detail how the royalty was computed; and

(c) *Specific content of monthly statements: Identification and accounting of phonorecords.* (1) The information called for by paragraph (b)(5) of this section shall, with respect to each each nondramatic musical work, include a separate listing of each of the following items of information:

(i) The number of phonorecords accounted for in this subpart, including the number of limited downloads, incidental digital phonorecord deliveries, and interactive streams made during the month covered by the Monthly Statement;

(ii) The number of promotional interactive streams and promotional promotional limited downloads; and

(iii) The number of phonorecords that were never delivered due to a failed transmission; or digitally retransmitted in order to complete a digital phonorecord delivery.

(2) Each of the items of information called for by paragraph (c)(1) of this section shall also include, and if necessary shall be broken down to identify separately, the following:

(i) The catalog number or numbers and label name or names, used on the phonorecords;

(ii) The names of the principal recording artist or group engaged in rendering the performances fixed on the phonorecords;

(iii) The playing time on the phonorecords of each nondramatic musical work covered by the statement; and

(iv) Each phonorecord configuration involved (for example, a limited download, an incidental digital phonorecord delivery, an interactive stream or a combination of these configurations).

(v) The date of and a reason for each incomplete transmission.

(d) *Royalty payment and accounting.* (1) The total royalty called for by paragraph (b)(6) of this section shall be payable for every phonorecord ''voluntarily distributed'' during the month covered by the Monthly Statement.

(2) The amount of the royalty payment for each offering, *e.g.,* a limited download or an interactive stream, shall be calculated separately:

(i) In accordance with the methodology specified in §§ 385.12 through 385.14, for each standalone non-portable subscription—streaming only service; standalone non-portable subscription—mixed service; standalone portable subscription service; bundled subscription service; and free nonsubscription/ad-supported service, and

(ii) In accordance with the methodology specified in §§ 385.22 through 385.24, for each limited offering, mixed service bundle, music bundle, paid locker service, and purchased music content locker service.

(3) Each Statement of Account shall include each step of its calculations with sufficient information to allow the copyright owner to assess the accuracy and manner in which the licensee determined the payable royalty pool and per-play allocations (including information sufficient to demonstrate whether and how a minimum royalty or subscriber-based royalty floor pursuant to § 385.13 and § 385.23 does or does not apply).

(4) In computing royalty payment pursuant to paragraph (d)(2) of this section, a licensee may, in cases where the final public performance royalty has not yet been determined, compute the public performance royalty component based on the interim rate, if established; or alternatively, on a reasonable estimation of the expected royalties to be paid made in accordance with U.S. Generally Accepted Accounting Principles (GAAP). Royalty payments based on anticipated payments or interim public performance royalty rates must be reconciled on the Annual Statement of Account or, if the final public performance royalty rate is determined after the filing of the Annual Statement of Account, within six months of obtaining the information concerning the amount of public performance royalties actually paid during the relevant accounting period by filing an Amended Annual Statement of Account for this purpose.

(e) *Clear statements.* The information required by paragraphs (b) and (c) of this section requires intelligible, legible, and unambiguous statements in the Monthly Statements of Account without incorporation of facts or information contained in other documents or records, except in the case of promotional interactive streaming activities, certain promotional limited downloads and free trial periods. Information concerning promotional activities and free trial periods shall be maintained and made available as prescribed in § 385.14 and § 385.24.

(f) *Certification.* (1) Each Monthly Statement of Account shall be accompanied by:

(i) The printed or typewritten name of the person who is the licensee certifying the Monthly Statement of Account;

(ii) If the compulsory licensee is a partnership or a corporation, by the title or official position held in the partnership or corporation by the person certifying the Monthly Statement of Account;

(iii) The date of certification;

(iv) A statement of the capacity of the person making the certification; and

(v) The following statement:

> I certify that I have examined this Monthly Statement of Account and that all statements of fact contained herein are true, complete, and correct to the best of my knowledge, information, and belief, and are made in good faith.

(2) If the Monthly Statement of Account is served by mail or by reputable courier service, certification of the Monthly Statement of Account by the licensee shall be made by handwritten signature. If the compulsory licensee is a corporation, the signature shall be that of a duly authorized officer of the corporation; if the compulsory licensee is a partnership, the signature shall be that of a partner.

(3) If the Monthly Statement of Account is served electronically, the licensee and the copyright owner shall establish a procedure to verify that the certification of the Monthly Statement of Account by the licensee is made upon proper authority.

(g) *Service.* (1) Each Monthly Statement of Account shall be served on the copyright owner or the agent with authority to receive Monthly Statements of Account on behalf of the copyright owner to whom or which it is directed, together with the total royalty for the month covered by the Monthly Statement, by mail or by reputable courier service on or before the 20th day of the immediately succeeding month. However, in the case where the licensee has served its Notice of Intention upon an agent of the copyright owner pursuant to § 201.18 of this chapter, the licensee is not required to serve Monthly Statements of Account or make any royalty payments until the licensee receives from the agent with authority to receive the Notice of Intention notice of the name and address of the copyright owner or its agent upon whom the licensee shall serve Monthly Statements of Account and the monthly royalty fees. Upon receipt of this information, the licensee shall serve Monthly Statements of Account and all royalty fees covering the intervening period upon the person or entity identified by the agent with authority to receive the Notice of Intention by or before the 20th day of the month following receipt of the notification. It shall not be necessary to file a copy of the Monthly Statement in the Copyright Office.

(2)(i) In any case where a Monthly Statement of Account is sent by mail or

reputable courier service and the Monthly Statement of Account is returned to the sender because the copyright owner or agent is no longer located at that address or has refused to accept delivery, or in any case where an address for the copyright owner is not known, the Monthly Statement of Account, together with any evidence of mailing or attempted delivery by courier service, may be filed in the Licensing Division of the Copyright Office. Any Monthly Statement of Account submitted for filing in the Copyright Office shall be accompanied by a brief statement of the reason why it was not served on the copyright owner. A written acknowledgment of receipt and filing will be provided to the sender.

(ii) The Copyright Office will not accept any royalty fees submitted with Monthly Statements of Account under this section.

(iii) Neither the filing of a Monthly Statement of Account in the Copyright Office, nor the failure to file such Monthly Statement, shall have effect other than that which may be attributed to it by a court of competent jurisdiction.

(iv) No filing fee will be required in the case of Monthly Statements of Account submitted to the Copyright Office under this section. Upon request and payment of the fee specified in § 201.3(e) of this chapter, a Certificate of Filing will be provided to the sender.

(3) A separate Monthly Statement of Account shall be served for each month during which there is any activity relevant to the payment of royalties under 17 U.S.C. 115, and under this section. The Annual Statement of Account identified in § 210.24 of this subpart does not replace any Monthly Statement of Account.

(4) If a Monthly Statement of Account is sent by certified mail or registered mail, a mailing receipt shall be sufficient to prove that service was timely. If a Monthly Statement of Account is delivered by a reputable courier, documentation from the courier showing the first date of attempted delivery shall also be sufficient to prove that service was timely. In the absence of a receipt from the United States Postal Service showing the date of delivery or documentation showing the first date of attempted delivery by a reputable courier, the compulsory licensee shall bear the burden of proving that the Monthly Statement of Account was served in a timely manner.

(5) If a Monthly Statement of Account covers reporting for more than 50 works that are embodied in phonorecords made under the compulsory license, the copyright owner or the authorized agent may send the licensee a demand that the Monthly Statement of Account be resubmitted in an electronic format and that future Statements of Account be submitted in an electronic format. The statement may be submitted on a data storage medium widely used at the time for electronic storage of data, in the form of a flat file, word processing document or spreadsheet readable with computer software in wide use at such time, with the required information identified and/or delimited so as to be readily discernible. The Statement of Account may be submitted by means of electronic transmission (such as email) if the demand from the copyright owner or authorized agent states that such submission will be accepted. As provided in paragraph (f) of this section, the licensee and the copyright owner shall establish a procedure to verify that the certification portion of the statement is made upon the authority of the licensee.

(6) The copyright owner and the licensee or authorized agent may agree upon alternative methods of payment, provided that when the Monthly Statement of Account and payment are not sent together by mail or courier service, they shall be sent contemporaneously. Monthly Statements of Account shall be sent and payment shall be made on or before the 20th day of each month and shall include all royalties for the month next proceeding. Any Monthly Statement of Account or payment provided in accordance with such policy shall not be rendered invalid for failing to comply with the specific requirements of paragraph (g)(1) of this section regarding service by mail or by reputable courier service of the Monthly Statements of Account together with the total royalty for the month covered by the Monthly Statement.

(7) For purposes of this section, a copyright owner or an agent of a copyright owner with authority to receive a Monthly Statement of Account may make public a written policy that it will accept a Monthly Statement of Account by means of electronic transmission and include in that written policy procedures for making royalty payments. When the Monthly Statement of Account and payment are not sent together by mail or courier service, they shall be sent contemporaneously. Monthly Statements of Account shall be sent and payment shall be made on or before the 20th day of each month and shall include all royalties for the month next proceeding. Any Monthly Statement of Account or payment provided in accordance with such policy shall not be rendered invalid for failing to comply with the specific requirements of paragraph (g)(1) of this section regarding service by mail or by reputable courier service of the Monthly Statements of Account together with the total royalty for the month covered by the Monthly Statement.

§ 210.24 Annual statements of accounts.

(a) *Forms.* The Copyright Office does not provide printed forms for the use of persons serving Annual Statements of Account.

(b) *Annual period.* Any Annual Statement of Account shall cover the full fiscal year of the compulsory licensee.

(c) *General content.* An Annual Statement of Account shall be clearly and prominently identified as an ''Annual Statement of Account under Compulsory License for Making and Distributing Phonorecords,'' and shall include a clear statement of the following information:

(1) The fiscal year covered by the Annual Statement;

(2) The full legal name of the compulsory licensee, together with all fictitious or assumed names used by such person or entity for the purpose of conducting the business of making and distributing phonorecords;

(3) If the compulsory licensee is a business organization, the name and title of the chief executive officer, managing partner, sole proprietor or other person similarly responsible for the management of such entity.

(4) The full address, including a specific number and street name or rural route, or the place of business of the compulsory licensee. A post office box or similar designation will not be sufficient for this purpose except where it is the only address that can be used in that geographic location;

(5) The title or titles of the nondramatic musical work or works embodied in phonorecords made under the compulsory license and owned by the copyright owner being served with the Annual Statement and the name of the author or authors of such work or works, if known;

(6) The playing time of each nondramatic musical work on such phonorecords;

(7) For each nondramatic musical work that is owned by the same copyright owner being served with the Annual Statement and that is embodied in phonorecords covered by the compulsory license, a detailed statement of all of the information called for in paragraph (d) of this section;

(8) The total royalty payable for the fiscal year covered by the Annual

Statement computed in accordance with the requirements of this section, together with a statement of account showing in detail how the royalty was computed. For these purposes, the applicable royalty as specified in §§ 385.12 through 385.14 and §§ 385.22 through 385.24, shall be payable for every phonorecord ''voluntarily distributed'' during the fiscal year covered by the Annual Statement;

(9) The total sum paid under Monthly Statements of Account in accordance with the requirements of this section by the compulsory licensee to the copyright owner being served with the Annual Statement during the fiscal year covered by the Annual Statement; and

(10) Any adjustments for public performance royalties deducted from the monthly royalty payments made during the fiscal year covered by the Annual Statement.

(d) *Specific content of annual statements: Identification and accounting of phonorecords.* (1) The information called for by paragraph (c)(7) of this section shall, with respect to each nondramatic musical work, include a separate listing for each phonorecord configuration (for example, limited download, an incidental digital phonorecord delivery, and an interactive stream) made the number of phonorecords made and voluntarily distributed'' by the compulsory licensee through the end of the fiscal year covered by the Annual Statement, together with:

(i) The catalog number or numbers, and label name or names, used on such phonorecords; and

(ii) The names of the principal recording artists or groups engaged in rendering the performances fixed on such phonorecords.

(2) If the information given under paragraphs (d)(1) and (c)(8) of this section does not reconcile, the Annual Statement shall also include a clear and detailed explanation of the difference. For these purposes, the information given under these paragraphs shall be considered not to reconcile if the number of phonorecords and royalties reported under these paragraphs are different from the sum of these amounts reported on the Monthly Statements of Account covered by the Statement of Account.

(e) *Clear statement.* The information required by paragraph (c) of this section involves intelligible, legible, and unambiguous statements in the Annual Statement of Account itself and without incorporation by reference of facts or information contained in other documents or records, except in the case of promotional interactive streaming activities, certain promotional limited downloads and free trial periods. Information concerning promotional activities and free trial periods shall be maintained and made available as prescribed in § 385.14 and § 385.24.

(f) *Certification.* (1) Each Annual Statement of Account shall be accompanied by:

(i) The printed or typewritten name of the person who is the licensee certifying the Annual Statement of Account;

(ii) The date of certification;

(iii) If the compulsory licensee is a partnership or a corporation, the title or official position held in the partnership or corporation who is making the certification;

(iv) A statement of the capacity of the person making the certification; and

(v) The following statement:

I certify that I have examined this Annual Statement of Account and that all statements of fact contained herein are true, complete, and correct to the best of my knowledge, information, and belief, and are made in good faith.

(2)(i) Each Annual Statement of Account shall also be certified by a licensed Certified Public Accountant. Such certification shall consist of the following statement.

We have examined the attached ''Annual Statement of Account Under Compulsory License For Making and Distributing Phonorecords'' for the fiscal year ended (date) of (name of the compulsory licensee) applicable to phonorecords embodying (title or titles of nondramatic musical works embodied in phonorecords made under the compulsory license) made under the provisions of 17 U.S.C. 115, as amended by Public Law 94–553, and applicable regulations of the United States Copyright Office. Our examination was made in accordance with generally accepted auditing standards and accordingly, included tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion the Annual Statement of Account referred to above presents fairly the number of phonorecords embodying each of the above-identified nondramatic musical works made under compulsory license and voluntarily distributed by (name of the compulsory licensee) during the fiscal year ending (date), and the amount of royalties applicable thereto under such compulsory license, on a consistent basis and in accordance with the above cited law and applicable regulations published thereunder.

_____

(City and State of Execution)

_____

(Signature of Certified Public Accountant or CPA Firm)

_____

Certificate Number

_____

Jurisdiction of Certificate

_____

(Date of Opinion)

(ii) The certificate shall be signed by an individual, or in the name of a partnership or a professional corporation with two or more shareholders. The certificate number and jurisdiction are not required if the certificate is signed in the name of a partnership or a professional corporation with two or more shareholders.

(3) If the Annual Statement of Account is served by mail or by reputable courier service, the certification of the Annual Statement of Account by the licensee shall be made by handwritten signature. If the compulsory licensee is a corporation, the signature shall be that of a duly authorized officer of the corporation; if that compulsory licensee is a partnership, the signature shall be that of a partner.

(4) If the Annual Statement of Account is served electronically, the licensee may serve an electronic facsimile of the original certification of the Annual Statement of Account signed by the licensed Certified Public Accountant. The licensee shall retain the original certification of the Annual Statement of Account signed by the licensed Certified Public Accountant, which shall be made available to the copyright owner upon demand.

(5) If the Annual Statement of Account is served electronically, the licensee and the copyright owner shall establish a procedure to verify that the certification of the Annual Statement of Account by the licensee is made upon proper authority.

(g) *Service.* (1) Each Annual Statement of Account shall be served on the copyright owner or the agent with authority to receive Annual Statements of Account on behalf of the copyright owner to whom or which it is directed by mail or by reputable courier service on or before the 20th day of the sixth month following the end of the fiscal year covered by the Annual Statement. It shall not be necessary to file a copy of the Annual Statement in the Copyright Office. An Annual Statement of Account shall be served for each fiscal year during which at least one Monthly Statement of Account was required to have been served under § 210.23(g).

(2) In any case where the amount required to be stated in the Annual Statement of Account under paragraph (c)(8) of this section is greater than the

amount stated in that Annual Statement under paragraph (c)(9) of this section, the difference between such amounts shall be delivered to the copyright owner together with the service of the Annual Statement. The delivery of such sum does not require the copyright owner to accept such sum, or to forego any right, relief, or remedy which may be available under law.

(3)(i) In any case where an Annual Statement of Account is sent by mail or by reputable courier service and is returned to the sender because the copyright owner or agent is not located at that address or has refused to accept delivery, or in any case where an address for the copyright owner is not known, the Annual Statement of Account, together with any evidence of mailing or attempted delivery by courier service, may be filed in the Licensing Division of the Copyright Office. Any Annual Statement of Account submitted for filing shall be accompanied by a brief statement of the reason why it was not served on the copyright owner. A written acknowledgment of receipt and filing will be provided to the sender.

(ii) The Copyright Office will not accept any royalty fees submitted with Annual Statements of Account under this paragraph (g)(3).

(iii) Neither the filing of an Annual Statement of Account in the Copyright Office, nor the failure to file such Annual Statement, shall have any effect other than that which may be attributed to it by a court of competent jurisdiction.

(iv) No filing fee will be required in the case of Annual Statements of Account submitted to the Copyright Office under this paragraph (g)(3). Upon request and payment of the fee specified in § 201.3(e) of this chapter, a Certificate of Filing will be provided to the sender.

(4) If an Annual Statement of Account is sent by certified mail or registered mail, a mailing receipt shall be sufficient to prove that service was timely. If an Annual Statement of Account is delivered by a reputable courier, documentation from the courier showing the first date of attempted delivery shall also be sufficient to prove that service was timely. In the absence of a receipt from the United States Postal Service showing the date of delivery or documentation showing the first date of attempted delivery by a reputable courier, the compulsory licensee shall bear the burden of proving that the Annual Statement of Account was served in a timely manner.

(5) If an Annual Statement of Account covers reporting for more than 50 works that are embodied in phonorecords made under the compulsory license, the copyright owner or the authorized agent may send the licensee a demand that the Annual Statement of Account be resubmitted in an electronic format and that future Annual Statements of Account be submitted in an electronic format. The statement may be submitted on a data storage medium widely used at the time for electronic storage of data, in the form of a flat file, word processing document or spreadsheet readable with computer software in wide use at such time, with the required information identified and/or delimited so as to be readily discernible. The Statement of Account may be submitted by means of electronic transmission (such as email) if the copyright owner or authorized agent states that such submission will be accepted. As provided in paragraph (f) of this section, the licensee and the copyright owner shall establish a procedure to verify that the certification portion of the statement is made upon the authority of the licensee.

(6) The copyright owner and the licensee or authorized agent may agree upon alternative methods of payment, provided that when the Statement of Account and payment are not sent together by mail or courier service, they shall be sent contemporaneously. Annual Statements of Account shall be sent and any addition payment shall be made on or before the 20th day of the sixth month following the end of the fiscal year covered by the Annual Statement. Any Annual Statement of Account or payment provided in accordance with such policy shall not be rendered invalid for failing to comply with the specific requirements of paragraph (g) of this section regarding service by mail or by reputable courier service of the Annual Statements of Account together with the total additional royalty covered by the Annual Statement.

(7) For purposes of this section, a copyright owner or an agent of a copyright owner with authority to receive an Annual Statement of Account may make public a written policy that it will accept an Annual Statement of Account by means of electronic transmission and include in that written policy procedures for making any additional royalty payments. When the Annual Statement of Account and any additional payment are not sent together by mail or courier service, they shall be sent contemporaneously. Annual Statements of Account shall be sent and payment shall be made on or before the 20th day of the sixth month following the end of the fiscal year covered by the Annual Statement. Any Annual Statement of Account provided in accordance with such policy shall not be rendered invalid for failing to comply with the specific requirements of this paragraph (g) regarding service by mail or by reputable courier service of the Annual Statement of Account together with any additional royalty payment.

§ 210.25 Amended annual statements of account.

In any case where an Annual Statement of Account has been served prior to the final determination of public performance royalties for the reported musical works, all compulsory licensees shall serve Amended Annual Statement of Accounts within six months from the date final rates for public performance royalties for the reported musical works have been established. The Amended Annual Statements of Account shall recalculate the royalty fees reported on the relevant Annual Statements of Account to adjust for any change to the public performance rate used to calculate the royalties reported pursuant to § 210.24. Service shall be made in accordance with § 210.24(g) of this subpart.

§ 210.26 Documentation.

All compulsory licensees shall, for a period of at least five years from the date of service of an Annual Statement of Account or for a period of at least three years from the date the relevant public performance royalty fees have been set, whichever is longer, keep and retain in their possession all records and documents necessary and appropriate to support fully the information set forth in such Annual Statement and in Monthly Statements served during the fiscal year covered by such Annual Statement.

§ 210.27 Timing of statements of account.

Statements of Accounts for any accounting period which closes after the effective date of this regulation shall be due as provided in §§ 210.23(g)(1) and 210.24(g)(1). Statements of Account for any prior reporting period shall be due 180 days after the effective date of this regulation.

Dated: July 23, 2012.

Tanya M. Sandros,

Deputy General Counsel.

[FR Doc. 2012–18275 Filed 7–26–12; 8:45 am]

BILLING CODE 1410–30–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2012–0555; FRL–9704–6]

Approval and Promulgation of Implementation Plans; State of Florida: New Source Review; Prevention of Significant Deterioration; Fine Particulate Matter ($PM_{2.5}$)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve changes to the Florida State Implementation Plan (SIP), submitted by the Florida Department of Environmental Protection (FDEP) to EPA on March 15, 2012. The SIP revision modifies Florida's New Source Review (NSR) Prevention of Significant Deterioration (PSD) permitting program. The SIP revision adopts, into the Florida SIP, federal NSR permitting provisions to address the implementation of the fine particulate matter ($PM_{2.5}$) national ambient air quality standards (NAAQS) as amended in EPA's 2008 NSR $PM_{2.5}$ Implementation Rule (hereafter referred to as the ''NSR $PM_{2.5}$ Rule'') and the 2010 $PM_{2.5}$ PSD Increment, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC) Rule (hereafter referred to as the ''$PM_{2.5}$ PSD Increment-SILs-SMC Rule''). EPA is proposing to approve portions of Florida's SIP revision because the Agency has preliminarily determined that the changes are consistent with the Clean Air Act (CAA or Act) and EPA regulations regarding NSR permitting.

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

ADDRESSES: Submit your comments, identified by Docket ID No EPA–R04–OAR–2012–0555, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: R4–RDS@epa.gov.*
3. *Fax:* (404) 562–9019.
4. *Mail:* EPA–R04–OAR–2012–0555, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Ms. Lynorae Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R04–OAR–2012–0555 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 through *www.regulations.gov* or email, information that you consider to be CBI or otherwise protected. 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 electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: For information regarding the Florida SIP, contact Ms. Twunjala Bradley, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Telephone number: (404) 562–9352; email address: *bradley.twunjala@epa.gov.* For information regarding NSR, contact Ms. Yolanda Adams, Air Permits Section, at the same address above. Telephone number: (404) 562–9214; email address: *adams.yolanda@epa.gov.* For information regarding $PM_{2.5}$ NAAQS, contact Mr. Joel Huey, Regulatory Development Section, at the same address above. Telephone number: (404) 562–9104; email address: *huey.joel@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What action is EPA proposing?
II. What is the background for EPA's proposed action?
III. What are the NSR implementation requirements for the $PM_{2.5}$ NAAQS?
IV. What is EPA's analysis of Florida's SIP revision?
V. Proposed Rule
VI. Statutory and Executive Order Reviews

I. What action is EPA proposing?

On March 15, 2012, FDEP submitted a SIP revision to EPA for approval into the Florida SIP to adopt federal requirements for NSR permitting. Florida's SIP revision makes changes to the State's Air Quality Regulations at Chapter 62–210, Florida Administrative Code (F.A.C.), *Stationary Sources—General Requirements, Section 200—Definitions (rule 62–210.200),* and Chapter 62–212, F.A.C., *Stationary Sources—Preconstruction Review, Section 300—General Preconstruction Review Requirements (rule 62–212.300)* and *Section 400—Prevention of Significant Deterioration (rule 62–212.400).* These rule changes were provided to comply with federal NSR permitting provisions related to the implementation of the PSD program for the $PM_{2.5}$ NAAQS as promulgated in the NSR $PM_{2.5}$ Rule entitled ''Implementation of the New Source Review (NSR) Program for Particulate

Matter Less than 2.5 Micrometers ($PM_{2.5}$),'' Final Rule, 73 FR 28321 (May 16, 2008) and the $PM_{2.5}$ PSD Increment-SILs-SMC Rule entitled ''Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)—Increments, Significant Impact Levels SILs and Significant Monitoring Concentration (SMC),'' Final Rule,'' 75 FR 64864, (October 20, 2010). Pursuant to section 110 of the CAA, EPA is proposing to approve into the Florida SIP these changes submitted by the State, with the exception of the SILs provisions pursuant to EPA's $PM_{2.5}$ PSD Increment-SILs-SMC Rule.[1] *See* 75 FR 64864. More details regarding SILs are summarized below in Sections III and IV.

II. What is the background for EPA's proposed action?

Today's proposed action to revise Florida's SIP relates to EPA's NSR $PM_{2.5}$ Rule[2] and the $PM_{2.5}$ PSD Increment-SILs-SMC Rule. In the NSR $PM_{2.5}$ Rule, EPA finalized regulations to implement the NSR program for the $PM_{2.5}$ NAAQS. As a result of EPA's final NSR $PM_{2.5}$ Rule, states were required to submit SIP revisions to EPA no later than May 16, 2011, to address these requirements for both the PSD and Nonattainment NSR (NNSR) programs. EPA's $PM_{2.5}$ PSD Increment-SILs-SMC Rule established PSD increments, SILs and SMC which address additional components for making PSD permitting determinations for the $PM_{2.5}$ NAAQS. These requirements address air quality modeling and monitoring provisions for fine particle pollution in areas protected by the PSD program (that is, attainment or unclassifiable/attainment areas for the NAAQS). The $PM_{2.5}$ PSD Increment-SILs-SMC Rule requires states to submit SIP revisions to adopt the required PSD increments by July 20, 2012. Promulgation of these two rules provided the framework states need to address the NSR permitting requirements for the $PM_{2.5}$ NAAQS. Florida's March 15, 2012, SIP revision adopts into the Florida SIP the PSD requirements promulgated in these two rules to be consistent with federal regulations for the $PM_{2.5}$ NAAQS. More detail on the NSR $PM_{2.5}$ Rule and the $PM_{2.5}$ PSD Increment-SILs-SMC Rule can be found in EPA's May 16, 2008, and October 20, 2010, final rules, respectively, and are summarized below. *See* 73 FR 28321 and 75 FR 64864.

A. Fine Particulate Matter and the NAAQS

Fine particles in the atmosphere are made up of a complex mixture of components. Common constituents include sulfate; nitrate; ammonium; elemental carbon; a great variety of organic compounds; and inorganic material (including metals, dust, sea salt, and other trace elements) generally referred to as ''crustal'' material, although it may contain material from other sources. Airborne particulate matter (PM) with a nominal aerodynamic diameter of 2.5 micrometers or less (a micrometer is one-millionth of a meter, and 2.5 micrometers is less than one-seventh the average width of a human hair) are considered to be ''fine particles'' and are also known as $PM_{2.5}$. ''Primary'' particles are emitted directly into the air as a solid or liquid particle (e.g., elemental carbon from diesel engines or fire activities, or condensable organic particles from gasoline engines). ''Secondary'' particles (e.g., sulfate and nitrate) form in the atmosphere as a result of various chemical reactions.

The health effects associated with exposure to $PM_{2.5}$ include potential aggravation of respiratory and cardiovascular disease (i.e., lung disease, decreased lung function asthma attacks and certain cardiovascular issues). Epidemiological studies have indicated a correlation between elevated $PM_{2.5}$ levels and premature mortality. Groups considered especially sensitive to $PM_{2.5}$ exposure include older adults, children, and individuals with heart and lung diseases. For more details regarding health effects and $PM_{2.5}$ see EPA's Web site at *http://www.epa.gov/oar/particlepollution/* (See heading ''Health and Welfare'').

On July 18, 1997, EPA revised the NAAQS for PM to add new standards for fine particles, using $PM_{2.5}$ as the indicator. Previously, EPA used PM_{10} (inhalable particles smaller than or equal to 10 micrometers in diameter) as the indicator for the PM NAAQS. EPA established health-based (primary) annual and 24-hour standards for $PM_{2.5}$, setting an annual standard at a level of 15 micrograms per cubic meter ($\mu g/m^3$) and a 24-hour standard at a level of 65 $\mu g/m^3$. *See* 62 FR 38652. At the time the 1997 primary standards were established, EPA also established welfare-based (secondary) standards identical to the primary standards. The secondary standards are designed to protect against major environmental effects of $PM_{2.5}$, such as visibility impairment, soiling, and materials damage. On October 17, 2006, EPA revised the primary and secondary NAAQS for $PM_{2.5}$. In that rulemaking, EPA reduced the 24-hour NAAQS for $PM_{2.5}$ to 35 $\mu g/m^3$ and retained the existing annual $PM_{2.5}$ NAAQS of 15 $\mu g/m^3$. *See* 71 FR 61236.

B. What is the NSR program?

The CAA NSR program is a preconstruction review and permitting program applicable to certain new and modified stationary sources of air pollutants regulated under the CAA. The program includes a combination of air quality planning and air pollution control technology requirements. The CAA NSR program is composed of three separate programs: PSD, NNSR, and Minor NSR. PSD is established in part C of title I of the CAA and applies in areas that meet the NAAQS (''attainment areas'') as well as areas where there is insufficient information to determine if the area meets the NAAQS (''unclassifiable areas''). The NNSR program is established in part D of title I of the CAA and applies in areas that are not in attainment of the NAAQS (''nonattainment areas''). The Minor NSR program addresses construction or modification activities that do not qualify as ''major'' and applies regardless of the designation of the area in which a source is located. Together, these programs are referred to as the NSR program. EPA regulations governing the implementation of these programs are contained in 40 CFR 51.160–.166; 52.21, .24; and, part 51, appendix S. Section 109 of the CAA requires EPA to promulgate a primary NAAQS to protect public health and a secondary NAAQS to protect public welfare. Once EPA sets those standards, states must develop, adopt, and submit a SIP to EPA for approval that includes emission limitations and other control measures to attain and maintain the NAAQS. *See* CAA section 110. Each SIP is also required to include a preconstruction review program for the construction and modification of any stationary source of air pollution to assure the maintenance of the NAAQS. The applicability of the PSD program to a major stationary source must be determined in advance of construction and is a pollutant-specific determination. Once a major source is determined to be subject to the PSD program (and thus is a ''PSD source''), among other requirements, it must undertake a series of analyses to demonstrate that it will use the best available control technology and will

[1] EPA's authority to implement the SILs and SMC for PSD purposes has been challenged by the Sierra Club. *Sierra Club* v. *EPA,* Case No 10–1413 United States Court of Appeals for the District of Columbia (D.C. Circuit Court).

[2] On November 1, 2005, EPA proposed a rule to implement the 1997 $PM_{2.5}$ NAAQS, including proposed revisions to the NSR program. *See* 70 FR 65984.

not cause or contribute to a violation of any NAAQS or increment. Florida's March 15, 2012, SIP revision consists of rule amendments to adopt into Florida's PSD program provisions related to the review and control of $PM_{2.5}$ emissions from major stationary sources and modifications.

III. What are the NSR implementation requirements for the $PM_{2.5}$ NAAQS?

A. NSR $PM_{2.5}$ Rule

On May 16, 2008, EPA finalized the NSR $PM_{2.5}$ Rule to implement the $PM_{2.5}$ NAAQS, including changes to the NSR program. *See* 73 FR 28321. The NSR $PM_{2.5}$ Rule revised the federal NSR program requirements to establish the framework for implementing preconstruction permit review for the $PM_{2.5}$ NAAQS in both attainment and nonattainment areas. Specifically, the NSR $PM_{2.5}$ Rule established NSR requirements to implement the $PM_{2.5}$ NAAQS that: (1) Require NSR permits to address directly emitted $PM_{2.5}$ and precursor pollutants; (2) establish significant emission rates for direct $PM_{2.5}$ and precursor pollutants (including sulfur dioxide (SO_2) and nitrogen oxides (NO_X)); (3) establish $PM_{2.5}$ emission offsets; (4) provide exceptions to the PM_{10} grandfathering policy; and (5) require states to account for gases that condense to form particles (''condensables'') in $PM_{2.5}$ and PM_{10} emission limits in PSD or NNSR permits. Additionally, the NSR $PM_{2.5}$ Rule authorized states to adopt provisions in their NNSR rules that would allow interpollutant offset trading. Florida's March 15, 2012, SIP revision addresses the PSD permitting requirements promulgated in the NSR $PM_{2.5}$ Rule.[3] A few key issues described in greater detail below include the PM_{10} surrogate and grandfathering policy and the condensable provision.

1. PM_{10} Surrogate and Grandfathering Policy

After EPA promulgated the NAAQS for $PM_{2.5}$ in 1997 (62 FR 38652, July 18, 1997), the Agency issued a guidance document entitled ''Interim Implementation of New Source Review Requirements for $PM_{2.5}$.'' John S. Seitz, EPA, October 23, 1997 (the ''Seitz Memo''). The Seitz Memo was designed to help states implement NSR requirements pertaining to the new $PM_{2.5}$ NAAQS in light of technical difficulties posed by $PM_{2.5}$ at that time. Specifically, the Seitz Memo stated: ''PM–10 may properly be used as a surrogate for PM–2.5 in meeting NSR requirements until these difficulties are resolved.'' EPA also issued a guidance document entitled ''Implementation of New Source Review Requirements in PM–2.5 Nonattainment Areas'' (the ''2005 $PM_{2.5}$ NNSR Guidance'') on April 5, 2005, the date that EPA's $PM_{2.5}$ nonattainment area designations became effective for the 1997 NAAQS. The 2005 $PM_{2.5}$ NNSR Guidance provided direction regarding implementation of the nonattainment major NSR provisions in $PM_{2.5}$ nonattainment areas in the interim period between the effective date of the $PM_{2.5}$ nonattainment area designations (April 5, 2005) and EPA's promulgation of final $PM_{2.5}$ NNSR regulations. Besides re-affirming the continuation of the PM_{10} Surrogate Policy for $PM_{2.5}$ attainment areas set forth in the Seitz memo, the 2005 $PM_{2.5}$ NNSR Guidance recommended that until EPA promulgated the $PM_{2.5}$ major NSR regulations, ''States should use a PM_{10} nonattainment major NSR program as a surrogate to address the requirements of nonattainment major NSR for the $PM_{2.5}$ NAAQS.''

In the NSR $PM_{2.5}$ Rule, EPA required that major stationary sources seeking permits must begin directly satisfying the $PM_{2.5}$ requirements, as of the effective date of the rule, rather than relying on PM_{10} as a surrogate, with two exceptions. The first exception is the ''grandfathering'' provision in the federal PSD program at 40 CFR 52.21(i)(1)(xi). This grandfathering provision applied to sources that had applied for, but had not yet received, a final and effective PSD permit before the July 15, 2008, effective date of the May 16, 2008, final rule. The second exception was that states with SIP-approved PSD programs could continue to implement the Seitz Memo's PM_{10} Surrogate Policy for up to three years (until May 2011) or until EPA approved the individual revised state PSD programs for $PM_{2.5}$, whichever came first. *See* 73 FR 28321.[4]

On February 11, 2010, EPA proposed to repeal the grandfathering provision for $PM_{2.5}$ contained in the federal PSD program at 40 CFR 52.21(i)(1)(xi) and to end early the PM_{10} Surrogate Policy applicable in states that have a SIP-approved PSD program. *See* 75 FR 6827. In support of this proposal, EPA explained that the $PM_{2.5}$ implementation issues that led to the adoption of the PM_{10} Surrogate Policy in 1997 have been largely resolved to a degree sufficient for sources and permitting authorities to conduct meaningful permit-related $PM_{2.5}$ analyses.

On May 18, 2011 (76 FR 28646), EPA took final action to repeal the $PM_{2.5}$ grandfathering provision at 40 CFR 52.21(i)(1)(xi). This final action ended the use of the 1997 PM_{10} Surrogate Policy for PSD permits under the federal PSD program at 40 CFR 52.21. In effect, any PSD permit applicant previously covered by the grandfathering provision (for sources that completed and submitted a permit application before July 15, 2008)[5] that did not have a final and effective PSD permit before the effective date of the repeal would no longer be able to rely on the 1997 PM_{10} Surrogate Policy to satisfy the PSD requirements for $PM_{2.5}$ unless the application included a valid surrogacy demonstration. *See* 76 FR 28646. Florida's March 15, 2012, SIP revision did not adopt the grandfathering provision at 40 CFR 52.21(i)(1)(xi), in accordance with the repeal of the $PM_{2.5}$ grandfathering provision.

2. ''Condensable'' Provision

In the NSR $PM_{2.5}$ Rule, EPA revised the definition of ''regulated NSR pollutant'' for PSD to add a paragraph providing that ''particulate matter (PM) emissions, $PM_{2.5}$ emissions and PM_{10} emissions'' shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures and that on or after January 1, 2011, such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM, $PM_{2.5}$ and PM_{10} in permits. *See* 40 CFR 51.166(b)(49)(vi), 52.21(b)(50)(vi) and ''Emissions Offset Interpretative Ruling'' (40 CFR part 51, appendix S). A similar paragraph added to the NNSR rule does not include ''particulate matter (PM) emissions.'' *See* 40 CFR 51.165(a)(1)(xxxvii)(D).

On March 16, 2012, EPA proposed a rulemaking to amend the definition of ''regulated NSR pollutant'' promulgated in the NSR $PM_{2.5}$ Rule regarding the PM condensable provision at 40 CFR 51.166(b)(49)(vi), 52.21(b)(50)(i) and

[3] Florida's March 15, 2012, SIP revision only addresses the State's PSD permitting program and does not adopt the NNSR permitting requirements for $PM_{2.5}$ emission offsets, condensable provision or the discretionary interpollutant trading policy and ratios promulgated in the 2008 NSR $PM_{2.5}$ Rule. Moreover Florida is attainment for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS.

[4] Additional information on this issue can also be found in an August 12, 2009, final order on a title V petition describing the use of PM_{10} as a surrogate for $PM_{2.5}$. In the Matter of *Louisville Gas & Electric Company,* Petition No. IV–2008–3, Order on Petition (August 12, 2009).

[5] Sources that applied for a PSD permit under the federal PSD program on or after July 15, 2008, are already excluded from using the 1997 PM_{10} Surrogate Policy as a means of satisfying the PSD requirements for $PM_{2.5}$. *See* 76 FR 28321.

EPA's Emissions Offset Interpretative Ruling. *See* 77 FR 15656. The rulemaking proposes to remove the inadvertent requirement in the NSR $PM_{2.5}$ Rule that the measurement of condensable ''particulate matter emissions'' be included as part of the measurement and regulation of ''particulate matter emissions.'' The term ''particulate matter emissions'' includes particles that are larger than $PM_{2.5}$ and PM_{10} and is an indicator measured under various New Source Performance Standards (NSPS) (40 CFR part 60).[6] Florida's March 15, 2012, SIP revision did not adopt the term ''particulate matter emissions'' regarding the requirement to consider condensables as promulgated in the NSR $PM_{2.5}$ Rule.

B. $PM_{2.5}$ PSD Increment-SILs-SMC-Rule

As mentioned above, EPA finalized the $PM_{2.5}$ PSD Increment-SILs-SMC Rule to provide additional regulatory requirements under the PSD program regarding the implementation of the $PM_{2.5}$ NAAQS for NSR.[7] Specifically, the rule establishes the following to implement the $PM_{2.5}$ NAAQS for the PSD program: (1) $PM_{2.5}$ increments pursuant to section 166(a) of the CAA to prevent significant deterioration of air quality in areas meeting the NAAQS; (2) SILs used as a screening tool (by a major source subject to PSD) to evaluate the impact a proposed major source or modification may have on the NAAQS or PSD increment; and (3) a SMC, (also a screening tool) used by a major source subject to PSD to determine the subsequent level of data gathering required for a PSD permit application for emissions of $PM_{2.5}$. As part of the response to comments on October 20, 2010 final rulemaking, EPA explained that, the agency agrees that the SILs and SMC used as *de minimis* thresholds for the various pollutants are useful tools that enable permitting authorities and PSD applicants to screen out ''insignificant'' activities; however, the fact remains that these values are not required by the Act as part of an approvable SIP program. EPA believes that most states are likely to adopt the SILs and SMC because of the useful purpose they serve regardless of our position that the values are not mandatory. Alternatively, states may develop more stringent values if they desire to do so. In any case, states are not under any SIP-related deadline for revising their PSD programs to add these screening tools. *See* 75 FR 64864, 64900.

Florida's March 15, 2012, SIP revision adopts the $PM_{2.5}$ PSD Increments (which are statutorily required) as well as the SILs and SMC promulgated in the $PM_{2.5}$ PSD Increment-SILs-SMC Rule to be consistent with the federal NSR regulations and to appropriately implement the State's NSR program for the $PM_{2.5}$ NAAQS. More detail on the $PM_{2.5}$ PSD Increment-SILs-SMC Rule can be found in EPA's October 20, 2010, final rule and is summarized below. *See* 75 FR 64864. EPA is not proposing to approve the SILs provisions (promulgated in the $PM_{2.5}$ PSD Increment-SILs-SMC Rule) into the Florida SIP in this rulemaking. EPA's authority to implement the SILs and SMC for PSD purposes has been challenged by the Sierra Club. *See Sierra Club* v. *EPA,* Case No. 10–1413 (D.C. Circuit Court).[8] More details regarding Florida's changes to its NSR regulations are also summarized below in Section IV.

1. What are PSD increments?

As established in part C of title I of the CAA, EPA's PSD program protects public health from adverse effects of air pollution by ensuring that construction of new or modified sources in attainment or unclassifiable/attainment areas does not lead to significant deterioration of air quality while simultaneously ensuring that economic growth will occur in a manner consistent with preservation of clean air resources. Under section 165(a)(3) of the CAA, a PSD permit applicant must demonstrate that emissions from the proposed construction and operation of a facility ''will not cause, or contribute to, air pollution in excess of any maximum allowable increase or allowable concentration for any pollutant.'' In other words, when a source applies for a permit to emit a regulated pollutant in an area that meets the NAAQS, the state and EPA must determine if emissions of the regulated pollutant from the source will cause significant deterioration in air quality. Significant deterioration occurs when the amount of the new pollution exceeds the applicable PSD increment, which is the ''maximum allowable increase'' of an air pollutant allowed to occur above the applicable baseline concentration[9] for that pollutant. PSD increments prevent air quality in clean areas from deteriorating to the level set by the NAAQS. Therefore an increment is the mechanism used to estimate ''significant deterioration'' of air quality for a pollutant in an area.

For PSD baseline purposes, a baseline area for a particular pollutant emitted from a source includes the attainment or unclassifiable/attainment area in which the source is located as well as any other attainment or unclassifiable/attainment area in which the source's emissions of that pollutant are projected (by air quality modeling) to result in an ambient pollutant increase of at least 1 $\mu g/m^3$ (annual average). *See* 40 CFR 52.21(b)(15)(i). Under EPA's existing regulations, the establishment of a baseline area for any PSD increment results from the submission of the first complete PSD permit application and is based on the location of the proposed source and its emissions impact on the area. Once the baseline area is established, subsequent PSD sources locating in that area need to consider that a portion of the available increment may have already been consumed by previous emissions increases. In general, the submittal date of the first complete PSD permit application in a particular area is the operative ''baseline date.''[10] On or before the date of the first complete PSD application, emissions generally are considered to be part of the baseline concentration, except for certain emissions from major stationary sources. Most emissions increases that occur after the baseline date will be counted toward the amount of increment consumed. Similarly, emissions decreases after the baseline date restore or expand the amount of increment that is available. *See* 75 FR 64864. As described in the $PM_{2.5}$ PSD Increment-SILs-SMC Rule, pursuant to the authority under section 166(a) of the CAA, EPA promulgated numerical increments for $PM_{2.5}$ as a new pollutant[11] for which the NAAQS were

[6] In addition to the NSPS for PM, states have regulated ''particulate matter emissions'' for many years in their SIPs for PM, and the same indicator has been used as a surrogate for determining compliance with certain standards contained in 40 CFR part 63 regarding National Emission Standards for Hazardous Air Pollutants.

[7] EPA proposed approval of the PSD Increments-SILs-SMC Rule on September 21, 2007. *See* 72 FR 54112.

[8] On April 6, 2012, EPA filed a brief with the D.C. Circuit court defending the Agency's authority to implement SILs and SMC for PSD purposes.

[9] Section 169(4) of the CAA provides that the baseline concentration of a pollutant for a particular baseline area is generally the same air quality at the time of the first application for a PSD permit in the area.

[10] Baseline dates are pollutant specific. That is, a complete PSD application establishes the baseline date only for those regulated NSR pollutants that are projected to be emitted in significant amounts (as defined in the regulations) by the applicant's new source or modification. Thus, an area may have different baseline dates for different pollutants.

[11] EPA generally characterized the $PM_{2.5}$ NAAQS as a NAAQS for a new indicator of PM. EPA did not replace the PM_{10} NAAQs with the NAAQS for $PM_{2.5}$ when the $PM_{2.5}$ NAAQS were promulgated in 1997. EPA rather retained the annual and 24-hour

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established after August 7, 1977,[12] and derived 24-hour and annual $PM_{2.5}$ increments for the three area classifications (Class I, II and III) using the ''contingent safe harbor'' approach. *See* 75 FR 64864 at 64869 and table at 40 CFR 51.166(c)(1).

In addition to PSD increments for the $PM_{2.5}$ NAAQS, the $PM_{2.5}$ PSD Increment-SILs-SMC Rule amended the definition at 40 CFR 51.166 and 52.21 for ''major source baseline date'' and ''minor source baseline date'' (including trigger dates) to establish the $PM_{2.5}$ NAAQS specific dates associated with the implementation of $PM_{2.5}$ PSD increments. *See* 75 FR 64864. In accordance with section 166(b) of the CAA, EPA required the states to submit revised implementation plans to EPA for approval (to adopt the $PM_{2.5}$ PSD increments) within 21 months from promulgation of the final rule (by July 20, 2012). Each state was responsible for determining how increment consumption and the setting of the minor source baseline date for $PM_{2.5}$ would occur under its own PSD program. Regardless of when a State begins to require $PM_{2.5}$ increment analysis and how it chooses to set the $PM_{2.5}$ minor source baseline date, the emissions from sources subject to PSD for $PM_{2.5}$ for which construction commenced after October 20, 2010, (major source baseline date) consume the $PM_{2.5}$ increment and should be included in the increment analyses occurring after the minor source baseline date is established for an area under the state's revised PSD program. As discussed in detail in Section IV, Florida's March 15, 2012, SIP revision adopts the $PM_{2.5}$ increment permitting requirements promulgated in the $PM_{2.5}$ PSD Increment-SILs-SMC Rule.

2. What are significant monitoring concentrations?

Under the CAA and EPA regulations, an applicant for a PSD permit is required to gather preconstruction monitoring data in certain circumstances. Section 165(a)(7) calls for ''such monitoring as may be necessary to determine the effect which emissions from any such facility may have, or is having, on air quality in any areas which may be affected by emissions from such source.'' In addition, section 165(e) requires an analysis of the air quality in areas affected by a proposed major facility or major modification and calls for gathering one year of monitoring data unless the reviewing authority determines that a complete and adequate analysis may be accomplished in a shorter period. These requirements are codified in EPA's PSD regulations at 40 CFR 51.166(m) and 40 CFR 52.21(m). In accordance with EPA's Guideline for Air Quality Modeling (40 CFR part 51, appendix W), the preconstruction monitoring data is primarily used to determine background concentrations in modeling conducted to demonstrate that the proposed source or modification will not cause or contribute to a violation of the NAAQS. *See* 40 CFR part 51, appendix W, section 9.2. SMCs are numerical values that represent thresholds of insignificant (i.e., *de minimis* [13]), monitored (ambient) impacts on pollutant concentrations. In EPA's $PM_{2.5}$ PSD Increment-SILs-SMC Rule, EPA established a SMC of 4 $\mu g/m^3$ for $PM_{2.5}$ to be used as a screening tool by a major source subject to PSD to determine the subsequent level of data gathering required for a PSD permit application for emissions of $PM_{2.5}$. See 75 FR 64864.

Using the SMC as a screening tool, sources may be able to demonstrate that the modeled air quality impact of emissions from the new source or modification, or the existing air quality level in the area where the source would construct, is less than the SMC (i.e., *de minimis*), and as such, may be allowed to forego the preconstruction monitoring requirement for a particular pollutant at the discretion of the reviewing authority. *See* 40 CFR 51.166(i)(5) and 52.21(i)(5). SMCs are not minimum required elements of an approvable SIP under the CAA. This *de minimis* value is widely considered to be a useful component for implementing the PSD program, but is not absolutely necessary for the states to implement PSD programs. States can satisfy the statutory requirements for a PSD program by requiring each PSD applicant to submit air quality monitoring data for $PM_{2.5}$ without using *de minimis* thresholds to exempt certain sources from such requirements. *See* 75 FR 64864. The SMC became effective under the federal PSD program on December 20, 2010. States with EPA-approved PSD programs that adopt the SMC for $PM_{2.5}$, however, may use the SMC, once it is part of an approved SIP, to determine when it may be appropriate to exempt a particular major stationary source or major modification from the monitoring requirements under its state PSD program. Florida's March 15, 2012, SIP revision adopts the SMC provision into the Florida SIP.

Recently, the Sierra Club filed suit challenging EPA's authority to implement the $PM_{2.5}$ SILs [14] as well as the SMC for PSD purposes as promulgated in the October 20, 2010, rule. *Sierra Club* v. *EPA,* Case No 10–1413, D.C. Circuit Court. Specifically regarding the SMC, the Sierra Club claims that the use of an SMC to exempt a source from submitting a year's worth of monitoring data is inconsistent with the CAA. EPA responded to Sierra Club's claims in a Brief dated April 6, 2012, which described the Agency's authority to develop and promulgate SMC.[15] A copy of EPA's April 6, 2012, Brief can be found in the docket for today's rulemaking at *www.regulations.gov* using docket ID: EPA–R04–OAR–2012–0555.

IV. What is EPA's analysis of Florida's SIP revision?

Florida currently has a SIP-approved NSR program for new and modified stationary sources. FDEP's PSD program definitions and preconstruction permitting rules are found at rule 62–210.200, F.A.C, and rules 62–212.300 through 62–212.400, F.A.C., respectively. These rules apply to major stationary sources or modifications constructed in areas designated attainment or unclassifiable/attainment as required under part C of title I of the CAA with respect to the NAAQS. FDEP's March 15, 2012, changes to Chapters 62–210, F.A.C., and 62–212, F.A.C., were submitted to adopt into Florida's NSR permitting program PSD provisions promulgated in the NSR $PM_{2.5}$ Rule and the $PM_{2.5}$ PSD Increment-SILs-SMC rule. These changes to Florida's regulations became

NAAQS for $PM_{2.5}$ as if $PM_{2.5}$ was a new pollutant even though EPA had already developed air quality criteria for PM generally. *See* 75 FR 64864 (October 20, 2012).

[12] EPA interprets 166(a) to authorize EPA to promulgate pollutant-specific PSD regulations meeting the requirements of section 166(c) and 166(d) for any pollutant for which EPA promulgates a NAAQS after 1977.

[13] The *de minimis* principle is grounded in decision described by the court case *Alabama Power Co.* v. *Costle,* 636 F.2d 323, 360 (D.C. Cir. 1980). In this case reviewing EPA's 1978 PSD regulations, the court recognized that ''there is likely a basis for an implication of *de minimis* authority to provide exemption when the burdens of regulation yield a gain of trivial or no value.'' 636 F.2d at 360.

[14] As mentioned earlier, due to litigation by the Sierra Club, EPA is not proposing to take action on the SILs portion of Florida's March 15, 2012, SIP revision at this time but will take action once the court case regarding SILs implementation is resolved.

[15] Additional information on this issue can also be found in an April 25, 2010, comment letter from EPA Region 6 to the Louisiana Department of Environmental Quality regarding the SILs-SMC litigation. A copy of this letter can be found in the docket for today's rulemaking at *www.regulations.gov* using docket ID: EPA–R04–OAR–2012–0555.

state effective on March 28, 2012. EPA is proposing to approve these changes into the Florida SIP to be consistent with federal NSR regulations (at 40 CFR 51.166 and 52.21) and the CAA.

A. NSR $PM_{2.5}$ Implementation Rule

Florida's March 15, 2012, SIP revision establishes that the State's existing NSR permitting program requirements for PSD apply to the $PM_{2.5}$ NAAQS and its precursors. Specifically, the SIP revision adopts the following NSR $PM_{2.5}$ Rule PSD provisions into the Florida SIP: (1) The requirement for NSR permits to address directly emitted $PM_{2.5}$ and precursor pollutants; (2) significant emission rates for direct $PM_{2.5}$ and precursor pollutants (SO_2 and NO_X) and (3) the requirement that condensable PM be addressed in enforceable PM_{10} and $PM_{2.5}$ emission limits included in PSD permits. The March 15, 2012 changes revised the definition for ''*significant emissions rates''* at 62–21.200(282) to establish SO_2 and NO*x* as $PM_{2.5}$ precursors and adopt significant emission rates for direct $PM_{2.5}$ and $PM_{2.5}$ precursors for major modifications at existing sources (as amended at 40 CFR 51.166(b)(23)(i)) and established the requirement that condensable PM_{10} and $PM_{2.5}$ emissions be accounted for in PSD applicability determinations and in establishing emissions limitations for PM at 62–212.300(1)(f) as amended at 40 CFR 51.166(b)(49). In addition, Florida's March 15, 2012, SIP revision added definitions for ''*condensable PM_{10}''* at 62–210.200(94), ''*condensable $PM_{2.5}$''* at 62–210–200(95) and ''*condensable PM''* at 62–210.200(93), for clarification purposes. EPA is proposing to approve the aforementioned changes into the Florida SIP.

B. $PM_{2.5}$ PSD Increment-SILs-SMC Rule

Florida's March 15, 2012, SIP revision adopts, into the Florida SIP, the following PSD provisions promulgated in the $PM_{2.5}$ PSD Increment-SILs-SMC Rule: (1) PSD increments for $PM_{2.5}$ annual and 24-hour NAAQS pursuant to section 166(a) of the CAA (at Chapter 62–210, F.A.C.); (2) SILs to be used as a screening tool to evaluate the impact a proposed major source or modification may have on the NAAQS or PSD increment (at Chapters 62–210, F.A.C., and 62–212, F.A.C.); and (3) SMC, also used as a screening tool, to determine the level of data gathering required of a major source in support of its PSD permit application for $PM_{2.5}$ emissions.

Specifically, the SIP revision makes the following changes to Florida's PSD regulations to adopt PSD increment provisions established in the $PM_{2.5}$ PSD Increment-SILs-SMC rule at Chapters 62–210 and 62–212, F.A.C.: (1) Revises the definition for ''*maximum allowable increase''* to incorporate by reference (IBR) the $PM_{2.5}$ PSD increments numerical values (established in the tables at 40 CFR 52.21(c) at 62–204.800, F.A.C.[16]); (2) amends definitions for ''*major source baseline date''* and ''*minor source baseline date''* to establish relevant dates for $PM_{2.5}$ increment consumption and establish trigger dates (as established at 40 CFR 51.166(b)(14)(i)(c) and 51.166(b)(14)(ii)(c) respectively) and; (3) revises the definition for ''*baseline area''* as promulgated at 40 CFR 51.166(b)(15)(i) and (ii) and adds definitions for *''baseline concentration.''* The March 15, 2012, SIP submission also adds a definitions for ''*Class I* and *II Areas''* at Chapter 62–210.200(77) and (78), F.A.C. respectively. The definition for Class I Areas IBR 40 CFR part 81, Subpart D (the federal Class I Area list) at rule 61 62–204.800, F.A.C.). In today's action, EPA is proposing to approve Florida's March 15, 2012, SIP revision to address $PM_{2.5}$ PSD increments.

Regarding the SILs and SMC established in the October 20, 2010, $PM_{2.5}$ PSD Increment-SILs-SMC Rule, the Sierra Club has challenged EPA's authority to implement SILs and SMC. In a brief filed in the D.C. Circuit on April 6, 2012, EPA described the Agency's authority under the CAA to promulgate and implement the SMC and SILs *de minimis* thresholds. Florida's SIP revision includes the SMC of 4 $\mu g/m^3$ for $PM_{2.5}$ NAAQS (at rule 62–212.400(3)(e)1, F.A.C.) that was added to the existing monitoring exemption at 40 CFR 51.166(i)(5)(i)(c) and 52.21(i)(5)(i)(c). With respect to the SMC, EPA is proposing to approve these promulgated thresholds into the Florida SIP as EPA believes the use of the SMC is a valid exercise of the Agency's *de minimis* authority. Furthermore, Florida's March 15, 2012, SIP revision is consistent with EPA's current promulgated provisions in the October 20, 2010, rule. However, EPA notes that future court action may require subsequent rule revisions and SIP revisions from Florida.

The March 15, 2012, SIP revision submitted by Florida to adopt the new PSD requirements for $PM_{2.5}$ pursuant to the $PM_{2.5}$ PSD Increment-SILs-SMC Rule also includes the new regulatory text at 40 CFR 51.166(k)(2) and 52.21(k)(2), concerning the implementation of SILs for $PM_{2.5}$. EPA stated in the preamble to the October 20, 2010 final rule that we do not consider the SILs to be a mandatory SIP element, but regard them as discretionary on the part of regulating authority for use in the PSD permitting process. Nevertheless, the $PM_{2.5}$ SILs are currently the subject of litigation before the U.S. Court of Appeals. (*Sierra Club* v. *EPA,* Case No 10–1413 D.C. Circuit). In response to that litigation, EPA has requested that the Court remand and vacate the regulatory text in the EPA's PSD regulations at paragraph (k)(2) so that EPA can make necessary rulemaking revisions to that text. In light of EPA's request for remand and vacatur and our acknowledgement of the need to revise the regulatory text presently contained at paragraph (k)(2) of sections 51.166 and 52.21, EPA does not believe that it is appropriate at this time to approve that portion of the State's implementation plan revision that contains or is related to the affected regulatory text in the State's PSD regulations, at rule, 62–212.400(5), F.A.C and 62–210.200(283)(c), F.A.C.. Instead, EPA is taking no action at this time with regard to these specific provisions contained in the SIP revision. EPA will take action on the SILs portion of Florida's March 15, 2012, SIP revision in a separate rulemaking once the issue regarding the court case has been resolved.

The aforementioned amendments to Florida's SIP provide the framework for implementation of $PM_{2.5}$ NAAQS in the states NSR permitting. Based on review and consideration of Florida's March 15, 2012, SIP revision, EPA has made the preliminary determination to approve the aforementioned PSD permitting provisions promulgated in the NSR $PM_{2.5}$ Rule and $PM_{2.5}$ PSD Increment-SILs-SMC Rule into the Florida SIP to implement the NSR program for the $PM_{2.5}$ NAAQS.

V. Proposed Action

EPA is proposing to approve portions of Florida March 15, 2012, SIP revision adopting federal regulations amended in the May 16, 2008, NSR $PM_{2.5}$ Rule and the October 20, 2010, $PM_{2.5}$ PSD Increment-SILs-SMC rule into the Florida SIP with the exception of the SILs provisions. EPA has made the preliminary determination that this SIP revision, with regard to aforementioned proposed actions, is approvable because it is consistent with section 110 of the CAA and EPA regulations regarding NSR permitting.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the

[16] Florida IBR federal rules at rule 62–204.800 F.A.C.

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

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

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

List of Subjects in 40 CFR Part 52

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

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

Dated: July 16, 2012.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 2012–18131 Filed 7–26–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2012–0272; FRL–9702–5]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Control of Iron and Steel Production Installations; Sintering Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve revisions to the Maryland State Implementation Plan (SIP) submitted by the Maryland Department of the Environment (MDE) on June 30, 2009. The revisions amend the visible emissions requirements of the Maryland SIP's regulation for the Control of Iron and Steel Production Installations as they apply to sintering plants. The sintering plant located at the Sparrows Point steelmaking facility (Sparrows Point) is the only sintering plant located in the State of Maryland, and therefore the only source affected by these SIP revisions. The revisions exempt the sintering plant from the visible emissions section of the regulation for the Control of Iron and Steel Production Installations contingent upon the source's two wet scrubbers, used to control emissions of particulate matter, continuously monitoring compliance with specified pressure drop and flow rate operating parameters. EPA is approving these revisions because they provide for a continuous means of determining compliance with the applicable SIP emission rate for particulate matter from the sintering plant located at Sparrows Point, and because that emission rate has been demonstrated to protect and maintain the National Ambient Air Quality Standards (NAAQS) for PM_{10} (particulate matter consisting of particles with an aerodynamic diameter less than or equal to 10 micrometers). EPA is proposing to approve these revisions in accordance with the requirements of the Clean Air Act (CAA). In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by August 27, 2012.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2012–0272 by one of the following methods:

A. *www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *Email: spink.marcia@epa.gov.*

C. *Mail:* EPA–R03–OAR–2012–0272, Marcia L. Spink, Associate Director for Policy & Science, Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. 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–R03–OAR–2012–0272. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic

comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

FOR FURTHER INFORMATION CONTACT: Marcia L. Spink, Associate Director for Policy & Science, Air Protection Division (215) 814–2104, or by email at *spink.marcia@epa.gov.*

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: July 10, 2012.

W.C. Early

Acting Regional Administrator, Region III.

[FR Doc. 2012–18099 Filed 7–26–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2012–0443; FRL–9702–3]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Removal of Administrative Requirements From the Regulation for the Control of Motor Vehicle Emissions in Northern Virginia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the submitted by the Commonwealth of Virginia. This revision removes four internal State administrative requirements from the Virginia SIP regulations for the control of motor vehicle emissions in the Northern Virginia Area. In the Final Rules section of this **Federal Register**, EPA is approving Virginia's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by August 27, 2012.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2012–0443 by one of the following methods:

A. *www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *Email: frankford.harold@epa.gov.*

C. *Mail:* EPA–R03–OAR–2012–0443, Harold A. Frankford, Mailcode 3AP00, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. 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–R03–OAR–2012–0443. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford, (215) 814–2108, or by email at *frankford.harold@epa.gov.*

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations''

section of this **Federal Register** publication. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

Dated: July 10, 2012.

W.C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 2012–18100 Filed 7–26–12; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 77, No. 145
Friday, July 27, 2012

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

AGENCY FOR INTERNATIONAL DEVELOPMENT

Privacy Act of 1974, System of Records

AGENCY: United States Agency for International Development.

ACTION: Notice of new system of records.

SUMMARY: The United States Agency for International Development (USAID) is issuing public notice of its intent to establish a new system of records maintained in accordance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended, entitled ''USAID–33 Phoenix Financial Management System''. This action is necessary to meet the requirements of the Privacy Act to publish in the **Federal Register** notice of the existence and character of record systems maintained by the agency (5 U.S.C. 522a(e)(4)).

DATES: Public comments must be received on or before September 3, 2012. Unless comments are received that would require a revision; this update to the system of records will become effective on September 10, 2012.

ADDRESSES: You may submit comments:

Paper Comments

- *Fax:* (703) 666–5670.
- *Mail:* Chief Privacy Officer, United States Agency for International Development, 2733 Crystal Drive, 11th Floor, Arlington, VA 22202.

Electronic Comments

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions on the Web site for submitting comments.
- *E-mail: privacy@usaid.gov.*

FOR FURTHER INFORMATION CONTACT: For general questions, please contact, USAID Privacy Office, United States Agency for International Development, 2733 Crystal Drive, 10th Floor, Arlington, VA 22202. E-mail: *privacy@usaid.gov.*

SUPPLEMENTARY INFORMATION: The Phoenix Financial Management System is being established as an Agency-wide system of record as it is required to collect, maintain or store personal data requiring protection under the Privacy Act. It is USAID's core financial management system and accounting system of record. Phoenix enables USAID to effectively and efficiently analyze, allocate and report on US foreign assistance funds. Phoenix includes modules such as General Ledger, Accounts Payable, Accounts Receivables, and Budget Execution, which are required to perform necessary accounting operations. Phoenix falls under strict regulatory audit requirements from the Office of Management and Budget, as well as the General Accountability Office.

Dated: July 13, 2012.

William Morgan,

Chief Information Security Officer—Chief Privacy Officer.

USAID–33

SYSTEM NAME:

Phoenix Financial Management System.

SECURITY CLASSIFICATION:

Sensitive But Unclassified.

SYSTEM LOCATION(S):

Global Financial Service Center (GFSC—DoS), 1969 Dyess Ave, Building A, Computer Room 2A228, Charleston, SC 29405.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records of current employees, contractors, personal service contractors (PSCs), consultants, partners, and those receiving foreign assistance funds.

CATEGORIES OF RECORDS COVERED BY THE SYSTEM:

This system contains USAID organizational information. Phoenix imports the following data elements from NFC Payroll files for Personnel Services Contractors (PSC) and direct hires: name, social security number, details of payroll transactions and work phone numbers. Phoenix imports the following data elements from the E2 Travel system for each traveler: name, date of travel (month/year) and destination.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Privacy Act of 1974 (Pub. L. 93–579), sec. 552a (c), (e), (f), and (p).

PURPOSE(S):

Records in this system will be used:

(1) The payroll information is used to associate PSC payroll-related payments with their contracts and track direct hire payroll payments in the system in order to produce 1099 files. If this information is not imported form NFC to Phoenix, then USAID cannot comply with IRS regulations to maintain and produce 1099s.

(2) The travel information is used to associate E2 travel records with Phoenix accounting information regarding travel authorization and funding.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

These records are not disclosed to consumer reporting agencies.

ROUTINE USE OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

USAID may disclose relevant system records in accordance with any current and future blanket routine uses established for its record systems. These may be for internal communications or with external partners.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic records are maintained in user-authenticated, password-protected systems.

RETRIEVABILITY:

All records are accessed only by authorized personnel who have a need to access the records in the performance of their official duties. Information is retrieved by name or by a system specific ID (Vendor ID, Traveller ID, etc.). SSN is not employed as a key, but only present for tax reporting purposes.

SAFEGUARDS:

Administrative, managerial and technical controls are in place. Phoenix has a current C&A in place. Phoenix is secured through access control provided to only those individuals with a need to know within the Agency. Further, access to the PII is limited to the staff

within the CMP and CAR divisions. Phoenix is maintained by the US government, not contractors.

RETENTION AND DISPOSAL:

Records are retained using the appropriate, approved National Archives Records Administration -Schedules for the type of record being maintained.

SYSTEM MANAGER(S) AND ADDRESS:

David Ostermeyer, United States Agency for International Development, U.S. Department of State Annex 44, 455, 301 4th Street SW., Washington, DC 20547.

NOTIFICATION PROCEDURES:

Individuals requesting notification of the existence of records on them must send the request in writing to the Chief Privacy Officer, USAID, 2733 Crystal Drive, 11th Floor, Arlington, Va. 22202. The request must include the requestor's full name, his/her current address and a return address for transmitting the information. The request shall be signed by either notarized signature or by signature under penalty of perjury and reasonably specify the record contents being sought.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to a record must submit the request in writing according to the ''Notification Procedures'' above. An individual wishing to request access to records in person must provide identity documents, such as government-issued photo identification, sufficient to satisfy the custodian of the records that the requester is entitled to access.

CONTESTING RECORD PROCEDURES:

An individual requesting amendment of a record maintained on himself or herself must identify the information to be changed and the corrective action sought. Requests must follow the ''Notification Procedures'' above.

RECORD SOURCE CATEGORIES:

The records contained in this system will be provided by and updated by the individual who is the subject of the record.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: July 13, 2012.

Meredith Snee,

Privacy Analyst.

[FR Doc. 2012–17975 Filed 7–26–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

July 24, 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: Agriculture Innovation Centers.

OMB Control Number: 0570–0045.

Summary of Collection: The Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171, signed May 13, 2002) authorized the Secretary of the U.S. Department of Agriculture (USDA) to award grant funds for agriculture innovation centers, a demonstration program under which agricultural producers are to be provided with technical and business development assistance enabling them to establish businesses producing and marketing value-added products. The Food, Conservation, and Energy Act of 2008 reauthorized the program through 2012. This program is administered by Cooperative Programs within USDA's Rural Development.

Need and Use of the Information: Information is collected by Rural Development State and Area office staff, as delegated, from applicants and grantees. Cooperative Programs uses the collected information to confirm that the applicant and use of funds meet the eligibility requirements for the program as well as to assess the quality of the proposed project. Grantees are required to submit financial status and performance reports to confirm that progress is being made toward achieving the stated goals of the project. A final report is submitted at the completion of the grant agreement. Centers may be non-profit corporations, for-profit corporations, institutions of higher learning, and consortia of the aforementioned entities.

Description of Respondents: Not-for-profit Institutions; Business or other for-profit.

Number of Respondents: 2.

Frequency of Responses: Reporting: Semi-annually.

Total Burden Hours: 88.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2012–18357 Filed 7–26–12; 8:45 am]

BILLING CODE 3410–XT–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

July 24, 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: Restricted and Controlled Importation of Animal and Poultry Products (Milk and Eggs) Into the United States.

OMB Control Number: 0579—New.

Summary of Collection: The Animal Health Protection Act (AHPA) of 2002 is the primary Federal law governing the protection of animal health. The law gives the Secretary of Agriculture broad authority to detect, control, or eradicate pests or diseases of livestock or poultry. Disease prevention is the most effective method for maintaining a healthy animal population and enhancing the Animal and Plant Health Inspection Service (APHIS) ability to compete in the world market of animals and animal products trade. In connection with this mission, APHIS enforces regulations regarding both the importation of controlled materials and the prevention of foreign animal disease incursions into the United States. The regulations under which APHIS conducts these disease prevention activities are contained in Title 9, Chapter 1, Subchapter D, Parts 94, 95, and 122 of the Code of Federal Regulations.

Need and Use of the Information: APHIS will collect information to ensure that imported items do not present a disease risk to the livestock and poultry populations of the United States. The information collected will provide APHIS with critical information concerning the origin and history of the items destined for importation into the United States. Without the information, the United States would be at increase risk of an exotic disease incursion.

Description of Respondents: Business or other for-profit; Not for-profit institutions; Foreign Government.

Number of Respondents: 227.

Frequency of Responses: Reporting; On occasion; Quarterly.

Total Burden Hours: 204,316.

Animal and Plant Health Inspection Service

Title: Prohibited and Restricted Importation of Fresh (Frozen and Chilled) Pork or Pork Products into the United States.

OMB Control Number: 0579—New.

Summary of Collection: The Animal Health Protection Act (AHPA) of 2002 is the primary Federal law governing the protection of animal health. The law gives the Secretary of Agriculture broad authority to detect, control, or eradicate pests or diseases of livestock or poultry. Disease prevention is the most effective method for maintaining a healthy animal population and enhancing the Animal and Plant Health Inspection Service (APHIS) ability to compete in the world market of animals and animal products trade. In connection with this mission, APHIS enforces regulations regarding both the importation of controlled materials and the prevention of foreign animal disease incursions into the United States. The regulations under which APHIS conducts these disease prevention activities are contained in Title 9, Chapter 1, Subchapter D, Parts 94, 95, and 122 of the Code of Federal Regulations.

Need and Use of the Information: APHIS will collect information to ensure that imported items do not present a disease risk to the livestock and poultry populations of the United States. The information collected will provide APHIS with critical information concerning the origin and history of the items destined for importation into the United States.

Without the information, the United States would be at increase risk of an exotic disease incursion.

Description of Respondents: Business or other for-profit; Foreign Government.

Number of Respondents: 93.

Frequency of Responses: Recordkeeping; Reporting; On occasion; Quarterly.

Total Burden Hours: 4,398.

Animal and Plant Health Inspection Service

Title: Prohibited and Restricted Importation of Hams into the United States.

OMB Control Number: 0579—New.

Summary of Collection: The Animal Health Protection Act (AHPA) of 2002 is the primary Federal law governing the protection of animal health. The law gives the Secretary of Agriculture broad authority to detect, control, or eradicate pests or diseases of livestock or poultry. Disease prevention is the most effective method for maintaining a healthy animal population and enhancing the Animal and Plant Health Inspection Service (APHIS) ability to compete in the world market of animals and animal products trade. In connection with this mission, APHIS enforces regulations regarding both the importation of controlled materials, such as ham and ham products, and the prevention of foreign animal disease incursions into the United States. The regulations under which APHIS conducts these disease prevention activities are contained in Title 9, Chapter 1, Subchapter D, Part 94 of the Code of Federal Regulations.

Need and Use of the Information: APHIS will collect information to ensure that imported items do not present a disease risk to the livestock and poultry populations of the United States. The information collected will provide APHIS with critical information concerning the origin and history of the items destined for importation into the United States.

Without the information, the United States would be at increase risk of an exotic disease incursion.

Description of Respondents: Business or other for-profit; Foreign Government.

Number of Respondents: 93.

Frequency of Responses: Reporting; On occasion; Quarterly.

Total Burden Hours: 49,220.

Animal and Plant Health Inspection Service

Title: Restricted and Controlled Importation of Animal and Poultry Products and Byproducts, Into the United States.

OMB Control Number: 0579–0015.

Summary of Collection: The Animal Health Protection Act (AHPA) of 2002 is the primary Federal law governing the protection of animal health. The law gives the Secretary of Agriculture broad authority to detect, control, or eradicate pests or diseases of livestock or poultry. Disease prevention is the most effective method for maintaining a healthy animal population and enhancing the Animal and Plant Health Inspection Service (APHIS) ability to compete in the world market of animals and animal products trade. In connection with this mission, APHIS enforces regulations regarding both the importation of controlled materials and the prevention of foreign animal disease incursions into

the United States. The regulations under which APHIS conducts these disease prevention activities are contained in Title 9, Chapter 1, Subchapter D, Parts 94, 95, and 122 of the Code of Federal Regulations.

Need and Use of the Information: APHIS will collect information to ensure that imported items do not present a disease risk to the livestock and poultry populations of the United States. The information collected will provide APHIS with critical information concerning the origin and history of the items destined for importation into the United States. Without the information, the United States would be at increase risk of an exotic disease incursion.

Description of Respondents: Business or other for-profit; Not for-profit institutions; Foreign Government.

Number of Respondents: 3,334.

Frequency of Responses: Recordkeeping; Reporting; On occasion; Quarterly.

Total Burden Hours: 3,279.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2012–18361 Filed 7–26–12; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

July 24, 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), *Pamela_Beverly_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.

National Institute of Food and Agriculture

Title: Expanded Food and Nutrition Education Program (EFNEP).

OMB Control Number: 0524–0044.

Summary of Collection: The Department of Agriculture's National Institute of Food and Agriculture (NIFA), Expanded Food and Nutrition Education Program (EFNEP) is a unique program that began in 1969 and is designed to reach limited resource audiences, especially youth and families with young children. EFNEP operates in all 50 states, the District of Columbia and in American Samoa, Guam, Micronesia, Northern Marianas, Puerto Rico, and the Virgin Islands. Extension professionals train and supervise paraprofessionals and volunteers who teach food and nutrition information and skills to limited resources families and youth.

Need and Use of the Information: NIFA will collect information using Nutrition Education Evaluation and Reporting System (NEERS), which is an integrated database system that stores information on: (1) Adult program participants, their family structure and dietary practices; (2) youth group participants; and (3) staff, NEERS consists of separate software sub-systems for the County and the State levels (State also refers to U.S. Territories). Without the information it would be extremely difficult for the national office to compare, assess, and analyze the effectiveness and the impact of EFNEP without the annual collection of data.

Description of Respondents: State, Local or Tribal Government.

Number of Respondents: 75.

Frequency of Responses: Recordkeeping; Reporting: Annually.

Total Burden Hours: 93,225.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2012–18362 Filed 7–26–12; 8:45 am]

BILLING CODE 3410–09–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Uniform Grant Application Package for Discretionary Grant Programs

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. This collection is a revision of a currently approved collection.

The purpose of the Uniform Grant Application Package for Discretionary Grant Programs is to provide a standardized format for the development of all Requests for Applications for discretionary grant programs released by the Food and Nutrition Service (FNS) Agency and to allow for a more expeditious OMB clearance process.

DATES: Written comments must be received on or before September 25, 2012.

ADDRESSES: 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 that were 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 use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Lael Lubing, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 732, Alexandria, VA 22302. Comments may also be submitted via fax to the attention of Lael Lubing at

703–605–0363 or via email to *lael.lubing@fns.usda.gov.* Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov,* and follow the online instructions for submitting comments electronically.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Lael Lubing at 703–305–2048.

SUPPLEMENTARY INFORMATION:

Title: Uniform Grant Application Package for Discretionary Grant Programs.

Form Number: SF–425.

OMB Number: 0584–0512.

Expiration Date: September 30, 2012.

Type of Request: Revision of a currently approved collection.

Abstract: FNS has a number of discretionary grant programs. (Consistent with the definition in 7 CFR part 3016, the term ''grant'' as used in this notice includes cooperative agreements.) The authorities for these grants vary and will be cited as part of each grant application solicitation. The purpose of the revision to the currently approved collection for the Uniform Grant Application Package for Discretionary Grant Programs is to continue the authority for the established uniform grant application package and to update the number of collection burden hours. The uniform collection package is useable for all of FNS' discretionary grant programs to collect information from grant applicants that are needed to evaluate and rank applicants and protect the integrity of the grantee selection process. All FNS discretionary grant programs will be eligible, but not required, to use the uniform grant application package. Before soliciting applications for a discretionary grant program, FNS will decide whether the uniform grant application package will meet the needs of that grant program. If FNS decides to use the uniform grant application package, FNS will note in the grant solicitation that applicants must use the uniform grant application package and that the information collection has already been approved by OMB. If FNS decides not to use the uniform grant application package or determines that it needs grant applicants to provide additional information not contained in the uniform package, then FNS will publish a notice soliciting comments on its proposal to collect different or additional information before making the grant solicitation.

The uniform grant application package will include general information and instructions; a checklist; a requirement for the program narrative statement describing how the grant objectives will be reached; the Standard Form (SF) 424 series that request basic information, including budget information and a disclosure of lobbying activities certification (SF–LLL). In addition, grantees are required to submit the SF–425. The SF–425 is approved by OMB; however, reporting and recordkeeping burden hours associated with this form must be accounted for in each agency's information request packages.

The proposed information collection covered by this notice is related to the requirements for the program narrative statement. The requirements for the program narrative statement are based on the requirements for program narrative statements described in section 1c(5) of the OMB Circular A–102 and will apply to all types of grantees—State and Local governments, Indian Tribal organizations, Non-Profit organizations, Institutions of Higher Education, and For-Profit organizations. The information collection burden related to the SF–424 series, and the lobbying certification forms have been separately approved by OMB.

Reporting Burden

Affected Public: (State, Local, and Tribal Government, Universities, Business-for and not-for-profit).

Pre-Award

Estimated Number of Respondents: 1,505.

Number of Responses per Respondent: 1.

Estimated Total Annual Responses: 1505.

Hours per Response: 80.

Estimated Total Annual Reporting Burden: 120,400.

Post Award

Estimated Number of Respondents: 296.

Number of Responses per Respondent: 5.

Estimated Total Annual Responses: 1480.

Hours per Response: 2.25.

Estimated Total Annual Reporting Burden: 3,330.

Grand Total Estimated Total Annual Reporting Burden: 123,730.

Recordkeeping Burden

Estimated Number of Recordkeepers: 296.

Estimated Number of Records: 5.

Estimated Annual Records: 1,480.

Estimated Annual Hours per Recordkeeper: .1169.

Estimated Total Annual Recordkeeping Burden: 173.

Estimated Grand Total for Reporting and Recordkeeping Burden: 124,199.

Total Annual Reporting Hours: 123,730.

Total Recordkeeper Responses: 296.

Total Recordkeeping Hours: 173.

SUMMARY LEVEL RECAP—AFFECTED PUBLIC: STATE, LOCAL AND TRIBAL GOVERNMENT, UNIVERSITIES, AND BUSINESS-FOR AND NOT-FOR-PROFIT ANNUAL DISCRETIONARY GRANTS/COOPERATIVE AGREEMENTS

A.12–1—REPORTING BURDEN FOR PRE-AWARD ESTIMATES OF BURDEN HOURS

Type of applicant	Total estimated number of respondents (responses)	Frequency of response per respondent	Total estimated annual responses	Estimated time (hours) to complete each application	Estimated burden hours
State & Local Government	916	1	916	80	73,280
Indian Tribal Governments	29	1	29	80	2,320
SUB-TOTAL STATE, LOCAL & INDIAN TRIBAL GOVERNMENTS	945	N/A	945	N/A	75,600
Non-profit Organizations	500	1	500	80	40,000

SUMMARY LEVEL RECAP—AFFECTED PUBLIC: STATE, LOCAL AND TRIBAL GOVERNMENT, UNIVERSITIES, AND BUSINESS-FOR AND NOT-FOR-PROFIT ANNUAL DISCRETIONARY GRANTS/COOPERATIVE AGREEMENTS—Continued

A.12–1—REPORTING BURDEN FOR PRE-AWARD ESTIMATES OF BURDEN HOURS

Type of applicant	Total estimated number of respondents (responses)	Frequency of response per respondent	Total estimated annual responses	Estimated time (hours) to complete each application	Estimated burden hours
Universities	10	1	10	80	800
SUB-TOTAL NON-PROFIT ORGANIZATIONS	510	N/A	510	N/A	40,800
Produce Groups	50	1	50	80	4,000
SUB-TOTAL BUSINESS OR OTHER FOR–PROFIT	50	N/A	50	N/A	4,000
SUB-TOTAL	1,505		1,505		120,400

A.12–1A REPORTING BURDEN FOR POST-AWARD ESTIMATES OF BURDEN HOURS

Action	Number of respondents	Number of annual response	Total annual response	Hours per response	Total annual burden
Quarterly Progress and Financial Reports	212	4	848	2.25	1,908.00
Annual Final Report	212	1	212	2.25	477.00
SUB-TOTAL STATE, LOCAL & TRIBAL GOVERNEMENTS	212	N/A	1,060	N/A	2,385.00
Quarterly Progress and Financial Reports	78	4	312	2.25	702.00
Annual Final Report	78	1	78	2.25	175.50
SUB-TOTAL NON-PROFIT ORGANIZATIONS	78	N/A	390	N/A	877.50
Quarterly Progress and Financial Reports	6	4	24	2.25	54.00
Annual Final Report	6	1	6	2.25	13.50
SUB-TOTAL BUSINESS OR OTHER FOR-PROFIT	6	N/A	30	N/A	67.50
Recordkeeper Responses	N/A	N/A	296	N/A	N/A
Post-Award Total Reporting Annualized Burden Estimates	296	N/A	1,776	N/A	3,330.00

A.12–1B—RECORDKEEPING BURDEN FOR POST-AWARD ESTIMATES OF BURDEN HOURS

Action	Number of respondents	Number of annual response	Total annual response	Hours per response	Total annual burden
Quarterly Progress and Financial Reports	212	4	848	.1169	99.13
Annual/Final Report	212	1	212	.1169	24.78
SUB-TOTAL STATE, LOCAL & TRIBAL GOVERNEMENTS	212	N/A	1,060	N/A	123.91
Quarterly Progress and Financial Reports	78	4	312	.1169	36.47
Annual/Final Report	78	1	78	.1169	9.12
SUB-TOTAL NON-PROFIT ORGANIZATIONS	78	N/A	390	N/A	45.59
Quarterly Progress and Financial Reports	6	4	24	.1169	2.80
Annual/Final Report	6	1	6	.1169	.70
SUB-TOTAL BUSINESS OR OTHER FOR-PROFIT	6	N/A	30	N/A	3.50
Post-Award Total Annualized Recordkeeping Burden Estimates	296	N/A	1,480	N/A	173.00

Dated: July 20, 2012.

Robin D. Bailey Jr.,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 2012–18323 Filed 7–26–12; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–815 and A–580–816]

Corrosion-Resistant Carbon Steel Flat Products From Germany and the Republic of Korea: Preliminary Results of Full Sunset Reviews

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

SUMMARY: On January 3, 2012, the Department of Commerce (''the Department'') initiated the third sunset reviews of the antidumping duty (''AD'') orders on certain corrosion-resistant carbon steel flat products (''CORE'') from Germany and the Republic of Korea (''Korea'') pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). On April 20, 2012, the Department revised its original adequacy determination and determined to conduct full sunset reviews of the AD orders on CORE from Germany and Korea as provided for in section 751(c)(5)(A) of the Act and in 19 CFR 351.218(e)(2), and extended the deadlines for the preliminary and final results.[1] As a result of its analysis, the Department preliminarily finds that revocation of these AD orders would be likely to lead to continuation or recurrence of dumping at the margins indicated in the ''Preliminary Results of Review'' section of this notice.

DATES: *Effective Date:* July 27, 2012.

FOR FURTHER INFORMATION CONTACT: Dennis McClure or James Terpstra AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–5973 or (202) 482–3965, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 3, 2012, the Department initiated the third sunset review of the AD orders on CORE from Germany and Korea pursuant to section 751(c) of the Act.[2] The Department received notices of intent to participate from the following domestic interested parties: United States Steel Corporation (''U.S. Steel''); ArcelorMittal USA LLC (''AMUSA''); and Nucor Corporation (''Nucor''), within the deadline specified in 19 CFR 351.218(d)(1)(i). The domestic interested parties claimed interested party status under section 771(9)(C) of the Act as U.S. producers of the subject merchandise. The Department received complete substantive responses from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).

The Department did not receive a substantive response from any respondent in either of the sunset reviews of the AD orders on CORE from Germany and Korea. As a result, pursuant to 19 CFR 351.218(e)(1)(ii)(C)(2), the Department determined to conduct expedited reviews of these orders. However, on April 20, 2012, the Department revised its original adequacy determination and determined to conduct full sunset reviews.[3] The conversion to full sunset reviews and extension of the deadlines for the preliminary results were done to provide interested parties with an opportunity to comment concerning the implementation of the *Final Modification for Reviews*.[4]

The Department provided interested parties with an opportunity to comment on how the implementation of the *Final Modification for Reviews* applies to the sunset reviews of the AD orders on CORE from Germany and Korea. U.S. Steel, Nucor, and AMUSA submitted comments on June 8, 2012. ThyssenKrupp Steel Europe AG, a German producer and exporter, submitted comments on June 8, 2012. U.S. Steel, Nucor, and AMUSA submitted rebuttal comments on June 15, 2012.

Scope of the Orders

The products subject to the orders include flat-rolled carbon steel products, of rectangular shape, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 mm, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness, or if of a thickness of 4.75 mm or more, are of a width which exceeds 150 mm and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedule of the United States (''HTSUS'') under item numbers: 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0090, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.1000, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7212.60.0000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, and 7217.90.5090.

Included in the orders are flat-rolled products of nonrectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.,* products which have been ''worked after rolling'')—for example, products which have been beveled or rounded at the edges.

Excluded from the scope of the orders are flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead (''terne plate''), or both chromium and chromium oxides (''tin-free steel''), whether or not painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating. Also excluded from the scope of the orders are clad products in straight lengths of 0.1875 inch or more in composite thickness and of a width which exceeds 150 mm and measures at least twice the thickness. Also excluded from the scope of the orders are certain clad stainless flat-rolled products, which are three-

[1] *See* Memorandum to Barbara E. Tillman, Acting Deputy Assistant Secretary for Antidumping Duty and Countervailing Duty Operations, from Melissa G. Skinner, Director, Office 3, on ''Sunset Reviews of the Antidumping Duty Orders on Corrosion-Resistant Carbon Steel Flat Products from Germany and South Korea: Adequacy Redetermination Memorandum'' and *Corrosion-Resistant Carbon Steel Flat Products From Germany and South Korea: Extension of Time Limits for Preliminary and Final Results of Third Antidumping Duty Sunset Reviews,* 77 FR 25141 (April 27, 2012) (''*CORE Extension Notice*'').

[2] *See Initiation of Five-year (''Sunset'') Reviews,* 77 FR 85 (January 3, 2012).

[3] *See* Memorandum to Barbara E. Tillman, Acting Deputy Assistant Secretary for Antidumping Duty and Countervailing Duty Operations, from Melissa G. Skinner, Director, Office 3, on ''Sunset Reviews of the Antidumping Duty Orders on Corrosion-Resistant Carbon Steel Flat Products from Germany and South Korea: Adequacy Redetermination Memorandum'' and *CORE Extension Notice.*

[4] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification for Reviews,* 77 FR 8101 (February 14, 2012) (''*Final Modification for Reviews*'').

layered corrosion-resistant carbon steel flat-rolled products less than 4.75 mm in composite thickness that consist of a carbon steel flat-rolled product clad on both sides with stainless steel in a 20%–60%–20% ratio.

Further, the Department made three changed circumstances determination with respect to the order on Germany. The Department partially revoked the order with respect to deep-drawing carbon steel strip, roll-clad on both sides with aluminum (AlSi) foils in accordance with St3 LG as to EN 10139/10140.[5] The Department also partially revoked the order with respect to certain wear plate products.[6] In addition, the Department partially revoked the order with respect to the following products: Certain corrosion-resistant carbon steel from Germany, meeting the following description: electrolytically zinc coated flat steel products, with a coating mass between 35 and 72 grams per meter squared on each side; with a thickness range of 0.67 mm or more but not more than 2.95 mm and width 817 mm or more but not over 1830 mm; having the following chemical composition (percent by weight): carbon not over 0.08, silicon not over 0.25, manganese not over 0.9, phosphorous not over 0.025, sulfur not over 0.012, chromium not over 0.1, titanium not over 0.005 and niobium not over 0.05; with a minimum yield strength of 310 Mpa and a minimum tensile strength of 390 Mpa; additionally coated on one or both sides with an organic coating containing not less than 30 percent and not more than 60 percent zinc and free of hexavalent chrome.[7]

Analysis of Comments Received

All issues raised in these reviews are addressed in the Issues and Decision Memorandum (''Decision Memorandum'') from Susan Kuhbach, Director, Antidumping and Countervailing Duty Operations Office 1, to Paul Piquado, Assistant Secretary for Import Administration, dated concurrent with this notice of preliminary results, which is hereby adopted by this notice. The issues discussed in the Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the margin likely to prevail if the orders were revoked. In our analysis, the Department addresses the concerns raised by interested parties with regard to the *Final Modification for Reviews.* Parties can find a complete discussion of all issues raised in these sunset reviews and the corresponding recommendations in this public memorandum, which is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS''). Access to IA ACCESS is available in the Central Records Unit (''CRU''), Room 7046 of the main Department of Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at *http://ia.ita.doc.gov/frn,* under the heading ''July 2012.'' The signed version and the electronic versions are identical in content.

Preliminary Results of Review

The Department preliminarily determines that the magnitude of the margin likely to prevail were the antidumping duty orders on CORE from Germany and Korea to be revoked is at least 9.35 percent for Thyssen Stahl AG and all other German producers and exporters of CORE and at least 12.85 percent for all Korean producers and exporters of CORE, other than POSCO.[8]

Interested parties may submit case briefs no later than 50 days after the date of publication of the preliminary results of these full sunset reviews, in accordance with 19 CFR 351.309(c)(1)(i). Any interested party may request a hearing within 30 days of publication of this notice in accordance with 19 CFR 351.310(c). Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than the five days after the time limit for filing case briefs in accordance with 19 CFR 351.309(d).

A hearing, if requested, will be held two days after the date the rebuttal briefs are due. The Department will issue a notice of final results of these full sunset reviews, which will include the results of its analysis of issues raised in any such comments, no later than November 28, 2012.[9]

The Department is issuing and publishing the results and notice in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: July 23, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2012–18423 Filed 7–26–12; 8:45 am]

BILLING CODE 3510–DS–P

[5] *See Notice of Final Results of Changed Circumstances Antidumping Duty and Countervailing Duty Reviews and Revocation of Orders in Part: Certain Corrosion-Resistant Carbon Steel Flat Products From Germany,* 64 FR 51292 (September 22, 1999).

[6] *See Notice of Final Results of Antidumping Duty Changed Circumstances Reviews and Revocation of Orders In Part: Certain Corrosion-Resistant Carbon Steel Flat Products From Canada and Germany,* 71 FR 14498 (March 22, 2006).

[7] *See Notice of Final Results of Antidumping Duty Changed Circumstances Review and Revocation of Order In Part: Certain Corrosion-Resistant Carbon Steel Flat Products from Germany,* 71 FR 66163 (November 13, 2006).

[8] The order was revoked with respect to Pohang Iron & Steel Co., Ltd. and Pohang Coated Steel Co., Ltd. (collectively, ''POSCO''), who was the only respondent examined in the original antidumping investigation. *See Certain Corrosion-Resistant Carbon Steel Flat Products From the Republic of Korea: Notice of Final Results of the 2009–2010 Administrative Review and Revocation, in Part,* 77 FR 14501 (March 12, 2012).

[9] *See CORE Extension Notice.*

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XR75

Essential Fish Habitat Components of Fishery Management Plans; 5-Year Review

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

ACTION: Supplemental notice of intent (NOI) to prepare an environmental impact statement (EIS).

SUMMARY: The New England Fishery Management Council is in the process of preparing an Essential Fish Habitat Omnibus Amendment to the fishery management plans for Northeast multispecies, Atlantic sea scallop, monkfish, Atlantic herring, skates, Atlantic salmon, and Atlantic deep-sea red crab. The Council is seeking comments about removing the range of alternatives pertaining to deep-sea corals from this action and developing them as a separate omnibus amendment.

DATES: Written comments must be received on or before 5 p.m. e.s.t., August 27, 2012.

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

- *Email: CoralNOI@noaa.gov.*
- *Mail:* Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950.
- *Fax:* (978) 465–3116.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (978) 465–0492.

SUPPLEMENTARY INFORMATION: The New England Fishery Management Council's (Council) Essential Fish Habitat (EFH) Omnibus Amendment 2 (OA2) currently includes: (1) Review and update of EFH designations, (2) review and update of

Habitat Area of Particular Concern (HAPC) designations, (3) other EFH requirements of fishery management plans including prey species information and non-fishing impacts, (4) alternatives to minimize, to the extent practicable, the adverse effects of Council-managed fisheries on EFH, and (5) alternatives to minimize fishing effects on deep-sea corals developed under the authority granted in the fishery management plan (FMP) discretionary provisions (section 303(b)) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Alternatives developed under item 4 will include options related to the groundfish closed areas as well as options to designate spatially-overlapping dedicated habitat research areas. The Council added review of the groundfish closed areas to OA2 in April 2011 (76 FR 35408). Approval of a range of adverse effects minimization, groundfish area, and research area alternatives (item 3) has not yet occurred.

The purpose of this notification is to alert and seek comment from the public about Council's consideration of splitting the deep-sea coral discretionary provision alternatives from OA2, and including them in a separate omnibus amendment.

The Magnuson-Stevens Act section 303(b) discretionary authority gives Councils broad latitude to develop measures to minimize the impacts of fishing on deep-sea corals. Because most of the deep-sea corals occur beyond the limits of EFH, the Council is considering conservation measures under these discretionary provisions of the Magnuson-Stevens Act. This authority was added when the Magnuson-Stevens Act was reauthorized in 2007. The Council first directed its Habitat Plan Development Team to evaluate information related to deep-sea corals and develop alternatives for their protection in February 2008. The coral alternatives were folded into OA2 as a matter of convenience, because it was an ongoing habitat-related action. A range of coral alternatives were approved by the Council for further development and analysis in April 2012.

The following considerations were discussed by the Council and its Habitat Committee during recent meetings, and may be helpful to members of the public who wish to submit comments.

The range of coral alternatives developed by NEFMC includes broad zones beginning at 300, 400, or 500 m on the continental slope and extending to the Exclusive Economic Zone boundary, and discrete zones encompassing submarine canyons on the continental slope off Georges Bank and Southern New England, four seamounts within the EEZ, and two locations in the Gulf of Maine. The range of possible management measures for these zones includes mobile bottom-tending gear restrictions or bottom-tending gear restrictions, with exceptions for deep-sea red crab traps, special access programs, and exploratory fishing programs. The Council anticipates allowing these management measures to be revised via framework action. More detailed information can be found on the Council's Habitat Web page (*http://www.nefmc.org/habitat/index.html*).

The fishing restriction alternatives as currently drafted are gear-based, not fishery or FMP based, and would apply to vessels operating in fisheries managed by both the New England and Mid-Atlantic Fishery Management Councils. The Mid-Atlantic Council initiated their own action related to deep-sea corals at their April 2012 meeting. Assuming the New England Council implements coral-related measures north of the inter-council boundary, and Mid-Atlantic Council does so south of the boundary, consistency in management approaches will be critically important, because fisheries managed by both Councils operate near or within coral habitats and are prosecuted both sides of the boundary line.

To facilitate inter-council coordination, the Councils are in the process of drafting a memorandum of understanding between the New England, Mid-Atlantic, and South Atlantic Councils. This document will identify areas of consensus and common strategy related to conservation of corals and mitigation of the negative impacts of fishery/coral interactions. At their June meeting, the New England Council reiterated that this is a priority issue for the short term. If additional development time is necessary to ensure that management actions related to deep sea corals are consistent throughout the region, these delays could impact completion of OA2 if the coral measures remain in the same action. Conversely, there have been delays associated with groundfish-related aspects of alternatives development for OA2 (item 3 above), and it might be possible to move the coral alternatives forward first if those delays continue. Overall, placing the two sets of actions on separate tracks could allow increased flexibility as the Council re-evaluates its priorities over time.

Separate actions for corals and EFH could be clearer and easier to understand than a single combined action, since each one would be focused towards a narrower set of goals and objectives. However, there would be overlaps in terms of some of the content of the two separate amendments, especially background information for the slope and seamount areas (at a minimum, the EFH action will designate EFH along the slope and on the seamounts, so these areas will need to be discussed in that amendment even if the coral alternatives are removed). If the actions are being developed and implemented in parallel, which seems most likely, it might be difficult to incorporate this material by reference.

Also, there is a linkage between the coral discretionary provision alternatives and the other alternatives in the EFH amendment because portions of the submarine canyons and seamounts harboring deep-sea corals and other associated ecosystem components were recommended as HAPCs during Phase 1 of OA2 development (June 2007). Because HAPCs are a subset of designated EFH, HAPC designations would remain as part of the EFH Omnibus Amendment, and would not be split off into a separate coral omnibus amendment, even though some of the HAPCs were developed with corals in mind. Each of the HAPC alternatives (and EFH alternatives) developed during Phase 1 are pending implementation and subject to change until final action is taken by the Council on Omnibus EFH Amendment 2. Thus, there remains an opportunity to rectify any inconsistencies between the coral zones developed under the discretionary authority and the HAPCs developed under the EFH authority, bearing in mind that objectives for the two sets of areas may be different. A comparison of the two sets of areas will be undertaken whether they are developed via one action or two separate actions.

It is possible that some of the impacts analyses of both the coral and adverse effects/groundfish would be streamlined if coral alternatives and adverse effects/groundfish alternatives continue to be developed in a single amendment, because restrictions in one area could increase fishing activity in other areas. However, as there are few spatial overlaps between the coral zone alternatives and the adverse effects minimization areas as currently drafted, and different fisheries are associated with both sets of areas, this may not be a major issue. This could be a more important consideration for the two coral areas proposed in the Gulf of Maine near Mt Desert Rock and in western Jordan Basin. With this possible exception, splitting could simplify the

analysis required because the combined effect of the two sets of alternatives would be limited to the cumulative effects analyses in each of the amendment documents.

The Council is requesting comments on: splitting the deep-sea coral discretionary provision alternatives out of the EFH action and into a separate amendment, the range of deep-sea coral alternatives themselves, and coordination and consultation with the other Atlantic coast Councils, particularly the Mid-Atlantic Council.

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

Dated: July 24, 2012.

James P. Burgess,

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

[FR Doc. 2012–18400 Filed 7–26–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC118

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands Crab Rationalization Cost Recovery Program

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

ACTION: Notification of fee percentage.

SUMMARY: NMFS publishes a notification of a zero (0) percent fee for cost recovery under the Bering Sea and Aleutian Islands Crab Rationalization Program. This action is intended to provide holders of crab allocations with the fee percentage for the 2012/2013 crab fishing year.

DATES: Fee liability payments made by the Crab Rationalization Program Registered Crab Receiver permit holders, if necessary, are due to NMFS on or before July 31, 2013.

FOR FURTHER INFORMATION CONTACT: Karen Palmigiano, 907–586–7240.

SUPPLEMENTARY INFORMATION:

Background

NMFS Alaska Region administers the Bering Sea and Aleutian Islands Crab Rationalization Program (Program) in the North Pacific. Fishing under the Program began on August 15, 2005. Regulations implementing the Program are set forth at 50 CFR part 680.

The Program is a limited access system authorized by section 313(j) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Program includes a cost recovery provision to collect fees to recover the actual costs directly related to the management, data collection, and enforcement of the Program. NMFS developed the cost recovery provision to conform to statutory requirements and to partially reimburse the agency for the unique added costs of management, data collection, and enforcement of the Program. Section 313(j) of the Magnuson-Stevens Act provided supplementary authority to section 304(d)(2)(A) and additional detail for cost recovery provisions specific to the Program. The cost recovery provision allows collection of 133 percent of the actual management, data collection, and enforcement costs up to 3 percent of the ex-vessel value of crab harvested under the Program. Additionally, section 313(j) requires the harvesting and processing sectors to each pay half the cost recovery fees. Catcher/processor quota share holders are required to pay the full fee percentage for crab processed at sea.

A crab allocation holder generally incurs a cost recovery fee liability for every pound of crab landed. The crab allocations include Individual Fishing Quota, Crew Individual Fishing Quota, Individual Processing Quota, Community Development Quota, and the Adak community allocation. The Registered Crab Receiver (RCR) permit holder must collect the fee liability from the crab allocation holder who is landing crab. Additionally, the RCR permit holder must collect his or her own fee liability for all crab delivered to the RCR. The RCR permit holder is responsible for submitting this payment to NMFS on or before the due date of July 31, in the year following the crab fishing year in which landings of crab were made.

The dollar amount of the fee due is determined by multiplying the fee percentage (not to exceed 3 percent) by the ex-vessel value of crab debited from the allocation. Specific details on the Program's cost recovery provision may be found in the implementing regulations set forth at § 680.44.

Fee Percentage

Each year, NMFS calculates and publishes in the **Federal Register** the fee percentage according to the factors and methodology described in Federal regulations at § 680.44(c)(2). The formula for determining the fee percentage is the ''direct program costs'' divided by ''value of the fishery,'' where ''direct program costs'' are the direct program costs for the Program for the previous fiscal year, and ''value of the fishery'' is the ex-vessel value of the catch subject to the crab cost recovery fee liability for the current year. Fee collections for any given year may be less than, or greater than, the actual costs and fishery value for that year, because, by regulation, the fee percentage is established in the first quarter of a crab fishery year based on the fishery value and the costs of the prior year.

The fee percentage has declined over time because of a variety of factors, including the increasing value of the fishery due to increased total allowable catch limits for various crab species such as Bristol Bay red king crab (*Paralithodes camtshaticus*) and Bering Sea snow crab (*Chionoecetes opilio*), increased ex-vessel price per pound of crab relative to previous years, and decreased management costs relative to previous years primarily due to decreased staff and contract costs.

Using the fee percentage formula described above, the estimated percentage of costs to value for the 2010/2011 and 2011/2012 crab fishing years was 2.67 percent and 1.23 percent, respectively. These fee levels have resulted in a fee collection greater than the actual management, data collection, and enforcement costs for the 2010/2011 and 2011/2012 crab fishing years. Therefore, fee revenues remain to cover projected actual costs for 2012/2013. As a result, NMFS has determined that the fee percentage will be zero (0) percent for the 2012/2013 fishing year.

Authority: 16 U.S.C. 1862; Pub. L. 109–241; Pub. L. 109–479.

Dated: July 24, 2012.

James P. Burgess,

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

[FR Doc. 2012–18403 Filed 7–26–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC130

Mid-Atlantic Fishery Management Council (MAFMC); Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) and its Strategic Planning Working Group, its

Ecosystem and Ocean Planning Committee, and its Executive Committee will hold public meetings.

DATES: The meetings will be held Monday, August 13, 2012 through Thursday, August 16, 2012. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be held at the Courtyard Philadelphia Downtown, 21 N. Juniper Street, Philadelphia, PA; telephone: (215) 496–3200.

Council address: Mid-Atlantic Fishery Management Council, 800 N. State St., Suite 201, Dover, DE 19901; telephone: (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council; telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION:

Monday, August 13, 2012

9 a.m. until 5 p.m.—The Visioning and Strategic Planning Working Group will meet.

Tuesday, August 14, 2012

9 a.m. until 11 a.m.—The Ecosystem and Ocean Planning Committee will meet.

11 a.m. until noon—The Executive Committee will meet.

1 p.m.—The Council will convene.

1 p.m. until 1:15 p.m.—Swearing in of new and reappointed Council members and the election of Council officers will be held.

1:15 p.m. until 3 p.m.—Special Management Zone (SMZ) consideration for Delaware reefs will be held.

3 p.m. until 5 p.m.—A Scup Allocation Report will be held.

5 p.m. until 6 p.m.—There will be a Public Listening Session.

Wednesday, August 15, 2012

9 a.m. until 3 p.m.—The Council will finalize Summer Flounder, Scup, and Black Sea Bass.

3 p.m. until 4 p.m.—The Council will discuss Amendment 17 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP).

4 p.m. until 5 p.m.—The Council will finalize bluefish management measures for 2013 in conjunction with the Atlantic States Marine Fisheries Board.

Thursday, August 16, 2012

8 a.m. until 9:30 a.m.—Research Set-Aside (RSA) proposals and 2013 priorities will be discussed.

9:30 a.m. until 10 a.m.—National Standard 1 guidelines will be discussed.

10 a.m. until 10:30 a.m.—Amendment 3 to Spiny Dogfish will be discussed.

10:30 a.m. until 11 a.m.—There will be a NEFSC Strategic planning Presentation by Dr. Russell Brown.

11 a.m. until 1 p.m.—The Council will hold its regular Business Session to approve the April and June 2012 minutes, the New England and South Atlantic Council reports, receive Organizational Reports, Executive Director's Report, Science Report, Committee Reports, and conduct any continuing and/or new business.

Agenda items by day for the Council's Committees and the Council itself are:

On Monday, August 13, 2012—The Visioning and Strategic Planning Working Group (facilitated by Adam R. Saslow, Senior Facilitator at RESOLVE) will discuss the desired outcomes and timelines from the Strategic Planning Working Group, review themes and recommendations from stakeholder input (''Visioning'') report, identify core values and develop a draft Vision Statement, discuss alignment of the Council's core values and Vision with the requirements of the Magnuson-Stevens Act (MSA), and analyze and document internal strengths and weaknesses as well as external opportunities and obstacles to the Council's efforts.

On Tuesday, August 14—The Ecosystem and Ocean Planning Committee will discuss initiation of a Deep Sea Corals Amendment and a Memorandum of Understanding with the New England and South Atlantic Councils. The Executive Committee will provide a status update on Ecosystem-Based Fishery Management (EBFM). The Council will swear in new and reappointed Council members and elect Council Officers. The Council will review a report of the SMZ Monitoring Team and develop recommendations. There will be a presentation on the project to evaluate scup allocation. During the Public Listening Session there will be a presentation on the MAFMC Strategic Planning—Objective, Process, and Possible Outcomes and an introduction to the new Regional Administrator, John Bullard, of the Northeast Regional Office of NMFS.

On Wednesday, August 15—The Council in conjunction with the ASMFC's Summer Flounder, Scup, and Black Sea Bass Board will review the Scientific and Statistical Committee (SSC) and the associated Monitoring Committee's specification recommendations for 2013–15 and adopt 2013–15 commercial and recreational harvest levels and commercial management measures for summer flounder, scup, and black sea bass. The Council will review and approve Amendment 17 Public Hearing Document to the Summer Flounder, Scup, and Black Sea Bass FMP. The Council in conjunction with the ASMFC's Bluefish Board will review the SSC and the Bluefish Monitoring Committees' specification recommendations regarding the 2013–15 harvest levels and associated management measures and adopt recommendations for harvest levels and associated management measures for 2013–15.

On Thursday, August 16—The Council will review and adopt proposed changes to the RSA Program and finalize the RSA and Information Research and Information Priorities List for 2013 request for proposals. The Council will review/revise the NMFS proposal regarding National Standard 1 Guidelines. The Council will review and approve the public hearing document of Amendment 3 to Spiny Dogfish. The Council will receive a NEFSC Strategic Planning presentation by Dr. Russell Brown. The Council will hold its regular Business Session to approve the April and June 2012 minutes, receive Liaison Reports, receive Organizational Reports to include discussion regarding the development of sub-Annual Catch Limits (ACL) for windowpane flounder, the Executive Director's Report, the Science Report, Committee Reports, and conduct any continuing and/or new business.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders (302) 526–5251 at least 5 days prior to the meeting date.

Dated: July 24, 2012.

Tracey L. Thompson,

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

[FR Doc. 2012–18341 Filed 7–26–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA626

Marine Mammals; File No. 16111

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

ACTION: Notice; issuance of permit.

SUMMARY: Notice is hereby given that a permit has been issued to John Calambokidis, Cascadia Research Collective, Waterstreet Building, 218½ West Fourth Avenue, Olympia, WA 89501 to conduct research on marine mammals.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following offices: See **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Carrie Hubard or Laura Morse, (301)427–8401.

SUPPLEMENTARY INFORMATION: On April 2, 2012, notice was published in the **Federal Register** (77 FR 19645) that a request for a permit to conduct research on cetaceans and pinnipeds had been submitted by the above-named applicant. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

Permit No. 16111 authorizes Mr. Calambokidis to study cetaceans and pinnipeds in the eastern North Pacific, from Central America to Alaska. The research is a continuation of long-term studies designed to examine marine mammal abundance, distribution, population structure, habitat use, social structure, movement patterns, diving behavior, and diet. Focal species are blue (*Balaenoptera musculus*), fin (*B. physalus*), humpback (*Megaptera novaeangliae*), eastern gray (*Eschrichtius robustus*), sperm (*Physeter macrocephalus*), and beaked (*Mesoplodon* spp.) whales. An additional 15 cetacean species and five pinniped species may be studied, including the endangered sei whale (*B. borealis*), endangered Southern Resident stock of killer whales (*Orcinus orca*), and the threatened eastern stock of Steller sea lions (*Eumetopias jubatus*). Vessel research includes photo-identification, behavioral focal follows, underwater observations and filming, hydroacoustic prey determination, passive acoustic recording, breath sampling, biopsy sampling, collection of sloughed skin, and attachment of suction cup and dart tags. Aerial surveys may be conducted to study abundance and distribution, and to track tagged animals. Ground surveys may be conducted for population counts and scat collection to study harbor seals (*Phoca vitulina*) and other pinnipeds at haul-out areas in Puget Sound and throughout Washington. Permit No. 16111 expires on July 15, 2017.

An environmental assessment (EA) was prepared analyzing the effects of the permitted activities on the human environment in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Based on the analyses in the EA, NMFS determined that issuance of the permit would not significantly impact the quality of the human environment and that preparation of an environmental impact statement was not required. That determination is documented in a Finding of No Significant Impact, signed on July 12, 2012.

As required by the ESA, issuance of this permit was based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of such endangered species; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Documents may be reviewed in the following locations:

Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376;

Northwest Region, NMFS, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115–0700; phone (206) 526–6150; fax (206) 526–6426;

Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668; phone (907) 586–7221; fax (907) 586–7249; and

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562) 980–4001; fax (562) 980–4018.

Dated: July 23, 2012.

P. Michael Payne,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2012–18397 Filed 7–26–12; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds products 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:* 8/27/2012.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov*.

SUPPLEMENTARY INFORMATION:

Additions

On 5/11/2012 (77 FR 27737–27738) and 6/1/2012 (77 FR 32591–32592), 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 the 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

Tools, Digging, Fiberglass Handle

NSN: 5120–00–NIB–0014—Shovel, Round Point, Closed Back, Industrial Grade, 48″ Fiberglass Handle, Cushioned Grip
NSN: 5120–00–NIB–0015—Shovel, Round Point, Open Back, Industrial Grade, 48″ Fiberglass Handle, Cushioned Grip
NSN: 5120–00–NIB–0016—Shovel, Round Point, Open Back, Industrial Grade, 29″ Fiberglass Handle, D-grip
NSN: 5120–00–NIB–0017—Shovel, Square Point, Open Back, Industrial Grade, 48″ Fiberglass Handle, Cushioned Grip
NSN: 5120–00–NIB–0018—Shovel, Square Point, Open Back, Industrial Grade, 29″ Fiberglass Handle, D-grip
NSN: 5120–00–NIB–0019—Shovel, General Purpose, Steel Scoop, Industrial Grade, 48″ Fiberglass Handle, Cushioned Grip
NSN: 5120–00–NIB–0020—Shovel, General Purpose, Steel Scoop, Industrial Grade, 29″ Fiberglass Handle, D-grip
NSN: 5120–00–NIB–0021—Shovel, Grain, Aluminum Scoop, Industrial Grade, 51″ Fiberglass Handle, Cushioned Grip
NSN: 5120–00–NIB–0022—Shovel, Grain, Aluminum Scoop, Industrial grade, 29″ Fiberglass Handle, D-grip
NSN: 5120–00–NIB–0023—Shovel, Grain, ABS Scoop, Industrial Grade, 51″ Fiberglass Handle, Cushioned Grip
NSN: 5120–00–NIB–0024—Shovel, Grain, ABS Scoop, Industrial Grade, 29″ Fiberglass Handle, D–Grip
NSN: 5120–00–NIB–0025—Shovel, Snow, ABS Scoop, Industrial Grade, 40″ Fiberglass Handle, D-grip
NSN: 5120–00–NIB–0026—Shovel, Snow Pusher, ABS Scoop, Industrial Grade, 40″ Fiberglass Handle, D-grip
NSN: 3750–00–NIB–0004—Rake, Bow, Leaf, ABS Head, Industrial Grade, 51″ Fiberglass Handle, Cushioned-Grip
NSN: 3750–00–NIB–0005—Rake, Bow, Leaf, Steel Head, Industrial Grade, 57″ Fiberglass Handle, Cushioned-Grip
NSN: 3750–00–NIB–0006—Rake, Flat, Leaf, Steel Head, Industrial Grade, 62″ Fiberglass Handle, Cushioned-Grip
NSN: 3750–00–NIB–0007—Hoe, Mortar, Steel Head, Industrial Grade, 62″ Fiberglass Handle, Cushioned-Grip
NSN: 3750–00–NIB–0008—Hoe, Garden, Steel Head, Industrial Grade, 57″ Fiberglass Handle, Cushioned-Grip
NSN: 5110–00–NIB–0036—Scraper, Ice/Floor, Steel Head, Industrial Grade, 49″ Fiberglass Handle, Cushioned-Grip
NSN: 3895–00–NIB–0001—Tamper, Cast Iron Head, Industrial Grade, 42″ Fiberglass Handle, Cushioned-Grip
NSN: 3895–00–NIB–0002—Asphalt Lute, Aluminum Head, Industrial Grade, 67″ Fiberglass Handle, Cushion-Grip
NPA: Keystone Vocational Services, Inc., Sharon, PA
Contracting Activity: General Services Administration, Kansas City, MO
Coverage: B–List for the Broad Government Requirement as aggregated by the General Services Administration.

Padlock Sets, Solid Case

NSN: 5340–01–588–1819—1.5″ Wide Brass, Keyed Differently, w/Chain, EA
NSN: 5340–01–588–1010—1.75″ Wide Steel, Keyed Differently, w/Chain, EA
NSN: 5340–01–588–1036—1.75″ Wide Steel, Keyed Differently, No Chain, EA
NSN: 5340–01–588–1676—1.5″ Wide Brass, 3 Keys, Keyed Alike, w/Chain, 5/SE
Coverage: A–List for the Total Government Requirement as aggregated by the Defense Logistics Agency Troop Support.
NSN: 5340–00–NIB–0123—1.75″ Wide Steel, Keyed Differently, w/Chain, 6/SE
NSN: 5340–01–588–1863—1.5″ Wide Brass, Keyed Differently, 3″ Extra Long Shackle, w/Chain, EA
NSN: 5340–01–588–1709—1.5″ Wide Brass, Keyed Differently, 3″ Extra Long Shackle, No Chain, EA
NSN: 5340–01–588–1916—1.75″ Wide Steel, Keyed Differently, 3″ Extra Long Shackle, w/Chain, EA
NSN: 5340–01–588–1924—1.75″ Wide Brass, Keyed Differently, w/Chain, EA
NSN: 5340–01–588–1891—1.5″ Wide Brass, Keyed Alike, w/Chain, 5/SE
NSN: 5340–01–588–1911—1.5″ Wide Brass, Keyed Alike, 3″ X–Long Shackle, w/Chain, 5/SE
NSN: 5340–01–588–1846—1.5″ Wide Brass, Keyed Alike, w/Chain, 6/SE
NSN: 5340–01–588–1827—1.5″ Wide Brass, Keyed Alike, w/Chain, 10/SE
NSN: 5340–01–588–1831—1.5″ Wide Brass, Keyed Alike, w/Chain, 20/SE
NSN: 5340–01–588–1895—1.5″ Wide Brass, Keyed Alike, w/Chain, 25/SE
NSN: 5340–01–588–1838—1.5″ Wide Brass, Keyed Alike, w/Chain, 30/SE
NSN: 5340–01–588–1841—1.5″ Wide Brass, Keyed Alike, w/Chain, 100/SE
NSN: 5340–01–588–1905—1.75″ Wide Steel, Keyed Alike, 3″ Extra Long Shackle, w/Chain, EA
NSN: 5340–01–588–1954—1.75″ Wide Steel, Keyed Alike, w/Chain, 6/SE
NSN: 5340–01–588–1928—1.75″ Wide Steel, Keyed Alike, w/Chain, 10/SE
NSN: 5340–01–588–1960—1.75″ Wide Steel, Keyed Alike, w/Chain, 24/SE
NSN: 5340–01–588–1567—1.5″ Wide Brass, Master Keyed, w/Chain, 5/SE
NSN: 5340–01–588–1582—1.5″ Wide Brass, Master Keyed, w/Chain, 10/SE
NSN: 5340–01–588–1091—1.5″ Wide Brass, Master Keyed, w/Chain, 20/SE
NSN: 5340–01–588–1563—1.5″ Wide Brass, Master Keyed, w/Chain, 30/SE
NSN: 5340–01–588–1044—1.75″ Wide Brass, Master Keyed, w/Chain, 40/SE
NSN: 5340–01–588–1063—1.5″ Wide Brass, Master Keyed, w/Chain, 50/SE
NSN: 5340–01–588–1031—1.5″ Wide Brass, Master Keyed, w/Chain, 100/SE
NSN: 5340–01–588–1592—1.5″ Wide Brass, Grand Master Keyed, w/Chain, 13/SE, 5–5–3 Groupings
NSN: 5340–01–588–1596—1.5″ Wide Brass, Grand Master Keyed, w/Chain, 30/SE, 15–10–5 Groupings
NSN: 5340–01–588–1652—1.5″ Wide Brass, Grand Master Keyed, w/Chain, 30/SE, 15–5–10L Groupings
NSN: 5340–01–588–1657—1.5″ Wide Brass, Grand Master Keyed, w/Chain, 40/SE, 15–5–20L Groupings
NSN: 5340–01–588–1641—1.5″ Wide Brass, Grand Master Keyed, w/Chain, 50/SE, 20–20–10 Groupings
NSN: 5340–01–588–1646—1.75″ Wide Brass, Grand Master Keyed, w/Chain, 55/SE, 35–10–10L Groupings
NSN: 5340–01–588–1664—1.75″ Wide Brass, Grand Master Keyed, w/Chain, 80/SE, 45–15–20L Groupings
NSN: 5340–01–588–1687—1.75″ Brass, Grand Master Keyed, w/Chain, 80/SE, 30–30–20 Groupings
Coverage: B–List for the Broad Government Requirement as aggregated by the Defense Logistics Agency Troop Support.
NPA: L.C. Industries for the Blind, Inc., Durham, NC
Contracting Activity: Defense Logistics Agency Troop Support, Philadelphia, PA

Pencil Sharpener, Electric, Hands Free

NSN: 7520–01–241–4229
NPA: Blind Center of Nevada, Inc., Las Vegas, NV
Contracting Activity: General Services Administration, New York, NY
Coverage: A–List for the Total Government Requirement as aggregated by the General Services Administration.

Medical Kit Items

NSN: 6515–01–NIB–7233—Splint, 4.25″ x 36″, Universal
NSN: 6510–00–NIB–0300—Dressing, Chest Seal Wound, 6″ x 8″
NSN: 6510–00–NIB–3325—Bandage, Gauze, Impregnated, 3″ x 144″
NSN: 6510–00–NIB–8884—Adhesive Tape, Surgical, 3″ x 360″
NSN: 6515–01–NIB–7138—Scissors, Bandage
NSN: 6532–01–NIB–6932—Blanket, Survival, 107.25″ x 88.35″
NSN: 6515–01–NIB–1187—Nasal Trumpet
NSN: 6515–01–NIB–7226—Leash, Shears, Trauma
NSN: 6515–01–NIB–0635—Needle, Decompression Device
NSN: 6515–01–NIB–7976—Tourniquet, Non-pneumatic
NPA: Lighthouse Central Florida, Orlando, FL
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.

Tray, Mess, 5 Compartment, Tan, 12½'' x 8½''

NSN: 7350–01–411–5266

NPA: The Lighthouse for the Blind in New Orleans, Inc., New Orleans, LA

Contracting Activity: Defense Logistics Agency Troop Support, Philadelphia, PA

Coverage: C–List for an additional 30% of the requirement of the Department of Defense, bringing the requirement on the Procurement List to 100%, as aggregated by the Defense Logistics Agency Troop Support, Philadelphia, PA.

Services

Service Type/Location: Mess Attendant, Joint Expeditionary Base (JEB) Little Creek, Ft Story East Campus, Light House Cafe, Building 864, 864 Hospital Road, Virginia Beach, VA

NPA: Community Alternatives, Incorporated, Norfolk, VA

Contracting Activity: Dept of the Navy, NAVSUP FLT LOG CTR Norfolk, Norfolk, VA

Service Type/Location: Fleet & Facility Maintenance, National Nuclear Security Administration (NNSA), Office of Secure Transportation (OST), Agent Operations Eastern Command (AOEC), 9714 Flannigan Loop Road, Oak Ridge, TN

NPA: Skookum Educational Programs, Bremerton, WA

Contracting Activity: Department of Energy, National Nuclear Security Admn Business Svcs Division, Washington, DC

Service Type/Location: Record Processing Services, Army Medical Department, Patient Administrative Division, MEDCOM, Fort Sam Houston, TX

NPA: Goodwill Industries of San Antonio, San Antonio, TX

Contracting Activity: Dept of the ARMY, W40M USA MEDCOM HCAA, Fort Sam Houston, TX

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2012–18370 Filed 7–26–12; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Addition

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Addition to the Procurement List.

SUMMARY: The Committee is proposing to add a service to the Procurement List that will be provided by a nonprofit agency employing persons who are blind or have other severe disabilities.

DATES: *Comments Must be Received On or Before:* 8/27/2012.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia, 22202–3259.

For Further Information 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 action.

Addition

If the Committee approves the proposed addition, the entities of the Federal Government identified in this notice will be required to provide the service listed below from a nonprofit agency 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 organization that will provide the service to the Government.

2. If approved, the action will result in authorizing a small entity 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 U.S.C. 8501–8506) in connection with the service 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 service is proposed for addition to the Procurement List for production by the nonprofit agency listed:

Service

Service Type/Location: Custodial Service, Fort Leonard Wood Area and Resident Office, Fort Leonard Wood, MO

NPA: Challenge Unlimited, Inc., Alton, IL

Contracting Activity: Dept of the Army, W071 Endist Kansas City, Kansas City, MO

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2012–18371 Filed 7–26–12; 8:45 am]

BILLING CODE 6353–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Information Collection; Submission for OMB Review, Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (CNCS) has submitted a modification to a currently approved public information collection request (ICR) entitled Senior Corps Grant Application for review and approval in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, (44 U.S.C. Chapter 35). Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Wanda Carney, at (202) 606–6934 or email to *wcarney@cns.gov*. Individuals who use a telecommunications device for the deaf (TTY–TDD) may call 1–800–833–3722 between 8 a.m. and 8 p.m. Eastern Time, Monday through Friday.

ADDRESSES: Comments may be submitted, identified by the title of the information collection activity, to the Office of Information and Regulatory Affairs, Attn: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service, by any of the following two methods within 30 days from the date of publication in the **Federal Register**:

(1) *By fax to:* (202) 395–6974, Attention: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service; and

(2) *Electronically by email to: smar@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information

technology, e.g., permitting electronic submissions of responses.

Comments

The 60-day Notice soliciting comments was published on March 20, 2012 on page 16213. No public comments were received.

Description: CNCS is seeking approval of the Senior Corps Grant Application, as revised. The Grant Application is used by RSVP, Foster Grandparent and Senior Companion Program grantees, and for potential applicants. The Senior Corps Grant Application is currently approved through June 30, 2014.

Type of Review: Revision of a currently approved collection.

Agency: Corporation for National and Community Service.

Title: Senior Corps Grant Application.

OMB Number: 3045–0035.

Agency Number: None.

Affected Public: Current and potential grantees of the RSVP, Foster Grandparent, and Senior Companion programs.

Total Respondents: 1,518.

Frequency: Annual.

Average Time per Response: 5 hours.

Estimated Total Burden Hours: 7,590.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Dated: July 20, 2012.

Erwin J. Tan,

Director, Senior Corps.

[FR Doc. 2012–18347 Filed 7–26–12; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF DEFENSE

Department of the Army, U.S. Army Corps of Engineers

Notice of Availability of the Final Environmental Impact Statement for the Proposed Point Thomson Project, North Slope Borough, AK

AGENCY: Corps of Engineers, Department of the Army, Department of Defense.

ACTION: Notice of Availability—Final EIS.

SUMMARY: In accordance with the National Environmental Policy Act of 1969 (NEPA, 42 U.S.C. 4321 *et seq.*) and Council on Environmental Quality regulations (40 CFR parts 1500–1508) the Corps of Engineers, Alaska District, advises that the Final EIS for the Point Thomson Project, proposed by Exxon Mobil Corporation and PTE Pipeline, is now available for public review. The Final EIS evaluated reasonable alternative designs and potential impacts to the environment. The proposed project includes the construction of structures in navigable waters of the United States (U.S.) and the discharge of dredged and/or fill materials into waters of the U.S., including wetlands. The proposed work requires authorization from the Corps of Engineers under Section 10 of the Rivers and Harbors Act (RHA) of 1899 and Section 404 of the Clean Water Act (CWA). The Final EIS will be used to evaluate the Applicant's Department of the Army (DA) permit application and compliance with NEPA.

DATES: The 30-day review period begins on July 27, 2012 and ends on August 27, 2012. The Record of Decision on the proposed action will be issued after August 27, 2012. The Final EIS is not open for public comment.

FOR FURTHER INFORMATION CONTACT: Mr. Harry A. Baij Jr., by email message at *harry.a.baij@usace.army.mil,* by telephone at 800–478–2712 (toll free within AK), 907–753–2784 (office), or 907–350–5097 (cell).

SUPPLEMENTARY INFORMATION:

1. *Authorization:* Section 404 of the Clean Water Act (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403); Department of Defense, Corps of Engineers, Department of the Army, 33 CFR Parts 320 through 330, Regulatory Program of the Corps of Engineers; Final rule; Appendix B of 33 CFR Part 325.

2. *Background Information:* The Alaska District, Corps of Engineers received the Applicant's complete permit application on November 1, 2011. The Applicant's project purpose is to initiate commercial liquid hydrocarbon production (natural gas condensate) and delineate and evaluate hydrocarbon resources in the Point Thomson area. Two natural gas production wells have been authorized, drilled, and tested at an existing gravel pad at Point Thomson, AK. Other previously authorized gravel pads and exploration wells exist in the general area.

3. *Location:* The project is located on Alaska's Arctic Coastal Plain, Beaufort seacoast, approximately 60 miles east of Prudhoe Bay. Most of the Thomson Sand Reservoir is located under the Beaufort Sea. The proposed facilities would be located primarily onshore, on State of Alaska lands, leased to the Applicant or their working interest partners of the oil and gas industry. Kaktovik, AK is located approximately 60 miles east. The farthest eastward development resulting from this proposed project would be approximately 2 miles west of the Arctic National Wildlife Refuge boundary.

4. *Proposed Project:* The proposed project includes industrial development involving gravel fill placement in tundra wetlands and waters, construction of marine structures, and dredging. The proposed project would construct a large gravel mine; a mile long gravel airstrip; 3 hydrocarbon production and/or processing gravel pads; several miles of in-field gravel roads; similar length infield above-ground pipelines; a marine bulkhead, service pier, and mooring dolphins; navigational dredging; and other industrial infrastructure. Processed liquid hydrocarbons would be transported through a new 23-mile long elevated pipeline to existing facilities to the west and further connections to the Trans Alaska Pipeline System. The proposed project would include construction of temporary and permanent camps (lodging); offices, warehouses, and shops; electric power generation and distribution facilities; fuel, water, and chemical storage; a water and wastewater treatment facility; a grind and inject drilling waste facility; a solid waste facility; and communications facilities. The proposed project would include directional drilling a minimum of five wells from three coastal gravel pads: Central, East, and West. The Central Pad would be the largest and the primary location for construction and operations, processing fluids, locating a gas injection well for recycling natural gas, and a wastewater disposal well. The East and West Pads would include wells to delineate and evaluate the hydrocarbon reservoir for additional oil and gas resources and facilitate production.

5. *Alternatives:* Four alternatives were developed and evaluated in the Final EIS that would meet the Applicant's stated purpose and need. The No Action Alternative is used for comparison of the environmental effects of the action alternatives and involves long term monitoring and maintenance of the existing wells and gravel pads. Three Action Alternatives were developed and considered. Two action alternatives would minimize impacts to coastal resources by locating infrastructure components inland from the coastline and reducing coastal access. These 2 alternatives consider alternative transportation routes, such as ice roads and an all-season gravel road in-lieu of barge access. A third alternative was developed to reduce impacts to waters and wetlands by minimizing the total gravel fill footprint. A complete description of the alternatives development, screening process, and the

alternatives carried forward for detailed study, is disclosed in Chapter 2 of the Final EIS.

6. *Scoping Process:* A Notice of Intent to prepare a Draft EIS for the Proposed Point Thomson Project was published in the **Federal Register** on December 4, 2009. The Corps of Engineers conducted public scoping, Alaska Native Tribal consultations, and resource agency meetings in AK prior to preparing the Draft EIS. Over 300 issue-specific comments were identified. Results from the scoping process were summarized a Public Scoping Document and are addressed in the Draft EIS.

7. *Draft EIS Review:* The Draft EIS comment period began November 18, 2011 with the publication of the Notice of Availability in the **Federal Register**. It was originally scheduled to end on January 3, 2012 but was extended until January 18, 2012 after requests for an extension were received. Open house and public comment meetings were held between December 5–15, 2011 in Anchorage, Fairbanks, Kaktovik, Nuiqsut, and Barrow, AK. The Corps of Engineers received over 240 comment submissions during the comment period. Over 660 individual comments were recorded and responded to. Based on comments received, errors in the Draft EIS were corrected and sections edited for clarity. The Final EIS is the result of these changes and additions. Overall impact findings did not change between the Draft and Final EIS, although some descriptions did change.

8. *Availability of the Final EIS:* The Final EIS is electronically available for viewing and printing at: *www.pointthomsonprojecteis.com.*

A printed Executive Summary, which includes 2 Compact Disks containing the entire Final EIS, may be obtained by contacting Mr. Baij at the above contact information.

Printed copies of the Final EIS are available for review at the following public libraries and schools: Harold Kaveolook School, Kaktovik, Alaska; Nuiqsut Trapper School, Nuiqsut, Alaska; Tuzzy Consortium Library, Barrow, Alaska; Noel Wein Library, Fairbanks, Alaska; Z.J. Loussac Library, Anchorage, Alaska; Alaska Resources Library and Information Services, Anchorage, Alaska; and University of Alaska, Anchorage Library, Anchorage, Alaska.

Dated: July 19, 2012.

Harry A. Baij Jr.,

Project Manager, US Army Corps of Engineers, Alaska District.

[FR Doc. 2012–18372 Filed 7–26–12; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Inland Waterways Users Board

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of open meeting.

SUMMARY: In accordance with 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the forthcoming meeting.

Name of Committee: Inland Waterways Users Board (Board).

Date: August 29, 2012.

Location: The Sheraton St. Louis City Center Hotel and Suites, 400 South 14th Street, St. Louis, MO 63103 at (314) 231–5007.

Time: Registration will begin at 8:30 a.m. and the meeting is scheduled to adjourn at approximately 1:00 p.m.

Agenda: The agenda will include the status of funding for inland navigation projects and studies and the status of the Inland Waterways Trust Fund, the funding status for Fiscal Year (FY) 2012 and the FY 2013 budget, status of the Olmsted Locks and Dam Project, and the Board will consider its project investment recommendations for the next year.

FOR FURTHER INFORMATION CONTACT: Mr. Mark R. Pointon, Institute for Water Resources, U.S. Army Corps of Engineers, CEIWR–GM, 7701 Telegraph Road, Casey Building, Alexandria, Virginia 22315–3868; Ph: 703–428–6438.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2012–18348 Filed 7–26–12; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF ENERGY

National Nuclear Security Administration

Notice of Availability of the Draft Surplus Plutonium Disposition Supplemental Environmental Impact Statement

AGENCY: National Nuclear Security Administration, U.S. Department of Energy.

ACTION: Notice of availability.

SUMMARY: The U. S. Department of Energy (DOE) announces the availability of the *Draft Surplus Plutonium Disposition Supplemental Environmental Impact Statement* (SPD Supplemental EIS; DOE/EIS–0283–S2) for public comment. DOE also is announcing the dates, times and locations for public hearings to receive comments on the Draft SPD Supplemental EIS. The Draft SPD Supplemental EIS analyzes the potential environmental impacts of alternatives for disposition of 13.1 metric tons (14.4 tons) of surplus plutonium for which DOE has not made a disposition decision, including 7.1 metric tons (7.8 tons) of plutonium from pits that were declared excess to national defense needs. It also updates previous DOE NEPA analyses on plutonium disposition to consider additional options for pit disassembly and conversion, which entails processing plutonium metal components to produce an oxide form of plutonium suitable for disposition, and the use of mixed oxide (MOX) fuel fabricated from surplus plutonium in domestic commercial nuclear power reactors to generate electricity, including five reactors at two specific Tennessee Valley Authority (TVA) reactor plants. DOE is not revisiting the decision to fabricate 34 metric tons (MT) (37.5 tons) of surplus plutonium into MOX fuel in the MOX Fuel Fabrication Facility (MFFF) (65 FR 1608, January 11, 2000 and 68 FR 20134, April 24, 2003), now under construction at DOE's Savannah River Site (SRS) in South Carolina, and to irradiate the MOX fuel in commercial nuclear reactors used to generate electricity.

TVA is a cooperating agency on this SPD Supplemental EIS. TVA is considering the use of MOX fuel, produced as part of DOE's Surplus Plutonium Disposition Program, in its nuclear power reactors.

DATES: DOE invites Federal agencies, state and local governments, Native American tribes, industry, other interested organizations, and members of the public to comment on the Draft SPD Supplemental EIS during a 60-day public comment period which starts with the publication of the Environmental Protection Agency's Notice of Availability in the **Federal Register** and ends on September 25, 2012. Comments received after this date will be considered to the extent practicable. DOE will hold public hearings on the Draft SPD Supplemental EIS; the dates, times and locations are listed under **SUPPLEMENTARY INFORMATION**.

ADDRESSES: Please direct written comments on the Draft SPD Supplemental EIS to Ms. Sachiko McAlhany, SPD Supplemental EIS NEPA Document Manager, U.S. Department of Energy, P.O. Box 2324, Germantown, MD 20874–2324. Comments may also be submitted via email to *spdsupplementaleis@saic.com* or by toll-free fax to 877–865–0277. DOE will give equal weight to written, email, fax, telephone, and oral comments. Questions regarding the Supplemental EIS process and requests to be placed on the SPD Supplemental EIS mailing list should be directed to Ms. McAlhany by any of the means given above or by calling toll-free 877–344–0513.

For general information about the DOE NEPA process, please contact: Ms. Carol Borgstrom, Director, Office of NEPA Policy and Compliance (GC–54), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, telephone (202) 586–4600, or leave a message at 1–800–472–2756. Additional information regarding DOE NEPA activities and access to many of DOE's NEPA documents are available on the Internet through the DOE NEPA Web site at *http://www.energy.gov/nepa.*

SUPPLEMENTARY INFORMATION: DOE has prepared the Draft SPD Supplemental EIS in accordance with the National Environmental Policy Act (NEPA), the Council on Environmental Quality (CEQ) regulations that implement the procedural provisions of NEPA (40 CFR parts 1500–1508), and DOE regulations implementing NEPA (10 CFR part 1021).

Background: To reduce the threat of nuclear weapons proliferation, DOE is engaged in a program to disposition its surplus, weapons-usable plutonium in an environmentally sound manner, by converting such plutonium into proliferation-resistant forms that can never again be readily used in nuclear weapons. The U.S. inventory of surplus plutonium is in several forms. The largest quantity is plutonium metal in pits (a nuclear weapons component). The remainder is non-pit plutonium, which includes plutonium oxides and metal in a variety of forms and purities.

DOE has already decided to fabricate 34 metric tons (MT) (37.5 tons) of surplus plutonium into MOX fuel in the MFFF (65 FR 1608, January 11, 2000 and 68 FR 20134, April 24, 2003), now under construction at SRS, and to irradiate the MOX fuel in commercial nuclear reactors used to generate electricity, thereby rendering the plutonium into a spent fuel form not readily usable in nuclear weapons. DOE is not revisiting this decision in the SPD Supplemental EIS.

DOE announced its intent to prepare the SPD Supplemental EIS in a notice of intent (NOI) in 2007 to analyze the potential environmental impacts of alternatives to disposition about 13 MT of surplus plutonium for which it had not previously made disposition decisions (72 FR 14543; March 28, 2007). DOE amended the NOI in 2010 to refine its information on the quantity and types of surplus weapons-usable plutonium material, evaluate additional alternatives, and no longer consider one of the alternatives identified in the 2007 NOI (75 FR 41850; July 19, 2010). DOE also proposed to revisit its January 2000 decision to construct and operate a new Pit Disassembly and Conversion Facility (PDCF) in the F–Area at SRS (65 FR 1608; January 11, 2000) and analyze installation and operation of pit disassembly and conversion capabilities in an existing building in K–Area at SRS. DOE amended the NOI for a second time in 2012 (77 FR 1920, January 12, 2012) to add additional options for pit disassembly and conversion, which could involve the use of Technical Area 55 (TA–55) at the Los Alamos National Laboratory (LANL) in New Mexico, H–Canyon/HB–Line at SRS, as well as the K–Area and the MFFF, both at SRS. The 2007 NOI, the 2010 Amended NOI, and the 2012 second Amended NOI are available at *http://www.energy.gov/nepa* and at *http://www.nnsa.energy.gov/nepa/spdsupplementaleis*.

Alternatives

In addition to a No Action Alternative, in this SPD Supplemental EIS DOE evaluates four action alternatives to disposition 13.1 metric tons (14.4 tons) of surplus plutonium for which DOE has not made a disposition decision, including 7.1 metric tons (7.8 tons) of plutonium from pits that were declared excess to national defense needs. Within each action alternative, DOE also evaluates options for pit disassembly and conversion. The action alternatives are: (1) Immobilization to Defense Waste Processing Facility (DWPF) Alternative—glass can-in-canister immobilization for both surplus non-pit and disassembled and converted pit plutonium; (2) MOX Fuel Alternative—fabrication of the disassembled and converted pit plutonium and 4 of the 6 metric tons of the non-pit plutonium into MOX fuel at MFFF for use in domestic, commercial nuclear power reactors to generate electricity and disposition of the surplus plutonium that is not suitable for MFFF as transuranic (TRU) waste at the Waste Isolation Pilot Plant (WIPP), a deep geologic repository in southeastern New Mexico; (3) H–Canyon/HB–Line to DWPF Alternative—processing the surplus non-pit plutonium in the existing H Canyon/HB Line at SRS and subsequent disposal as high level nuclear waste (HLW) (i.e., vitrification in the existing DWPF) and fabrication of the pit plutonium into MOX fuel at MFFF; and (4) WIPP Alternative—disposal of the surplus non-pit plutonium as TRU waste at WIPP and fabrication of the pit plutonium into MOX fuel at MFFF.

Pit Disassembly and Conversion Options: DOE evaluated the range of reasonable pit disassembly and conversion options and combinations of options for analysis in the *SPD Supplemental EIS:* (1) A standalone PDCF at F–Area at SRS, (2) a pit disassembly and conversion project (PDC) at K–Area at SRS, (3) a pit disassembly and conversion capability in the Plutonium Facility (PF–4) in TA–55 at LANL and metal oxidation in MFFF, and (4) a pit disassembly and conversion capability in PF–4 at LANL with the potential for pit disassembly in K–Area, conversion to oxide in H–Canyon/HB–Line, and conversion to oxide in MFFF at SRS.

Use of MOX Fuel: This SPD Supplemental EIS also analyzes the potential environmental impacts of using MOX fuel fabricated from surplus plutonium in domestic commercial nuclear power reactors to generate electricity, including five reactors at two specific TVA reactor plants.

Preferred Alternative: The MOX Fuel Alternative is DOE's Preferred Alternative for surplus plutonium disposition. DOE's preferred option for pit disassembly and the conversion of surplus plutonium metal, regardless of its origins, to feed for MFFF is to use some combination of facilities at TA–55 at LANL and K Area, H Canyon/HB Line, and MFFF at SRS, rather than to construct a new standalone facility. This would likely require the installation of additional equipment and other modifications to some of these facilities. DOE's preferred alternative for disposition of surplus plutonium that is not suitable for MOX fuel fabrication is disposal at WIPP. The TVA does not have a preferred alternative at this time regarding whether to pursue irradiation of MOX fuel in TVA reactors and which reactors might be used for this purpose.

Invitation for Public Comment on the Draft SPD EIS: DOE will hold six public hearings on the Draft SPD Supplemental EIS at the following dates, times, and locations:

- August 21, 2012 (5:30 p.m. to 8 p.m.) Holiday Inn Express, 60 Entrada Drive, Los Alamos, New Mexico 87544.
- August 23, 2012 (5:30 p.m. to 8 p.m.) Courtyard by Marriott Santa Fe, 3347 Cerrillos Road, Santa Fe, New Mexico 87507.
- August 28, 2012 (5:30 p.m. to 8 p.m.) Pecos River Village Conference Center, 711 Muscatel Drive, Carlsbad, NM 88220.
- September 4, 2012 (5:30 p.m. to 8 p.m.) North Augusta Municipal Center, 100 Georgia Avenue, North Augusta, South Carolina 29841.
- September 11, 2012 (5:30 p.m. to 8 p.m.) Chattanooga Convention Center, 1150 Carter Street, Chattanooga, TN 37402.
- September 13, 2012 (5:30 p.m. to 8 p.m.) Calhoun Community College, Decatur Campus, Aerospace Building, 6250 Highway 31 North, Tanner, AL 35671.

Individuals who would like to present comments orally at these hearings should register upon arrival at the hearing. Speaking time will be allotted by the hearing moderator to each individual wishing to speak to ensure that all who wish to speak have the opportunity to do so. DOE representatives will be available during an open house portion of these hearings to discuss the Draft SPD Supplemental EIS. Following a presentation by DOE, the public will have an opportunity to provide oral and written comments during the formal portion of the hearing. In preparing the final SPD Supplemental EIS, DOE will consider all comments presented at the hearing, comments received by fax or email and comments postmarked by the end of the comment period. DOE will consider comments received after that date to the extent practicable.

Issued in Washington, DC, on July 17, 2012.

Thomas P. D'Agostino,

Under Secretary for Nuclear Security.

[FR Doc. 2012–18281 Filed 7–26–12; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9706–2]

Access to Confidential Business Information by Eastern Research Group, Incorporated

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of access to data and request for comments.

SUMMARY: EPA will authorize its contractor Eastern Research Group, Incorporated (ERG) to access Confidential Business Information (CBI) which has been submitted to EPA under the authority of all sections of the Resource Conservation and Recovery Act (RCRA) of 1976, as amended. EPA has issued regulations that outline business confidentiality provisions for the Agency and require all EPA Offices that receive information designated by the submitter, as CBI to abide by these provisions.

DATES: Access to confidential data submitted to EPA will occur no sooner than August 6, 2012.

FOR FURTHER INFORMATION CONTACT: LaShan Haynes, Document Control Officer, Office of Resource Conservation and Recovery, (5305P), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460, 703–605–0516.

SUPPLEMENTARY INFORMATION:

1. Access to Confidential Business Information

Under EPA Contract No. EP–W–10–055, ERG, Incorporated will assist the Office of Resource Conservation and Recovery (ORCR), Resource Conservation and Sustainability Division (RCSD) in developing the Municipal Solid Waste Characterization Report to analyze the composition and amounts of the United State's Municipal Solid Waste (MSW), and how these materials are recycled, combusted, and landfilled. The methodology used in this report is a ''top-down'' materials flow approach to estimate the size of the waste stream data. This report may typically involve one or more of the following statutes: CAA, CWA, RCRA, TSCA, FIFRA, EPCRA and the SDWA. Some of the data collected voluntarily from industry, may be claimed by industry to contain trade secrets or CBI. In accordance with the provisions of 40 CFR part 2, subpart B, ORCR has established policies and procedures for handling information collected from industry, under the authority of RCRA, including RCRA Confidential Business Information Security Manuals.

ERG, Incorporated shall protect from unauthorized disclosure all information designated as confidential and shall abide by all RCRA CBI requirements, including procedures outlined in the RCRA CBI Security Manual.

The U.S. Environmental Protection Agency has issued regulations (40 CFR part 2, subpart B) that outline business confidentiality provisions for the Agency and require all EPA Offices that receive information designated by the submitter as CBI to abide by these provisions. ERG, Incorporated will be authorized to have access to RCRA CBI under the EPA ''Contractor Requirements for the Control and Security of RCRA Confidential Business Information Security Manual.''

EPA is issuing this notice to inform all submitters of information under all sections of RCRA that ERG, Incorporated under the contract may have access to RCRA CBI. Access to RCRA CBI under this contract will take place at ERG's Chantilly, Virginia and Prairie View, Kansas offices, and when necessary, EPA Headquarters only. Contractor personnel at each location will be required to sign non-disclosure agreements and will be briefed on appropriate security procedures before they are permitted access to confidential information.

Dated: June 28, 2012.

Sandra L. Connors,

Acting Director, Office of Resource Conservation & Recovery.

[FR Doc. 2012–18402 Filed 7–26–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2011–0266; FRL–9521–1]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Publicly Owned Treatment Works (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before August 27, 2012.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2011–0266, to: (1) EPA online using www.regulations.gov (our preferred method), or by email to: *docket.oeca@epa.gov,* or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 28221T, 1200

Pennsylvania Avenue NW, Washington, DC 20460; and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; email address: *williams.learia@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On May 9, 2011 (76 FR 26900), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to both EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2011–0266, which is available for public viewing online at *http://www.regulations.gov,* or in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1752.

Use EPA's electronic docket and comment system at *http://www.regulations.gov,* to either submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: NESHAP for Publicly Owned Treatment Works (Renewal).

ICR Numbers: EPA ICR Number 1891.06, OMB Control Number 2060–0428.

ICR Status: This ICR is scheduled to expire on August 31, 2012. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A, and any changes, or additions to the Provisions specified at 40 CFR part 63, subpart VVV.

Owners or operators of the affected facilities must submit initial notification, performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required semiannually.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 1 hour per response. ''Burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners or operators of publicly owned treatment works.

Estimated Number of Respondents: 6.

Frequency of Response: Initially, occasionally, annually, and semiannually.

Estimated Total Annual Hour Burden: 14.

Estimated Total Annual Cost: $1,322, which includes $1,322 in labor costs, no capital/startup costs, and no operation and maintenance (O&M) costs.

Changes in the Estimates: There is no change in labor hours in this ICR compared to the previous ICR. This is due to two considerations: (1) The regulations have not changed over the past three years and are not anticipated to change over the next three years; and (2) the growth rate for the industry is very low, negative or non-existent, so there is no significant change in the overall burden.

There is an adjustment increase in costs to both the respondents and the Agency. This is not due to any program changes. The increase in cost reflects an adjustment in labor rates; this ICR uses updated labor rates to calculate burden costs for all labor categories.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2012–18289 Filed 7–26–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2011–0269; FRL–9521–3]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Coke Oven Pushing, Quenching, and Battery Stacks (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before August 27, 2012.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2011–0269, to: (1) EPA online using www.regulations.gov (our preferred method), or by email to: *docket.oeca@epa.gov,* or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 28221T, 1200 Pennsylvania Avenue NW., Washington, DC 20460; and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; email address: *williams.learia@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On May 9, 2011 (76 FR 26900), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to both EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2011–0269, which is available for public viewing online at *http://www.regulations.gov,* or in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1752.

Use EPA's electronic docket and comment system at *http://www.regulations.gov* to either submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: NESHAP for Coke Oven Pushing Quenching and Battery Stacks (Renewal).

ICR Numbers: EPA ICR Number 1995.05, OMB Control Number 2060–0521.

ICR Status: This ICR is scheduled to expire on August 31, 2012. Under OMB regulations, the Agency may continue to either conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A, and any changes, or additions to the Provisions specified at 40 CFR part 63, subpart CCCCC. Owners or operators of the affected facilities must submit initial notification, performance tests, and periodic reports and results.

Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required semiannually.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 229 hours per response. ''Burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners or operators of coke oven pushing, quenching, and battery stacks.

Estimated Number of Respondents: 19.

Frequency of Response: Initially, occasionally, weekly, quarterly, and semiannually.

Estimated Total Annual Hour Burden: 25,879.

Estimated Total Annual Cost: $2,649,250, which includes $2,479,750 in labor costs, no capital/startup costs, and $169,500 in operation and maintenance (O&M) costs.

Changes in the Estimates: There is an increase in costs for both the respondents and the Agency from the most recently approved ICR. The increase in burden cost is due to adjustments in labor rates. This ICR uses updated labor rates from the Bureau of Labor Statistics to calculate burden costs.

There is an increase of 33 hours in labor hours for the Agency related to a mathematical error in calculating the number of compliance reports per plant per year in the previous ICR. There is no change in the estimation methodology for labor hours to the respondents in this ICR compared to the previous ICR. This is due to two considerations: (1) The regulations have not changed over the past three years and are not anticipated to change over the next three years; and (2) the growth rate for respondents is very low, negative, or non-existent.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2012–18290 Filed 7–26–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2011–0267; FRL–9521–2]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Asphalt Processing and Asphalt Roofing Manufacturing (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before August 27, 2012.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2011–0267, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to: *docket.oeca@epa.gov,* or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 28221T, 1200 Pennsylvania Avenue NW., Washington, DC 20460; and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA,

725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; email address: *williams.learia@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On May 9, 2011 (76 FR 26900), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to both EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2011–0267, which is available for public viewing either online at *http://www.regulations.gov*, or in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1752.

Use EPA's electronic docket and comment system at *http://www.regulations.gov*, to either submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov*.

Title: NESHAP for Asphalt Processing and Asphalt Roofing Manufacturing (Renewal)

ICR Numbers: EPA ICR Number 2029.05, OMB Control Number 2060–0520.

ICR Status: This ICR is scheduled to expire on August 31, 2012. Under OMB regulations, the Agency may continue to either conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A, and any changes, or additions to the Provisions specified at 40 CFR part 63, subpart LLLLL.

Owners or operators of the affected facilities must submit initial notification, performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports are required semiannually at a minimum.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 225 hours per response. ''Burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners or operators of asphalt processing and asphalt roofing manufacturing facilities.

Estimated Number of Respondents: 27.

Frequency of Response: Initially, occasionally, and semiannually.

Estimated Total Annual Hour Burden: 13,497.

Estimated Total Annual Cost: $1,318,753, which includes $1,293,301 in labor costs, no capital/startup costs, and $25,452 in operation and maintenance (O&M) costs.

Changes in the Estimates: There is an increase in costs for both the respondents and the Agency from the most recently approved ICR. The increase in burden cost is due to an increase in the number of new or modified sources and adjustments in labor rates. This ICR uses updated labor rates from the Bureau of Labor Statistics to calculate burden costs.

There is an increase of 1,480 hours in labor hours for the respondents, as well as an increase of 55 hours in labor hours for the Agency, due to the increase in the number of sources that are subject to the standard. There may also be some apparent differences that are attributable to rounding; this ICR presents more exact figures. There is no change in the estimation methodology in this ICR compared to the previous ICR.

There is also an increase of $45.00 in O&M costs to the respondents in this ICR as compared to the previous ICR. This is attributed to the photocopying and postage costs for an increased number of total sources subject to the standard.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2012–18291 Filed 7–26–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2012–0157; FRL 9519–9]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Enforcement Policy Regarding the Sale and Use of Aftermarket Catalytic Converters (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA)(44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before August 27, 2012.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OECA–2012–0157, to: (1) EPA online using *www.regulations.gov* (our preferred method), by email to *docket.oeca@epa.gov* or by mail to: EPA

Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and to (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David E. Alexander, Air Enforcement Division (2242A), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2109; fax number: (202) 564–0069; email address: *alexander.david@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On April 19, 2012 (77 FR 23478), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OECA–2012–0157, which is available for online viewing at *www.regulations.gov,* or in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Enforcement and Compliance Docket is 202–566–1752.

Use EPA's electronic docket and comment system at *www.regulations.gov,* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: Enforcement Policy Regarding the Sale and Use of Aftermarket Catalytic Converters (Renewal).

ICR numbers: EPA ICR No. 1292.09, OMB Control No. 2060–0135.

ICR Status: This ICR is scheduled to expire on August 31, 2012. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The aftermarket catalytic converter policy (AMCC Policy) (51 FR 28114–28119, 28113 (Aug. 5, 1986); 52 FR. 42144 (Nov. 3, 1987)) allows aftermarket automobile catalytic converter (AMCC) manufacturers and reconditioners to compete with the automobile manufacturers for the AMCC replacement market. Without this policy, it would be illegal, under section 203 of the Clean Air Act, 42 U.S.C. 7522, to sell or install AMCCs that do not conform exactly to the automobile manufacturers' original equipment (OE) versions of these parts. The AMCC Policy makes it possible for automobile repair shops, which are often small businesses, to take on a significant share of the AMCC replacement market. In doing so, consumers are able to purchase AMCCs at a much lower price than they would pay for an OE catalytic converter. This helps to ensure that vehicles will not create excessive air pollution because motorists are more likely to replace damaged catalytic converters if they can be obtained at a cost that is significantly less than OE catalytic converters (cost savings resulting from the AMCC Policy are estimated to be about $716 million in 2007 dollars).

New AMCC manufacturers are required to report, on a one-time basis for each type or line of converter manufactured, the supplier identities, physical specifications of each AMCC line produced, and information regarding pre-production testing of the AMCCs that show they meet the AMCC Policy emission reduction standards for certain specified vehicle applications. The AMCC Policy requires new AMCC manufacturers to retain warranty and sales records.

Reconditioners (sellers of used catalytic converters) must report, on a one-time basis, the identity of the company, a description of the test bench used for testing used catalytic converters, and the intended vehicle application(s) for each catalytic converter type. All used catalytic converters must be tested individually to ensure they are still functional. The current AMCC Policy also requires reconditioners to retain sales and customer records.

Installers of AMCCs have no reporting requirements. They must fill out a written warranty and give it to the customer, include a statement with each invoice stating the need for replacing the original converter, and tag each removed converter with a reference to the invoice for repair, and retain the tagged catalytic converters for 15 days and the invoices for six months.

The reporting and recordkeeping requirements for manufacturers of new AMCCs and sellers of reconditioned catalytic converters help ensure that proper AMCCs are manufactured, tested and distributed to installers and help ensure proper retail level installation of AMCCs. The installer requirements enable EPA to monitor whether correct AMCCs are installed at the retail level and whether AMCCs are used only in appropriate circumstances. The information required to be maintained or reported is not otherwise available and is not covered under any other information request since it is unique to the AMCC Policy. The information collected is necessary for the proper performance of the functions of the Agency, particularly enforcement.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 7 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information; processing and maintaining information; and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information;

and transmit or otherwise disclose the information.

Respondents/Affected Entities: Manufacturers, Reconditioners, and Installers of Aftermarket Catalytic Converters.

Estimated Number of Respondents: 30,014.

Frequency of Response: On Occasion.

Estimated Total Annual Hour Burden: 220,860.

Estimated Total Annual Cost: $7,896,947, including $777,112 annualized capital or O&M costs.

Changes in the Estimates: There is a decrease of 68 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This decrease is due to the correction of two errors. First, we failed to account for the fact that new catalyst manufacturers submit information on average every other year. Therefore, although the burden of submitting is two hours per respondent, the annual average is one hour per respondent. This correction decreased the burden estimate by eight hours. Second, we corrected a multiplication error affecting the burden hour calculation for installers, a decrease of 60 hours. The decrease reflects an adjustment in ICR estimates, not a program change.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2012–18288 Filed 7–26–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2012–0489; FRL–9355–7]

Cancellation of Pesticides for Non-Payment of Year 2012 Registration Maintenance Fees

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Since the amendments of October 1988, the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) has required payment of an annual maintenance fee to keep pesticide registrations in effect. The fee due last January 15, 2012, has gone unpaid for 204 registrations. Section 4(i)(5)(G) of FIFRA provides that the EPA Administrator may cancel these registrations by order and without a hearing; orders to cancel all 204 of these registrations have been issued within the past few days.

DATES: A cancellation is effective on the date the cancellation order is signed.

FOR FURTHER INFORMATION CONTACT: Michael Yanchulis, Information Technology and Resources Management Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 347–0237; email address: *yanchulis.michael@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. Although this action may be of particular interest to persons who produce or use pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2012–0489, 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.*

II. Background

Section 4(i)(5) of FIFRA, as amended in October 1988 (Pub. L. 100–532), December 1991 (Pub. L. 102–237), and again in August 1996 (Pub. L. 104–170), requires that all pesticide registrants pay an annual registration maintenance fee, due by January 15 of each year, to keep their registrations in effect. This requirement applies to all registrations granted under FIFRA section 3 as well as those granted under FIFRA section 24(c) to meet special local needs. Registrations for which the fee is not paid are subject to cancellation by order and without a hearing.

The Food, Agriculture, Conservation, and Trade Act Amendments of 1991, Public Law 102–237, amended FIFRA to allow the EPA Administrator to reduce or waive maintenance fees for minor agricultural use pesticides when she determines that the fee would be likely to cause significant impact on the availability of the pesticide for the use. The Agency has waived the fee for 196 minor agricultural use registrations at the request of the registrants.

In fiscal year 2012, maintenance fees were collected in one billing cycle. The Pesticide Registration Improvement Renewal Act (PRIRA) was passed by Congress in October 2007. PRIRA authorized the Agency to collect $22 million dollars in maintenance fees in fiscal year 2012. In late 2011, all holders of either FIFRA section 3 registrations or FIFRA section 24(c) registrations were sent lists of their active registrations, along with forms and instructions for responding. They were asked to identify which of their registrations they wished to maintain in effect, and to calculate and remit the appropriate maintenance fees. Most responses were received by the statutory deadline of January 15. A notice of intent to cancel was sent in February 2012, to companies who did not respond and to companies who responded, but paid for less than all of their registrations. Since mailing the notices of intent to cancel, EPA has maintained a toll-free inquiry number through which the questions of affected registrants have been answered.

Maintenance fees have been paid for about 15,420 FIFRA section 3 registrations, or about 96% of the registrations on file in December 2011. Fees have been paid for about 2,028 FIFRA section 24(c) registrations, or about 88% of the total on file in December 2011. Cancellations for non-payment of the maintenance fee affect about 182 FIFRA section 3 registrations and about 22 FIFRA section 24(c) registrations.

The cancellation orders generally permit registrants to continue to sell and distribute existing stocks of the canceled products until January 15, 2013, 1 year after the date on which the fee was due. Existing stocks already in the hands of dealers or users, however, can generally be distributed, sold, or used legally until they are exhausted. Existing stocks are defined as those stocks of a registered pesticide product which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation order.

The exceptions to these general rules are cases where more stringent restrictions on sale, distribution, or use of the products have already been imposed, through special reviews or other Agency actions. These general provisions for disposition of stocks should serve in most cases to cushion

the impact of these cancellations while the market adjusts.

III. Listing of Registrations Canceled for Non-Payment

Table 1 of this unit lists all of the FIFRA section 24(c) registrations, and Table 2 of this unit lists all of the FIFRA section 3 registrations which were canceled for non-payment of the 2012 maintenance fee. These registrations have been canceled by order and without hearing. Cancellation orders were sent to affected registrants via certified mail in the past several days. The Agency is unlikely to rescind cancellation of any particular registration unless the cancellation resulted from Agency error.

TABLE 1—FIFRA SECTION 24(C) REGISTRATIONS CANCELED FOR NON-PAYMENT OF 2012 MAINTENANCE FEE

SLN No.	Product name
AR–99–0008	IDA, Inc. Diuron 80W.
CA–78–0207	Union Carbide Sevin Brand 50–W Insecticide.
CA–98–0003	Volck Supreme Spray.
HI–94–0003	Dimilin 25W Insect Growth Regulator.
ID–06–0014	Prozap Zinc Phosphide Pellets.
KS–04–0005	Atrazine 4L.
KS–10–0003	Rozol Prairie Dog Bait.
MT–95–0003	Zinc Phosphide Oat Bait.
MT–09–0002	CFT Legumine Fish Toxicant.
NC–09–0003	Dinotefuran 20% Turf, Ornamental and Veg. Transplant.
NV–04–0003	Zinc Phosphide Oat Bait.
NV–06–0007	Prozap Zinc Phosphide Pellets.
NY–09–0003	Superchlor.
OR–09–0005	Assail 70WP Insecticide.
PA–08–0006	Dinotefuran 20% Turf, Ornamental & Veg. Transplant.
SD–07–0001	Zinc Phosphide Oat Bait.
SD–07–0002	Zinc Phosphide Prairie Dog Bait.
TX–11–0003	Bollgard II Cotton.
WA–03–0004	Formaldehyde Solution 37.
WA–06–0011	Tristar 70 WSP Insecticide.
WA–07–0006	Assail 70 WP Insecticide.
WA–10–0006	Burrows E Wrap.

TABLE 2—FIFRA SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF 2012 MAINTENANCE FEE

Registration No.	Product name
000106–00079	Broadspec 256.
000322–00008	Pearson's Rat Poison.
000706–00106	Claire Lice Killer.
001043–00117	Amerse 2.
001043–00118	LPH(R).

TABLE 2—FIFRA SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF 2012 MAINTENANCE FEE—Continued

Registration No.	Product name
001327–00036	Fulex DDVP Fumigator.
001327–00041	Fulex Nicotine Fumigator.
001327–00042	Fulex Permethrin Fumigator.
001561–00010	Steramine 2–G Tablets.
001691–00115	Oxyclear.
001769–00227	Chemene X.
001990–00386	Co-Op R.O.L. Mineral.
001990–00387	Rabon Oral Larvicide Block.
003090–00214	Sanitized Brand Moving Van Interior Fogger.
003377–00034	Sanibrom S Biocide Technical.
003377–00074	Stabrom 910 Biocide.
003487–20203	Roach Destroyer.
003635–00267	Deep Crystal.
003635–00275	GCO–30, Bacteriostat and Algaecide.
003635–00277	GCO–30LM Bacteriostat and Algaecide.
006390–00016	Vikol #LO–25.
007173–00247	Generation Meal Bait Packs.
007173–00291	Ant Gel Bait Syringe.
007173–00292	Roach Gel Bait Syringe.
007173–00296	Pinpoint Ant Gel Bait Station.
007173–00298	Pinpoint Roach Gel Bait Station.
007405–00071	Chemi-Cap Wasp and Hornet Killer.
007405–00075	CPC Crawling Insect Killer.
007616–00084	HSSH.
008177–00071	Enterprise Stain & Wood Preservative.
008383–00006	Sporicidin-HD Concentrated for Hemodialysis.
008655–00011	Eastman Acetic Acid P Grain and Hay Preservative.
009339–00023	Aquagard II Spray Waterbase Antifouling Paint for Outboards & Outdrive.
009468–00032	Kull 50 S.
009468–00036	Alecto H20 Herbicide.
009468–00038	Dictator.
009468–00039	2,4-D LV6.
009468–00040	2,4-D LV4.
009468–00041	2,4-D Amine 4.0.
009468–00042	Duplex Herbicide.
009468–00043	Impale Insecticide.
010308–00023	Sumithion 20MC Roach Bait Concentrate.
010330–00016	Ethylene Oxide 10% and Carbon Dioxide Sterilizing Gas.
010330–00018	20% Ethylene Oxide & 80% Carbon Dioxide Sterilizing Gas.
010330–00021	8.5% Ethylene Oxide & Carbon Dioxide Sterilizing Gas.
011623–00011	Flying Insect Killer No. II.
011694–00099	Medaphene Plus Disinfectant Spray.

TABLE 2—FIFRA SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF 2012 MAINTENANCE FEE—Continued

Registration No.	Product name
014663–00001	VBC Dinotefuran Technical.
015300–00016	Chemical Treatment CL–2061.
035380–00001	Elston Gopher Getter Bait.
035380–00003	G.G. Jr. Hand Probe Gopher Getter Bait.
035484–00001	Gordon's Bordeaux Mixture.
035975–00004	Sodium Fluoroacetate (Compound 1080) Livestock Protection Collar.
036426–00003	Crude Pyrethrum Extract.
036638–00023	Nomate PBW Fiber.
037731–20001	Sun-Clor.
037910–00009	Nissan T.C.C.A. Tablet.
037982–20001	Bacticide.
037982–20003	L.T. Sanitizer 9.2%.
039272–00012	Wepak Lemon Disinfectant.
040208–00003	Crack-Shot Residual Insect Killer.
040208–00006	Avenger Dust Insecticide.
040510–00005	Sanitizer, Phenolic Type, Concentrate Fed. Spec. 0–D–1435.
040849–00079	Enforcer Fire Ant Bait.
042850–00003	Results Pet Powder.
043576–00002	Feather Glo Bird-Cage-Defender.
044392–00005	MBC 325.
044428–00003	Anti-Fouling Bottom Paint 030010.
045337–00010	Take Out Algicide.
046274–00002	Dakin's Solution Disinfectant By Century.
048302–00004	Ravax AF Synthetic Resin Anti-Fouling Paint.
049403–00016	Nipacide BK.
049403–00025	Nipacide CI 15.
049403–00032	Nipacide TBX.
049403–00033	Nipacide GSF–A.
049538–00003	Phyton 27 New Dimension.
050404–00010	Duranon Premium Insect Repellent Apparel.
051032–00014	Micro-Sul Dusting/wettable Sulfur.
053254–00006	Oxidan TCA Tablets.
053254–00008	Oxidan TCA/T200 Tablets.
054998–00009	Brom-Aid.
056336–00022	Checkmate SF.
056336–00032	Checkout 60/40.
056336–00033	Checkout 40/60.
056336–00034	Checkmate CM Puffer Dispenser.
056572–00002	Chlorine Gas.
057727–00001	Buddies Puddy.
059345–00001	Equi-Fly Oral Larvicide.
059823–00003	Biobarrier II, Preemergence Weed Control System.
061667–00004	Ag Sanitizer 12.5%.
062563–00004	Beauty Liquid Disinfecting Toilet Bowl Cleaner.
063898–00002	Tomicide S.
065615–00001	Scoot Mole Evacuator.
065615–00002	Scoot TM Rabbit.

TABLE 2—FIFRA SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF 2012 MAINTENANCE FEE—Continued

Registration No.	Product name
065615–00004 ..	Scoot TM Deer Shrub and Tree Protection.
067360–00016 ..	Policida P–4.
067517–00003 ..	C & S Powder.
067517–00010 ..	Chlorinated Cleaner.
067517–00015 ..	Disinfectant Concentrate (4X).
067517–00021 ..	Purina Cattle Duster Insecticide.
067517–00026 ..	Purina Fly Larvicide (Feed Premix).
067517–00030 ..	Mushroom Farm Iodine Concentrate.
067517–00040 ..	Rabon Dust for Livestock and Poultry.
067517–00053 ..	Sanitizer Cleaner.
067517–00083 ..	Purina Cattle Mineral 12:12 VA Fly Larvicide.
067649–00005 ..	Chlorine SG.
067959–00002 ..	Trilin 10G.
067959–00004 ..	Trilin Herbicide.
068292–00002 ..	Weedaxe Herbicide.
069361–00013 ..	Triclopyr 4 Herbicide.
069361–00023 ..	Reaplon Ester.
069470–00024 ..	CDB Sanifizz 50 ST.
069493–00001 ..	Triad Pesticide.
070310–00002 ..	Agroneem Plus.
070369–00003 ..	Sunbeam Bacteriostat Tablets.
070387–00001 ..	Nimbecidine.
070553–00001 ..	Permethrin 98.5% Technical.
070553–00003 ..	Permethrin 80% MUP.
070567–00001 ..	BCS Sodium Hypochlorite Solution (12.5%) Mfg. Use.
070567–00003 ..	BCS Sodium Hypochlorite Solution (10%).
070567–00004 ..	BCS Sodium Hypochlorite Solution (11.9%).
071021–00003 ..	Formaldehyde Solution 37F.
071406–00006 ..	Diffusit SP.
071406–00007 ..	Diffusit SP 124.
072080–00002 ..	BAP–10.
072159–00004 ..	Agrisel Multi-Purpose Insect Killer 2.
072159–00008 ..	Bifenthrin Pro Insecticide.
072315–00010 ..	Olin Concentrated Sodium Hypochlorite.
072468–00003 ..	PMC 360.
072468–00005 ..	Mold Wipes 360.
072679–00002 ..	Copper Paint No. 4 Green.
073092–00001 ..	Superspeed SP52.
073601–00002 ..	Trichlor Chlorinating Tablets.
073601–00003 ..	Trichlor Granular.
073601–00005 ..	Dichlor 56.
074530–00041 ..	Helosate 70 Herbicide.
074530–00046 ..	Helosate Aquatic and VM Herbicide.
074530–00051 ..	Streamer Max.
074616–00001 ..	Calcium Hypochlorite.
075277–00001 ..	Deuce.
075340–00003 ..	Cop-R-Nap RTU Solution.
075341–00003 ..	Osmose Timberfume.
075341–00008 ..	Osmose Cop-R–Nap.
075341–00012 ..	Hollow Heart CF.

TABLE 2—FIFRA SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF 2012 MAINTENANCE FEE—Continued

Registration No.	Product name
075341–00013 ..	Cop-R-Plastic II Wood Preserving Compound.
075639–00005 ..	Antmasters Complete Gel Bait.
075832–00003 ..	Treaters Choice.
075832–00004 ..	Chromic Acid-A.
079405–00002 ..	Hay Delight.
079442–00013 ..	Exosex APM.
080967–00006 ..	Gly N Go.
080967–00008 ..	Riocamba N Go Herbicide.
080967–00009 ..	Ascadera N Go Herbicide.
081045–00001 ..	Healthy Outdoors Brand Sustained Release Mosquito Larvicide.
082542–00025 ..	Solera Imidacloprid 2F Insecticide.
082744–00001 ..	Ratimor Wax Block.
082744–00002 ..	Ratimor Soft Bait.
083070–00005 ..	Imidadacloprid 75 MUP.
083359–00004 ..	Avex.
083851–00014 ..	Amtide Imidacloprid 2F Greenhouse/nursery.
083884–00007 ..	Invasan Am 110 US.
083979–00006 ..	Rotam Gly 41% Plus Herbicide.
084681–00002 ..	Deer Guard 2.
084878–00004 ..	Citrepel Plus.
085575–00001 ..	First Call.
086004–00004 ..	Glyphosate 41% SL.
086044–00002 ..	Rootplug.
086145–00004 ..	Mag Shock.
086203–00006 ..	1% Etofenprox Fogger.
086203–00007 ..	1% Etofenprox Aerosol.
086819–00001 ..	Evenxchange.
086869–00003 ..	Quinclorac 75 DF Select.
087370–00001 ..	Cyclops ATO Herbicide.
087370–00002 ..	Bijoux Herbicide.
087722–00001 ..	Bactiblock 101 R 1.47.
087722–00002 ..	Bactiblock 101 RKC 1.47.
087952–00001 ..	Marketquest One Drop Flea & Tick Control with IGR–2.
087985–00001 ..	Mold Inhibit.
088031–00001 ..	Rootgro.
088031–00002 ..	GA3 4%.
088031–00003 ..	Technical 3-Indolebutyric Acid.
088058–00001 ..	Chlorothalonil Technical.

IV. Provisions for Disposition of Existing Stocks

The effective date of cancellation will be the date of the cancellation order. The orders effecting these requested cancellations will generally permit a registrant to sell or distribute existing stocks until January 15, 2013, 1 year after the date on which the fee was due.

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation order. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold, or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the affected product. Exception to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in a special review action, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

V. Docket

Complete lists of registrations canceled for non-payment of the maintenance fee will also be available for reference during normal business hours at the OPP Docket. See Unit I.B.

List of Subjects

Environmental protection, Administrative practice and procedure, Pesticides and pests.

Dated: July 18, 2012.

Steven Bradbury,

Director, Office of Pesticide Programs.

[FR Doc. 2012–18375 Filed 7–26–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9705–4]

Delegation of Authority To Implement and Enforce Outer Continental Shelf Air Regulations to the Virginia Department of Environmental Quality

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation of authority.

SUMMARY: On February 2, 2012, EPA sent the Virginia Department of Environmental Quality (VADEQ) a letter acknowledging VADEQ will be delegated the authority to implement and enforce sections of the Outer Continental Shelf (OCS) Air Regulations. To inform regulated facilities and the public of VADEQ's delegation of authority to implement and enforce OCS regulations, EPA is making available a copy of EPA's letter to VADEQ through this notice.

DATES: On February, 2, 2012, EPA sent VADEQ a letter acknowledging that VADEQ will be delegated the authority to implement and enforce OCS.

ADDRESSES: Copies of documents pertaining to this action are available for public inspection during normal

business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103–2029. Copies of the State submittal are available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Cathleen Kennedy, (215) 814–2746, or by email at *kennedy.cathleen@epa.gov.*

SUPPLEMENTARY INFORMATION: On October 7, 2011, VADEQ requested delegation of authority to implement and enforce Title 40 of the Code of Federal Regulations, Part 55 (Outer Continental Shelf Air Regulations). On February 2, 2012, EPA sent VADEQ a letter acknowledging that VADEQ will be delegated the authority to implement and enforce OCS regulations. A copy of EPA's letter to VADEQ follows:

''Mr. David K. Paylor
Director
Virginia Department of Environmental Quality
P.O. Box 1105
Richmond, Virginia 23218

Dear Mr. Paylor:

Thank you for your October 7, 2011 letter to the U.S. Environmental Protection Agency (EPA) requesting formal delegation of authority to implement and enforce the requirements of the Outer Continental Shelf (OCS) Regulations within 25 miles of Virginia's seaward boundary. In response, EPA intends to grant the Virginia Department of Environmental Quality (DEQ) formal delegation of authority to implement and enforce OCS Regulations, pursuant to section 328(a)(3) of the Clean Air Act. As established in the Code of Federal Regulations, Title 40, Part 55 (40 CFR Part 55), EPA will delegate implementation and enforcement authority to a State if the State has an adjacent OCS source, and EPA determines that the State's regulations are adequate. EPA has determined that delegation to DEQ shall be immediately effective upon EPA's receipt of a notice of intent (NOI) to construct an OCS source to be adjacent to the Commonwealth of Virginia (Virginia).

The delegation will include the authority for the following sections of 40 CFR Part 55, as exists on September 19, 2011:

- 55.1 Statutory authority and scope.
- 55.2 Definitions.
- 55.3 Applicability.
- 55.4 Requirements to submit a notice of intent.
- 55.6 Permit requirements.
- 55.7 Exemptions.
- 55.8 Monitoring, reporting, inspections, and compliance.
- 55.9 Enforcement.
- 55.10 Fees.
- 55.13 Federal requirements that apply to OCS sources.
- 55.14 Requirements that apply to OCS sources located within 25 miles of States' seaward boundaries, by State.
- 55.15 Specific designation of corresponding onshore areas.
- Appendix A to Part 55—Listing of State and Local Requirements Incorporated by Reference Into Part 55, by State.

EPA is not delegating the authority to implement and enforce 40 CFR Part 55.5 (Corresponding onshore area designation), 55.11 (Delegation), and 55.12 (Consistency updates), as authority for these sections is reserved for the Administrator. As stated in 40 CFR Part 55.11(b), EPA shall delegate implementation and enforcement authority if determined that the State's regulations are adequate, including a demonstration by the State that the State has:

(1) adopted the appropriate portions of 40 CFR Part 55 into State law;

(2) submitted a letter from the State Attorney General confirming that Virginia has adequate authority under the State law to implement and enforce the relevant portions of 40 CFR Part 55;

(3) adequate resources to implement and enforce the requirements of 40 CFR Part 55; and

(4) adequate administrative procedures to implement and enforce the requirements of this part, including public notice and comment procedures.

EPA has reviewed DEQ's delegation request and concludes that it meets the requirements for delegation. Therefore, delegation will be effective on the date EPA receives a NOI of constructing an OCS source adjacent to Virginia. On this date, DEQ will automatically be authorized to implement, enforce, and administer the sections of 40 CFR Part 55 listed above for the OCS sources in which Virginia will be the corresponding onshore area.

I appreciate DEQ's efforts to implement the OCS regulations and look forward to working with you to foster the growth of alternative energy projects in Virginia. If you have any questions, please do not hesitate to contact me or have your staff contact Ms. Laura Mohollen, Virginia Liaison, at 215–814–329.

Sincerely,
Shawn M. Garvin
Regional Administrator''

This notice acknowledges the delegation of authority to VADEQ to implement and enforce OSC Air Regulations.

Dated: July 10, 2012.

W.C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 2012–18385 Filed 7–26–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9705–3]

Delegation of Authority To Implement and Enforce Outer Continental Shelf Air Regulations to the Delaware Department of Natural Resources and Environmental Control

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation of authority.

SUMMARY: On July 21, 2010, EPA sent the Delaware Department of Natural Resources and Environmental Control (DNREC) a letter acknowledging DNREC has been delegated the authority to implement and enforce sections of the Outer Continental Shelf (OCS) Air Regulations. To inform regulated facilities and the public of DNREC's delegation of authority to implement and enforce OCS regulations, EPA is making available a copy of EPA's letter to DNREC through this notice.

DATES: On July 21, 2010, EPA sent DNREC a letter acknowledging DNREC has been delegated the authority to implement and enforce OCS.

ADDRESSES: Copies of documents pertaining to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103–2029. Copies of the State submittal are available at the Delaware Department of Natural Resources and Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware.

FOR FURTHER INFORMATION CONTACT: Cathleen Kennedy, (215) 814–2746, or by email at *kennedy.cathleen@epa.gov.*

SUPPLEMENTARY INFORMATION: On July 8, 2010, DNREC requested delegation of authority to implement, administer, and enforce Title 40 of the Code of Federal Regulations, Part 55 (Outer Continental Shelf Air Regulations). On July 21, 2010, EPA sent DNREC a letter acknowledging that DNREC has been delegated the authority to implement and enforce OCS regulations. A copy of EPA's letter to DNREC follows:

''The Honorable Collin O'Mara
Secretary
Delaware Department of Natural Resources and Environmental Control
89 Kings Highway
Dover, Delaware 19901

Dear Secretary O'Mara:

In response to your delegation request, dated July 8, 2010, the U.S. Environmental Protection Agency, Region III (EPA) hereby grants to the Delaware Department of Natural Resources and Environmental Control (DNREC) formal delegation of the following sections of the Outer Continental Shelf (OCS) Regulation in the Code of Federal Regulations, Title 40, Part 55 (40 CFR part 55), as it exists on July 9, 2009:

- 55.1—Statutory authority and scope.
- 55.2—Definitions.
- 55.3—Applicability.
- 55.4—Requirements to submit a notice of intent.
- 55.6—Permit requirements.
- 55.7—Exemptions.
- 55.8—Monitoring, reporting, inspections, and compliance.
- 55.9—Enforcement.
- 55.10—Fees.
- 55.13—Federal requirements that apply to OCS sources.
- 55.14—Requirements that apply to OCS sources located within 25 miles of states' seaward boundaries, by State.
- 55.15— Specific designation of corresponding onshore areas.
- Appendix A to 40 CFR part 55—Listing of State and Local Requirements Incorporated by Reference Into Part 55, by State.

As stated in 40 CFR part 55.11(b), the Administrator will delegate implementation and enforcement authority to a State if the State has an adjacent OCS source and the Administrator determines that the State's regulations are adequate, including a demonstration by the State that the State has:

(1) Adopted the appropriate portions of part 55 into State law;

(2) Adequate authority under State law to implement and enforce the requirements of this part. A letter from the State Attorney General shall be required stating that the requesting agency has such authority;

(3) Adequate resources to implement and enforce the requirements of this part; and

(4) Adequate administrative procedures to implement and enforce the requirements of this part, including public notice and comment procedures.

EPA reviewed DNREC's July 8, 2010 request and concludes that it meets all of the requirements of 40 CFR Part 55.11(b). Therefore, DNREC is authorized to implement, enforce, and administer the parts of 40 CFR part 55 listed above for OCS sources in which Delaware is the corresponding onshore area.

I appreciate DNREC's efforts to implement the OCS regulations and look forward to working with you to foster the growth of alternative energy projects in Delaware. If you have any questions, please do not hesitate to contact me or have your staff contact Ms. Amie Howell, EPA's Delaware Liaison, at (215) 814–5722.

Sincerely,
Shawn M. Garvin
Regional Administrator''

This notice acknowledges that DNREC has been delegated the authority to implement and enforce OSC Air Regulations.

Dated: July 10, 2012.

W.C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 2012–18384 Filed 7–26–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2012–0344; FRL–9355–1]

Clothianidin; Emergency Petition To Suspend; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: PANNA and others submitted a request for the EPA to immediately suspend Clothianidin and take other actions affecting the registration. The EPA is announcing the decision to deny the suspension request and is inviting the public to comment on the decision and the remainder of the petition.

DATES: Comments must be received on or before September 25, 2012.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2012–0344; FRL–9355–1, 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 statute.
- *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.*

FOR FURTHER INFORMATION CONTACT: Marianne Lewis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–8043; fax number: (703) 308–0029; email address: *marianne.lewis@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including: Environmental groups, farmers, beekeepers, State regulatory partners, other interested Federal agencies; members of the public interested in the sale, distribution, or use of pesticides; and other pesticide registrants and pesticide users.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a

Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

On March 20, 2012, The Center for Food Safety and International Center for Technology Assessment submitted to the EPA an ''Emergency Citizen Petition'' on behalf of 27 individuals and non-governmental organizations requesting that the EPA suspend registrations for the insecticide clothianidin for the four following reasons: (1) To cure clothianidin's unlawful conditional registration; (2) to prevent an imminent hazard to pollinating insects and the agricultural interests they support by suspending the registrations and initiating special review and cancellation proceedings; (3) to stop the sale of misbranded clothianidin products; and (4) to address Endangered Species Act consultation obligations for clothianidin. Given the emergency nature of the request and the harm asserted, the EPA has addressed on an expedited basis the request to suspend clothianidin registrations to prevent an imminent hazard. This notice announces the availability of the EPA's petition response on that issue. The EPA will address the remaining three issues in the petition after receiving and considering public comments on the petition. After reviewing the petition and the supporting documentation, the EPA is denying the request to suspend clothianidin registrations based on the assertion that an imminent hazard exists because the petition and supporting documentation reviewed by the EPA do not demonstrate a substantial likelihood of imminent, serious harm that would justify the suspension of this pesticide under the FIFRA standard. The EPA is posting both the petition (including exhibits and supplemental filings) and its response to the imminent hazard claim for 60 days for public comment on its Web site and in the public docket at regulations.gov. After reviewing the public comments on the petition the EPA will respond to the remaining issues in the petition. In addition, the EPA will determine in connection with that review whether the comments received support the reconsideration of this partial response.

List of Subjects

Environmental protection, Agricultural commodities, Pesticides and pest.

Dated: July 17, 2012.

Steven P. Bradbury,

Director, Office of Pesticide Programs.

[FR Doc. 2012–18321 Filed 7–26–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9004–2]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7146 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements

Filed 07/16/2012 through 07/20/2012

Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *http://www.epa.gov/compliance/nepa/eisdata.html.*

Supplementary Information: EPA is seeking agencies to participate in its e-NEPA electronic EIS submission pilot. Participating agencies can fulfill all requirements for EIS filing, eliminating the need to submit paper copies to EPA Headquarters, by filing documents online and providing feedback on the process. To participate in the pilot, register at: *https://cdx.epa.gov.*

EIS No. 20120240, Final EIS, BLM, 00, Programmatic—Solar Energy Development in Six Southern States, To Identify and Prioritize Specific Locations Best Suited for Utility Scale Solar Energy Development on Public Lands, AZ, CA, CO, NV, NM, and UT, *Review Period Ends:* 08/27/2012, *Contact:* Shannon Stewart, BLM 202 912–7219; Jane Summerson, DOE 202–287–6188. The U.S. Department of the Interior's Bureau of Land Management and the U.S. Department of Energy are Joint Lead Agencies for this project.

EIS No. 20120241, Final EIS, USFS, WA, South George Vegetation and Fuels Management Project, To Improve Forest Health and Resilience to Fire, Insects and Disease in Upland Forests, Pomerory Ranger District, Umatilla National Forest, Asotin and Garfield Counties, WA, *Review Period Ends:* 08/27/2012, *Contact:* Dan Castillo 509–843–1891.

EIS No. 20120242, Final EIS, BLM, WY, Lost Creek In Situ Recovery Project, To Analyze the Site-Specific Impacts Associated with the Plan of Operations, Sweetwater County, WY, *Review Period Ends:* 08/27/2012, *Contact:* John Russell 307–328–4252.

EIS No. 20120243, Final EIS, DHS, 00, Programmatic—Northern Border Activities Program, Propose to Enhance its Program of Security along the United States' Northern Border with Canada, from Maine to Washington, *Review Period Ends:* 08/27/2012, *Contact:* Jennifer Hass 202–344–1929.

EIS No. 20120244, Draft Supplement, NNSA, 00, Surplus Plutonium Disposition (DOE/EIS–0283–S2), To Consider Options for Pit Disassembly and Conversion of Plutonium Metal to Oxide, SC, NM, AL, and TN, *Comment Period Ends:* 09/25/2012, *Contact:* Sachiko McAlhany 803–952–6110.

EIS No. 20120245, Final EIS, USA, AK, Point Thomson Project, Authorization for the Placement of Fill Material into U.S. Waters, Permit Application, AK, *Review Period Ends:* 08/27/2012, *Contact:* Harry A. Baij 907–753–2784.

EIS No. 20120246, Final EIS, USN, CA, Marine Corps Air Ground Combat Center Project, Land Acquisition and Airspace Establishment to Support Large-Scale MAGTF Live-Fire and Maneuver Training Facility, Twentynine Palms, San Bernardino County, CA, *Review Period Ends:* 08/27/2012, *Contact:* Chris Proudfoot 760–830–3764.

EIS No. 20120247, Final EIS, USACE, 00, Mississippi River Gulf Outlet Ecosystem Restoration, To Develop a Comprehensive Ecosystem Restoration Plan to Restore the Lake Borgne Ecosystems, LA and MS, *Review Period Ends:* 08/27/2012, *Contact:* Tammy Gilmore 504–862–1002.

EIS No. 20120248, Final EIS, USACE, TX, City of Denison Land Conveyance, Lake Texoma, To Convey a Parcel of Federally-owned Land at Lake Texoma, OK and TX to the City of Denison, TX, Grayson and Cooke Counties, TX and Portion of

Bryan, Marshall, Johnston, and Love Counties, OK, *Review Period Ends:* 08/28/2012, *Contact:* Stephan L. Nolan 918–669–7660.

EIS No. 20120249, Second Draft EIS (Tiering), USCG, 00, Tier 1 DEIS—Rulemaking for Dry Cargo Residue (DCR) Discharges in the Great Lakes, To Regulate Nonhazardous and Nontoxic DCR Sweeping from Vessels in the Great Lakes that fall under the Jurisdiction of the United States and Address Gaps Identified in Phase I Final EIS, Comment *Period Ends:* 10/25/2012, *Contact:* Timothy O'Brien 202–372–1539.

Amended Notices

EIS No. 20120164, Draft EIS, BLM, CA, McCoy Solar Energy Project, Development of up to 750-megawatt(mw) Solar Energy Plant, Right-of-Way Grant, Riverside County, CA, *Comment Period Ends:* 08/23/2012, *Contact:* Jeff Childers 760–833–7100 Revision to FR Notice Published 05/25/2012; Extending Comment Period from 08/22/2012 to 08/23/2012.

EIS No. 20120209, Draft EIS, USN, FL, Naval Air Station Key West Airfield Operations, To Support and Conduct Aircraft Training Operations, Florida Keys, Monroe County, FL, *Comment Period Ends:* 08/13/2012, *Contact:* John Conway 904–542–6870. Revision to FR Notice Published 06/29/2012; *Extending Comment Period* from 08/13/2012 to 08/28/2012.

EIS No. 20120233, Draft EIS, BLM, NM, Prehistoric Trackways National Monument Resource Management Plan, Implementation, Dona Ana County, NM, *Comment Period Ends:* 10/22/2012, *Contact:* Lori Allen 575–525–4454. Revision to FR Notice Published 07/20/2012; Change Filing Agency from AFS to BLM.

EIS No. 20120237, Final Supplement, FHWA, CO, US 550 South Connection to US 160, Updated Information, To US 160 from Durango to Bayfield, US Army COE Section 404 Permit, La Plata County, CO, *Review Period Ends:* 08/27/2012, *Contact:* Stephanie Gibson 720–963–3013. Revision to FR Notice Published 07/20/2012; Filed Corrected Version and Extending Review Period from 8/20/2012 to 8/27/2012.

Dated: July 24, 2012.

Cliff Rader,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2012–18373 Filed 7–26–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9706–8]

Forms and Procedures for Submitting Compliance Reports: Requirements Pertaining to Reformulated Gasoline, Anti-dumping, Gasoline Sulfur, Renewable Fuel Standard Requirements, etc. and Greenhouse Gas Reporting Requirements Related to Coal-Based Liquid Fuels and Petroleum Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA's Office of Transportation and Air Quality (OTAQ) is announcing that compliance reports submitted or due on or after August 31, 2012 must be submitted via EPA's Central Data Exchange (CDX). The substance and format of the reports is unchanged. EPA is switching to all-electronic reporting using CDX because it is simple, cost effective, and will improve the availability and integrity of data. As of August 31, 2012, parties will no longer be permitted to submit reports via portable electronic media, such as CDs or diskettes. This notice affects parties subject to reporting requirements under 40 CFR part 80, including requirements pertaining to reformulated gasoline, anti-dumping, gasoline sulfur, ultra-low sulfur diesel, benzene content, and the renewable fuel standard. This notice also affects parties subject to greenhouse gas reporting requirements related to coal-based liquid fuels and petroleum products under 40 CFR part 98, subparts LL and MM.

DATES: The reporting procedures described in this notice are effective starting with reports due or submitted to EPA on or after August 31, 2012.

FOR FURTHER INFORMATION CONTACT: Anne-Marie C. Pastorkovich, Attorney/Advisor, Environmental Protection Agency, 1200 Pennsylvania Avenue NW. (6406J), Washington, DC 20460; telephone number: 202–343–9623; fax number: 202–343–2801; email address: *pastorkovich.anne-marie@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Does this notice apply to me?

This action affects regulated parties who submit information to EPA under fuels programs governed by 40 CFR Part 80, including the reformulated gasoline, anti-dumping, gasoline sulfur, ultra-low sulfur diesel, and benzene programs, as well as the renewable fuel standard. This action also affects regulated parties who submit information to EPA related to the greenhouse gas reporting requirements of 40 CFR part 98, subparts LL and MM. The specific programs and forms affected are discussed in *Section III—What Reports Must Be Submitted via CDX?* Reports due or submitted to EPA on or after August 31, 2012 must be submitted to the OTAQ Fuels Reporting System via the EPA Central Data Exchange (CDX). As of that date, regulated parties will no longer be permitted to report by submitting portable electronic media, such as CDs or diskettes. This notice also affects the resubmission of any report to EPA, if the resubmission occurs on or after August 31, 2012. If you have further questions regarding the applicability of this action to a particular party, please contact the person listed in **FOR FURTHER INFORMATION CONTACT.**

II. Why is EPA switching to all-electronic reporting using CDX?

EPA's Central Data Exchange (CDX) enables fast, efficient, and secure submission of data to EPA. Among the advantages offered by CDX are the following features, which will improve fuel reporting under 40 CFR Part 80 and greenhouse gas reporting under 40 CFR part 98, subparts LL and MM. CDX allows regulated parties to:

- Submit data through one centralized and secure point of access;
- Receive confirmation from EPA when submissions are received;
- Submit data in a variety of formats including Excel and flat-file; and
- Reduce costs associated with submitting and processing data submissions.

EPA does not charge the regulated party to set up a CDX account. Virtually all regulated parties subject to 40 CFR part 80 already have CDX accounts and EPA's primary reporting instructions already specify the submission of compliance reports using CDX. However, to date we have permitted submission of CDs or diskettes as an alternative to CDX reporting under certain circumstances. Starting with reports due or submitted on or after August 31, 2012, these alternative options for submitting reports will no longer apply.

There are several reasons for eliminating alternative submission options. Parties often submit CDs without properly ''burning'' data to them, so that no report is submitted. EPA staff must then notify the regulated party that they must re-submit using CDX or by sending a CD that actually contains the required data. This type of reporting error cannot occur with a CDX transmission.

Electronic media submitted to EPA via postal mail is irradiated for security reasons, which often damages CDs and diskettes, rendering them unusable. When this occurs, EPA staff must notify regulated parties to ensure a usable resubmission occurs. This type of damage cannot occur with a CDX transmission.

When parties submit portable electronic media such as CDs or diskettes, they are also required to submit a physical, signed, cover letter that identifies all the files being submitted and that explains the reason why the data was not submitted to EPA using CDX. EPA is required to review and retain this paperwork and must match up the paperwork to the physical media submitted. We must store both the paper and the physical media, and eventually we must catalog and archive them. With CDX, the process is done quickly, easily, and electronically, and no superfluous paper record or physical object requiring special storage is generated by the submitter. EPA is able to more quickly and efficiently process reports received through CDX, and the amount of paper and physical media that must be utilized, reviewed, stored, and eventually archived, is greatly reduced.

EPA believes there is no reason to provide for alternatives to CDX and that exclusive use of CDX will increase efficiency and lower the costs associated with the submission and processing of compliance reports. It will also enhance the availability and integrity of information stored in our compliance database. Most compliance data is not publicly available (since it often contains information claimed as confidential business information by the submitter), but the data must be made available to EPA program and enforcement personnel. By utilizing CDX, information is entered into our compliance database and available for use much more quickly. By fully utilizing CDX, we expect not only enhanced availability, but enhanced data integrity as well. Parties using CDX are able to submit data in common file formats (including Excel); EPA is also providing a unified report form that allows companies to check report formats before submission to help avoid careless errors that prevent reports from being accepted by the system. Using CDX, a user may view its own reporting history and submitters may download and decrypt all reports that they submitted to EPA after July of 2011.

Fully implementing electronic reporting via CDX is consistent with EPA, and government-wide, efforts to encourage secure electronic reporting and reduce costs associated with the processing and storage of paper formats and accompanying physical media. The alternative options we provided previously in the instructions for 40 CFR part 80 programs and for 40 CFR part 98, subparts LL and MM were not meant as primary means of reporting, but were generally intended as a temporary measure for parties who did not have working CDX accounts in time for a reporting deadline. For example, the instructions for the RFS2 alternative reporting procedure specifically state that the procedure is intended for parties who were unable to get a CDX account within a month of the reporting deadline, and further require that the party explain the reason they were not reporting via CDX in the cover letter they provide with the mailed-in media. Since virtually all reporting parties already have CDX accounts, we no longer believe any alternative submission options are necessary. We are providing ample notice in order to ensure that any party who does not yet have a CDX account has sufficient time to get one prior to August 31, 2012. Any party requiring a new CDX account may set up an account at *http://cdx.epa.gov/epa_home.asp.*

III. What reports must be submitted via CDX?

For parties subject to the reformulated gasoline (RFG) and anti-dumping regulations of Subparts D and E, the Tier 2 gasoline sulfur regulations of Subpart H and the gasoline toxics requirements (MSAT2) of Subpart J, reports must be submitted via CDX, starting with reports submitted or due on or after August 31, 2012. The report forms currently in use as of July 3, 2012 are listed with their OMB approval numbers and current expiration dates:

- 3520–20C (RFG0301): Reformulated Gasoline and Anti-Dumping Batch Report, OMB Control Number 2060–0277, Expires December 31, 2014;
- 3520–20D (RFG0400): Reformulated Gasoline and Anti-Dumping Quarterly Summary, OMB Control Number 2060–0277, Expires December 31, 2014;
- 3520–20E (RFG0500): Reformulated Gasoline and Anti-dumping Annual Compliance Designation, OMB Control Number 2060–0277, Expires December 31, 2014;
- 3520–20H (RFG0800): Anti-Dumping Program Annual Report, OMB Control Number 2060–0277, Expires December 31, 2014;
- 3520–20I (RFG0900): Reformulated Gasoline Toxics Emissions Performance Averaging Report, OMB Control Number 2060–0277, Expires December 31, 2014;
- 3520–20J (RFG1000): Reformulated Gasoline Program Benzene Content Averaging Report, OMB Control Number 2060–0277, Expires December 31, 2014;
- 3520–20L (RFG1200): Reformulated Gasoline Program NO_X Emissions Performance Averaging Report (Complex Model), OMB Control Number 2060–0277, Expires December 31, 2014;
- 3520–20M (RFG1300): Reformulated Gasoline Program VOC Emissions Performance Averaging Report, OMB Control Number 2060–0277, Expires December 31, 2014;
- 3520–20N (RFG1400): Reformulated Gasoline Program Averaging Areas Report, OMB Control Number 2060–0277, Expires December 31, 2014;
- 3520–20P (RFG1600): Reformulated Gasoline Program Credit Transfer Report (Complex Model), OMB Control Number 2060–0277, Expires December 31, 2014;
- 3520–20Q (RFG1700): Reformulated Gasoline Program Oxygen Content Averaging Report (Complex Model), OMB Control Number 2060–0277, Expires December 31, 2014;
- RFG2000: RFG & Anti-Dumping Annual Benzene Report (MSAT–2), OMB Control Number 2060–0277, Expires December 31, 2014;
- RFG2200: MSAT2 Credit Transfer Report (MSAT–2), OMB Control Number 2060–0277, Expires December 31, 2014;
- RFG2500: MSAT–2 Precompliance Report (MSAT–2), OMB Control Number 2060–0277, Expires December 31, 2014; and
- Gasoline Sulfur and Benzene Batch Report (Tier 2 Gasoline Sulfur and MSAT–2), OMB Control Numbers 2060–0437 and 2060–0277, Expiring January 31, 2014 and December 31, 2014.

Forms and instructions may be viewed on EPA's ''Reformulated Gasoline Reporting Forms'' Web page at the following URL: *http://www.epa.gov/otaq/fuels/reporting/rfg.htm.*

For parties who are subject to the Tier 2 gasoline sulfur reporting regulations of Subpart H, the following reports must be submitted via CDX, starting with reports submitted or due on or after August 31, 2012. The report forms currently in use as of July 3, 2012 are listed with their OMB approval numbers and current expiration dates:

- OH–GSC01: Overhead Information Included in Company Reports, OMB Control Number 2060–0437, Expiring January 31, 2014—this form includes the ''overhead'' (identifying information) that must be included in Tier 2 gasoline sulfur reports on a company level;
- GSC0100: Gasoline Sulfur Allotment Banking Report (company

report), OMB Control Number 2060–0437, Expiring January 31, 2014;

• GSC0200: Gasoline Sulfur Allotment Transfer/Conversion Report (company report), OMB Control Number 2060–0437, Expiring January 31, 2014;

• GSC0300: Gasoline Sulfur Corporate Pool Average Report (company report), OMB Control Number 2060–0437, Expiring January 31, 2014;

• GSC0400: Gasoline Sulfur Corporate Pool Facility Identification Report (company report), OMB Control Number 2060–0437, Expiring January 31, 2014;

• OH–GSF01: Overhead Information Included in Facility Reports, Expiring January 31, 2014—this form includes the ''overhead'' (identifying information) that must be included in Tier 2 gasoline sulfur reports on a facility level;

• GSF–0100: Gasoline Sulfur Credit Banking and Allotment Generation Report, OMB Control Number 2060–0437, Expiring January 31, 2014;

• GSF–0200: Gasoline Sulfur Credit Transfer/Conversion Report, OMB Control Number 2060–0437, Expiring January 31, 2014;

• GSF–0301: Gasoline Sulfur Facility Summary Report, OMB Control Number 2060–0437, Expiring January 31, 2014;

• GSF–0401: Gasoline Sulfur and Benzene Batch Report, OMB Control Number 2060–0437, Expiring January 31, 2014; and

• GSF–0500: Gasoline Sulfur Report for Batches Containing Previously Certified Gasoline, OMB Control Number 2060–0437, Expiring January 31, 2014.

Forms and instructions may be viewed on EPA's ''Tier 2 Gasoline Sulfur Reporting Forms'' Web page at the following URL: *http://www.epa.gov/otaq/fuels/reporting/tier2.htm.*

For parties who are subject to the diesel sulfur reporting regulations of Subpart I, the following report forms must be submitted via CDX, starting with reports submitted or due on or after August 31, 2012. The report forms currently in use as of July 3, 2012 are listed with their OMB approval numbers and current expiration dates:

• DSF0100: Diesel Fuel Sulfur Credit Banking & Generation Report, OMB Control Number 2060–0308, Renewal Pending;

• DSF0200: Diesel Fuel Sulfur Credit Transfer Report, OMB Control Number 2060–0308, Renewal Pending;

• DSF0302: Diesel Fuel Sulfur Facility Summary Report, OMB Control Number 2060–0308, Renewal Pending;

• DSF0401: Diesel Fuel Sulfur Batch Report, OMB Control Number 2060–0308, Renewal Pending;

• DSF0504: Designate & Track Handoff Report, OMB Control Number 2060–0308, Renewal Pending;

• DSF0601: Designate & Track Total Volume Report, OMB Control Number 2060–0308, Renewal Pending;

• DSF0700: Designate & Track Facility Compliance Calculation Report, OMB Control Number 2060–0308, Renewal Pending;

• DSE0700: Designate & Track Entity Compliance Calculation Report, OMB Control Number 2060–0308, Renewal Pending;

• DSF0900: Motor Vehicle Diesel Fuel Sulfur Pre-Compliance Report, OMB Control Number 2060–0308, Renewal Pending; and

• DSF0951: NRLM Diesel Fuel Sulfur Pre-Compliance Report, OMB Control Number 2060–0308, Renewal Pending.

Forms and instructions may be viewed on EPA's ''Diesel Fuel Reporting Forms'' Web page at the following URL: *http://www.epa.gov/otaq/fuels/reporting/diesel.htm.* The spreadsheet templates for Diesel Sulfur & Solvent Yellow 124 Test Facility Qualification are not affected by this notice. These forms are only used by fuel testing facilities in order to qualify use of test methods which determine sulfur content and the presence of a marker.

For parties who are subject to the renewable fuel standard (RFS2) regulations of Subpart M, the following reports must be submitted via CDX, starting with reports submitted or due on or after August 31, 2012. The report forms currently in use as of the date of July 3, 2012 are listed with their OMB approval numbers and current expiration dates:

• RFS0103: RFS2 Q1 2012 Activity Report, OMB Control Number 2060–0640, Expiring July 31, 2013.

• RFS0104: RFS2 Activity Report, OMB Control Number 2060–0640, Expiring July 31, 2013.

• RFS0201: RFS1 RIN Transaction Report, OMB Control Number 2060–0640, Expiring July 31, 2013.

• RFS0302: RFS2 2011 Annual Compliance Report, OMB Control Number 2060–0640, Expiring July 31, 2013.

• RFS0601: RFS2 Renewable Fuel Producer Supplemental Report, OMB Control Number 2060–0640, Expiring July 31, 2013.

• RFS0701: RFS2 Renewable Fuel Producer Co-products Report, OMB Control Number 2060–0640, Expiring July 31, 2013.

• RFS0801: RFS2 Renewable Biomass Report, OMB Control Number 2060–0640, Expiring July 31, 2013.

• RFS0901: RFS2 Production Outlook Report, OMB Control Number 2060–0640, Expiring July 13, 2013.

Prior year versions of these forms are on our Web page for the purpose of resubmissions. These include the RFS0101—RFS2 2011Activity Report, RFSA101—RFS 2011 Activity Report, RFS0102—RFS2 2011 Activity Report, RFS0301—RFS 2010 Annual Compliance Report, RFS0700—RFS2 Renewable Fuel Producer Co-Products Report, RFS 0800—RFS2 Renewable Biomass Report, and RFS0900—RFS2 Production Outlook Report. In addition, several RFS1 reports are provided at our Web page for resubmission purposes. These include the RFS0100—RFS Activity Report, RFS0200—RIN Transaction Report, RFS0300—RFS Obligated Party Annual Compliance Report, and RFS0400—RFS RIN Generation Report. As of August 31, 2012, any resubmission of these reports must use CDX.

Forms and instructions may be viewed on EPA's ''Renewable Fuel Standard Reporting Forms'' Web page at the following URL: *http://www.epa.gov/otaq/fuels/reporting/rfs.htm.*

For parties subject to the Mandatory Reporting of Greenhouse Gases Rule of 40 CFR part 98, subparts LL (suppliers of coal-based liquid fuels) and/or MM (suppliers of petroleum products), reports must be submitted via CDX, starting with reports submitted or due on or after August 31, 2012. The report forms currently in use as of the date of July 3, 2012 are listed with their OMB approval numbers and current expiration dates:

• GHG0101: GHG Report—Products by Measurement Method, OMB Control No. 2060–0629, Expiring November 30, 2012; OMB Control No. 2025–0003, Expiring April 30, 2015

• GHG0201: GHG Report—Aggregate Petroleum Products, Natural Gas Liquids and Coal-to-Liquid Products, OMB Control No. 2060–0629, Expiring November 30, 2012; OMB Control No. 2025–0003, Expiring April 30, 2015

• GHG0301: GHG Report—Total CO_2, OMB Control No. 2060–0629, Expiring November 30, 2012; OMB Control No. 2025–0003, Expiring April 30, 2015

• GHG0401: GHG Report—Blended Products that Do Not Contain Biomass, OMB Control No. 2060–0629, Expiring November 30, 2012; OMB Control No. 2025–0003, Expiring April 30, 2015

• GHG0501: GHG Report—Crude Oil Received, OMB Control No. 2060–0629, Expiring November 30, 2012; OMB Control No. 2025–0003, Expiring April 30, 2015

• GHG0601: GHG Report—NAICS Codes and Parent Company Information,

OMB Control No. 2060–0629, Expiring November 30, 2012; OMB Control No. 2025–0003, Expiring April 30, 2015

Prior year versions of these forms are included on our Web page for the purpose of resubmissions. These include the GHG0100: GHG Report—Products by Measurement Method, GHG0200: GHG Report—Aggregate Petroleum Products, Natural Gas Liquids and Coal-to-Liquid Products, GHG0300: GHG Report—Total CO_2, GHG0400: GHG Report—Blended Products that Do Not Contain Biomass, GHG0500: GHG Report—Crude Oil Received, and GHG0600: GHG Report—NAICS Codes and Parent Company Information. As of August 31, 2012, any resubmission of these forms must use CDX.

Forms and instructions may be viewed on EPA's ''Greenhouse Gas Reporting Program Reporting Forms and Instructions'' Web page at the following URL: *http://www.epa.gov/otaq/fuels/reporting/ghg-llmmreporting.htm.*

IV. Useful References

The following Web pages provide information about CDX and provide information, instructions, and tutorials to assist parties in submitting reports to EPA:

- General Information about the EPA Central Data Exchange (CDX)—*https://www.epa.gov/cdx/*
- Submitting Reports—Central Data Exchange—*http://www.epa.gov/otaq/fuels/reporting/cdx.htm*
- Office of Transportation and Air Quality (OTAQ)—DCFUEL Registration Quick Start Guide (PDF)—*http://www.epa.gov/otaq/regs/fuels/420b11028b.pdf*
- Office of Transportation and Air Quality (OTAQ) DCFUEL User Guide (PDF)—*http://www.epa.gov/otaq/regs/fuels/420b11027b.pdf*
- Office of Transportation and Air Quality (OTAQ) DCFUEL Submission Quick Start Guide (PDF)—*http://www.epa.gov/otaq/regs/fuels/420b11029.pdf*
- DCFUEL On-Line Reporting Tutorial—*http://www.epa.gov/otaq/fuels/reporting/dcfuelstutorial/dcfuels.htm*

List of Subjects

Environmental protection; Administrative practice and procedure; Air pollution control; Confidential business information; Diesel fuel; Fuel additives; Gasoline; Imports; Motor vehicle pollution; Reporting and recordkeeping requirements.

Dated: July 11, 2012.

Byron J. Bunker,

Acting Director, Compliance Division, Office of Transportation and Air Quality.

[FR Doc. 2012–18377 Filed 7–26–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R07–SFUND–2012–0584; FRL–9704–9]

Proposed Administrative Cost Recovery Settlement Under the Comprehensive Environmental Response Compensation and Liability Act, as Amended, Big River Mine Tailings Superfund Site, St. Francois County, MO

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with Section 122(i) of the Comprehensive Environmental Response Compensation and Liability Act, as amended (CERCLA), notice is hereby given of a proposed administrative settlement with The Doe Run Resources Corporation, St. Louis, Missouri, for recovery of past response costs concerning the Big River Mine Tailings Superfund Site in St. Francois County, Missouri. The settlement requires The Doe Run Resources Corporation to pay $42,077.71, to the Hazardous Substance Superfund. The settlement includes a covenant not to sue the settling party pursuant to Section 107(a) of CERCLA. For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the settlement. EPA will consider all comments and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. EPA's response to any comments received will be available for public inspection at the EPA Region 7 office located at 901 N. 5th Street, Kansas City, Kansas.

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

ADDRESSES: The proposed settlement is available for public inspection at the EPA Region 7 office, 901 N. 5th Street, Kansas City, Kansas, Monday through Friday, between the hours of 7:00 a.m. through 5:00 p.m. A copy of the proposed settlement may be obtained from the Regional Hearing Clerk, 901 N. 5th Street, Kansas City, Kansas, (913) 551–7567. Requests should reference the Big River Mine Tailings Superfund Site, EPA Docket No. CERCLA–07–2011–0013. Comments should be addressed to: Julie M. Van Horn, Senior Assistant Regional Counsel, 901 N. 5th Street, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Julie M. Van Horn, at telephone: (913) 551–7889; fax number: (913) 551–7925/Attn: Julie M. Van Horn; email address: *vanhorn.julie@epa.gov.*

Dated: July 13, 2012.

Cecilia Tapia,

Director, Superfund Division, Region 7.

[FR Doc. 2012–18390 Filed 7–26–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R04–OW–2012–0449; FRL–9705–1]

Public Water System Supervision Program Revision for the State of Alabama

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of tentative approval.

SUMMARY: Notice is hereby given that the State of Alabama is revising its approved Public Water System Supervision Program. Alabama has adopted the following rule: Public Notification Rule. EPA has determined that Alabama's rule is no less stringent than the corresponding federal regulation. Therefore, EPA is tentatively approving this revision to the State of Alabama's Public Water System Supervision Program.

DATES: Any interested person may request a public hearing. A request for a public hearing must be submitted by August 27, 2012, to the Regional Administrator at the EPA Region 4 address shown below. The Regional Administrator may deny frivolous or insubstantial requests for a hearing. However, if a substantial request for a public hearing is made by August 27, 2012, a public hearing will be held. If EPA Region 4 does not receive a timely and appropriate request for a hearing and the Regional Administrator does not elect to hold a hearing on her own motion, this tentative approval shall become final and effective on August 27, 2012. Any request for a public hearing shall include the following information: The name, address, and telephone number of the individual, organization, or other entity requesting a hearing; a brief statement of the requesting person's interest in the Regional Administrator's determination

and a brief statement of the information that the requesting person intends to submit at such hearing; and the signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

ADDRESSES: All documents relating to this determination are available for inspection between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday, at the following offices: Alabama Department of Environmental Management, Drinking Water Branch, 1400 Coliseum Boulevard, Montgomery, Alabama 36130; and the U.S. Environmental Protection Agency, Region 4, Safe Drinking Water Branch, 61 Forsyth Street SW., Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT: Robert Burns, EPA Region 4, Safe Drinking Water Branch, at the address given above, by telephone at (404) 562–9456, or at *burns.robert@epa.gov.*

EPA Analysis: On May 27, 2004, the State of Alabama submitted a request that the Region approve revisions to the State's Safe Drinking Water Act Public Water System Supervision Program to include the authority to implement and enforce the Public Notification Rule. For the revisions to be approved, the EPA must find the State Rule, ADEM Admin. Code r. 335–7–2–.21, to be no less stringent than the Federal Public Notification Rule, codified at 40 CFR Part 141, Subpart Q. EPA reviewed the application using the Federal statutory provisions (Section 1413 of the Safe Drinking Water Act), Federal regulations (at 40 CFR part 142), State regulations, rule crosswalks, and EPA regulatory guidance to determine whether the request for revisions is approvable. EPA determined that the Alabama revisions are no less stringent than the corresponding Federal regulations.

EPA Action: The EPA is tentatively approving this revision. If the EPA does not receive a timely and appropriate request for a hearing and the Regional Administrator does not elect to hold a hearing on her own motion, this tentative approval will become final and effective on August 27, 2012.

Authority: Section 1413 of the Safe Drinking Water Act, as amended (1996), and 40 CFR part 142.

Dated: July 11, 2012.

Gwendolyn Keyes Fleming,

Regional Administrator, Region 4.

[FR Doc. 2012–18387 Filed 7–26–12; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK OF THE UNITED STATES

[Public Notice 2012–0089]

Application for Long-Term Loan or Financial Guarantee

Reason for Notice

This Notice is to inform the public, in accordance with Section 3(c)(10) of the Charter of the Export-Import Bank of the United States (''Ex-Im Bank''), that Ex-Im Bank has received an application for final commitment for a long-term loan or financial guarantee in excess of $100 million (as calculated in accordance with Section 3(c)(10) of the Charter).

Comments received within the comment period specified below will be presented to the Ex-Im Bank Board of Directors prior to final action on this Transaction.

AGENCY: Export-Import Bank of the United States.

ACTION: Notice of 25-day comment period regarding an application for final commitment for a long-term loan or financial guarantee in excess of $100 million.

Reference: AP084212XX.

Purpose and Use

Brief description of the purpose of the transaction:

To support the export of U.S.-manufactured commercial aircraft to Norway.

Brief non-proprietary description of the anticipated use of the items being exported:

To provide airline services within Norway and between Norway and other countries.

To the extent that Ex-Im Bank is reasonably aware, the item(s) being exported are not expected to produce exports or provide services in competition with the exportation of goods or provision of services by a United States industry.

Parties

Principal Supplier: The Boeing Company.

Obligor: Norwegian Air Shuttle ASA.

Guarantor(s): N/A.

Description of Items Being Exported

The items being exported are Boeing 737 aircraft.

Information on Decision: Information on the final decision for this transaction will be available in the ''Summary Minutes of Meetings of Board of Directors'' on *http://www.exim.gov/articles.cfm/board%20minute.*

Confidential Information: Please note that this notice does not include confidential or proprietary business information; information which, if disclosed, would violate the Trade Secrets Act; or information which would jeopardize jobs in the United States by supplying information that competitors could use to compete with companies in the United States.

DATES: Comments must be received on or before August 21, 2012 to be assured of consideration before final consideration of the transaction by the Board of Directors of Ex-Im Bank.

ADDRESSES: Comments may be submitted through *www.regulations.gov.*

Kathryn Hoff-Patrinos,

Deputy General Counsel.

[FR Doc. 2012–18349 Filed 7–26–12; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Update to Notice of Financial Institutions for Which the Federal Deposit Insurance Corporation Has Been Appointed Either Receiver, Liquidator, or Manager

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Update Listing of Financial Institutions in Liquidation.

SUMMARY: Notice is hereby given that the Federal Deposit Insurance Corporation (Corporation) has been appointed the sole receiver for the following financial institutions effective as of the Date Closed as indicated in the listing. This list (as updated from time to time in the **Federal Register**) may be relied upon as ''of record'' notice that the Corporation has been appointed receiver for purposes of the statement of policy published in the July 2, 1992 issue of the **Federal Register** (57 FR 29491). For further information concerning the identification of any institutions which have been placed in liquidation, please visit the Corporation Web site at *www.fdic.gov/bank/individual/failed/banklist.html* or contact the Manager of Receivership Oversight in the appropriate service center.

Dated: July 23, 2012.

Federal Deposit Insurance Corporation.

Pamela Johnson,

Regulatory Editing Specialist.

INSTITUTIONS IN LIQUIDATION

[In alphabetical order]

FDIC Ref. No.	Bank name	City	State	Date closed
10450	First Cherokee State Bank	Woodstock	GA	7/20/2012
10451	Georgia Trust Bank	Buford	GA	7/20/2012
10452	Heartland Bank	Leawood	KS	7/20/2012
10453	Second Federal Savings and Loan Association of Chicago	Chicago	IL	7/20/2012
10454	The Royal Palm Bank of Florida	Naples	FL	7/20/2012

[FR Doc. 2012–18331 Filed 7–26–12; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS–0990–0294; 60-Day Notice]

Agency Information Collection Request. 60-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing for public comment the following summary of a request to extend a previously approved information collection. This request does not propose any changes to this information collection related to future modifications of the underlying regulations. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden. To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, email your request, including your address, phone number, OMB number, and OS document identifier, to *Sherette.funncoleman@hhs.gov,* or call the Reports Clearance Office on (202) 690–6162. Written comments and recommendations for the proposed information collections must be directed to the OS Paperwork Clearance Officer at the above email address within 60 days.

Proposed Project: Standards for the Privacy of Individually Identifiable Health Information and Supporting Regulations at 45 CFR Parts 160 and 164 (Extension)—OMB No. 0990–0294—Office for Civil Rights.

Abstract: The Privacy Rule implements the privacy requirements of the Administrative Simplification subtitle of the Health Insurance Portability and Accountability Act of 1996. The regulations require covered entities (as defined in the regulations) to maintain strong protections for the privacy of individually identifiable health information; to use or disclose this information only as required or permitted by the Rule or with the express written authorization of the individual; to provide a notice of the entity's privacy practices; and to document compliance with the Rule. Respondents are health care providers, health plans, and health care clearinghouses. The affected public includes individuals, public and private businesses, state and local governments.

ESTIMATED ANNUALIZED BURDEN TABLE

Section	Type of respondent	Number of respondents	Number of responses per respondent	Average burden (in hours) per response	Total burden hours
160.204	Process for Requesting Exception Determinations (states or persons).	40	1	16	640
164.504	Uses and Disclosures—Organizational Requirements	764,799	1	5/60	63,733
164.508	Uses and Disclosures for Which Individual Authorization Is Required.	764,799	1	1	764,799
164.512	Uses and Disclosures for Which Consent, Individual Authorization, or Opportunity to Agree or Object Is Not Required (or other specified purposes by an IRB or privacy board).	113,524	1	5/60	9,460
164.520	Notice of Privacy Practices for Protected Health Information (health plans).	10,570	1	3/60	529
164.520	Notice of Privacy Practices for Protected Health Information (health care providers—dissemination).	613,000,000	1	3/60	30,650,000
164.520	Notice of Privacy Practices for Protected Health Information (health care providers—acknowledgment).	613,000,000	1	3/60	30,650,000
164.522	Rights to Request Privacy Protection for Protected Health Information.	150,000	1	3/60	7,500
164.524	Access of individuals to Protected Health Information (disclosures).	150,000	1	3/60	7,500
164.526	Amendment of Protected Health Information (requests)	150,000	1	3/60	7,500
164.526	Amendment of Protected Health Information (denials)	50,000	1	3/60	2,500
164.528	Accounting for Disclosures of Protected Health Information.	1,080,000	1	5/60	90,000

ESTIMATED ANNUALIZED BURDEN TABLE—Continued

Section	Type of respondent	Number of respondents	Number of responses per respondent	Average burden (in hours) per response	Total burden hours
Total	.....	.....	.....	.....	62,254,161

Keith A. Tucker,

Office of the Secretary, Paperwork Reduction Act Clearance Officer.

[FR Doc. 2012–18335 Filed 7–26–12; 8:45 am]

BILLING CODE 4153–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10333]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title:* Consumer Assistance Program Grants; *Use:* Section 1002 of the Affordable Care Act (ACA) provides for the establishment of consumer assistance (or ombudsman) programs, starting in FY 2010. Federal grants will support these programs. These programs will assist consumers with filing complaints and appeals, assist consumers with enrollment into health coverage, collect data on consumer inquiries and complaints to identify problems in the marketplace, educate consumers on their rights and responsibilities, and with the establishment of the new Exchange marketplaces, resolve problems with premium credits for Exchange coverage.

Importantly, these programs must provide detailed reporting on the types of problems and questions consumers may experience with health coverage, and how these problems and questions are resolved. In order to strengthen oversight, section 2793(d) of the ACA requires programs to report data to the Secretary of the Department of Health and Human Services (HHS) ''As a condition of receiving a grant under subsection (a), an office of health insurance consumer assistance or ombudsman program shall be required to collect and report data to the Secretary on the types of problems and inquiries encountered by consumers''.

Analysis of this data reporting will help identify patterns of practice in the insurance marketplaces and uncover suspected patterns of noncompliance. HHS must share program data reports with the Departments of Labor and Treasury, and State regulators. Program data also can offer CMS one indication of the effectiveness of State enforcement, affording opportunities to provide technical assistance and support to State insurance regulators and, in extreme cases, inform the need to trigger federal enforcement. *Form Number:* CMS–10333 (OMB#: 0938–1097); *Frequency:* Quarterly and Annually; *Affected Public:* Private Sector: State, Local, or Tribal Governments; *Number of Respondents:* 56; *Total Annual Responses:* 504; *Total Annual Hours:* 129–261 hours. (For policy questions regarding this collection contact Eliza Bangit at 301–492–4219. For all other issues call 410–786–1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web Site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995,* or email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

In commenting on the proposed information collections please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in one of the following ways by September 25, 2012:

1. *Electronically.* You may submit your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) accepting comments.

2. *By regular mail.* You may mail written comments to the following address:

CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number ____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: July 24, 2012.

Martique Jones,

Director, Regulations Development Group, Division B, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2012–18344 Filed 7–26–12; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier CMS–10169]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the Agency's function; (2) the accuracy of the estimated burden; (3) ways to enhance the quality,

utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Revised collection; *Title of Information Collection:* Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Competitive Bidding Program; *Use:* The Centers for Medicare & Medicaid Services (CMS) will conduct competitive bidding programs in which certain suppliers will be awarded contracts to provide competitively bid DMEPOS items to Medicare beneficiaries in a competitive bidding area (CBA). CMS conducted its first round of bidding in 2007 which was implemented on July 1, 2008. The first round of bidding was subsequently delayed by section 154 of the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA).

As required by MIPPA, CMS conducted the competition for the Round 1 Rebid in 2009. The Round 1 Rebid contract and prices became effective on January 1, 2011. The Medicare Modernization Act (MMA) requires the Secretary to recompete contracts not less often than once every 3 years; therefore, CMS is preparing to recompete competitive bidding contracts in the Round 1 Rebid areas.

The 60-day **Federal Register** notice published on May 7, 2012, (77 FR 26763). Subsequently, the Application for Suppliers/Networks collection instrument has been revised by clarifying, removing and renumbering a few questions. The burden estimate has not changed. *Form Number:* CMS–10169 (OCN: 0938–1016); *Frequency:* Reporting—Occasionally; *Affected Public:* Business or other for-profit, Not-for-profit institutions; *Number of Respondents:* 16,003; *Total Annual Responses:* 20,047; *Total Annual Hours:* 34,795. (For policy questions regarding this collection contact James Cowher at 410–786–1948. For all other issues call 410–786–1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web Site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995,* or Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

To be assured consideration, comments and recommendations for the proposed information collections must be received by the OMB desk officer at the address below, no later than 5 p.m. on August 27, 2012.

OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–6974, Email: *OIRA_submission@omb.eop.gov.*

Dated: July 24, 2012.

Martique Jones,

Director, Regulations Development Group, Division B, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2012–18346 Filed 7–26–12; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–1434–N]

RIN 0938–AR17

Medicare Program; Hospice Wage Index for Fiscal Year 2013

AGENCY: Centers for Medicare & Medicaid Services (CMS), Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice sets forth the hospice wage index for fiscal year (FY) 2013 and will continue the phase-out of the wage index budget neutrality adjustment factor (BNAF), with an additional 15 percent BNAF reduction, for a total BNAF reduction through FY 2013 of 55 percent. The BNAF phase-out will continue with successive 15 percent reductions from FY 2014 through FY 2016. This notice clarifies that providers should report additional diagnoses on hospice claims. This notice also updates the public on the status of hospice payment reform and the quality reporting program.

DATES: This notice is effective on October 1, 2012.

FOR FURTHER INFORMATION CONTACT:

Anjana Patel, (410) 786–2120 for questions regarding hospice wage index.

Katie Lucas, (410) 786–7723 for questions regarding diagnosis reporting on claims.

Zinnia Harrison, (410) 786–4587 for questions regarding payment reform.

Robin Dowell, (410) 786–0060 for questions regarding quality reporting for hospices.

Hillary Loeffler, (410) 786–0456 for questions regarding this notice.

SUPPLEMENTARY INFORMATION:

Addenda Are Only Available Through the Internet on the CMS Web Site

In the past, the Addenda referred to throughout the preamble of our proposed and final rules or notices were available in the **Federal Register**. However, the Addenda of the annual proposed and final rules, or annual notices, will no longer be available in the **Federal Register**. Instead, these Addenda to the annual proposed and final rules or annual notices will be available only through the Internet on the CMS Web site. The Addenda to the FY 2013 Hospice Wage Index Notice are available at: *http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/Hospice/index.html.* Readers who experience any problems accessing any of the Addenda to the proposed and final rules or notices related to the hospice wage index that are posted on the CMS Web site identified above should contact Anjana Patel at 410–786–2120.

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I. Background

A. General

1. Hospice Care

Hospice care is an approach to treatment that recognizes that the impending death of an individual warrants a change in the focus from curative to palliative care, for relief of pain and for symptom management. The goal of hospice care is to help terminally ill individuals continue life with minimal disruption to normal activities while remaining primarily in the home environment. A hospice uses an interdisciplinary approach to deliver medical, nursing, social, psychological, emotional, and spiritual services through use of a broad spectrum of professional and other caregivers, with the goal of making the individual as physically and emotionally comfortable as possible. Counseling services and inpatient respite services are available to the family of the hospice patient. Hospice programs consider both the patient and the family as a unit of care.

Section 1861(dd) of the Social Security Act (the Act) provides for coverage of hospice care for terminally ill Medicare beneficiaries who elect to receive care from a participating hospice. Section 1814(i) of the Act provides payment for Medicare participating hospices.

2. Medicare Payment for Hospice Care

Sections 1812(d), 1813(a)(4), 1814(a)(7), 1814(i), and 1861(dd) of the Act, and our regulations at 42 CFR part 418, establish eligibility requirements, payment standards and procedures, define covered services, and delineate the conditions a hospice must meet to be approved for participation in the Medicare program. Part 418 subpart G, provides for payment in one of four prospectively-determined rate categories (routine home care, continuous home care, inpatient respite care, and general inpatient care) to hospices, based on each day a qualified Medicare beneficiary is under a hospice election.

B. Hospice Wage Index

The hospice wage index is used to adjust payment rates for hospice agencies under the Medicare program to reflect local differences in area wage levels. Our regulations at § 418.306(c) require each hospice's labor market to be established using the most current hospital wage data available, including any changes by the Office of Management and Budget (OMB) to the Metropolitan Statistical Areas (MSAs) definitions. OMB revised the MSA definitions beginning in 2003 with new designations called the Core Based Statistical Areas (CBSAs). For the purposes of the hospice benefit, the term ''MSA-based'' refers to wage index values and designations based on the previous MSA designations before 2003. Conversely, the term ''CBSA-based'' refers to wage index values and designations based on the OMB revised MSA designations in 2003, which now include CBSAs. In the August 11, 2004 Inpatient Prospective Payment System (IPPS) final rule (69 FR 48916, 49026), labor market area definitions were revised and adopted at § 412.64(b), which were effective October 1, 2004, for acute care hospitals. We also revised the labor market areas for hospices using the new OMB standards that included CBSAs. In the Fiscal Year (FY) 2006 hospice wage index final rule (70 FR 45130), we implemented a 1-year transition policy using a 50/50 blend of the CBSA-based wage index values and the MSA-based wage index values for FY 2006. The one-year transition policy ended on September 30, 2006. For fiscal years 2007 and beyond, we have used CBSAs exclusively to calculate wage index values.

The original hospice wage index was based on the 1981 Bureau of Labor Statistics hospital data and had not been updated since 1983. In 1994, because of disparity in wages from one geographical location to another, a committee was formed to negotiate a wage index methodology that could be accepted by the industry and the government. This committee, functioning under a process established by the Negotiated Rulemaking Act of 1990, comprised representatives from national hospice associations; rural, urban, large and small hospices, and multi-site hospices; consumer groups; and a government representative. On April 13, 1995, the Hospice Wage Index Negotiated Rulemaking Committee (the Committee) signed an agreement for the methodology to be used for updating the hospice wage index.

In the August 8, 1997 **Federal Register** (62 FR 42860), we published a final rule implementing a new methodology for calculating the hospice wage index based on the recommendations of the negotiated rulemaking committee. The Committee's statement was included in the appendix of that final rule (62 FR 42883).

The reduction in overall Medicare payments if a new wage index were adopted was noted in the November 29, 1995 notice transmitting the recommendations of the Committee (60 FR 61264). The Committee also decided that for each year in updating the hospice wage index, aggregate Medicare payments to hospices would remain budget neutral to payments as if the 1983 wage index had been used.

As suggested by the Committee, ''budget neutrality'' would mean that, in a given year, estimated aggregate payments for Medicare hospice services using the updated hospice values would equal estimated payments that would have been made for these services if the 1983 hospice wage index values had remained in effect. Although payments to individual hospice programs would change each year, the total payments each year to hospices would not be affected by using the updated hospice wage index because total payments would be budget neutral as if the 1983 wage index had been used. To implement this policy, a Budget Neutrality Adjustment Factor (BNAF) would be computed and applied annually to the pre-floor, pre-reclassified hospital wage index when deriving the hospice wage index.

The BNAF is calculated by computing estimated payments using the most recent, completed year of hospice claims data. The units (days or hours) from those claims are multiplied by the updated hospice payment rates to calculate estimated payments. For the FY 2012 Hospice Wage Index final rule, that meant estimating payments for FY 2012 using units (days or hours) from the FY 2010 hospice claims data, and applying the FY 2012 hospice payment rates. The FY 2012 hospice wage index values are then applied to the labor portion of the payments only. The procedure is repeated using the same units from the claims data and the same payment rates, but using the 1983 Bureau of Labor Statistics (BLS)-based wage index instead of the updated raw pre-floor, pre-reclassified hospital wage index (note that both wage indices include their respective floor adjustments). The total payments are then compared, and the adjustment required to make total payments equal is computed; that adjustment factor is the BNAF.

The FY 2010 Hospice Wage Index final rule (74 FR 39384) finalized a provision for a 7-year phase-out of the BNAF, which is applied to the wage index values. The BNAF was reduced by 10 percent in FY 2010, an additional 15 percent in FY 2011 and by an additional 15 percent again in FY 2012, for a total reduction of 40 percent to date, and will be reduced by an additional 15 percent in each of the next 4 years, for complete phase out in 2016.

1. Raw Wage Index Values (Pre-Floor, Pre-Reclassified Hospital Wage Index)

As described in the August 8, 1997 hospice wage index final rule (62 FR 42860), the pre-floor and pre-reclassified hospital wage index is used as the raw wage index for the hospice benefit. These raw wage index values are then subject to either a budget neutrality adjustment or application of the hospice floor to compute the hospice wage index used to determine payments to hospices.

Pre-floor, pre-reclassified hospital wage index values of 0.8 or greater are currently adjusted by a reduced BNAF; however, adjusting a wage index value by a reduced BNAF still results in an increase in the wage index value. Pre-floor, pre-reclassified hospital wage index values below 0.8 are adjusted by either: (1) The hospice BNAF, reduced by a total of 40 percent for FY 2012; or (2) the hospice floor (which is a 15 percent increase) subject to a maximum wage index value of 0.8; whichever results in the greater value. Once the BNAF is completely phased out, the hospice floor adjustment will simply consist of increasing any wage index value less than 0.8 by 15 percent, subject to a maximum wage index value of 0.8.

For example, if in FY 2012, County A had a pre-floor, pre-reclassified hospital wage index (raw wage index) value of 0.3994, we would perform the following calculations using the budget-neutrality factor (which for this example is an unreduced BNAF of 0.058593, less 40 percent, or 0.035156) and the hospice floor to determine County A's hospice wage index:

Pre-floor, pre-reclassified hospital wage index value below 0.8 multiplied by the 40 percent reduced BNAF: ($0.3994 \times 1.035156 = 0.4134$)

Pre-floor, pre-reclassified hospital wage index value below 0.8 multiplied by the hospice floor: ($0.3994 \times 1.15 = 0.4593$)

Based on these calculations, County A's hospice wage index would be 0.4593.

The BNAF has been computed and applied annually, in full or in reduced form, to the labor portion of the hospice payment. Currently, the labor portion of the payment rates is as follows: For Routine Home Care, 68.71 percent; for Continuous Home Care, 68.71 percent; for General Inpatient Care, 64.01 percent; and for Respite Care, 54.13 percent. The non-labor portion is equal to 100 percent minus the labor portion for each level of care. Therefore the non-labor portion of the payment rates is as follows: For Routine Home Care, 31.29 percent; for Continuous Home Care, 31.29 percent; for General Inpatient Care, 35.99 percent; and for Respite Care, 45.87 percent.

2. Definition of Rural and Urban Areas

Each hospice's labor market is determined based on definitions of MSAs issued by OMB. In general, an urban area is defined as an MSA or New England County Metropolitan Area (NECMA), as defined by OMB. Under § 412.64(b)(1)(ii)(C), a rural area is defined as any area outside of the urban area. The urban and rural area geographic classifications are defined in § 412.64(b)(1)(ii)(A) through (C), and have been used for the Medicare hospice benefit since implementation.

When the raw pre-floor, pre-reclassified hospital wage index was adopted for use in deriving the hospice wage index, it was decided not to take into account Inpatient Prospective Payment System (IPPS) geographic reclassifications. This policy of following OMB designations of rural or urban, rather than considering some Counties to be ''deemed'' urban, is consistent with our policy of not taking into account IPPS geographic reclassifications in determining payments under the hospice wage index.

3. Areas Without Hospital Wage Data

When adopting OMB's new labor market designations in FY 2006, we identified some geographic areas where there were no hospitals, and thus, no hospital wage index data on which to base the calculation of the hospice wage index. Beginning in FY 2006, we adopted a policy to use the FY 2005 pre-floor, pre-reclassified hospital wage index value for rural areas when no hospital wage data were available. We also adopted the policy that for urban labor markets without a hospital from which a hospital wage index data could be derived, all of the CBSAs within the State would be used to calculate a statewide urban average pre-floor, pre-reclassified hospital wage index value to use as a reasonable proxy for these areas. Consequently, in subsequent fiscal years, we applied the average pre-floor, pre-reclassified hospital wage index data from all urban areas in that State, to urban areas without a hospital. In FY 2012, the only CBSA was 25980, Hinesville-Fort Stewart, Georgia.

In the FY 2008 final rule (72 FR 50214, 50217), we considered alternatives to our methodology to update the pre-floor, pre-reclassified hospital wage index for rural areas without hospital wage data. We indicated that we believed that the best imputed proxy for rural areas, would: (1) Use pre-floor, pre-reclassified hospital data; (2) use the most local data available to impute a rural pre-floor, pre-reclassified hospital wage index; (3) be easy to evaluate; and, 4) be easy to update from year to year.

Therefore, in FY 2008 through FY 2012, in cases where there was a rural area without rural hospital wage data, we used the average pre-floor, pre-reclassified hospital wage index data from all contiguous CBSAs to represent a reasonable proxy for the rural area. This approach does not use rural data; however, the approach, which uses pre-floor, pre-reclassified hospital wage data, is easy to evaluate, is easy to update from year to year, and uses the most local data available. In the FY 2008 rule (72 FR at 50217), we noted that in determining an imputed rural pre-floor, pre-reclassified hospital wage index, we interpret the term ''contiguous'' to mean sharing a border. For example, in the case of Massachusetts, the entire rural area consists of Dukes and Nantucket counties. We determined that the borders of Dukes and Nantucket counties are contiguous with Barnstable and Bristol counties. Under the adopted methodology, the pre-floor, pre-reclassified hospital wage index values for the counties of Barnstable (CBSA 12700, Barnstable Town, MA) and Bristol (CBSA 39300, Providence-New Bedford-Fall River, RI-MA) would be averaged resulting in an imputed pre-floor, pre-reclassified rural hospital wage index for FY 2008. We noted in the FY 2008 final hospice wage index rule that while we believe that this policy could be readily applied to other rural areas that lack hospital wage data (possibly due to hospitals converting to a different provider type, such as a Critical Access Hospital, that does not submit the appropriate wage data), if a similar situation arose in the future, we would re-examine this policy.

We also noted that we do not believe that this policy would be appropriate for Puerto Rico, as there are sufficient economic differences between hospitals in the United States and those in Puerto Rico, including the payment of hospitals in Puerto Rico using blended Federal/Commonwealth-specific rates. Therefore, we believe that a separate and distinct policy is necessary for Puerto Rico. Any alternative methodology for imputing a pre-floor, pre-reclassified hospital wage index for rural Puerto Rico would need to take into account the economic differences between hospitals in the United States and those in Puerto Rico. Our policy of imputing a rural pre-floor, pre-reclassified hospital wage index based

on the pre-floor, pre-reclassified hospital wage index (or indices) of CBSAs contiguous to the rural area in question does not recognize the unique circumstances of Puerto Rico. While we have not yet identified an alternative methodology for imputing a pre-floor, pre-reclassified hospital wage index for rural Puerto Rico, we will continue to evaluate the feasibility of using existing hospital wage data and, possibly, wage data from other sources. For FY 2008 through FY 2012, we have used the most recent pre-floor, pre-reclassified hospital wage index available for Puerto Rico, which is 0.4047.

4. CBSA Nomenclature Changes

The OMB regularly publishes a bulletin that updates the titles of certain CBSAs. In the FY 2008 final rule (72 FR 50218), we noted that the FY 2008 rule and all subsequent hospice wage index rules and notices would incorporate CBSA changes from the most recent OMB bulletins. The OMB bulletins may be accessed at *http://www.whitehouse.gov/omb/bulletins/index.html*.

5. Wage Data From Multi-Campus Hospitals

Historically, under the Medicare hospice benefit, we have established hospice wage index values calculated from the raw pre-floor, pre-reclassified hospital wage data (also called the IPPS wage index) without taking into account geographic reclassification under sections 1886(d)(8) and (d)(10) of the Act. The wage adjustment established under the Medicare hospice benefit is based on the location where services are furnished without any reclassification. For more information regarding this section, please refer to 76 FR 47305 (''Hospice Wage Index for FY 2012'', August 4, 2011).

For FY 2012, the data collected from cost reports submitted by hospitals for cost reporting periods beginning during FY 2007 were used to compute the 2011 raw pre-floor, pre-reclassified hospital wage index data, without taking into account geographic reclassification under sections 1886(d)(8) and (d)(10) of the Act. This 2011 raw pre-floor, pre-reclassified hospital wage index was used to derive the applicable wage index values for the hospice wage index because these data (FY 2007) were the most recent complete cost data.

Beginning in FY 2008, the IPPS apportioned the wage data for multi-campus hospitals located in different labor market areas (CBSAs) to each CBSA where the campuses were located (see the FY 2008 IPPS final rule with comment period (72 FR 47317 through 47320)). We are continuing to use the raw pre-floor, pre-reclassified hospital wage data as a basis to determine the hospice wage index values because hospitals and hospices both compete in the same labor markets, and therefore, experience similar wage-related costs. We note that the use of raw pre-floor, pre-reclassified hospital (IPPS) wage data used to derive the FY 2012 hospice wage index values reflects the application of our policy to use those data to establish the hospice wage index. The FY 2013 hospice wage index values presented in this Notice were computed consistent with our raw pre-floor, pre-reclassified hospital (IPPS) wage index policy (that is, our historical policy of not taking into account IPPS geographic reclassifications in determining payments for hospice). As implemented in the August 8, 2008 FY 2009 Hospice Wage Index final rule, for the FY 2009 Medicare hospice benefit, the hospice wage index was computed from IPPS wage data (submitted by hospitals for cost reporting periods beginning in FY 2004 (as was the FY 2008 IPPS wage index)), which allocated salaries and hours to the campuses of two multi-campus hospitals with campuses that are located in different labor areas, one in Massachusetts and another in Illinois. Thus, in FY 2009 and subsequent fiscal years, hospice wage index values for the following CBSAs have been affected by this policy: Boston-Quincy, MA (CBSA 14484), Providence-New Bedford-Falls River, RI–MA (CBSA 39300), Chicago-Naperville-Joliet, IL (CBSA 16974), and Lake County-Kenosha County, IL–WI (CBSA 29404).

6. Hospice Payment Rates

Section 4441(a) of the Balanced Budget Act of 1997 (BBA) amended section 1814(i)(1)(C)(ii)(VI) of the Act to establish updates to hospice rates for FYs 1998 through 2002. Hospice rates were to be updated by a factor equal to the market basket index, minus 1 percentage point. Payment rates for FYs since 2002 have been updated according to section 1814(i)(1)(C)(ii)(VII) of the Act, which states that the update to the payment rates for subsequent fiscal years will be the market basket percentage for the fiscal year. It has been longstanding practice to use the inpatient hospital market basket as a proxy for a hospice market basket.

Historically, the rate update has been published through a separate administrative instruction issued annually in the summer to provide adequate time to implement system change requirements. Hospices determine their payments by applying the hospice wage index set forth in this Notice to the labor portion of the published hospice rates. Starting with FY 2013 (and in subsequent fiscal years), the market basket percentage update under the hospice payment system referenced in sections 1814(i)(1)(C)(ii)(VII) and 1814(i)(1)(C)(iii) of the Act will be annually reduced by changes in economy-wide productivity, as set out at section 1886(b)(3)(B)(xi)(II) of the Act. In FY 2013 through FY 2019, the market basket percentage update under the hospice payment system will be reduced by an additional 0.3 percentage point (although for FY 2014 to FY 2019, the potential 0.3 percentage point reduction is subject to suspension under conditions set out under section 1814(i)(1)(C)(v) of the Act). Congress also required in section 1814(i)(5)(A) through (C) of the Act that hospices begin submitting quality data, based on measures to be specified by the Secretary, for FY 2014 and subsequent fiscal years. Beginning in FY 2014, hospices which fail to report quality data will have their market basket update reduced by 2 percentage points.

II. Provisions of Notice

A. FY 2013 Hospice Wage Index

1. Background

As previously noted, the hospice final rule published in the **Federal Register** on December 16, 1983 (48 FR 56008) provided for adjustment to hospice payment rates to reflect differences in area wage levels. We apply the appropriate hospice wage index value to the labor portion of the hospice payment rates based on the geographic area where hospice care was furnished. Each hospice's labor market area is based on definitions of MSAs issued by the OMB. In this notice, we are using the pre-floor, pre-reclassified hospital wage index, based solely on the CBSA designations, as the basis for determining wage index values for the FY 2013 hospice wage index. The updated hospice wage index was previously published in the **Federal Register**; for FY 2013 and subsequent years, the updated hospice wage index is posted to the CMS Web site shortly after the associated rule or notice is published. The hospice wage index is based on the most currently available hospital wage data.

As noted above, our hospice payment rules utilize the wage adjustment factors used by the Secretary for purposes of section 1886(d)(3)(E) of the Act for hospital wage adjustments. In this notice, we are again using the pre-floor and pre-reclassified hospital wage index

data as the basis to determine the hospice wage index, which is then used to adjust the labor portion of the hospice payment rates based on the geographic area where the beneficiary receives hospice care. We believe the use of the pre-floor, pre-reclassified hospital wage index data, as a basis for the hospice wage index, results in the appropriate adjustment to the labor portion of the costs. For the FY 2013 update to the hospice wage index, we are continuing to use the most recent pre-floor, pre-reclassified hospital wage index available at the time of publication.

2. Areas Without Hospital Wage Data

In adopting the CBSA designations, we identified some geographic areas where there are no hospitals, and no hospital wage data on which to base the calculation of the hospice wage index. These areas are described in section I.B.4 of this notice. Currently, the only CBSA that is affected by this policy is CBSA 25980, Hinesville-Fort Stewart, Georgia. We continue to apply this policy for FY 2013 notice.

Currently, the only rural areas where there are no hospitals from which to calculate a pre-floor, pre-reclassified hospital wage index are in Puerto Rico. In previous years, Massachusetts had a rural area where there were no hospitals from which to calculate a pre-floor, pre-reclassified hospital wage index. This area of Massachusetts now has an IPPS hospital with wage data for computing the FY 2012 rural Massachusetts hospital wage index. The hospital was formerly a Critical Access Hospital, but converted to an IPPS hospital in FY 2008, the base year for the FY 2012 hospital wage index.

As described in section I.B.4 of this notice, for FY 2013, we continue to use the most recent pre-floor, pre-reclassified hospital wage index value available for Puerto Rico, which is 0.4047. This pre-floor, pre-reclassified hospital wage index value is then adjusted upward by the hospice 15 percent floor adjustment in the computing of the FY 2013 hospice wage index.

3. FY 2013 Wage Index With an Additional 15 Percent Reduced Budget Neutrality Adjustment Factor (BNAF)

The hospice wage index set forth in this notice will be effective October 1, 2012 through September 30, 2013. We are not finalizing any modifications to the hospice wage index methodology. For this notice, the FY 2012 hospital wage index was the most current hospital wage data available for calculating the FY 2013 hospice wage index values. We used the FY 2012 pre-floor, pre-reclassified hospital wage index data for this calculation.

As noted above, for this FY 2013 wage index notice, the hospice wage index values are based solely on the adoption of the CBSA-based labor market definitions and the hospital wage index. We continue to use the most recent pre-floor and pre-reclassified hospital wage index data available (based on FY 2008 hospital cost report wage data). A detailed description of the methodology used to compute the hospice wage index is contained in the September 4, 1996 hospice wage index proposed rule (61 FR 46579), the August 8, 1997 hospice wage index final rule (62 FR 42860), and the August 6, 2009 FY 2010 Hospice Wage Index final rule (74 FR 39384).

The August 6, 2009 FY 2010 Hospice Wage Index final rule finalized a provision to phase out the BNAF over seven years, with a 10 percent reduction in the BNAF in FY 2010, and an additional 15 percent reduction in each of the next six years, with complete phase out in FY 2016. Therefore, in accordance with the August 6, 2009 FY 2010 Hospice Wage Index final rule, the BNAF for FY 2013 was reduced by an additional 15 percent for a total BNAF reduction of 55 percent (10 percent from FY 2010, an additional 15 percent from FY 2011, an additional 15 percent for FY 2012, and an additional 15 percent in FY 2013).

The unreduced BNAF for FY 2013 is 0.060438 (or 6.0438 percent). A 55 percent reduced BNAF, which is subsequently applied to the pre-floor, pre-reclassified hospital wage index values greater than or equal to 0.8, is computed to be 0.027197 (or 2.7197 percent). Pre-floor, pre-reclassified hospital wage index values which are less than 0.8 are subject to the hospice floor calculation; that calculation is described in section I.B.1. The BNAF is updated based on availability of more complete data.

The addenda with the wage index values for rural and urban areas will not be published in the **Federal Register**. The wage index values for rural areas and urban areas are available via the Internet at: *http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/Hospice/index.html.*

The final hospice wage index for FY 2013 includes the BNAF reduction.

4. Effects of Phasing Out the BNAF

The full (unreduced) BNAF calculated for the FY 2013 notice is 6.0438 percent. As implemented in the August 6, 2009 FY 2010 Hospice Wage Index final rule (74 FR 39384), for FY 2013, we are reducing the BNAF by an additional 15 percent, for a total BNAF reduction of 55 percent (a 10 percent reduction in FY 2010, plus a 15 percent reduction in FY 2011, plus a 15 percent reduction in FY 2012, plus a 15 percent reduction in FY 2013), with additional reductions of 15 percent per year in each of the next 3 years until the BNAF is phased out in FY 2016.

For FY 2013, this is mathematically equivalent to taking 45 percent of the full BNAF value, or multiplying 0.060438 by 0.45, which equals 0.027197 (2.7197 percent). The BNAF of 2.7197 percent reflects a 55 percent reduction in the BNAF. The 55 percent reduced BNAF (2.7197 percent) was applied to the pre-floor, pre-reclassified hospital wage index values of 0.8 or greater in the final FY 2013 hospice wage index.

The hospice floor calculation still applies to any pre-floor, pre-reclassified hospital wage index values less than 0.8. The hospice floor calculation is described in section I.B.1 of this notice. We examined the effects of an additional 15 percent reduction in the BNAF, for a total BNAF reduction of 55 percent, on the final FY 2013 hospice wage index compared to the total 40 percent reduced BNAF which was used for the FY 2012 hospice wage index. The additional 15 percent BNAF reduction applied to the final FY 2013 wage index resulted in a (rounded) 0.9 percent reduction in wage index values in 92.8 percent of CBSAs, and no reduction in wage index values in 7.2 percent of CBSAs. We note that these are reductions in wage index values, not in payments. See Table 1 in section V of this notice for the effects on payments. The wage index values are located at: *http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/Hospice/index.html,* and they already reflect the additional 15 percent BNAF reduction.

Those CBSAs whose pre-floor, pre-reclassified hospital wage index values had the hospice 15 percent floor adjustment applied before the BNAF reduction will not be affected by this ongoing phase out of the BNAF. These CBSAs, which typically include rural areas, are protected by the hospice 15 percent floor adjustment. We estimate that 32 CBSAs are already protected by the hospice 15 percent floor adjustment, and are therefore completely unaffected by the BNAF reduction. There are 332 hospices in these 32 CBSAs.

Additionally, for some CBSAs with pre-floor, pre-reclassified wage index values less than 0.8, it will now be more advantageous to apply the hospice 15 percent floor adjustment rather than the BNAF adjustment, as a result of the additional 15 percent reduction in the

BNAF applied in FY 2013. Areas where the hospice floor calculation would have yielded a wage index value greater than 0.8 if the 40 percent reduction in BNAF were maintained, but which will have a final wage index value less than 0.8 after the additional 15 percent reduction in the BNAF (for a total BNAF reduction of 55 percent) is applied, will now be eligible for the hospice floor adjustment. These CBSAs may see a smaller reduction in their hospice wage index values if the hospice 15 percent floor adjustment is applied. We estimate that 4 CBSAs will have their pre-floor, pre-reclassified hospital wage index value become newly protected by the hospice 15 percent floor adjustment due to the additional 15 percent reduction in the BNAF applied in the final FY 2013 hospice wage index. Because of the protection given by the hospice 15 percent floor adjustment, these CBSAs will usually see smaller percentage decreases in their hospice wage index values than those CBSAs that are not eligible for the hospice 15 percent floor adjustment. This will affect those hospices with lower hospice wage index values, which are typically in rural areas. There are 57 hospices located in these 4 CBSAs.

Finally, the hospice wage index values only apply to the labor portion of the payment rates; the labor portion is described in section I.B.1 of this notice. Therefore, the projected reduction in payments due solely to the additional 15 percent reduction of the BNAF applied in FY 2013 is estimated to be 0.60 percent, as calculated from the difference in column 3 and column 4 of Table 1 in section V of this notice. In addition, the estimated effects of the phase-out of the BNAF will be mitigated by any inpatient hospital market basket updates in payments. The final market basket update applicable to hospice payments for FY 2013 is 1.6 percent. Starting with FY 2013 (and in subsequent fiscal years), the market basket percentage update under the hospice payment system as described in section 1814(i)(1)(C)(ii)(VII) or section 1814(i)(1)(C)(iii) of the Act will be annually reduced by changes in economy-wide productivity as specified in section 1886(b)(3)(B)(xi)(II) of the Act. In FY 2013 through FY 2019, the market basket percentage update under the hospice payment system will be reduced by an additional 0.3 percentage point (although for FY 2014 to FY 2019, the potential 0.3 percentage point reduction is subject to suspension under conditions set out under section 1814(i)(1)(C)(v) of the Act). This final 1.6 percent market basket update for FY 2013 is based on a 2.6 percent inpatient hospital market basket percentage increase (based on IHS Global Insight, Inc's second quarter 2012 forecast with historical data through the first quarter of 2012), less a 0.7 percentage point productivity adjustment and a 0.3 percentage point reduction. The final FY 2013 hospice market basket update is communicated through an administrative instruction.

The combined estimated effects of the updated wage data, an additional 15 percent reduction of the BNAF, and the market basket update are shown in Table 1 in section V of this notice. The updated wage data are estimated to decrease payments by 0.1 percent (column 3 of Table 1). The additional 15 percent reduction in the BNAF, which has already been applied to the wage index values in this notice, is estimated to reduce payments by 0.6 percent. Therefore, the changes in the wage data and the additional 15 percent BNAF reduction reduce estimated hospice payments by 0.7 percent, when compared to FY 2012 payments (column 4 of Table 1). However, so that hospices can fully understand the total estimated effects on their revenue, we have also accounted for the 1.6 percent market basket update for FY 2013. The net effect of that 1.6 percent increase and the 0.7 percent reduction due to the updated wage data and the additional 15 percent BNAF reduction, is an estimated increase in payments to hospices in FY 2013 of 0.9 percent (column 5 of Table 1).

B. Clarification Regarding Diagnosis Reporting on Hospice Claims

Recent analyses by Abt Associates, our hospice contractor, showed that 77.2 percent of hospice claims from 2010 only report a principal diagnosis. However, by definition, hospice patients are at the end-of-life; most are elderly and likely have multiple co-morbidities. Therefore, we believe that hospice claims which only report a principal diagnosis are not providing an accurate description of the patients' conditions. Providers should code and report coexisting or additional diagnoses to more fully describe the Medicare patients they are treating.

The *ICD–9–CM Official Guidelines for Coding and Reporting* (*ICD–9–CM Coding Guidelines*) require reporting of all additional or co-existing diagnoses. These *ICD–9–CM Coding Guidelines* are provided by CMS and the Centers for Disease Control's (CDC's) National Center for Health Statistics (NCHS) to health care providers. The current *ICD–9–CM Coding Guidelines* use the International Classification of Diseases, 9th Revision, Clinical Modification (ICD–9–CM) and are available through the CMS Web site at: *http://www.cms.gov/ICD9ProviderDiagnosticCodes/or* on the CDC's Web site at *http://www.cdc.gov/nchs/data/icd9/icd9cm_guidelines_2011.pdf.* As noted in the *ICD–9–CM Coding Guidelines,* ''These coding and reporting guidelines are a set of rules that have been developed to accompany and complement the official conventions and instructions provided within the ICD–9–CM itself. * * * Adherence to these guidelines when assigning ICD–9–CM diagnosis and procedure codes is required under the Health Insurance Portability and Accountability Act (HIPAA).''

In addition, at 45 CFR 162.1002, the Secretary adopted the ICD–9–CM code set, including *The Official ICD–9–CM Guidelines for Coding and Reporting* and CMS' Hospice Claims Processing manual requires that hospice claims include other diagnoses ''as required by ICD–9–CM Coding Guidelines'' (IOM 100–04, chapter 11, section 30.1, available at *http://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/clm104c11.pdf*). As such, HIPAA, federal regulations, and the Medicare hospice claims processing manual all require that these *ICD–9–CM Coding Guidelines* be applied to the coding and reporting of diagnoses on hospice claims.

Finally, CMS is in the early stages of hospice payment reform; as noted in the Payment Reform Update in section II.C of this notice, we are considering multiple approaches to reform, including case-mix adjustment. To adequately account for any clinical complexities a given patient might have as a result of related co-morbidities, those co-morbidities must be included on the Medicare hospice claim. While some hospice providers are reporting additional or co-existing diagnoses on claims, a majority are not. As such, the current claims data do not allow us to appropriately analyze whether a case-mix adjustment would or would not be a reasonable approach to, or part of, payment reform.

ICD–9–CM Coding Clinic is the official publication for the *ICD–9–CM Coding Guidelines.* The Coding Clinic recognizes there can be discrepancies between the *ICD–9–CM Coding Guidelines* or Coding Clinic advice, and payer coding policies. The Coding Clinic's goal is to provide advice according to the most accurate and correct coding consistent with ICD–9–CM principles. However, payers have additional goals, including those related to responsible fiscal management. The Coding Clinic noted that it is not

possible to write coding guidelines that are consistent with all payer guidelines. The Coding Clinics wrote that ''there are a variety of payment policies that may impact on coding. Many of those payment policies * * * may be inconsistent with ICD–9–CM rules/conventions.'' (''*Coding Clinic for ICD–9–CM''*, Volume 17, Number 3, Third Quarter 2000, pp 13–14). In the Medicare hospice benefit, coexisting or additional diagnoses could be related or unrelated to the hospice patient's terminal illness. The Medicare hospice benefit only covers and pays for hospices to provide palliation and management of the patient's terminal illness and related conditions. Therefore, to meet payment policy goals, we are clarifying for hospices that they should report on hospice claims all coexisting or additional diagnoses that are related to the terminal illness; they should not report coexisting or additional diagnoses that are unrelated to the terminal illness. Hospice patients receive care in both outpatient and non-outpatient settings.

The *ICD–9–CM Coding Guidelines* use different terminology to refer to coexisting or additional diagnoses, depending on whether a patient is in an outpatient or non-outpatient setting. In a non-outpatient setting, these co-morbidities are referred to as other or additional diagnoses. In an outpatient setting, they are referred to as coexisting diagnoses. These terms are explained more fully in sections III and IV of the *ICD–9–CM Coding Guidelines.*

Section III of the *ICD–9–CM Coding Guidelines* addresses non-outpatient settings, and states that ''For reporting purposes the definition for ''other diagnoses'' is interpreted as additional conditions that affect patient care in terms of requiring: Clinical evaluation; or therapeutic treatment; or diagnostic procedures; or extended length of hospital stay; or increased nursing care and/or monitoring.'' Using the Uniform Hospital Discharge Data Set (UHDDS) definitions, ''Other Diagnoses'' are defined as ''all conditions that coexist at the time of admission, that develop subsequently, or that affect the treatment received and/or the length of stay. Diagnoses that relate to an earlier episode which have no bearing on the current hospital stay are to be excluded.'' While UHDDS definitions initially applied to hospitals, the *ICD–9–CM Coding Guidelines* note that their application has been extended to all non-outpatient settings, which includes hospice inpatient units and nursing facilities.

Section IV.K of the *ICD–9–CM Coding Guidelines* addresses outpatient settings, and instructs providers to ''Code all documented conditions that coexist at the time of the encounter/visit, and require or affect patient care treatment or management. Do not code conditions that were previously treated and no longer exist.''

We do not believe that requiring reporting of coexisting or additional diagnoses that are related to the terminal illness would create a burden for hospices; some providers already report these diagnoses on their claims. Information about related and unrelated diagnoses should already be included as part of the plan of care, and determined by the hospice interdisciplinary group (IDG). The hospice conditions of participation (CoPs) at § 418.54(c)(2) require that the comprehensive assessment include ''complications and risk factors that affect care planning''. The CoPs at § 418.56(e)(4) require that the hospice IDG ''provide for an ongoing sharing of information with other non-hospice healthcare providers furnishing services unrelated to the terminal illness and related conditions.'' The existing standard practice for hospices is to include the related and unrelated diagnoses on the patient's plan of care in order to assure coordinated, holistic patient care and to monitor the effectiveness of the care that is delivered.

We are clarifying that all of a patient's coexisting or additional diagnoses s should be reported on the hospice claim. We note that doing so will bring hospices into compliance with existing, longstanding policy, and will provide data needed for hospice payment reform. Hospices should not report diagnoses which are unrelated to the terminal illness on their claims. Hospice claims currently include a field for the patient's principal diagnosis, but allow for up to 17 additional diagnoses to be included on a paper UB–04 claim, or up to 24 additional diagnoses on the 837I 5010 electronic claim.

C. Update on Hospice Payment Reform

Section 1814(i)(6) of the Act was amended by section 3132(a) of the Patient Protection and Affordable Care Act of 2010 (Pub. L. 111–148) as amended by the Health Care Education Reconciliation Act of 2010 (Pub. L. 111–152) (collectively known as the Affordable Care Act). The amendment authorized the Secretary to collect additional data and information determined appropriate to revise payments for hospice care and for other purposes. The types of data and information described in the Act would capture resource utilization, which can be collected on claims, cost reports, and possibly other mechanisms as we determine to be appropriate. The data collected may be used to revise the methodology for determining the payment rates for routine home care and other services included in hospice care, no earlier than October 1, 2013, as described in section 1814(i)(6)(D) of the Act. In addition, we are required to consult with hospice programs and the Medicare Payment Advisory Commission (MedPAC) regarding additional data collection and payment revision options.

According to the MedPAC March 2012 ''Report to Congress: Medicare Payment Policy'' (available at *http://medpac.gov/chapters/Mar12_Ch11.pdf*), Medicare expenditures for hospice services exceeded $13 billion in 2010, and the aggregate Medicare margin in 2009 was 7.1 percent. In addition, MedPAC found 53 percent growth in the number of hospices from 2000 to 2010, of which a majority were for-profit hospices. MedPAC also noted a change in patient case-mix from predominantly cancer diagnoses to non-cancer diagnoses. The growth in Medicare expenditures, margins, number of new hospices, and the change in patient case-mix has brought attention to changes in the hospice industry.

Over the past several years, MedPAC, the Government Accountability Office, and the HHS Office of Inspector General (OIG) all recommended that we collect more comprehensive data in order to better understand the utilization of the Medicare hospice benefit. MedPAC has also suggested an alternative payment model that it believes will address the vulnerabilities in the current payment system. As part of our research, we will investigate the MedPAC, OIG, and GAO recommendations as well as other payment options.

We are moving forward with the hospice payment reform research. Our contractor, Abt Associates, completed an environmental scan; a draft analytic plan; and convened technical advisory panel meetings under the initial contract. They will continue, under a contract awarded in September 2011, to review the most current peer-reviewed literature; to convene additional stakeholder meetings; to conduct further research and analyses based on the analytic plan; to identify potential data collection needs; and to research and develop hospice payment model options. In order to determine how to best revise the hospice payment methodology, we will consult with hospice programs and MedPAC. We will continue to collaborate with the HHS Office of the Assistant Secretary of Planning and Evaluation (ASPE) along

with other federal experts regarding hospice payment reform research efforts and update stakeholders on our progress.

D. Update on the Hospice Quality Reporting Program

In last year's Hospice Wage Index final rule (76 FR 47302, 47318, August 4, 2011), we finalized a hospice Quality Reporting Program (QRP) as required by section 3004 of the Affordable Care Act. The quality measures adopted for the hospice program for FY 2014 include a measure related to pain management and a measure that assesses whether a hospice participates in a Quality Assessment and Performance Improvement (QAPI) program that includes at least three indicators related to patient care. Hospices are required to begin collecting quality data in October 2012, and will submit that quality data in 2013. Hospices failing to report quality data in 2013 will have their market basket update reduced by 2 percentage points in FY 2014. We note that these requirements are not changing.

We have proposed quality data reporting requirements for FY 2015 and thereafter. However, we did not publish the proposal in this notice. Please see the Home Health Prospective Payment System Rate Update for Calendar Year 2013 proposed rule for a detailed discussion on our proposal for the hospice quality data reporting requirements affecting payments in FY 2015 and each subsequent year.

Please follow the instructions in the Home Health Prospective Payment System Rate Update for Calendar Year 2013 proposed rule (CMS–1358–P) to comment on the hospice proposals described in that proposed rule. We will respond to those comments in the Home Health Prospective Payment System Rate Update for Calendar Year 2013 final rule.

III. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect. We can waive this procedure, however, if we find good cause that notice and comment procedures are impracticable, unnecessary, or contrary to the public interest, and we incorporate a statement of finding and its reasons in the notice. We find it is unnecessary to undertake notice and comment rulemaking for the update in this notice because the update does not make any substantive changes in policy, but merely reflects the application of previously established methodologies which permit no discretion on the part of the Secretary. Therefore, under 5 U.S.C. 553(b)(3)(B), for good cause, we waive notice and comment procedures.

IV. Collection of Information Requirements

This document does not impose information collection requirements as defined by the Paperwork Reduction Act of 1995.

V. Economic Analyses

A. Regulatory Impact Analysis

1. Introduction

We have examined the impacts of this notice as required by EO 12866 (September 30, 1993, Regulatory Planning and Review), EO 13563 on Improving Regulation and Regulatory Review (January 18, 2011), the Regulatory Flexibility Act (September 19, 1980; Pub. L. 96–354) (RFA), section 1102(b) of the Social Security Act, section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995; Pub. L. 104–4), EO 13132 on Federalism (August 4, 1999), and the Congressional Review Act (5 U.S.C. 804(2)).

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This notice has been designated an ''economically'' significant notice, under section 3(f)(1) of EO 12866. We have prepared a regulatory impact analysis that to the best of our ability presents the costs and benefits of this notice.

2. Statement of Need

This notice follows 42 CFR 418.306(c) which requires annual issuance, in the **Federal Register**, of the hospice wage index based on the most currently available CMS hospital wage data, including any changes to the definitions of MSAs or CBSAs. In addition, this notice clarifies for hospice providers that they must include all related diagnoses on hospice claims. Finally, this notice updates the public on the status of hospice payment reform and the hospice quality reporting program.

3. Overall Impacts

The overall impact of this notice is an estimated net decrease in Federal payments to hospices of $100 million for FY 2013. We estimated the impact on hospices, as a result of the changes to the FY 2013 hospice wage index and of reducing the BNAF by an additional 15 percent, for a total BNAF reduction of 55 percent (10 percent in FY 2010, 15 percent in FY 2011, 15 percent in FY 2012, and 15 percent in FY 2013). The BNAF reduction is part of a 7-year BNAF phase-out that was finalized in previous rulemaking (74 FR 39384 (August 6, 2009)), and is not a policy change.

As discussed previously, the methodology for computing the hospice wage index was determined through a negotiated rulemaking committee and promulgated in the August 8, 1997 hospice wage index final rule (62 FR 42860). The BNAF, which was promulgated in the August 8, 1997 rule, is being phased out. This notice updates the hospice wage index in accordance with the 2010 Hospice Wage Index final rule, which finalized a 10 percent reduced BNAF for FY 2010 as the first year of a 7-year phase-out of the BNAF, to be followed by an additional 15 percent per year reduction in the BNAF in each of the next 6 years. The total phase-out will be complete by FY 2016.

4. Detailed Economic Analysis

Column 4 of Table 1 shows the combined effects of the updated wage data (the 2012 pre-floor, pre-reclassified hospital wage index) and of the additional 15 percent reduction in the BNAF (for a total BNAF reduction of 55 percent), comparing estimated payments for FY 2012 to estimated payments for FY 2013. The FY 2012 payments used for comparison have a 40 percent reduced BNAF applied. We estimate that the total hospice payments for FY 2013 will decrease by $100 million as a result of the application of the updated wage data ($ − 10 million) and the additional 15 percent reduction in the BNAF ($ − 90 million). This estimate does not take into account the market basket update communicated separately through an administrative instruction, which after adjustments is 1.6 percent for FY 2013. Starting with FY 2013 (and in subsequent fiscal years), the market basket percentage update under the hospice payment system as described in section 1814(i)(1)(C)(ii)(VII) or section 1814(i)(1)(C)(iii) of the Act will be annually reduced by changes in economy-wide productivity as mandated by the Affordable Care Act and set out at section

1886(b)(3)(B)(xi)(II) of the Act. In addition, in FY 2013 through FY 2019, the market basket percentage update under the hospice payment system will be reduced by an additional 0.3 percentage point as mandated by the Affordable Care Act (although for FY 2014 to FY 2019, the potential 0.3 percentage point reduction is subject to suspension under conditions set out under section 1814(i)(1)(C)(v) of the Act). This 1.6 percent market basket update is based on a 2.6 percent inpatient hospital market basket percentage increase for FY 2013 reduced by 0.7 percentage point for the productivity adjustment and by 0.3 percentage point as mandated by the Affordable Care Act. The final FY 2013 hospice update and associated payment rates are communicated through an administrative instruction in the summer. The estimated effect of the 1.6 percent market basket update on payments to hospices is approximately $240 million. Taking into account the 1.6 percent market basket update (+$240 million), in addition to the updated wage data ($− 10 million), and the additional 15 percent reduction in the BNAF ($− 90 million), it is estimated that hospice payments would increase by $140 million in FY 2013 ($240 million − $10 million − $90 million = $140 million). The percent change in estimated payments to hospices due to the combined effects of the updated wage data, the additional 15 percent reduction in the BNAF (for a total BNAF reduction of 55 percent), and the market basket update of 1.6 percent is reflected in column 5 of the impact table (Table 1).

a. Effects on Hospices

This section discusses the impact of the projected effects of the hospice wage index, including the effects of a 1.6 percent market basket update for FY 2013 that is communicated separately through an administrative instruction. This notice continues to use the CBSA-based pre-floor, pre-reclassified hospital wage index as a basis for the hospice wage index and continues to use the same policies for treatment of areas (rural and urban) without hospital wage data. The final FY 2013 hospice wage index is based upon the 2012 pre-floor, pre-reclassified hospital wage index and the most complete claims data available (FY 2011) with an additional 15 percent reduction in the BNAF (combined with the 10 percent reduction in the BNAF taken in FY 2010, an additional 15 percent taken in 2011, an additional 15 percent in 2012, and an additional 15 percent taken in 2013 for a total BNAF reduction of 55 percent in FY 2013). The BNAF reduction is part of a 7-year BNAF phase-out that was finalized in previous rulemaking, and is not a policy change.

For the purposes of our impacts, our baseline is estimated FY 2012 payments with a 40 percent BNAF reduction, using the 2010 pre-floor, pre-reclassified hospital wage index. Our first comparison (column 3 of Table 1) compares our baseline to estimated FY 2013 payments (holding payment rates constant) using the updated wage data (2012 pre-floor, pre-reclassified hospital wage index). Consequently, the estimated effects illustrated in column 3 of Table 1 show the distributional effects of the updated wage data only. The effects of using the updated wage data combined with the additional 15 percent reduction in the BNAF are illustrated in column 4 of Table 1.

We have included a comparison of the combined effects of the additional 15 percent BNAF reduction, the updated wage data, and a 1.6 percent market basket update for FY 2013 (Table 1, column 5). Presenting these data gives the hospice industry a more complete picture of the effects on their total revenue based on changes to the hospice wage index and the BNAF phase-out as discussed in this Notice, and the FY 2013 market basket update which will be communicated separately through an administrative instruction. Certain events may limit the scope or accuracy of our impact analysis, because such an analysis is susceptible to forecasting errors due to other changes in the forecasted impact time period. The nature of the Medicare program is such that the changes may interact, and the complexity of the interaction of these changes could make it difficult to predict accurately the full scope of the impact upon hospices.

TABLE 1—ANTICIPATED IMPACT ON MEDICARE HOSPICE PAYMENTS OF UPDATING THE PRE-FLOOR, PRE-RECLASSIFIED HOSPITAL WAGE INDEX DATA, REDUCING THE BUDGET NEUTRALITY ADJUSTMENT FACTOR (BNAF) BY AN ADDITIONAL 15 PERCENT (FOR A TOTAL BNAF REDUCTION OF 55 PERCENT) AND APPLYING A 1.6 PERCENT† MARKET BASKET UPDATE TO THE FY 2013 HOSPICE WAGE INDEX, COMPARED TO THE FY 2012 HOSPICE WAGE INDEX WITH A 40 PERCENT BNAF REDUCTION

	Number of hospices	Number of routine home care days in thousands	Percent change in hospice payments due to FY2013 wage index change	Percent change in hospice payments due to wage index change, additional 15% reduction in budget neutrality adjustment	Percent change in hospice payments due to wage index change, additional 15% reduction in budget neutrality adjustment and market basket update
	(1)	(2)	(3)	(4)	(5)
ALL HOSPICES	3,659	83,400	(0.1)	(0.7)	0.9
URBAN HOSPICES	2,598	72,885	(0.1)	(0.7)	0.9
RURAL HOSPICES	1,061	10,515	(0.0)	(0.4)	1.2
BY REGION—URBAN:					
NEW ENGLAND	138	2,750	0.2	(0.4)	1.2
MIDDLE ATLANTIC	256	7,872	0.2	(0.4)	1.2
SOUTH ATLANTIC	378	16,417	(0.4)	(1.0)	0.6
EAST NORTH CENTRAL	346	10,946	(0.5)	(1.1)	0.5
EAST SOUTH CENTRAL	178	4,614	(0.5)	(1.0)	0.5
WEST NORTH CENTRAL	192	4,592	0.3	(0.3)	1.3

TABLE 1—ANTICIPATED IMPACT ON MEDICARE HOSPICE PAYMENTS OF UPDATING THE PRE-FLOOR, PRE-RECLASSIFIED HOSPITAL WAGE INDEX DATA, REDUCING THE BUDGET NEUTRALITY ADJUSTMENT FACTOR (BNAF) BY AN ADDITIONAL 15 PERCENT (FOR A TOTAL BNAF REDUCTION OF 55 PERCENT) AND APPLYING A 1.6 PERCENT† MARKET BASKET UPDATE TO THE FY 2013 HOSPICE WAGE INDEX, COMPARED TO THE FY 2012 HOSPICE WAGE INDEX WITH A 40 PERCENT BNAF REDUCTION—Continued

	Number of hospices (1)	Number of routine home care days in thousands (2)	Percent change in hospice payments due to FY2013 wage index change (3)	Percent change in hospice payments due to wage index change, additional 15% reduction in budget neutrality adjustment (4)	Percent change in hospice payments due to wage index change, additional 15% reduction in budget neutrality adjustment and market basket update (5)
WEST SOUTH CENTRAL	506	9,530	0.4	(0.2)	1.4
MOUNTAIN	251	6,081	(0.1)	(0.7)	0.9
PACIFIC	316	8,667	0.2	(0.4)	1.2
OUTLYING	37	1,415	0.2	0.2	1.8
BY REGION—RURAL:					
NEW ENGLAND	27	219	0.8	0.2	1.8
MIDDLE ATLANTIC	45	534	(0.2)	(0.7)	0.8
SOUTH ATLANTIC	140	2,327	(0.2)	(0.6)	1.0
EAST NORTH CENTRAL	147	1,732	(0.6)	(1.2)	0.4
EAST SOUTH CENTRAL	154	1,812	(0.1)	(0.2)	1.4
WEST NORTH CENTRAL	196	1,131	0.3	(0.1)	1.5
WEST SOUTH CENTRAL	190	1,576	0.4	(0.1)	1.5
MOUNTAIN	109	681	0.1	(0.4)	1.2
PACIFIC	52	490	1.4	0.7	2.3
OUTLYING	1	14	0.0	0.0	1.6
BY SIZE/DAYS:					
0–3499 DAYS (small)	681	1,185	0.1	(0.4)	1.2
3500–19,999 DAYS (medium)	1784	18,086	0.1	(0.5)	1.1
20,000+ DAYS (large)	1194	64,129	(0.1)	(0.7)	0.9
TYPE OF OWNERSHIP:					
VOLUNTARY	1141	31,433	(0.1)	(0.7)	0.9
PROPRIETARY	1999	43,637	(0.1)	(0.6)	1.0
GOVERNMENT	519	8,330	(0.0)	(0.6)	1.0
HOSPICE BASE:					
FREESTANDING	2586	67,320	(0.1)	(0.7)	0.9
HOME HEALTH AGENCY	557	9,935	(0.1)	(0.7)	0.9
HOSPITAL	498	5,970	0.0	(0.5)	1.0
SKILLED NURSING FACILITY	18	176	(0.2)	(0.9)	0.7

BNAF = Budget Neutrality Adjustment Factor.

Comparison is to FY 2012 data with a 40 percent BNAF reduction.

* Provider data as of December 31, 2011 for hospices with claims filed in FY 2011.

† The 1.6 percent final market basket update for FY 2013 is based on a 2.6 percent inpatient hospital market basket percentage increase, reduced by a 0.7 percentage point productivity adjustment and by 0.3 percentage point. Starting with FY 2013 (and in subsequent fiscal years), the market basket percentage update under the hospice payment system as described in section 1814(i)(1)(C)(ii)(VII) or section 1814(i)(1)(C)(iii) of the Act will be annually reduced by changes in economy-wide productivity as set out at section 1886(b)(3)(B)(xi)(II) of the Act. In FY 2013 through FY 2019, the market basket percentage update under the hospice payment system will be reduced by an additional 0.3 percentage point (although for FY 2014 to FY 2019, the potential 0.3 percentage point reduction is subject to suspension under conditions set out under section 1814(i)(1)(C)(v) of the Act).

REGION KEY: New England=Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont; Middle Atlantic=Pennsylvania, New Jersey, New York; South Atlantic=Delaware, District of Columbia, Florida, Georgia, Maryland, North Carolina, South Carolina, Virginia, West Virginia; East North Central=Illinois, Indiana, Michigan, Ohio, Wisconsin; East South Central=Alabama, Kentucky, Mississippi, Tennessee; West North Central=Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota; West South Central=Arkansas, Louisiana, Oklahoma, Texas; Mountain=Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, Wyoming; Pacific=Alaska, California, Hawaii, Oregon, Washington; Outlying=Guam, Puerto Rico, Virgin Islands.

Table 1 shows the results of our analysis. In column 1, we indicate the number of hospices included in our analysis as of December 31, 2011 which had also filed claims in FY 2011. In column 2, we indicate the number of routine home care days that were included in our analysis, although the analysis was performed on all types of hospice care. Columns 3, 4, and 5 compare FY 2012 estimated payments with those estimated for FY 2013. The estimated FY 2012 payments incorporate a BNAF which has been reduced by 40 percent. Column 3 shows the percentage change in estimated Medicare payments for FY 2013 due to the effects of the updated wage data only, compared with estimated FY 2012 payments. The effect of the updated wage data can vary from region to region depending on the fluctuations in the wage index values of the pre-floor, pre-reclassified hospital wage index.

Column 4 shows the percentage change in estimated hospice payments from FY 2012 to FY 2013 due to the combined effects of using the updated wage data and reducing the BNAF by an additional 15 percent. Column 5 shows the percentage change in estimated hospice payments from FY 2012 to FY 2013 due to the combined effects of using updated wage data, an additional 15 percent BNAF reduction, and the final 1.6 percent market basket update.

Table 1 also categorizes hospices by various geographic and hospice characteristics. The first row of data displays the aggregate result of the impact for all Medicare-certified hospices. The second and third rows of the table categorize hospices according to their geographic location (urban and rural). Our analysis indicated that there are 2,598 hospices located in urban areas and 1,061 hospices located in rural areas. The next two row groupings in the table indicate the number of hospices by census region, also broken down by urban and rural hospices. The next grouping shows the impact on hospices based on the size of the hospice's program. We determined that the majority of hospice payments are made at the routine home care rate. Therefore, we based the size of each individual hospice's program on the number of routine home care days provided in FY 2011. The next grouping shows the impact on hospices by type of ownership. The final grouping shows the impact on hospices defined by whether they are provider-based or freestanding.

As indicated in Table 1, there are 3,659 hospices. Approximately 45.4 percent of Medicare-certified hospices are identified as voluntary (non-profit) or government agencies. Because the National Hospice and Palliative Care Organization estimates that approximately 84 percent of hospice patients in 2010 were Medicare beneficiaries, we have not considered other sources of revenue in this analysis.

As stated previously, the following discussions are limited to demonstrating trends rather than projected dollars. We used the pre-floor, pre-reclassified hospital wage index as well as the most complete claims data available (FY 2011) in developing the impact analysis. The FY 2013 payment rates will be adjusted to reflect the inpatient hospital market basket percentage increase, less a productivity adjustment of 0.7 percentage point and a reduction of 0.3 percentage point, both mandated by the Affordable Care Act. Starting with FY 2013 (and in subsequent fiscal years), the market basket percentage update under the hospice payment system as described in section 1814(i)(1)(C)(ii)(VII) or section 1814(i)(1)(C)(iii) of the Act will be annually reduced by changes in economy-wide productivity in accordance with section 1886(b)(3)(B)(xi)(II) of the Act. In FY 2013 through FY 2019, the market basket percentage update under the hospice payment system will be reduced by an additional 0.3 percentage point (although for FY 2014 to FY 2019, the potential 0.3 percentage point reduction is subject to suspension under conditions set out under section 1814(i)(1)(C)(v) of the Act). As previously noted, we publish these rates through administrative instructions rather than in a notice. The final FY 2013 market basket update is 1.6 percent which is based on an inpatient hospital market basket percentage increase of 2.6 percent less the FY 2013 productivity adjustment of 0.7 percentage point and less 0.3 percentage point. Since the inclusion of the effect of a market basket update provides a more complete picture of projected total hospice payments for FY 2013, the last column of Table 1 shows the combined impacts of the updated wage data, the additional 15 percent BNAF reduction, and the 1.6 percent market basket update. As discussed in the FY 2006 hospice wage index final rule (70 FR 45130, 45133, August 5, 2005), hospice agencies may use multiple hospice wage index values to compute their payments based on potentially different geographic locations.

Before January 1, 2008, the location of the beneficiary was used to determine the CBSA for routine and continuous home care, and the location of the hospice agency was used to determine the CBSA for respite and general inpatient care. Beginning January 1, 2008, the hospice wage index CBSA utilized is based on the location of the site of service. As the location of the beneficiary's home and the location of the hospice may vary, there will still be variability in geographic location for an individual hospice. We anticipate that the CBSA of the various sites of service will usually correspond with the CBSA of the geographic location of the hospice, and thus we will continue to use the location of the hospice for our analyses of the impact of the changes to the hospice wage index in this Notice. For this analysis, we use payments to the hospice in the aggregate based on the location of the hospice.

The impact of hospice wage index changes has been analyzed according to the type of hospice, geographic location, type of ownership, hospice base, and size. Our analysis shows that most hospices are in urban areas and provide the vast majority of routine home care days. Most hospices are medium-sized followed by large hospices. When considering hospice ownership, a majority are proprietary (for-profit), with 1,660 designated as non-profit or government hospices and 1,999 as proprietary. The vast majority of hospices are freestanding.

b. Hospice Size

Under the Medicare hospice benefit, hospices can provide four different levels of care. The majority of the days provided by a hospice are routine home care (RHC) days, representing about 97 percent of the services provided by a hospice. Therefore, the number of RHC days can be used as a proxy for the size of the hospice, that is, the more days of care provided, the larger the hospice. As discussed in the August 4, 2005 final rule, we currently use three size designations to present the impact analyses. The three categories are—(1) small agencies having 0 to 3,499 RHC days; (2) medium agencies having 3,500 to 19,999 RHC days; and (3) large agencies having 20,000 or more RHC days. The FY 2013 updated wage data without any BNAF reduction are anticipated to decrease payments to large hospices by 0.1 percent and increase payments to small and medium hospices by 0.1 percent (column 3). The updated wage data and the additional 15 percent BNAF reduction (for a total BNAF reduction of 55 percent) are anticipated to decrease estimated payments to small hospices by 0.4 percent, to medium hospices by 0.5 percent, and to large hospices by 0.7 percent (column 4). Finally, the updated wage data, the additional 15 percent BNAF reduction (for a total BNAF reduction of 55 percent), and the final 1.6 percent market basket update are projected to increase estimated payments by 1.2 percent for small hospices, by 1.1 percent for medium hospices, and by 0.9 percent for large hospices (column 5).

c. Geographic Location

Column 3 of Table 1 shows updated wage data without the BNAF reduction. Urban hospices are anticipated to experience a decrease of 0.1 percent but there is no effect on rural hospices. Urban hospices can anticipate an increase in payments in New England, Middle Atlantic, Pacific and Outlying regions by 0.2 percent; in the West North Central region by 0.3 percent; and in the West South Central region by 0.4 percent. Urban hospices can anticipate a decrease in payments ranging from 0.5 percent in the East North Central and

East South Central regions, to 0.1 percent in the Mountain region.

Column 3 shows estimated percentages for rural hospices. Rural hospices are estimated to see a decrease in payments in four regions, ranging from 0.6 percent in the East North Central region to 0.1 percent in the East South Central region. Rural hospices can anticipate an increase in payments in five regions ranging from 0.1 percent in the Mountain region to 1.4 percent in the Pacific region. There is no anticipated change in payments for Outlying regions due to the FY 2013 Wage Index update.

Column 4 shows the combined effect of the updated wage data and the additional 15 percent BNAF reduction on estimated payments, as compared to the FY 2012 estimated payments using a BNAF with a 40 percent reduction. Overall, hospices are anticipated to experience a 0.7 percent decrease in payments, with urban hospices experiencing an estimated decrease of 0.7 percent and rural hospices experiencing an estimated decrease of 0.4 percent.

All urban areas other than Outlying regions are estimated to see decreases in payments, ranging from 1.1 percent in the East North Central region to 0.2 percent in the West South Central region. In the Outlying regions, payments are anticipated to increase by 0.2 percent.

Rural hospices are estimated to experience a decrease in payments in all regions except Pacific (0.7 percent) and New England (0.2 percent) regions. The decrease in payments ranges from 1.2 percent in East North Central region to 0.1 percent in the West North Central and West South Central regions. Payments in the Outlying region are anticipated to stay relatively stable.

Column 5 shows the combined effects of the updated wage data, the additional 15 percent BNAF reduction, and the 1.6 percent market basket update on estimated FY 2013 payments as compared to the estimated FY 2012 payments. We note that the FY 2012 payments had a 40 percent BNAF reduction applied to them. Overall, hospices are anticipated to experience a 0.9 percent increase in payments, with urban hospices anticipated to experience a 0.9 percent increase in payments, and rural hospices anticipated to experience a 1.2 percent increase in payments.

Urban hospices are anticipated to experience an increase in estimated payments in every region, ranging from 0.5 percent in the East North Central and East South Central regions to 1.8 percent in Outlying regions. Rural hospices in every region are estimated to see an increase in payments ranging from 0.4 percent in the East North Central region to 2.3 percent in the Pacific region.

d. Type of Ownership

Column 3 demonstrates the effect of the updated wage data on FY 2013 estimated payments, versus FY 2012 estimated payments. We anticipate that using the updated wage data would decrease estimated payments to voluntary (non-profit) hospices and to proprietary (for-profit) hospices by 0.1 percent. Government hospices are expected to have no change in payments.

Column 4 demonstrates the combined effects of the updated wage data and of the additional 15 percent BNAF reduction. Estimated payments to voluntary (non-profit), proprietary (for-profit) and government hospices are anticipated to decrease by 0.7 percent, 0.6 percent, and 0.6 percent, respectively.

Column 5 shows the combined effects of the updated wage data, the additional 15 percent BNAF reduction (for a total BNAF reduction of 55 percent), and a 1.6 percent market basket update on estimated payments, comparing FY 2013 to FY 2012 (using a BNAF with a 40 percent reduction). Estimated FY 2013 payments are anticipated to increase by 0.9 percent for voluntary (non-profit) hospices, and by 1.0 percent for government hospices and proprietary (for-profit) hospices.

e. Hospice Base

Column 3 demonstrates the effect of using the updated wage data, comparing estimated payments for FY 2013 to FY 2012. Estimated payments are anticipated to decrease for freestanding, home health agency and skilled nursing facility based hospices by 0.1 percent, 0.1 percent and 0.2 percent, respectively. There is no anticipated change in payments for hospital based facilities.

Column 4 shows the combined effects of the updated wage data and reducing the BNAF by an additional 15 percent, comparing estimated payments for FY 2013 to FY 2012. All hospice facilities are anticipated to experience decrease in payments ranging from 0.9 percent for skilled nursing facility based hospices to 0.5 percent for hospital based hospices.

Column 5 shows the combined effects of the updated wage data, the additional 15 percent BNAF reduction, and a 1.6 percent market basket update on estimated payments, comparing FY 2013 to FY 2012. Estimated payments are anticipated to increase for all hospices, ranging from 0.7 percent for skilled nursing facility based hospices to 1.0 percent for hospital based hospices.

f. Effects on Other Providers

This notice only affects Medicare hospices, and therefore has no effect on other provider types.

g. Effects on the Medicare and Medicaid Programs

This notice only affects Medicare hospices, and therefore has no effect on Medicaid programs. As described previously, estimated Medicare payments to hospices in FY 2013 are anticipated to decrease by $10 million due to the update in the wage index data, and to decrease by $90 million due to the additional 15 percent reduction in the BNAF (for a of total 55 percent reduction in the BNAF). However, the final market basket update of 1.6 percent is anticipated to increase Medicare payments by $240 million. Therefore, the total effect on Medicare hospice payments is estimated to be a $140 million increase. We note that the final market basket update and associated FY 2013 payment rates are officially communicated in the summer through an administrative instruction.

h. Accounting Statement

As required by OMB Circular A–4 (available at *http://www.whitehouse.gov/omb/circulars/a004/a-4.pdf*), in Table 2 below, we have prepared an accounting statement showing the classification of the expenditures associated with this notice. Table 2 provides our best estimate of the decrease in Medicare payments under the hospice benefit as a result of the changes presented in this notice using data for 3,659 hospices in our database.

TABLE 2—ACCOUNTING STATEMENT: CLASSIFICATION OF ESTIMATED EXPENDITURES, FROM FY 2012 TO FY 2013

[In $millions]

Category	Transfers
Annualized Monetized Transfers.	$ – 100.*

TABLE 2—ACCOUNTING STATEMENT: CLASSIFICATION OF ESTIMATED EXPENDITURES, FROM FY 2012 TO FY 2013—Continued

[In $millions]

Category	Transfers
From Whom to Whom	Federal Government to Hospices.

*The $100 million estimated reduction in transfers includes the additional 15 percent reduction in the BNAF and the updated wage data. It does not include the market basket update, which is 1.6 percent for FY 2013. Starting with FY 2013 (and in subsequent fiscal years), the market basket percentage update under the hospice payment system as described in section 1814(i)(1)(C)(ii)(VII) or section 1814(i)(1)(C)(iii) of the Act will be annually reduced by changes in economy-wide productivity as set out at section 1886(b)(3)(B)(xi)(II) of the Act. In FY 2013 through FY 2019, the market basket percentage update under the hospice payment system will be reduced by an additional 0.3 percentage point (although for FY 2014 to FY 2019, the potential 0.3 percentage point reduction is subject to suspension under conditions set out under section 1814(i)(1)(C)(v) of the Act). This 1.6 percent is based on an inpatient hospital market basket percentage increase of 2.6 percent reduced by a 0.7 percentage point productivity adjustment and by 0.3 percentage point.

i. Conclusion

In conclusion, the overall effect of this notice is estimated to be the $100 million reduction in Federal payments due to the wage index changes (including the additional 15 percent reduction in the BNAF). Furthermore, the Secretary has determined that this will not have a significant impact on a substantial number of small entities, or have a significant effect relative to section 1102(b) of the Act.

B. Regulatory Flexibility Act Analysis

The RFA requires agencies to analyze options for regulatory relief of small businesses if a rule has a significant impact on a substantial number of small entities. For purposes of the RFA, we estimate that almost all hospices are small entities as that term is used in the RFA. The great majority of hospitals and most other health care providers and suppliers are small entities by meeting the Small Business Administration (SBA) definition of a small business (in the service sector, having revenues of less than $7.0 million to $34.5 million in any 1 year), or being nonprofit organizations that are not dominant in their markets. While the SBA does not define a size threshold in terms of annual revenues for hospices, it does define one for home health agencies ($13.5 million; see *http://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf*). For the purposes of this notice, because the hospice benefit is a home-based benefit, we are applying the SBA definition of ''small'' for home health agencies to hospices; we will use this definition of ''small'' in determining if this notice has a significant impact on a substantial number of small entities (for example, hospices). Using CY 2010 Medicare hospice data from the Health Care Information System (HCIS), we estimate that 95 percent of hospices have Medicare revenues below $13.5 million or are nonprofit organizations and therefore are considered small entities.

The effects of this notice on hospices are shown in Table 1. Overall, Medicare payments to all hospices would decrease by an estimated 0.7 percent over last year's payments in response to the wage index we are setting forth in this notice, reflecting the combined effects of the updated wage data and the additional 15 percent reduction in the BNAF. The combined effects of the updated wage data and additional 15 percent reduction in the BNAF on small and large sized hospices (as defined by routine home care days rather than by the SBA definition), is an estimated reduction of 0.4 percent and 0.7 percent, respectively. Medium sized hospices are anticipated to experience an estimated reduction in payments of 0.5 percent as a result of the updated wage data and the additional 15 percent reduction in the BNAF. Furthermore, when examining the distributional effects of the updated wage data combined with the additional 15 percent BNAF reduction, the highest estimated reductions in payments are experienced by the urban East North Central and East South Central regions, and by the rural East North Central region.

HHS's practice in interpreting the RFA is to consider effects economically ''significant'' only if they reach a threshold of 3 to 5 percent or more of total revenue or total costs. As noted above, the combined effect of only the updated wage data and the additional 15 percent reduced BNAF (for a total BNAF reduction of 55 percent) for all hospices is an estimated reduction of 0.7 percent. Furthermore, since HHS's practice in determining ''significant economic impact'' considers either total revenue or total costs, it is necessary for total hospice revenues to include the effect of the market basket update of 1.6 percent. As a result, we consider the combined effect of the updated wage data, the additional 15 percent BNAF reduction, and the 1.6 percent FY 2013 market basket update inclusive of the overall impact, thereby reflecting an aggregate increase in estimated hospice payments of 0.9 percent for FY 2013. For small and medium hospices (as defined by routine home care days), the estimated effects on revenue when accounting for the updated wage data, the additional 15 percent BNAF reduction, and the market basket update reflect increases in payments of 1.2 percent and 1.1 percent, respectively. Overall average hospice revenue effects will be slightly less than these estimates since according to the National Hospice and Palliative Care Organization, about 16 percent of hospice patients are non-Medicare. Therefore, the Secretary has determined that this notice will not create a significant economic impact on a substantial number of small entities.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a metropolitan statistical area and has fewer than 100 beds. This Notice only affects hospices. Therefore, the Secretary has determined that this notice would not have a significant impact on the operations of a substantial number of small rural hospitals.

C. Unfunded Mandates Reform Act Analysis

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. In 2012, that threshold is approximately $139 million. This notice is not anticipated to have an effect on State, local, or tribal governments, in the aggregate, or on the private sector of $139 million or more.

VI. Federalism Analysis

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a notice that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. We have reviewed this notice under the threshold criteria of EO 13132, Federalism, and have determined that it will not have an impact on the rights, roles, and responsibilities of State, local, or tribal governments.

VII. Files Available to the Public via the Internet

This section lists the Addenda referred to in the preamble of this notice. Beginning in CY 2012, the Addenda for the annual hospice wage index proposed and final rulemakings or notices will no longer appear in the **Federal Register**. Instead, the Addenda will be available only through the Internet. We will continue to post the Addenda through the Internet.

The following addenda are posted to the CMS Web site at *http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/Hospice/index.html:*

Addendum A: The FY 2013 Hospice Wage Index for Urban Areas

Addendum B: The FY 2013 Hospice Wage Index for Rural Areas

Readers who experience any problems accessing the Addenda that are posted on the CMS Web site at *http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/Hospice/index.html* should contact Anjana Patel at (410) 786–2120.

(Catalog of Federal Domestic Assistance Program No. 93.778, No. 93.773 Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: June 5, 2012.

Marilyn Tavenner,

Acting Administrator, Centers for Medicare & Medicaid Services.

Approved: July 16, 2012.

Kathleen Sebelius,

Secretary, Department of Health and Human Services.

[FR Doc. 2012–18336 Filed 7–24–12; 4:15 pm]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3259–FN]

Medicare Program; Application by the American Association of Diabetes Educators (AADE) for Continued Recognition as a National Accreditation Organization for Accrediting Entities To Furnish Outpatient Diabetes Self-Management Training

AGENCY: Centers for Medicare & Medicare Services (CMS), HHS.

ACTION: Final Notice.

SUMMARY: This final notice announces the approval of an application from the American Association of Diabetes Educators for continued recognition as a national accreditation program for accrediting entities that wish to furnish outpatient diabetes self-management training to Medicare beneficiaries.

DATES: *Effective Date:* This notice is effective on August 27, 2012.

FOR FURTHER INFORMATION CONTACT: Jacqueline Leach, (410) 786–4282.

Kristin Shifflett, (410) 786–4133.

Maria Hammel, (410) 786–1775.

SUPPLEMENTARY INFORMATION

I. Background

Under the Medicare program, eligible beneficiaries may receive outpatient diabetes self-management training (DSMT) when ordered by the physician (or qualified non-physician practitioner) treating the beneficiary's diabetes, provided certain requirements are met by the provider. Pursuant to our regulations at 42 CFR 410.141(e)(3), we use national accrediting organizations (NAOs) to assess whether provider entities meet Medicare requirements when providing DSMT services for which Medicare payment is made. If a provider entity is accredited by an approved accrediting organization, it is ''deemed'' to meet applicable Medicare requirements.

Under section 1865(a)(1)(B) of the Social Security Act (the Act), a NAO must have an agreement in effect with the Secretary, and meet the standards and requirements specified by the Secretary in part 410, subpart H, to qualify for deeming authority. The regulations pertaining to application procedures for NAOs for DSMT are specified at § 410.142 (CMS process for approving national accreditation organizations).

A NAO applying for deeming authority must provide us with reasonable assurance that the accrediting organization requires accredited entities to meet requirements that are at least as stringent as our requirements.

We may approve and recognize a nonprofit organization with demonstrated experience in representing the interests of individuals with diabetes to accredit entities to furnish DSMT. The accreditation organization, after being approved and recognized by CMS, may accredit an entity to meet one of the sets of quality standards in § 410.144 (Quality standards for deemed entities).

Section 1865(a)(2) of the Act further requires that we review the applying accreditation organization's requirements for accreditation, as follows:

- Survey procedures.
- Ability to provide adequate resources for conducting required surveys.
- Ability to supply information for use in enforcement activities.
- Monitoring procedures for providers found out of compliance with the conditions or requirements.
- Ability to provide CMS with necessary data for validation.

We then examine the NAO's accreditation requirements to determine if they meet or exceed the Medicare conditions as we would have applied them. Section 1865(a)(3)(A) of the Act requires that we publish a notice identifying the national accreditation body making the request within 30 days of receipt of a completed application. The notice must describe the nature of the request and provide at least a 30-day public comment period. We have 210 days from receipt of the request to publish a finding of approval or denial of the application. If we recognize an accreditation organization in this manner, any entity accredited by the national accreditation body's CMS-approved program for that service will be ''deemed'' to meet the Medicare conditions for coverage.

II. Provisions of the Proposed Notice

On February 24, 2012, we published a proposed notice in the **Federal Register** (77 FR 11130) entitled, ''Application by the American Association of Diabetes Educators (AADE) for Continued Recognition as a National Accreditation Organization for Accrediting Entities to Furnish Outpatient Diabetes Self-Management Training,'' to notify the public of the AADE's request for continued approval of its accreditation to deem entities furnishing DSMT services.

III. Analysis of and Responses to Public Comments on the Proposed Notice

We received 1 public comment in response to the February 24, 2012 proposed notice. A summary of the comment and our response is set forth below.

Comment: A commenter supported the approval of the AADE to deem DSMT programs. The commenter stated that the AADE provides guidance for its members and represents the values of the profession. The commenter further stated that qualified diabetes educators can lead the way toward a healthier population by guiding those with chronic conditions toward healthier lifestyles and stronger self-advocacy.

Response: We thank the commenter for his or her comment. The goal of the DSMT program is to provide

beneficiaries with tools to better manage their diabetes and to achieve good clinical and behavioral outcomes. Based on the information submitted by the AADE, we believe that the AADE is striving to meet the same goals we developed for quality DSMT.

IV. Provisions of the Final Notice

AADE's application to continue as an accredited NAO to deem entities for the purposes of DSMT is approved for a period of 3 years. The accreditation is effective on August 27, 2012. This approval is subject to renewal subsequent to the receipt of an application from the AADE and subject to review, evaluation, and approval of its program.

V. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995.

(Catalog of Federal Domestic Assistance Program No. 93.773 Medicare-Hospital Insurance Program; and No. 93.774, Medicare-Supplementary Medical Insurance Program)

Dated: July 3, 2012.

Marilyn Tavenner,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2012–17293 Filed 7–26–12; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–D–0630]

Draft Guidance for Industry and Food and Drug Administration Staff; Safety Considerations for 510(k) Submissions To Mitigate the Risks of Misconnections With Small-Bore Connectors Intended for Enteral Applications; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled ''Safety Considerations for 510(k) Submissions to Mitigate the Risks of Misconnections with Small-bore Connectors Intended for Enteral Applications.'' The use of common connector designs, such as luer connectors, has led to unintended connections between devices that have different intended uses and has resulted in serious and sometimes fatal consequences to patients. This guidance provides recommendations to 510(k) submitters regarding the submission expectations regarding design and testing to reduce the risk of unintended connections between enteral and nonenteral devices. This draft guidance is not final nor is it in effect at this time.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by October 25, 2012.

ADDRESSES: Submit written requests for single copies of the draft guidance document entitled ''Safety Considerations for 510(k) Submissions To Mitigate the Risks of Misconnections With Small-Bore Connectors Intended for Enteral Applications'' to the Division of Small Manufacturers, International, and Consumer Assistance, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 4613, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to 301–847–8149. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit electronic comments on the draft guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Priya Venkataraman-Rao, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. G222, Silver Spring, MD 20993–0002, 301–796–6243.

I. Background

Multiple publications regarding patient injury and death from tubing and catheter misconnections indicate that reports of misconnections have gradually increased in frequency. On July 9, 2010, FDA issued a letter to health care professionals, hospital purchasing departments, and manufacturers of enteral feeding tubes regarding luer lock misconnections. FDA advised manufacturers to assess the risks of misconnections for their devices and provide proposed solutions with validation for premarket review. At that time, some manufacturers were using color coding and labeling to reduce the risk of misconnections; others were creating proprietary connectors designed to be incompatible with nonenteral devices. However, recent reports of adverse events have demonstrated that reliance on color-coding of enteral devices alone cannot adequately mitigate the risk of misconnections, especially with similarly color-coded PICC (percutaneously inserted central catheter) lines on the market.

This guidance provides updated recommendations to manufacturers on the submission requirements for 510(k)s for small-bore connectors used in enteral applications. The guidance recommends that 510(k) submitters (1) Design and test enteral connectors based on the Association for the Advancement of Medical Instrumentation (AAMI)/American National Standards Institute (ANSI)/International Organization for Standardization (ISO) 80369–1, ''Small-Bore Connectors for Liquids and Gases in Healthcare Applications—Part 1: General Requirements'' standard; (2) no longer rely strictly on color coding and tagging to prevent misconnections; and (3) perform risk assessments to demonstrate that the proposed design and testing has effectively mitigated the risk of the proposed enteral connector misconnecting to nonenteral devices.

II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the Agency's current thinking on mitigating the risks of misconnections with small-bore connectors intended for enteral applications. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by using the Internet. A search capability for all CDRH guidance documents is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* Guidance documents are also available at *http://www.regulations.gov.* To

receive ''Safety Considerations for 510(k) Submissions To Mitigate the Risks of Misconnections With Small-Bore Connectors Intended for Enteral Applications,'' you may either send an email request to *dsmica@fda.hhs.gov* to receive an electronic copy of the document or send a fax request to 301–847–8149 to receive a hard copy. Please use the document number 1784 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This draft guidance refers to currently approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 820 have been approved under OMB control number 0910–0073; the collections of information in 21 CFR part 812 have been approved under OMB control number 0910–0078; the collections of information in 21 CFR part 807, subpart E have been approved under OMB control number 0910–0120; the collections of information in 21 CFR 56.115 have been approved under OMB control number 0910–0130; the collections of information found in 21 CFR part 814 have been approved under OMB control number 0910–0231; the collections of information in 21 CFR part 803 have been approved under OMB control number 0910–0437; and the collections of information in 21 CFR part 801 have been approved under OMB control number 0910–0485.

The labeling provisions of this draft guidance are not subject to review by the Office of Management and Budget because they do not constitute a ''collection of information'' under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). Rather, the recommended enteral connector labeling is a ''public disclosure of information originally supplied by the Federal Government to the recipient for the purpose of disclosure to the public.'' (see 5 CFR 1320.3(c)(2)).

V. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**), either electronic or written comments regarding this document. It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 23, 2012.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2012–18332 Filed 7–26–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call the HRSA Reports Clearance Officer at (301) 443–1129.

Comments are invited on: (a) The proposed collection of information for the proper performance of the functions of the Agency; (b) the accuracy of the agency's estimate of the burden 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.

Proposed Project Title: Healthy Weight Learning Collaborative Evaluation (OMB No. 0915–xxxx)—[New]

Background: Supported by the Prevention and Public Health Fund created by Section 4002 of the Affordable Care Act, HRSA awarded $5 million to the National Initiative for Children's Healthcare Quality (NICHQ) to create the Collaborate for Healthy Weight, a national initiative to bring together primary care providers, public health professionals, and leaders of community-based organizations to use quality improvement methods to address the obesity epidemic in communities across the country. A key part of that initiative was creation of the Healthy Weight Learning Collaborative (HWLC), a quality improvement project working with 50 community teams to identify, test, and evaluate a national ''change package'' of evidence-based program and policy interventions to address childhood obesity. The HWLC is being implemented in two consecutive phases, each with a series of learning sessions and action periods. The first phase (July 2011 to July 2012) includes 10 community teams; the second phase (March 2012 to March 2013) includes 40 additional teams.

Purpose: The purpose of this evaluation is to assess the quality and effectiveness of the HWLC. This 1-year information collection will supplement the analysis of existing quantitative HWLC administrative and team data by collecting primary data using individual and group interviews with two groups of stakeholders: (a) NICHQ project leadership, staff, and faculty; and (b) community team members at 11 selected sites (four Phase One teams and seven Phase Two teams). Data from these interviews will be used to evaluate the quality and effectiveness of the HWLC. NICHQ leadership, staff, and faculty interview topics include: The design and implementation of the HWLC project; the content and quality of the HWLC learning sessions, coaching assistance, and other action period activities; the community teams' experiences implementing the HWLC change package and quality improvement indicators; and stakeholders' perceptions of the quality and effectiveness of the HWLC in accelerating community efforts to address childhood obesity.

Community team interviews will be conducted with the team coordinator, the quality improvement data manager, and other team members, including primary care providers, public health officials, school administrators, and other community volunteers. Separate interview protocols will be developed for the Phase 1 and Phase 2 community teams. Phase 1 protocols will examine community team strategies, activities, and approaches that have been sustained and spread after the end of Phase 1. Phase 2 protocols will examine (1) Team goals, objectives, and program elements; (2) team implementation of the HWC change package; (3) team engagement in HWLC activities; and (4) team linkages and organizational and policy changes resulting from the team's participation in the HWLC.

Estimate of response burden is as follows:

Data collection	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
NICHQ Leadership Interview	4	1	4	1.0	4.0
NICHQ Staff Interview	5	1	5	1.0	5.0
NICHQ Faculty Group Interview	*6	1	6	1.0	6.0
Phase 1 Community Team Group Interview	**24	1	24	1.5	36.0
Phase 1 Community Team Coordinator Interview	4	1	4	1.5	6.0
Phase 1 Community Team Data Manager Interview	4	1	4	0.5	2.0
Phase 2 Community Team Group Interview	***42	1	42	1.5	63.0
Phase 2 Community Team Leader Interview	7	1	7	1.5	10.5
Phase 2 Community Team Data Manager Interview	7	1	7	0.5	3.5
Total	103		103		136.0

*One group interview: 6 people per group.
**Four group interviews: 6 people per group.
***Seven group interviews: 6 people per group.

Email comments to *paperwork@hrsa.gov* or mail to the HRSA Reports Clearance Officer, Room 10–33, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: July 20, 2012.

Jennifer Riggle,

Deputy Director, Office of Management.

[FR Doc. 2012–18312 Filed 7–26–12; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; 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: Center for Scientific Review Special Emphasis Panel; Member Conflict: Neurodevelopment and Degeneration.

Date: August 6–7, 2012.

Time: 9 a.m. to 11 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Peter B Guthrie, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC 7850, Bethesda, MD 20892, (301) 435–1239, *guthriep@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: July 23, 2012.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–18334 Filed 7–26–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; 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 Mental Health Special Emphasis Panel HIV/AIDS Interventions and Services 2.

Date: July 30, 2012.

Time: 11 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Marina Broitman, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6153, MSC 9608, Bethesda, MD 20892–9608, 301–402–8152, *mbroitma@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. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: July 23, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–18358 Filed 7–26–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Exportation of Used Self-Propelled Vehicles

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security

ACTION: 60-day notice and request for comments; extension of an existing collection of information.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent

burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the Exportation of Used Self-Propelled Vehicles. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Written comments should be received on or before September 25, 2012, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 799 9th Street NW., 5th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 799 9th Street NW., 5th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual cost burden to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Exportation of Used-Propelled Vehicles.

OMB Number: 1651–0054.

Form Number: None.

Abstract: CBP regulations require an individual attempting to export a used self propelled vehicle to furnish documentation to CBP, at the port of export, the vehicle and documentation describing the vehicle, which includes the Vehicle Identification Number (VIN) or, if the vehicle does not have a VIN, the product identification number. Exportation of a vehicle will be permitted only upon compliance with these requirements. This requirement does not apply to vehicles that were entered into the United States under an in-bond procedure, a carnet or temporary importation bond. The required documentation includes, but is not limited to, a Certificate of Title or a Salvage Title, the VIN, a Manufactures Statement of Origin, etc. CBP will accept originals or certified copies of Certificate of Title. The purpose of this information is to help ensure that stolen vehicles or vehicles associated with other criminal activity are not exported.

Collection of this information is authorized by 19 U.S.C.1627a which provides CBP with authority to impose export reporting requirements on all used self-propelled vehicles and by Title IV, Section 401 of the Anti-Car Theft Act of 1992, 19 U.S.C. 1646(c) which requires all persons or entities exporting a used self-propelled vehicle to provide to the CBP, at least 72 hours prior to export, the VIN and proof of ownership of each automobile. This information collection is provided for by19 CFR Part 192. Further guidance regarding these requirements is provided at: *http://www.cbp.gov/xp/cgov/trade/basic_trade/export_docs/motor_vehicle.xml.*

Action: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected.

Type of Review: Extension (without change).

Affected Public: Individuals and Businesses.

Estimated Number of Respondents: 750,000.

Estimated Number of Total Annual Responses: 750,000.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 125,000.

Dated: July 24, 2012.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2012–18396 Filed 7–26–12; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[ADM–9–03 OT:RR:RD:BS; H218497 MAW]

Notice of Availability of a Final Programmatic Environmental Impact Statement and Draft Record of Decision for Northern Border Activities

AGENCY: U.S. Customs and Border Protection, DHS.

ACTION: Notice of availability.

SUMMARY: U.S. Customs and Border Protection (CBP) announces that the Final Programmatic Environmental Impact Statement (PEIS) and Draft Record of Decision (ROD) for Northern Border Activities are now available. The Final PEIS analyzes the potential environmental and socioeconomic effects associated with its ongoing and potential future activities along the northern border between the United States and Canada. The overall area of study analyzed in the document extends approximately 4,000 miles from Maine to Washington and 100 miles south of the U.S.-Canada Border. A Draft ROD announcing CBP's decision concerning which alternative to select is available for review for 30 days.

DATES: The Draft ROD will be available until August 27, 2012. CBP will issue a Final ROD no sooner than August 27, 2012.

ADDRESSES: The public and other interested parties may obtain copies of the Final PEIS and Draft ROD by accessing the following Internet address: *http://www.cbp.gov/xp/cgov/about/sr/* and *www.dhs.gov/nepa,* by contacting CBP by telephone (202–325–4191), by email *cbpenvironmentalprogram@cbp.dhs.gov,* or by writing to: Jennifer DeHart Hass, Environmental and Energy Division, 1331 Pennsylvania Ave. NW., Suite 1220N, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Jennifer DeHart Hass, CBP, Office of Administration, telephone 202–325–4191. You may also visit the project's Web site at: *http://www.cbp.gov/xp/cgov/about/sr/.*

SUPPLEMENTARY INFORMATION:

Background

U.S. Customs and Border Protection (CBP) is charged with the mission of enforcing customs, immigration, agriculture, and numerous other laws and regulations at the Nation's borders and facilitating legitimate trade and travel through legal ports of entry. As the guardian of the United States' borders, CBP protects the roughly 4,000

miles of northern border between United States and Canada, from Maine to Washington. The terrain ranges from densely forested lands on the west and east coasts to open plains in the middle of the country.

CBP has completed a Final Programmatic Environmental Impact Statement (PEIS) for its ongoing and potential future activities along the northern border. The Final PEIS is now available. (For instructions on obtaining a copy of the PEIS, please see the **ADDRESSES** section of this document.) Because this effort is programmatic in nature, the PEIS does not define effects for a specific or planned action. Instead, it analyzes the overall environmental and socioeconomic effects of activities supporting the homeland security mission of CBP and looks at various alternatives that would enhance CBP's border security activities.

Public Scoping Process

On July 6, 2010, CBP published in the **Federal Register** (75 FR 38822) a notice announcing that CBP intended to prepare four PEISs to analyze the environmental effects of current and potential future CBP border security activities along the northern border. Each PEIS was to cover one region of the northern border: The New England region, the Great Lakes region, the region east of the Rocky Mountains, and the region west of the Rocky Mountains. The notice also announced and initiated the public scoping process to gather information from the public in preparation for drafting the PEISs. The notice provided that the scoping period would conclude on August 5, 2010, after CBP held 11 scoping meetings at various locations along the northern border. CBP continued to take comments past the initial scoping period.

Draft PEIS

Subsequently, and in part due to comments received during public scoping, CBP decided to refocus its approach and develop one PEIS covering the entire northern border, rather than four separate, regional PEISs. CBP concluded that, relative to four separate PEISs, one PEIS would be a more useful planning tool. CBP also determined that this new approach would ensure that CBP could effectively analyze and convey impacts that occur across regions of the northern border. Therefore, CBP published a notice in the **Federal Register** (75 FR 68810) announcing this intention on November 9, 2010. On September 16, 2011, CBP published a notice of availability of the Draft PEIS in the **Federal Register** (76 FR 57751) with request for comments and announcement of public meeting dates.

In the Draft PEIS, CBP analyzed the environmental and socioeconomic effects of current and potential future CBP border security activities along the northern border between the United States and Canada, including an area extending approximately 100 miles south of the northern border. For the purposes of the PEIS, CBP defined the northern border as the area between the United States and Canada extending from the Atlantic Ocean to the Pacific Ocean, encompassing all the states between Maine and Washington, inclusively. (The Alaska-Canada border is not included in this effort.) In the PEIS, CBP evaluated the environmental and socioeconomic impacts of routine aspects of its operations along the northern border and considered potential enhancements to its infrastructure, technologies, and application of manpower to continue to deter existing and evolving threats to the Nation's physical and economic security. The PEIS analyzed four northern border regions: The New England region, the Great Lakes region, the region east of the Rocky Mountains, and the region west of the Rocky Mountains. The PEIS did not contain specific proposals for projects, nor did it convey a specific intent to expand CBP's activities within the period covered by the PEIS.

Publication of the Draft PEIS initiated a public review and comment period. During that review and comment period, CBP held 12 public meetings in various locations within the area of study and one additional meeting in the Washington, DC metropolitan area to reach any national interest groups seeking information on CBP's evaluation. CBP's public involvement strategy sought to cover a broad range of the northern border, including remote areas, mid-sized towns, and some population centers. Because CBP will take the requisite steps to comply with NEPA for specific projects that are within the scope of the alternatives or activities covered by this PEIS, there will be additional opportunities for public involvement regarding potentially significant impacts to the environment.

CBP received 123 pieces of correspondence providing comments, which contained over 700 comments on the Draft PEIS. Some recurring themes received in the comments include:

- Concerns with the sufficiency of the range of alternatives proposed and their comparative analysis;
- Concern about potential impacts to transboundary areas and transboundary movement of species;
- Concerns regarding belief that CBP would use this PEIS to justify building a fence along the border;
- Concerns with potential impacts to specific cultural resources identified by commenters; and
- Issues with the extent of public outreach conducted by CBP for the PEIS.

Final PEIS

After further analysis and consideration of the comments received on the Draft PEIS, CBP has now completed a Final PEIS. CBP has prepared the Final PEIS as a planning tool in accordance with DHS Directive 023–01, Environmental Planning. The Final PEIS is intended to provide decision-makers within CBP with information on the potential for direct, indirect, and cumulative environmental impacts that could result from any future proposals to secure and otherwise facilitate legal trade and travel through the northern border. CBP plans to use the information derived from the analysis in the Final PEIS in management, planning, and decision-making for its mission and its environmental stewardship responsibilities. It will also be used to establish a foundation for future impact analyses.

More specifically, CBP plans to use the Final PEIS analysis over the next five to seven years as CBP works to improve security along the northern border. CBP will use this PEIS as a foundation for future environmental analyses of specific programs or locations as CBP's plans for particular northern border security activities develop. The Final PEIS provides background information for the incorporation of more project-specific plans; CBP would not implement any alternative or any element of any alternative in the Final PEIS based solely on the analysis presented in the Final PEIS. To implement a specific plan, CBP would take the requisite steps to comply with the National Environmental Policy Act of 1969 (NEPA).

Incorporation of Comments

The Final PEIS reflects the consideration and incorporation of public comments received on the Draft PEIS. In its responses, CBP sought to improve the explanation of the comparative merits of each alternative and make clear that the alternatives represent a reasonable set of options given that CBP is not proposing specific

location or intensity based-strategies for augmenting activities at this time. In addition, CBP clarified that the PEIS did not set forth a specific proposal for expansive use of barriers between the ports of entry and that any future proposal would be subject to a site-specific impacts analysis, including consultation with affected landowners, land managers, and agencies with jurisdiction over impacted resources. Finally, CBP clarified that several comments regarding impacts to specific resources of cultural or socioeconomic importance to individual commenters were not addressed in the PEIS because the programmatic nature of the document would not permit addressing detailed impacts to every location-specific resource.

Substantive comments within the scope of considerations covered in the Draft PEIS have been incorporated in the Final PEIS. CBP's responses to all comments received are summarized in Appendix A of the Final PEIS. CBP also made additional technical clarifications from the draft identified through the course of incorporating comments.

Alternatives Considered

The Final PEIS considers the environmental impacts of several alternative approaches CBP may use to protect the northern border against evolving threats. These alternatives would all support continued deployment of existing CBP personnel in the most effective manner while maintaining officer safety and continued use of partnerships with other Federal, state, and local law enforcement agencies in the United States and Canada. CBP needs to maintain effective control of the northern border via all air, land, and maritime pathways for cross-border movement.

The No Action Alternative (or ''status quo'') would be to continue with the same facilities, technology, infrastructure, and approximate level of personnel currently in use, deployed, or currently planned by CBP. Normal maintenance of existing facilities is included in this alternative, along with previously planned or started projects. This alternative would not meet the purpose and need of the proposed action to allow CBP the flexibility to improve its capability to interdict cross-border violators and to identify and resolve threats at the ports of entry in a manner that avoids adverse effects on legal trade and travel. However, it is evaluated in the PEIS because it provides a baseline against which the impacts of the other reasonable alternatives can be compared.

The Facilities Development and Improvement Alternative would focus on providing new permanent facilities or improvements to existing facilities, such as Border Patrol stations, ports of entry, and other facilities to allow CBP officials to operate more efficiently and respond to situations more quickly. This alternative would help meet CBP's goals because the new and improved facilities would make it more difficult for cross-border violators to cross the border. It would also divert traffic from or increase the capacity of the more heavily used ports of entry, decreasing waiting times. The applicability of this alternative would be limited, as most roads crossing the northern border already have a crossing facility.

The Detection, Inspection, Surveillance, and Communications Technology Expansion Alternative would focus on deploying more effective detection, inspection surveillance, and communication technologies in support of CBP activities. This alternative would involve utilizing upgraded systems that would enable CBP to focus efforts on identifying threat areas, improving agent and officer communication systems, and deploying personnel to resolve incidents with maximum efficiency. This alternative would meet CBP's goals by improving CBP's situational awareness and allowing CBP to more efficiently and effectively direct its resources for interdicting cross-border violators.

The Tactical Security Infrastructure Deployment Alternative would focus on constructing additional barriers, access roads, and related facilities. The barriers would include selective fencing and vehicle barriers at selected points along the border and would deter and delay cross-border violators. The access roads and related facilities would increase the mobility of agents and enhance their capabilities for surveillance and for responding to various international border violations. This alternative would help meet CBP's goals by discouraging cross-border violators and improving CBP's capacity to respond to threats, but would not assist CBP in identifying and classifying threats.

The Flexible Direction Alternative would allow CBP to follow any of the above directions in order to employ the most effective response to the changing threat environment along the northern border. This approach would allow CBP to respond flexibly to a constantly changing threat environment.

Identified Preferred Alternative and Draft Record of Decision

As a result of the analysis in the PEIS, the Draft Record of Decision (ROD) identifies the alternative that is most representative of the approach CBP will employ in order to respond to changes in security or trade and travel priorities or evolving threats within the next five to seven years. CBP is making the Draft ROD available at this time. The Final ROD will be issued no sooner than 30 days from the date of publication of this notice.

The Final PEIS identifies the Detection, Inspection, Surveillance, and Communications Expansion Alternative as the environmentally preferred alternative. Likewise, the Draft ROD selects the Detection, Inspection, Surveillance, and Communications Expansion Alternative as the one that is most representative of the approach CBP will employ in the next five to seven years; however, changes in the nature, intensity, or locations of cross-border threats, or changes in national security or trade, travel, and economic priorities may compel CBP to adopt the Flexible Direction Alternative in the future. If such changes in cross-border threats or national security priorities occurred within five to seven years of the issuance of a final ROD, CBP would notify the public that it was changing its selected alternative through its Web sites (*http://www.cbp.gov/xp/cgov/about/sr/* and *www.dhs.gov/nepa*) and through the **Federal Register** with a new Draft ROD and a 30 day waiting period before making this change by issuing a Final ROD. Otherwise, CBP would determine if it needed to supplement the PEIS in accordance with the requirements found at 40 CFR 1502.9.

The Draft ROD also clarifies CBP's recognition that the actual level of activities that might be required could very likely be substantially lower than what is addressed in the PEIS.

NEPA

This environmental analysis is conducted pursuant to the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.,* the Council on Environmental Quality Regulations for Implementing the NEPA (40 CFR parts 1500–1508), and Department of Homeland Security Directive 023–01 (renumbered from 5100.1), *Environmental Planning Program of April 19, 2006.* NEPA addresses concerns about environmental quality and the government's role in protecting it. The essence of NEPA is the requirement that every Federal agency examine the environmental

effects of any proposed action before deciding to proceed with it or with some alternative. NEPA and the implementing regulations issued by the President's Council on Environmental Quality call for agencies to document the potential environmental effects of actions they are proposing. Generally, agencies must make those documents public, and seek public feedback on them.

In accordance with NEPA, the PEIS analyzes the effects on the environment of CBP's Northern Border Activities. CBP has sought public input on these studies and will use them in agency planning and decisionmaking. Because NEPA is a uniquely broad environmental law and covers the full spectrum of the natural and human environment, the PEIS also addresses environmental considerations governed by other environmental statutes such as the Clean Air Act, Clean Water Act, Endangered Species Act, and National Historic Preservation Act (NHPA).

Next Steps

The Draft ROD is available to the public at the following Web sites: *http://www.cbp.gov/xp/cgov/about/sr/* and *www.dhs.gov/nepa*. A final decision will be made no sooner than 30 days from July 27, 2012 and issued in a Final ROD. The Final ROD will select an alternative to guide CBP's activities along the northern border for the next five to seven years. That decision will be published in the **Federal Register** in a Final ROD and will be made available to the public at the same Web site.

Dated: July 23, 2012.

Christopher S. Oh,

Acting Executive Director, Facilities Management and Engineering, Office of Administration.

[FR Doc. 2012–18337 Filed 7–26–12; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5601–N–29]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7266, Washington, DC 20410; telephone (202) 402–3970; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for ''off-site use only'' recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Theresa Ritta, Division of Property Management, Program Support Center, HHS, Room 5B–17, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Ann Marie Oliva at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (i.e., acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *GSA:* Mr. Flavio Peres, General Services Administration, Office of Real Property Utilization and Disposal, 1800 F Street NW., Room 7040, Washington, DC 20405, (202) 501–0084; *Navy:* Mr. Steve Matteo, Department of the Navy, Asset Management Division, Naval Facilities Engineering Command, Washington Navy Yard, 1330 Patterson Ave. SW., Suite 1000, Washington, DC 20374; (202) 685–9426; (These are not toll-free numbers).

Dated: July 19, 2012.

Ann Marie Oliva,

Deputy Assistant Secretary for Special Needs (Acting).

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 07/27/2012

Suitable/Available Properties

Building

Maryland

Building 463
Naval Air Station
Patuxent MD
Landholding Agency: Navy
Property Number: 77201230005
Status: Underutilized
Comments: Off-site removal only;12,508 sf.; office; major repairs required; extensive mold & asbestos located beneath the bldg.; remediation required; located on secured area; transferee needs prior approval before accessing location; contact Navy for more details.

Pennsylvania

Old Marienville Compound
110 South Forest St.
Marienville PA 16239
Landholding Agency: GSA
Property Number: 54201230001
Status: Excess
GSA Number: 4–A–PA–808AD
Directions: 10 bldgs.; wood farm duplex; office/garage; pole bard; shop; (2) wood sheds; block shed; trailer; carport; toilet bldg.
Comments: sq. ft. for ea. bldg. on property varies; contact GSA for specific sq. ft.; Forest Service Admin. complex; mold and lead identified; historic property.

Utah

2 Buildings
9160 N. Hwy 83
Corinne UT 84307
Landholding Agency: GSA
Property Number: 54201230003
Status: Excess
GSA Number: 7–Z–UT–0533
Directions: T077 & T078; NASA Shuttle Storage Warehouses
Comments: off-site removal only; approx. 3,200 sf. each; storage

Land

Kansas

1.64 Acres
Wichita Automated Flight Service
Anthony KS 67003
Landholding Agency: GSA
Property Number: 54201230002
Status: Excess
GSA Number: 7–U–KS–0526
Comments: Agricultural surroundings; remedial action has been taken for asbestos removal.

Unsuitable Properties

Building

California

5 Buildings
Naval Base
San Diego CA
Landholding Agency: Navy
Property Number: 77201230004
Status: Excess
Directions: 3368, 3603,3520,3371,3370
Comments: Located on a secured military installation; public access denied & no alternative method to gain access w/out comprising nat'l security; DoD access card holders only.
Reasons: Secured Area.

[FR Doc. 2012–18062 Filed 7–26–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[Docket No. ONRR–2012–0003]

Establishment of the U.S. Extractive Industries Transparency Initiative Advisory Committee and Request for Nominees

AGENCY: Office of Natural Resources Revenue, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of the Interior is establishing and seeking nominations for the U.S. Extractive Industries Transparency Initiative (USEITI) Advisory Committee. The Committee is being established to advise the Department on the implementation the Extractive Industries Transparency Initiative (EITI), which requires governments to publicly disclose their revenues from oil, gas, and mining assets and for companies to make parallel disclosures regarding payments. The Committee will serve as the initial Multi-Stakeholder Group and its duties will include consideration and fulfillment of the tasks required to achieve candidate and compliant status in the EITI.

DATES: Submit nominations to the Committee by August 27, 2012.

ADDRESSES: You may submit nominations to the Committee by any of the following methods.

- Mail or hand-carry nominations to Ms. Shirley Conway; Department of the Interior; Office of Natural Resources Revenue; 1801 Pennsylvania Avenue NW., Suite 400; Washington, DC 20006.
- Email nominations to *Shirley.Conway@onrr.gov* or *EITI@ios.doi.gov*

FOR FURTHER INFORMATION CONTACT: Shirley Conway, Office of Natural Resources Revenue; telephone (202) 254–5554; fax (202) 254–5589; email *Shirley.Conway@onrr.gov.* Mailing address: Department of the Interior; Office of Natural Resources Revenue; 1801 Pennsylvania Avenue NW., Suite 400; Washington, DC 20006.

SUPPLEMENTARY INFORMATION: We, the Department of the Interior, announce the establishment of the U.S. Extractive Industries Transparency Initiative (USEITI) Advisory Committee. We are establishing the committee in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended (5 U.S.C. App. 2), and with the concurrence of the General Services Administration.

The Committee will:

- Serve as the initial Multi-Stakeholder Group (MSG) to oversee the U.S. implementation of the Extractive Industries Transparency Initiative (EITI), a global standard for governments to publicly disclose revenues received from oil, gas, and mining assets belonging to the government, with parallel public disclosure by companies of payments to the government (e.g. royalties, rents, bonuses, taxes, or other payments).
- Develop and recommend to the Secretary a fully-costed work plan, containing measurable targets and a timetable for implementation, and incorporating an assessement of capacity contraints. This plan shall be developed in consultation with key EITI stakeholders and published upon completion.
- Provide opportunities for collaboration and consultation among stakeholders.
- Advise the Secretary and post for consideration by other stakeholders proposals for conducting long-term oversight and other activities necessary to achieve EITI candidate and compliant status.

We are seeking nominations for individuals to be considered as Committee members. Nominations should include a resume providing an adequate description of the nominee's qualifications, including information that would enable the Department of the Interior to make an informed decision regarding meeting the membership requirements of the Committee and permit the Department of the Interior to contact a potential member. We strongly encourage that parties work with and within stakeholder sectors (including industry, civil society, and government sectors, as the EITI process defines) to jointly consider and submit nominations that reflect the diversity and breadth of their sector.

Members of the Committee will include non-Federal representatives from the extractive industry, including oil, gas, and mining companies and industry-related trade associations; civil society, including organizations with interest in the extractive industry, transparency, and government oversight

and members of the public; State and local governments; and Tribal governments and individual Indian mineral owners. Federal members of the Committee will include representatives of the Office of Natural Resources Revenue, the Bureau of Indian Affairs, the Department of the Treasury, the Department of State, and the Department of Energy. The Committee will consist of approximately 21—but no more than 27—members to represent a range of interests concerned with implementation of EITI. In addition to honoring the EITI principle of self-selection within stakeholder sectors (industry, civil society, and government), the following criteria will be considered in making final selections:

(1) Understanding of and commitment to the EITI process.

(2) Ability to collaborate and operate in a multi-stakeholder setting.

(3) Access to and support from a relevant stakeholder constituency and authority to make decisions on its behalf.

(4) Basic understanding of the extractive industry and/or revenue collection or willingness to be educated on such matters.

(5) Ability to represent U.S.-based constituents, organizations, and institutions, or companies with significant operations in the U.S.

No individual who is currently registered as a Federal lobbyist is eligible to serve as a member of the Committee.

The Committee will meet quarterly or at the request of the Designated Federal Officer. Members of the Committee will serve without compensation. However, we may pay the travel and per diem expenses of Non-Federal Committee members, if appropriate, under the Federal Travel Regulations.

Background: In September 2011, President Barack Obama announced the United States' commitment to participate in the Extractive Industries Transparency Initiative. EITI is a signature initiative of the U.S. National Action Plan for the international Open Government Partnership and offers a voluntary framework for governments and companies to publicly disclose, in parallel, the revenues paid and received for extraction of oil, gas, and minerals that belong to the government.

Each framework is country-specific, and is the result of a multi-year, consensus-based process by a multi-stakeholder group comprised of government, industry, and civil society representatives. On October 25, 2011, President Obama named Secretary of the Interior Ken Salazar as the U.S. Senior Official responsible for implementing USEITI. In response, Secretary Salazar posted an entry on a White House blog that same day committing to work with industry and civil society to implement USEITI. To ensure the best possible job of stakeholder outreach, we retained an independent facilitator, the Consensus Building Institute (CBI), to conduct a stakeholder assessment as part of the USEITI implementation process.

On February 24, 2012 (74 FR 11151), we published a notice in the **Federal Register** seeking public comment on formation of a multi-stakeholder group to implement USEITI. In that notice, we committed to a series of public listening sessions to provide additional opportunities for public comment. In March 2012, we conducted listening sessions in St. Louis, Missouri; Denver, Colorado; Houston, Texas; and Washington, DC. CBI analyzed the input from these four public listening sessions, interviews with potential stakeholders, and written comments submitted to Interior. The input formed the basis of CBI's draft stakeholder assessment and findings regarding options for establishing the United States' multi-stakeholder group.

On May 3, 2012 (77 FR 26315), we published a notice in the **Federal Register** announcing a second public comment period, from May 18 through June 29, 2012, seeking feedback on CBI's draft stakeholder assessment and the recommended options for establishing the United States' multi-stakeholder group, which was published on May 18, 2012. As part of the second comment period, we held three public listening sessions in Anchorage, Alaska; Pittsburgh, Pennsylvania; and New Orleans, Louisiana; a public webinar; and a USEITI public workshop on June 22, 2012, in Washington, DC.

CBI analyzed the input from these public listening sessions, written comments submitted to Interior, and comments and issues raised by stakeholders at the June 22, 2012, USEITI public workshop. This input formed the basis of CBI's final stakeholder assessment and findings regarding establishment of the United States' multi-stakeholder group.

On July 11, 2012 (77 FR 40893), we published a notice in the **Federal Register** announcing publication of CBI's final assessment regarding options for forming a United States' multi-stakeholder group that will be responsible for determining the implementation of USEITI. The assessment stated that the two viable and preferred options for standing up the MSG were a non-federal entity or a new federal advisory committee. Based on the results of the assessment and input received at the June 22, 2012 USEITI public workshop, Interior decided to form a new federal advisory committee to serve as the initial form of the MSG. A new federal advisory committee would have the benefit of following a frequently-used procedure within the U.S. government's legal framework, and would allow the U.S. government to satisfy its convening responsibilities, while providing a forum for the MSG to serve its role in overseeing USEITI implementation.

Certification Statement: I hereby certify that the U.S. Extractive Industries Transparency Initiative (USEITI) Advisory Committee is necessary, is in the public interest, and is established under the authority of the Secretary of the Interior, in support of the Open Government Partnership and the commitment in the United States' National Action Plan to implement the Extractive Industries Transparency Initiative.

Dated: July 24, 2012.

Ken Salazar,

Secretary, Department of the Interior.

[FR Doc. 2012–18432 Filed 7–26–12; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–IA–2012–N178: FXIA16710900000P5–123–FF09A30000]

Endangered Species; Marine Mammals; Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

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, marine mammals, or both. With some exceptions, the Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA) prohibit activities with listed species unless Federal authorization is acquired that allows such activities.

DATES: We must receive comments or requests for documents on or before August 27, 2012. We must receive requests for marine mammal permit public hearings, in writing, at the address shown in the **ADDRESSES** section by August 27, 2012.

ADDRESSES: Brenda Tapia, Division of Management Authority, U.S. Fish and

Wildlife Service, 4401 North Fairfax Drive, Room 212, Arlington, VA 22203; fax (703) 358–2280; or email *DMAFR@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, (703) 358–2104 (telephone); (703) 358–2280 (fax); *DMAFR@fws.gov* (email).

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How do I request copies of applications or comment on submitted applications?

Send your request for copies of applications or comments and materials concerning any of the applications to the contact listed under **ADDRESSES**. Please include the **Federal Register** notice publication date, the PRT-number, and the name of the applicant in your request or submission. We will not consider requests or comments sent to an email or address not listed under **ADDRESSES**. If you provide an email address in your request for copies of applications, we will attempt to respond to your request electronically.

Please make your requests or comments as specific as possible. Please confine your comments to issues for which we seek comments in this notice, and explain the basis for your comments. Include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) Those that include citations to, and analyses of, the applicable laws and regulations. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

B. May I review comments submitted by others?

Comments, including names and street addresses of respondents, will be available for public review at the street address listed under **ADDRESSES**. The public may review documents and other information applicants have sent in support of the application unless our allowing viewing would violate the Privacy Act or Freedom of Information Act. 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.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), along with Executive Order 13576, ''Delivering an Efficient, Effective, and Accountable Government,'' and the President's Memorandum for the Heads of Executive Departments and Agencies of January 21, 2009—Transparency and Open Government (74 FR 4685; January 26, 2009), which call on all Federal agencies to promote openness and transparency in Government by disclosing information to the public, we invite public comment on these permit applications before final action is taken. Under the MMPA, you may request a hearing on any MMPA application received. If you request a hearing, give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Service Director.

III. Permit Applications

A. Endangered Species

Applicant: Knoxville Zoological Gardens, Knoxville, TN; PRT–678490

The applicant requests renewal and amendment of their captive-bred wildlife registration under 50 CFR 17.21(g) for the following families and species, to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Families: Bovidae, Cercopithecidae, Felidae (does not include jaguar, margay or ocelot), Hominidae, Hylobatidae, Lemuridae, Tapiridae, Boidae.

Species: Jackass penguin (*Spheniscus demersus*), Bali starling (*Leucopsar rothschildi*), White-naped crane (*Grus vipio*).

Applicant: Andy Nguyen, Garden Grove, CA; PRT–79469A

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the radiated tortoise (*Astrochelys radiata*) to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Ay Sao, El Cajon, CA; PRT–79772A

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the radiated tortoise (*Astrochelys radiata*) to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Robert Blome, Florence, AZ; PRT–785246

The applicant requests renewal and amendment of their captive-bred wildlife registration under 50 CFR 17.21(g) for Galapagos tortoise (*Chelonoidis nigra*), radiated tortoise (*Astrochelys radiata*), and San Esteban Island chuckwalla (*Sauromalus varius*) to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Species Survival Fund, Goddard, KS; PRT–724896

The applicant requests renewal and amendment of their captive-bred wildlife registration under 50 CFR 17.21(g) for the following families, genera, and species, to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Families: Bovidae, Equidae, Felidae, Rhinocerotidae.

Genus: Saguinus.

Species: Ring-tailed lemur (*Lemur catta*), Ruffed lemur (*Varecia variegata*), Lar gibbon (*Hylobates lar*), Siamang (*Symphalangus syndactylus*), Mandrill (*Mandrillus sphinx*), Jackass penguin (*Spheniscus demersus*).

Applicant: Mitchell Strickling, Midland, TX; PRT–80316A

The applicant requests a permit to import a sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

B. Endangered Marine Mammals and Marine Mammals

Applicant: Darlene Ketten, Ph.D., Woods Hole Oceanographic Institute, Woods Hole, MA; PRT–130062

The applicant requests renewal of the permit to authorize import, export, and acquisition of biological samples from marine otter (*Lontra felina*), all sea otters (*Enhydra lutris*), walrus (*Odobenus rosmarus*), polar bear (*Ursus*

maritimus), all manatee species (*Trichechus* spp.), and dugongs (*Dugong dugon*) to create cell lines for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: U.S. Fish and Wildlife Service, Marine Mammals Management, Anchorage, AK; PRT–039386

The applicant requests renewal of the permit to take up to 6000 walrus (*Odobenus rosmarus*) annually by biopsy darting and up to 50 walrus annually for tagging; to collect unlimited number of specimens from dead animals; to conduct aerial surveys; and to import unlimited number of biological specimens for the purpose of scientific research. The permit was issued on July 15, 2011, for 1 year, prior to the close of the comment period for the notice published June 23, 2011. This notification covers activities to be conducted by the applicant over the next 4 years.

Concurrent with publishing this notice in the **Federal Register,** we are forwarding copies of the above applications to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2012–18353 Filed 7–26–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

U.S. Geological Survey

[USGS–GX12GL00DT70500]

Agency Information Collection Activities: National Geological and Geophysical Data Preservation Program (NGGDPP)

AGENCY: U.S. Geological Survey (USGS), Interior.

ACTION: Notice of an extension of an existing information collection (1028–0087).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we have submitted to the Office of Management and Budget (OMB) a new information collection request (ICR) for the extension of the paperwork requirements for the National Geological and Geophysical Data Preservation Program (NGGDPP). This notice provides the public and other Federal agencies an opportunity to comment on the nature of this collection which is scheduled to expire on July 31, 2012.

DATES: You must submit comments on or before August 27, 2012.

ADDRESSES: Please submit comments on this information collection directly to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk Officer for the Department of the Interior, via email (*OIRA_DOCKET@omb.eop.gov*) or fax 202–395–5806; and identify your submission as 1028–0087.

Please submit a copy of your comments to the USGS Information Collection Clearance Officer, U.S. Geological Survey, 12201 Sunrise Valley Drive MS 807, Reston, VA 20192 (mail); 703–648–7199 (fax); or *smbaloch@usgs.gov* (email). Please reference Information Collection 1028–0087.

FOR FURTHER INFORMATION CONTACT: Betty M. Adrian at (303) 202–4828 or by mail at U.S. Geological Survey, Box 25046, Mail Stop 975, Denver, CO 80225. You may also find this information collection request as submitted to OMB at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This notice concerns the collection of information that is sufficient and relevant to evaluate and select proposals for funding under the NGGDPP. We will accept proposals from State geological surveys requesting funds to inventory and assess the condition of current collections and data preservation needs. Financial assistance will be awarded annually on a competitive basis following the evaluation and ranking of State proposals by a review panel composed of representatives from the Department of the Interior, State geological surveys, academic institutions, and the private sector. To submit a proposal, respondents must complete a project narrative and submit the application via www.grants.gov. Grant recipients must complete a final technical report at the end of the project period. Narrative and report guidance is available through *http://datapreservation.usgs.gov/* and at *www.grants.gov*.

II. Data

OMB Control Number: 1028–0087.

Title: National Geological and Geophysical Data Preservation Program (NGGDPP).

Respondent Obligation: Required to obtain or retain a benefit.

Frequency of Collection: Annually.

Estimated Number and Description of Respondents: 62 State Geological Surveys.

Estimated Number of Annual Responses: 62 (34 applications and 28 reports).

Estimated Annual Reporting and Recordkeeping ''Hour'' Burden: 1,266 hours. We expect to receive approximately 34 applications. It takes each applicant approximately 36 hours to complete the narrative and to present supporting documents. This includes the time for project conception and development, proposal writing and reviewing, and submitting the proposal application through Grants.gov (totaling 1,224 burden hours). We anticipate awarding 28 grants per year. The award recipients must submit a final report. We estimate that it will take approximately 1.5 hours to complete the requirement for the reports (totaling 42 hours).

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden: There are no ''non-hour cost'' burdens associated with this collection of information.

III. Request for Comments

On March 2, 2012 we published a **Federal Register** notice (77 FR 12871) announcing that we would submit this information collection to OMB for approval. The notice provided a 60-day public comment period ending on May 1, 2012. We did not receive any comments in response to that notice.

We again invite comments concerning this ICR on: (a) Whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, usefulness, and clarity of the information to be collected; and (d) ways to minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address or other personal identifying information in your comment, you should be aware that your entire comment including your personal identifying information, may be made publically available at anytime. 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: July 19, 2012.

Betty M. Adrian,

Acting Program Coordinator, National Geological and Geophysical Data Preservation.

[FR Doc. 2012–18340 Filed 7–26–12; 8:45 am]

BILLING CODE 4311–AM–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

DEPARTMENT OF ENERGY

[LLWO300000.L14300000]

Notice of Availability of the Final Programmatic Environmental Impact Statement for Solar Energy Development in Six Southwestern States

AGENCY: Bureau of Land Management, Interior; Department of Energy.

ACTION: Notice of availability.

SUMMARY: The Bureau of Land Management (BLM) and the Department of Energy (DOE) (the Agencies) as joint lead agencies announce the availability of the Final Programmatic Environmental Impact Statement for Solar Energy Development in Six Southwestern States (Final Programmatic EIS) (BLM/DES 11–49, DOE/EIS–0403) and associated Proposed BLM Resource Management Plan (RMP) Amendments.

DATES: BLM planning regulations state that any person who meets the conditions as described in the regulations may protest the BLM's Final Programmatic EIS and Proposed RMP Amendments. A person who meets the conditions and files a protest must file the protest within 30 days of the date that the Environmental Protection Agency publishes its Notice of Availability (NOA) in the **Federal Register**.

ADDRESSES: Copies of the Final Programmatic EIS and Proposed RMP Amendments have been sent to affected Federal, state, and local government agencies and to other stakeholders. Copies of the Final Programmatic EIS and Proposed RMP Amendments, references, and additional information regarding solar energy development are available at the project Web site: *http://solareis.anl.gov*. Electronic copies of the Final Programmatic EIS and Proposed RMP Amendments are available through the BLM Web site at *http://www.blm.gov*. The Final Programmatic EIS is also available on the DOE National Environmental Policy Act (NEPA) Web site at *http://energy.gov/nepa*.

All protests must be in writing and mailed to one of the following addresses:

Regular Mail

BLM Director (210), Attention: Brenda Williams, P.O. Box 71383, Washington, DC 20024–1383.

Overnight Mail

BLM Director (210), Attention: Brenda Williams, 20 M Street SE., Room 2134LM, Washington, DC 20003.

Publication of a Final EIS Notice of Availability does not trigger a formal public comment period. The Agencies, however, may choose to review any comments submitted following the publication of the Final EIS NOA and use them to inform the Records of Decision. Those individuals wishing to submit comments are asked to do so through the Solar Programmatic EIS project Web site (*http://solareis.anl.gov*). Individuals should note that the Agencies will consider such comments only to the extent practicable and will not respond to comments individually.

FOR FURTHER INFORMATION CONTACT: Shannon Stewart, Solar Energy Program Lead, BLM Washington Office, by email at *shannon_stewart@blm.gov*, or by telephone at 202–912–7219, to request CDs or printed copies of the Final Programmatic EIS, or for further information. Requests for information related to DOE's proposed action may be directed to Jane Summerson, DOE Solar Programmatic EIS Document Manager, by email at *jane.summerson@ee.doe.gov*, or by telephone at 202–287–6188. For general information regarding the DOE NEPA process, contact Carol Borgstrom, Director, Office of NEPA Policy and Compliance, GC–54, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, by telephone at 202–586–4600, leave a message at 1–800–472–2756, or by email at *askNEPA@hq.doe.gov*. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Copies of the Final Programmatic EIS and Proposed RMP Amendments are available for public inspection at the following BLM office locations:

- Arizona State Office, One North Central Avenue, Suite 800, Phoenix, Arizona 85004.
- Caliente Field Office, U.S. Highway 93 Building #1, Caliente, Nevada 89008.
- California Desert District, 22835 Calle San Juan De Los Lagos, Moreno Valley, California 92553.
- California State Office, 2800 Cottage Way, Suite W–1623, Sacramento, California 95825.
- Colorado State Office, 2850 Youngfield Street Lakewood, Colorado 80215.
- Cedar City Field Office, 176 East D.L. Sargent Drive Cedar City, Utah 84721.
- El Centro Field Office, 1661 S. 4th Street El Centro, California 92243.
- Lake Havasu Field Office, 2610 Sweetwater Avenue Lake Havasu City, Arizona 86406.
- Las Cruces District Office, 1800 Marquess Street Las Cruces, New Mexico 88005.
- Lower Sonoran Field Office, 21605 N. 7th Avenue Phoenix, Arizona 85027.
- Nevada State Office, 1340 Financial Boulevard Reno, Nevada 89502.
- New Mexico State Office, 301 Dinosaur Trail, Santa Fe, NM 87508
- Palm Springs—South Coast Field Office, 1201 Bird Center Drive Palm Springs, California 92262.
- San Luis Valley Public Lands Center, 1803 West Highway 160, Monte Vista, Colorado 81144.
- Southern Nevada District Office, 4701 North Torrey Pines, Las Vegas, Nevada 89130.
- Tonopah Field Office, 1553 South Main Street Tonopah, Nevada 89049.
- Utah State Office, 440 West 200 South, Suite 500, Salt Lake City, Utah 84101.

On December 17, 2010 (75 FR 78980), the Agencies published a Draft Programmatic EIS for Solar Energy Development in Six Southwestern States (Arizona, California, Colorado, Nevada, New Mexico, and Utah). Public comments were accepted through May 2, 2011. More than 80,500 comments were received. The public, as well as many cooperating agencies, offered suggestions on how the Agencies could increase the utility of the document, strengthen the proposed BLM Solar Energy Program, and increase certainty regarding solar energy development on BLM-administered lands.

On October 28, 2011 (76 FR 66958), the Agencies published a Supplement to the Draft Programmatic EIS for Solar Energy Development in Six Southwestern States. Public comments were accepted through January 27, 2012. More than 131,000 comments were received. The Agencies considered all

comments received on both the Draft Programmatic EIS and the Supplement to the Draft Programmatic EIS, and the Final Programmatic EIS has been revised to reflect that consideration.

Through the Final Programmatic EIS, the BLM is evaluating actions that will facilitate utility-scale solar energy development on public lands. Multiple federal orders and mandates establish requirements for the Department of the Interior related to renewable energy development. Through the Final Programmatic EIS, the BLM is considering replacing elements of its existing solar energy policies with a comprehensive Solar Energy Program that would allow the permitting of future solar energy development projects on public lands to proceed in a more efficient, standardized, and environmentally responsible manner.

On the basis of the analysis presented in this Final Programmatic EIS, the BLM anticipates making the following land use planning decisions that will establish the foundation for a comprehensive Solar Energy Program.

- Land use plan amendments that identify exclusion areas for utility-scale solar energy development in the six-state study area;
- Land use plan amendments that identify priority areas for solar energy development that are well suited for utility-scale production of solar energy (i.e., solar energy zones (SEZs));
- Land use plan amendments that identify areas potentially available for utility-scale solar energy development outside of SEZs in the six-state study area; and
- Land use plan amendments that establish required design features (i.e., mitigation requirements) for solar energy development on public lands to ensure the most environmentally responsible development and delivery of solar energy.

In the Final Programmatic EIS, the BLM has identified the solar energy development program alternative (referred to as the ''program alternative'') as its preferred alternative. Under the program alternative, the BLM proposes categories of lands to be excluded from utility-scale solar energy development (approximately 79 million acres) and identifies 17 SEZs (about 285,000 acres) where the BLM proposes to prioritize development of utility-scale solar energy development. The program alternative emphasizes and incentivizes development within SEZs and proposes a collaborative process to identify additional SEZs in the future. The program alternative allows for utility-scale solar development in variance areas outside of SEZs (approximately 19 million acres) in accordance with a proposed variance process. The program alternative also establishes authorization policies and procedures for utility-scale solar energy development and design features applicable to all development on BLM-administered lands.

In the Final Programmatic EIS, DOE revised its proposed guidance in response to comments. For example, it added specific recommendations regarding land use avoidance including rangelands and National Historic and Scenic Trails; greater emphasis on water use minimization and conservation techniques; and coordination with local and state entities such as planning commissions and federal agencies such as the U.S. Army Corps of Engineers. DOE also included additional text describing the breadth and variety of the various DOE programs that could potentially fund solar projects and clarifying how DOE might use the proposed guidance.

In the Final Programmatic EIS, DOE has identified its preferred alternative as the proposed action (action alternative) under which DOE would adopt programmatic environmental guidance, which would be used by DOE to further integrate environmental considerations into its analysis and selection of proposed solar projects.

Other Agency Involvement

Cooperating Federal agencies on the Solar Programmatic EIS include the Department of Defense; U.S. Fish and Wildlife Service; National Park Service; Bureau of Reclamation; U.S. Environmental Protection Agency, Region 9; and U.S. Army Corps of Engineers, South Pacific Division. Other cooperating agencies on the Solar PEIS include the Arizona Game and Fish Department; the California Energy Commission and Public Utilities Commission; the Nevada Department of Wildlife, the N–4 Grazing Board, and the Southern Nevada Water Authority; the Utah Public Lands Policy Coordination Office; Clark, Esmeralda, Eureka, Lincoln, and Nye Counties, Nevada; Saguache County, Colorado; and Dona Ana County, New Mexico.

Instructions for filing a protest with the Director of the BLM regarding the Final Programmatic EIS and Proposed RMP Amendments may be found in the ''Dear Reader'' Letter'' of the Final Programmatic EIS for Solar Energy Development in Six Southwestern States and at 43 CFR 1610.5–2. All protests must be in writing and mailed to the appropriate address, as set forth in the **ADDRESSES** section above. Emailed and faxed protests will not be accepted as valid protests unless the protesting party also provides the original letter by either regular or overnight mail postmarked by the close of the protest period. Under these conditions, the BLM will consider the emailed or faxed protest as an advance copy and it will receive full consideration. If you wish to provide the BLM with such advance notification, please direct emails to *bhudgens@blm.gov* and faxed protests to the attention of the BLM protest coordinator at 202–245–0028.

Authority: 40 CFR 1506.6 and 1506.10; 43 CFR 1610.2 and 1610.5; and 10 CFR 1021.313.

Timothy Spisak,

Acting Assistant Director, Minerals and Realty Management, Bureau of Land Management.

David Danielson,

Assistant Secretary, Energy Efficiency and Renewable Energy, Department of Energy.

[FR Doc. 2012–18257 Filed 7–24–12; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–10781; 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 30, 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 August 13, 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: July 6, 2012.

J. Paul Loether,

Chief, National Register of Historic Places/ National Historic Landmarks Program.

ALASKA

Valdez-Cordova Borough-Census Area

Pioneer Igloo Hall Number 19, 621 1st St., Cordova, 12000492

ARIZONA

Maricopa County

First Presbyterian Church of Peoria, 10236 N. 83rd Ave., Peoria, 12000493

CALIFORNIA

Mariposa County

Half Dome Cables and Trail, P.O. Box 577, Yosemite, 12000494

COLORADO

Jefferson County

Baugh, James H., House, 11361 W. 44th Ave., Wheat Ridge, 12000495

FLORIDA

Hillsborough County

Palmetto Beach Historic District, Roughly bounded by Durham, 28th, Thrace, & 22nd Sts., Tampa, 12000496

ILLINOIS

Vermilion County

Snider Cemetery, 1200 East Rd., Danville, 12000497

LOUISIANA

Orleans Parish

St. Bernard Market, 1522 St. Bernard Ave., New Orleans, 12000498

MASSACHUSETTS

Berkshire County

Howard, Frank, Building, 124–132 Fenn St., 67–71 Federal St., Pittsfield, 12000499

MISSOURI

Marion County

St. Elizabeth Hospital, 109 Virginia St., Hannibal, 12000500

MONTANA

Ravalli County

University Heights Historic District, 469 Bunkhouse Creek Rd., Darby, 12000501

NEW HAMPSHIRE

Carroll County

Beede Farm (Squam MPS), 178 Mill Bridge Rd., Sandwich, 12000502

Pratt Family Camps (Squam MPS), Address Restricted, Moultonborough, 12000503

Cheshire County

Stone Arch Bridge, Mi. 89.41 over Branch R., Keene, 12000504

Grafton County

Burleigh Brae and Webster Boathouse (Squam MPS), Address Restricted, Holderness, 12000505

Camp Carnes (Squam MPS), Address Restricted, Holderness, 12000506

True Farm, (Squam MPS) 53, 64, 70 True Farm Rd., & 884 NH 113, Holderness, 12000507

NEW YORK

Clinton County

Pike's Cantonment Site, Address Restricted, Plattsburg, 12000508

Herkimer County

Fort Plain Historic District, Roughly area around Canal & Main Sts., Fort Plain, 12000510

Jefferson County

Grindstone Island Upper Schoolhouse, 41591 Cross Island Rd., Clayton, 12000509

Rensselaer County

Van Rensselaer High School, 199 Washington Ave., Rensselaer, 12000511

Suffolk County

Riverhead Main Street Historic District, Roughly E. & W. Main Sts., Griffing, Roanoke, Maple, & Peconic Aves., Riverhead, 12000512

Ulster County

Pine Hill Historic District, Main, Academy, Elm, & Mill Sts., Bonnieview Ave., Pine Hill, Salomone, Station, & Old Turnpike Rds., Pine Hill, 12000513

NORTH CAROLINA

Swain County

Clingmans Dome Observation Tower, Terminus of Clingmans Dome Rd., Bryson City, 12000515

SOUTH DAKOTA

Lawrence County

Pearson Cabin, ⅓ mi. SE. of jct. of Radio Rd. & US 14, Deadwood, 12000514

TENNESSEE

Sevier County

Clingmans Dome Observation Tower, Terminus of Clingmans Dome Rd., Bryson City, 12000515

VIRGINIA

Alexandria Independent City

Contrabands and Freedmen Cemetery, 1001 S. Washington St., Alexandria (Independent City), 12000516

Alleghany County

Clifton Forge Historic District, Roughly bounded by Memorial Park, Crown Hill Cemetery, Dry Creek, Keswick, Lowell Main & Pine Sts., McCormick Blvd., Clifton Forge, 12000517

Loudoun County

Lovettsville Historic District, Roughly N. & S. Berlin Pike, E. Broad Way, S. Light, S. Locust, & S. Loudoun Sts., Lovettsville Rd., Lovettsville, 12000518

Richmond Independent City

Shockoe Slip Historic District (Boundary Increase III), 300 blk. S. 11th, 1200 & 1300 E. Byrd Sts., 1201 Haxall Pt., 13th St. Bridge, Richmond (Independent City), 12000519

Three Chopt Road Historic District, Three Chopt Rd. from Cary St. to Bandy Rd., Richmond (Independent City), 12000520

WISCONSIN

Rock County

St. John's Lutheran Church, 312 S. 3rd St., Evansville, 12000521

[FR Doc. 2012–18310 Filed 7–26–12; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0074]

Agency Information Collection Activities; Proposed Collection; Comments Requested: List of Responsible Persons

ACTION: 30-Day Notice of information collection under review.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 77, Number 99, page 30325 on May 22, 2012, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until August 27, 2012. This process is conducted in accordance with 5 CFR 1320.10.

Written comments concerning this information collection should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: DOJ Desk Officer. The best way to ensure your comments are received is to email them to *oira_submission@omb.eop.gov* or fax them to 202–395–7285. All comments should reference the eight digit OMB number or the title of the collection. If you have questions concerning the collection, contact *Christopher.R.Reeves@usdoj.gov.*

Written comments and suggestions from the public and affected agencies

concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Summary of Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* List of Responsible Persons.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: None. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. Other: Business or other for-profit.

Need for Collection

All persons holding ATF explosives licenses or permits must report any change in responsible persons or employees authorized to possess explosive materials to ATF. Such report must be submitted within 30 days of the change and must include appropriate identifying information for each responsible person.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 50,000 respondents will take 1 hour to complete the report.

(6) *An estimate of the total burden (in hours) associated with the collection:* There are an estimated 100,000 annual total burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, U.S. Department of Justice, Two Constitution Square, Room 2E–508, 145 N Street NE., Washington, DC 20530.

Dated: July 24, 2012.

Jerri Murray,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. 2012–18359 Filed 7–26–12; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0080]

Agency Information Collection Activities; Proposed Collection; Comments Requested: Notification of Change of Mailing or Premise Address

ACTION: 30-Day Notice of information collection under review.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 77, Number 99, page 30325 on May 22, 2012, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until August 27, 2012. This process is conducted in accordance with 5 CFR 1320.10.

Written comments concerning this information collection should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: DOJ Desk Officer. The best way to ensure your comments are received is to email them to *oira_submission@omb.eop.gov* or fax them to 202–395–7285. All comments should reference the eight digit OMB number or the title of the collection. If you have questions concerning the collection, contact *Christopher.R.Reeves@usdoj.gov.*

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Summary of Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Notification of Change of Mailing or Premise Address.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: None. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Not-for-profit Institutions. Other: Business or other for-profit.

Need for Collection

Licensees and permittees whose mailing address will change must notify the Chief, Federal Explosives Licensing Center, at least 10 days before the change. The information is used by ATF to identify correct locations of storage of explosives licensees/permittees and location of storage of explosive materials for purposes of inspection, as well as to notify permittee/licensees of any change in regulations or laws that may affect their business activities.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 1,000 respondents will take 10 minutes to respond via letter to the Federal Explosives Licensing Center.

(6) *An estimate of the total burden (in hours) associated with the collection:* There are an estimated 170 annual total burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, U.S. Department of Justice, Two Constitution Square, Room 2E–508, 145 N Street NE., Washington, DC 20530.

Dated: July 24, 2012.

Jerri Murray,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. 2012–18360 Filed 7–26–12; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Apple, Inc., et al.; Public Comments and Response on Proposed Final Judgment

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), the United States hereby publishes below the United States' Response to Public Comments on the proposed Final Judgment in *United States* v. *Apple, Inc., et al.,* Civil Action No. 12–CV–2826 (DLC), which was filed in the United States District Court for the Southern District of New York on July 23, 2012, together with copies of the 868 comments received by the United States.

Pursuant to the Court's June 11, 2012 order, comments were published electronically and are available to be viewed and downloaded at the Antitrust Division's Web site, at: *http://www.justice.gov/atr/cases/apple/index.html.* A copy of the United States' Response to Comments is also available at the same location.

Copies of the comments and the response are available for inspection at the Department of Justice Antitrust Division, 450 Fifth Street NW., Suite 1010, Washington, DC 20530 (telephone: 202–514–2481), and at the Office of the Clerk of the United States District Court for the Southern District of New York, Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, NY 10007–1312. Copies of any of these materials may also be obtained upon request and payment of a copying fee.

Patricia A. Brink,

Director of Civil Enforcement.

United States District Court for the Southern District of New York

United States of America, Plaintiff, v. *Apple, Inc.,* Civil Action No. 12–CV–2826 (DLC) Hachette Book Group, Inc., Harpercollins Publishers, L.L.C., Verlagsgruppe Georg Von Holtzbrinck GMBH, Holtzbrinck Publishers, LLC d/b/a Macmillan, The Penguin Group, a Division of Pearson Plc, Penguin Group (USA), Inc., and Simon & Schuster, Inc., Defendants.

Response of Plaintiff United States to Public Comments on the Proposed Final Judgment*

July 23, 2012.

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[1] *Passim.*

Preliminary Statement

When Apple launched its iBookstore in April of 2010, virtually overnight the retail prices of many bestselling and newly released e-books published in this country jumped 30 to 50 percent—affecting millions of consumers. The United States conducted a lengthy investigation into this steep price increase and uncovered significant evidence that the seismic shift in e-book prices was not the result of market forces, but rather came about through the collusive efforts of Apple and five of the six largest publishers in the country. That conduct, which is detailed in the United States' Complaint against those entities, is *per se* illegal under the federal antitrust laws.

Three of the publishers named in the Complaint as defendants—Hachette Book Group, Inc., HarperCollins Publishers L.L.C., and Simon & Schuster, Inc.—have entered into settlement agreements with the United States. As it is required to do under the Tunney Act, the United States solicited comments from the public regarding the settlements. The United States received 868 comments from individuals, publishers, booksellers, and even from Apple, a key conspirator in the underlying price-fixing scheme.

Comments were submitted both in support of, and in opposition to, the proposed settlements. Those in support largely commented favorably on the government's efforts to end the conspiracy that cost e-book purchasers millions of dollars, and restore competition to the e-book market. Critical comments generally were submitted by those who have an interest in seeing consumers pay more for e-books, and hobbling retailers that might want to sell e-books at lower prices. Many such comments expressed a general frustration with conditions that arise not from the settlements or even the United States' Complaint, but from the evolving nature of the publishing industry—in which the growing popularity of e-books is placing pressure on the prevailing model that is built on physical supply chains and brick-and-mortar stores. Many critics of the settlements view the consequences of the conspiracy—higher prices—as serving their own self-interests, and they prefer that unfettered competition be replaced by industry collusion that places the welfare of certain firms over that of the public. That position is wholly at odds with the purposes of the federal antitrust laws—which were enacted to protect competition, not competitors. *See, e.g., Brown Shoe Co.* v. *United States,* 370 U.S. 294, 320 (1962).

The United States received many comments that sought to excuse price fixing as necessary to end Amazon's reported ninety percent share of the e-book market, and noted that Apple's entry effectuated erosion of Amazon's share and spurred all sorts of innovations, such as color e-books. But the reality is that, despite its conspiratorial efforts, Apple's entry into the e-book market was not immediately successful. It was, in fact, Barnes & Noble's

entry—prior to Apple—that took significant share away from Amazon; and many of the touted innovations were in development long before Apple decided to enter the market via conspiracy.

Some critical comments simply misunderstand the decree. They assert that the United States is imposing a business model on the industry by prohibiting agency agreements. The United States, however, does not object to the agency method of distribution in the e-book industry, only to the collusive use of agency to eliminate competition and thrust higher prices onto consumers. Publishers that did not collude are not required to surrender agency agreements and even the settling publishers here can resume agency, if they act unilaterally, after only two years. This brief cooling-off period will ensure that the effects of the collusion will have evaporated before defendants seek future agency agreements, if any.

Overall, the United States is entitled to broad discretion to settle with antitrust defendants, so long as the settlements are within the reaches of the public interest. In that regard, the Court's inquiry is a limited one, focused on whether the proposed Final Judgment provides effective and appropriate remedies for the antitrust violations alleged in the Complaint, with respect to the Settling Defendants. As set forth below, after carefully considering the comments received, the United States has concluded the settlements meet that test.

Introduction

Pursuant to the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h) (''Tunney Act''), the United States hereby responds to the public comments received in this case regarding the proposed Final Judgment as to defendants Hachette Book Group, Inc., HarperCollins Publishers L.L.C., and Simon & Schuster, Inc. (collectively ''Settling Defendants''). After careful consideration of the comments, the United States has concluded that the proposed Final Judgment will provide an effective and appropriate remedy for the antitrust violations alleged in the Complaint, with respect to the Settling Defendants. The United States will move the Court for entry of the proposed Final Judgment after this response has been published in the **Federal Register** and online. All timely comments are posted publicly at *http://www.justice.gov/atr/cases/apple/index.html,* pursuant to 15 U.S.C. 16(d).

On April 11, 2012, the government filed a civil antitrust Complaint alleging that Apple, Inc. (''Apple'') and five of the six largest publishers in the United States (''Publisher Defendants'') restrained competition in the sale of electronic books (''e-books''), in violation of Section 1 of the Sherman Act, 15 U.S.C. 1. On the same day, the United States filed a proposed Final Judgment with respect to the three Settling Defendants.

The United States and Settling Defendants have stipulated that the proposed Final Judgment may be entered after compliance with the requirements of the Tunney Act. Pursuant to those requirements, the United States filed its Competitive Impact Statement (''CIS'') with the Court on April 11, 2012; the proposed Final Judgment and CIS were published in the **Federal Register** on April 24, 2012, at 77 FR 24518; and summaries of the terms of the proposed Final Judgment and CIS, together with directions for the submission of written comments relating to the proposed Final Judgment, were published in both *The New York Post* and *The Washington Post* for seven days beginning on April 20, 2012 and ending on April 26, 2012. The sixty-day period for public comment (''Tunney Act period'') ended on June 25, 2012.

The United States received 868 comments during the Tunney Act period.[1] Nearly seventy of those comments favored the suit and settlement. The favorable comments included a submission from the Consumer Federation of America (''CFA''), the only consumer group to submit a comment on the decree. Another supportive comment included the signatures of 186 authors who favorably noted the growth of the e-book industry and the opportunities it gave them to bypass traditional distribution channels and successfully self-publish e-books at lower prices. Among the group of comments that supported the settlement were fifty-two readers and consumers, several of whom echoed the themes of a form letter suggested by online publisher Wordpress.com.[2] The comments supporting the proposed Final Judgment did, however, include several that asserted the relief obtained in the settlements did not go far enough. One observation raised in these comments was that two years is too short a period to ban Settling Defendants from prohibiting price discounting by retailers.

The remaining comments opposed the suit and/or the settlement.[3] Most of these comments came from publishers, authors, agents, and bookstores that acknowledged an interest in higher retail e-book prices. An overarching theme of their comments was that lower e-book prices would harm booksellers directly and others indirectly. They claimed that the pre-conspiracy lower e-book prices were caused by predatory conduct of Amazon and that the proposed Final Judgment would allow Amazon to lower prices once again, which could lead to an Amazon monopoly. These comments suggested that the current industry equilibrium, even if collusively attained, is preferable to the competitive dynamic that preceded it, and that the United States erred both in suing the conspirators and in agreeing to a settlement designed to restore competition. Comments among this group include those from the American Booksellers Association (''ABA''), The Authors Guild,[4] a group of nine mid-tier publishers (''Independent Book Publishers''), and Amazon's two largest e-book retail competitors, Barnes & Noble (''B&N'') and Apple.

This response proceeds as follows: Section II describes the Complaint and the industry facts that the United States considered when it entered into the settlements. Section III outlines the legal considerations for the Court as it reviews the proposed Final Judgment. Section IV explains the provisions of the proposed Final Judgment and how they will aid in restoring competition. Finally, Section V addresses the most prominent concerns raised in comments, then responds directly to the key assertions of the most detailed comments submitted.

I. The Complaint and the E-Book Industry

On April 3, 2010, simultaneously with Apple's iPad launch, the retail prices of most bestselling and newly released e-books published by Publisher Defendants jumped from the then-prevailing price of $9.99 to $12.99 or $14.99. Compl. ¶¶ 7–8, 74. In May 2010, the United States formally opened an investigation into the possibility that the price hike was the result of collusion. During the investigation, the United States issued Civil Investigative Demands to obtain documents and sworn testimony from defendants and third parties. On the strength of the evidence gathered during its investigation, the United States filed its Complaint on April 11, 2012.

The Complaint alleges that defendants conspired and agreed to raise, fix, and stabilize retail e-book prices, to end price competition among e-book retailers, and to limit retail price competition among Publisher Defendants. Defendants ultimately effectuated this agreement by collectively adopting and adhering to functionally identical price schedules and methods of selling e-books, as laid out in each Publisher Defendant's contract with Apple (the ''Apple Agency Agreements''). In 2008, defendants began to communicate about the threat posed by Amazon's $9.99 pricing strategy, and the need to work together to end it. Compl. ¶ 37. Though Amazon's e-book distribution business was ''[f]rom the time of its launch * * * consistently profitable,'' it ''substantially discount[ed] some newly released and bestselling titles.'' Compl. ¶ 30. By the end of the summer of 2009, Publisher Defendants agreed to work collectively to raise Amazon's retail prices. Compl. ¶ 37.

Apple was aware of Publisher Defendants' common objective to end Amazon's $9.99 pricing. Compl. ¶ 59. In late 2009, Apple and Publisher Defendants agreed to replace the wholesale model for e-book sales with an agency model that would allow Publisher Defendants to raise prices. Compl. ¶ 37. Apple first proposed that each publisher expressly adopt an agency pricing model for all of its retail e-book sales, Compl. ¶ 63, then replaced that express requirement with an

[1] An additional fourteen comments arrived after the Tunney Act period expired and, therefore, have not been published. However, the United States reviewed the comments and none of them raised any issue not already addressed in this Response to Comments.

[2] As of this writing, that letter is available at: *http://support4settlement.wordpress.com/2012/04/30/support-the-settlement/.*

[3] Two comments expressed no opinion either in favor of the suit or settlement, or in opposition to it.

[4] Both the Authors Guild and the ABA posted talking points online and instructed members ''How to Weigh In'' on the proposed Final Judgment. As of this writing, that guidance is available at: *http://authorsguild.org/advocacy/articles/the-justice-departments-e-book-proposal-needlessly.html,* and *http://news.bookweb.org/news/aba-members-urged-make-their-voices-heard-re-agency-model.*

unusual most favored nation (''MFN'') pricing provision that accomplished the same result. Compl. ¶¶ 65–66. This MFN was designed to protect Apple from having to compete on price at all, while still maintaining its margin. Compl. ¶ 65. Apple facilitated this transition to agency pricing across all e-book retailers by entering into functionally identical agency contracts with each Publisher Defendant that allowed Publisher Defendants to set Apple's retail prices for e-books. Compl. ¶ 6–7. The same terms granted Apple the assurance that Publisher Defendants would raise retail e-book prices at all other e-book retailers, and contained price tiers that created de facto retail e-book prices as a function of a title's hardcover list price. Compl. ¶ 7.

As explained more fully in the Complaint and CIS, defendants' conspiracy resulted in higher consumer prices for e-books than would have been possible absent collusion. ''[T]he average price for Publisher Defendants' e-books increased by over ten percent between the summer of 2009 and the summer of 2010.'' CIS at 8–9. ''On many adult trade e-books, consumers have witnessed an increase in retail prices between 30 and 50 percent.'' CIS at 9. Additionally, defendants' agreement prevented e-book retailers ''from introducing innovative sales models or promotions with respect to Publisher Defendants' e-books, such as offering e-books under an 'all-you-can-read' subscription model where consumers would pay a flat monthly fee.'' CIS at 9.

Since the proposed Final Judgment was announced, more companies are investing to enter or expand in the market and compete against Amazon, Apple, and other e-book retailers. According to public reports, Microsoft has invested hundreds of millions of dollars in Barnes & Noble's digital book business, a business that Microsoft valued at $1.7 billion.[5] Microsoft soon thereafter announced it would sell a tablet computer, named Surface, that will compete against the iPad and serve as an e-reader.[6] Google, already an e-book content provider, also announced after the settlement that it would for the first time sell a tablet, called Nexus 7. The Nexus 7 is designed to compete directly against Amazon's Kindle Fire and bring more business to Google Play, Google's online store that sells e-books and other digital content.[7]

III. Standard of Judicial Review

Under the Tunney Act, proposed consent judgments in antitrust cases brought by the United States are subject to a sixty-day comment period, after which the court shall determine whether entry of the proposed final judgment ''is in the public interest.'' 15 U.S.C. 16(e)(1). As discussed in more detail below, the public interest inquiry considers the relationship between the allegations in the government's complaint and the proposed remedy, with deference to the United States' role in crafting a settlement.

A. The United States Is Entitled to Substantial Deference in Crafting a Settlement

When parties come before the court in a Tunney Act proceeding, they have resolved their dispute with respect to a government antitrust complaint. Accordingly, the court's inquiry is necessarily a limited one as the government is entitled to ''broad discretion to settle with the defendant within the reaches of the public interest.'' *United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1461 (DC Cir. 1995); accord *United States* v. *Alex. Brown & Sons, Inc.,* 963 F. Supp. 235, 238 (S.D.N.Y. 1997) (quoting *Microsoft,* 56 F.3d at 1460), *aff'd sub nom., United States* v. *Bleznak,* 153 F.3d 16 (2d Cir. 1998); *United States* v. *KeySpan Corp.,* 763 F. Supp. 2d 633, 637 (S.D.N.Y. 2011) (same); *United States* v. *SBC Commc'ns, Inc.,* 489 F. Supp. 2d 1, 15–16 (D.D.C. 2007) (assessing public interest standard under the Tunney Act).

The question in a Tunney Act proceeding is not whether the reviewing court would have imposed a different decree if liability had been established in litigation. Rather, ''a proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.'" *United States* v. *Am. Tel. & Tel. Co.,* 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting *United States* v. *Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975)); *see also United States* v. *Alcan Aluminum Ltd.,* 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy).

To meet this standard, the United States ''need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17; *accord KeySpan Corp.,* 763 F. Supp. 2d at 637–38. The United States ''need not prove its underlying allegations in a Tunney Act proceeding,'' as such a requirement ''would fatally undermine the practice of settling cases and would violate the intent of the Tunney Act.'' *SBC Commc'ns,* 489 F. Supp. 2d at 20 (citing 15 U.S.C. 16(e)(2) for the proposition that the Act does not require a court to hold an evidentiary hearing). Congress intended that the court reach its determination expeditiously, giving due deference to the government's predictions regarding the effect of its proposed remedies. *See Microsoft,* 56 F.3d at 1461.

B. The Court's ''Public Interest'' Inquiry Should Focus on the Relationship Between the Harm Alleged and the Remedy Selected

The Tunney Act requires the court to consider specific factors in determining whether the proposed Final Judgment is in the ''public interest.'' 15 U.S.C. 16(e)(1); *see also United States* v. *Int'l Bus. Mach. Corp.,* 163 F.3d 737, 740 (2d Cir. 1998). Courts ''cannot look beyond the complaint in making the public interest determination unless the complaint is drafted so narrowly as to make a mockery of judicial power.'' *SBC Commc'ns,* 489 F. Supp. 2d at 15. Under the statute, the court should consider the following factors:

(A) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

(B) The impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e)(1)(A)–(B).

In other words, under the Tunney Act, a court considers, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See Microsoft,* 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States* v. *BNS, Inc.,* 858 F.2d 456, 462 (9th Cir. 1988) (quoting *United States* v. *Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir. 1981)); *see also Microsoft,* 56 F.3d at 1460–62; *Alex. Brown & Sons,* 963 F. Supp. at 238; *United States* v. *Alcoa, Inc.,* 152 F. Supp. 2d 37, 40 (D.D.C. 2001). Instead, the court should grant due respect to the United States' ''prediction as to the effect of proposed remedies, its

[5] *See* Shira Ovide & Jeffrey A. Trachtenberg, *Microsoft Hooks Onto Nook,* Wall Street Journal, May 2, 2012; Press Release, Barnes & Noble, *Barnes & Noble and Microsoft Form Strategic Partnership to Advance World-Class Digital Reading Experiences for Consumers,* (April 30, 2012), *http://www.barnesandnobleinc.com/press_releases/4_30_12_bn_microsoft_strategic_partnership.html* (quoting B&N's CEO as saying that the Microsoft partnership is an important part of the strategy ''to solidify our position as a leader in the exploding market for digital content in the consumer and education segments'').

[6] *See* Madalit Del Barco, *Microsoft's Surface Tablet to Compete with iPad,* National Public Radio (June 19, 2012), *http://www.npr.org/2012/06/19/155337886/microsoft-debuts-surface-tablet-to-compete-with-ipad;* Michael Kozlowski, *How Will the Microsoft Surface Tablet Function as an e-Reader,* Good E-Reader (June 20, 2012), *http://goodereader.com/blog/electronic-readers/how-will-the-microsoft-surface-tablet-function-as-an-e-reader.*

[7] *See* Joanna Stem, *Google Nexus 7 Tablet Move Over, Kindle Fire,* ABC News.com (Jun. 27, 2012), *http://abcnews.go.com/blogs/technology/2012/06/google-nexus-7-tablet-move-over-kindle-fire/;* Michael Liedtke, *Google, Kindle have tablet showdown,* Charlotte Observer.com (June 28, 2012), *http://www.charlotteobserver.com/2012/06/28/3346735/googles-nexus-seven-tablet-challenges.html.*

perception of the market structure, and its views of the nature of the case.'' *United States* v. *Archer-Daniels-Midland Co.*, 272 F. Supp. 2d 1, 6 (D.D.C. 2003).

> The balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is ''*within the reaches of the public interest.''* More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted); *accord Alex. Brown,* 963 F. Supp. at 238.[8]

IV. The Proposed Final Judgment

The purpose of the proposed Final Judgment is to stop collusive conduct by Settling Defendants and mitigate the consequences of their collusion in the sale of e-books. Accordingly, the terms of the proposed Final Judgment are designed to accomplish three things: (1)E the current collusion; (2) restore competition eliminated by that collusion; and (3) ensure compliance.

A. Ending Collusion by Settling Defendants

The function of a decree in a Sherman Act case ''includes undoing what the conspiracy achieved.'' *United States* v. *Paramount Pictures,* 334 U.S. 131, 171 (1948). Here, defendants achieved higher retail e-book prices in large part by collectively agreeing to wrest control of pricing and other terms from retailers. As explained more fully in the Complaint and CIS, the anticompetitive results of the conspiracy ultimately were ensured by Publisher Defendants' near-simultaneous execution of the Apple Agency Agreements, which included common price schedules and MFN clauses, and which proscribed retail discounting. Accordingly, the proposed Final Judgment requires that Settling Defendants terminate the Apple Agency Agreements. PFJ § IV.A. Courts have long required termination of contracts found to be unlawful under Section 1 of the Sherman Act. *See United States* v. *Nat'l Lead Co.,* 332 U.S. 319, 328 n.4, 363–64 (1947) (approving a decree cancelling unlawful agreements and enjoining further performance); *see also United States* v. *Delta Dental of R.I.,* No. 96–113P, 1997 WL 527669 (D.R.I. July 2, 1997) (entering decree voiding MFN enforcement).

The proposed Final Judgment also requires that Settling Defendants terminate, as soon as they are contractually permitted to do so, all other agreements that include restrictions on the ability of e-book retailers to compete on price or that may be used to facilitate price fixing. This allows retailers the opportunity to renegotiate those contracts with Settling Defendants unimpeded by collusion. The proposed Final Judgment does not require Settling Defendants to breach any such contracts; rather, it requires Settling Defendants not to extend them, and to take any such steps necessary to terminate the contracts according to their own terms. PFJ § IV.B.

B. Restoring Competition for E-Books With Respect to Settling Defendants

To allow the competition foreclosed by defendants' collusion to reemerge, the proposed Final Judgment requires that Settling Defendants: (a) Refrain for two years from entering into contracts containing retail price restrictions and price commitment mechanisms; (b) stop communicating competitively sensitive information to competitors; (c) not retaliate against retailers that exercise discounting authority; and (d) agree not to fix terms or prices with competitors for the provision of e-books. PFJ §§ V.B, V.C, V.D, V.E, and V.F.

It is well established that the remedy for a violation of the Sherman Act may extend beyond the specific agreements that embodied the violation. Once a violation has occurred, ''advantages already in hand may be held by methods more subtle and informed, and more difficult to prove, than those which, in the first place, win a market.'' *United States* v. *Int'l Salt,* 332 U.S. 392, 400 (1947) (abrogated on other grounds). Consequently, while the scope of the remedy must be clearly related to the anticompetitive effects of the illegal conduct, *Microsoft,* 56 F.3d at 1460, courts are ''empowered to fashion appropriate restraints on [the transgressor's] future activities both to avoid a recurrence of the violation and to eliminate its consequences.'' *Nat'l Soc'y of Prof'l Eng'rs* v. *United States,* 435 U.S. 679, 697 (1978). Relief may ''range broadly through practices connected with acts actually found to be illegal.'' *United States* v. *U. S. Gypsum Co.,* 340 U.S. 76, 89 (1950). A court ''has broad power to restrain acts which are of the same type or class as [the] unlawful acts'' and which ''may fairly be anticipated'' from the defendant's past conduct. *Zenith Radio Corp.* v. *Hazeltine Research, Inc.,* 395 U.S. 100, 132 (1969) (internal quotation marks and citation omitted). The relief should ''unfetter a market from anticompetitive conduct,'' and include that which is ''necessary and appropriate'' in order ''to restore competition.'' *Ford Motor Co.* v. *United States,* 405 U.S. 562, 573, 577 & n.8 (1972) (internal quotation marks and citations omitted).

In this case, a prohibition on price fixing or the termination of the Apple Agency Agreements standing alone would be insufficient to undo the effects of the conspiracy. By colluding, defendants learned that they shared a common goal to raise e-book prices, agreed to use particular tools to achieve that goal, found those tools to be effective, and found each other reliable in the application of those tools. It is appropriate, therefore, to restrict defendants' ability to use the tools that effectuated the conspiracy. *See, e.g., United States* v. *Glaxo Group, Ltd.,* 410 U.S. 52, 64 (1973) (barring the use of a patent employed to effect a conspiracy); *Int'l Salt,* 332 U.S. at 400 (''it is not necessary that all of the untraveled roads'' to collusion ''be left open and that only the worn one be closed''). Thus, retail price restrictions and MFN pricing clauses are prohibited for two- and five-year periods, respectively. The United States negotiated these limited prohibitions as a means to ensure a cooling-off period and allow movement in the marketplace away from collusive conditions. Such precautions are particularly important in this case, as three defendants have not yet agreed to terminate their collusive behavior. These limitations also are designed not to last long enough to alter the ultimate development of the competitive landscape in the still-evolving e-books industry.

These provisions are tailored to restore a measure of competition to the market, while avoiding harm to other market participants (*e.g.,* retailers) that may have relied on the collusive agreements in effect for more than two years. For example, the proposed Final Judgment specifically permits Settling Defendants to pay for e-book promotion or marketing efforts made by brick-and-mortar booksellers. PFJ § VI.A. Each Settling Defendant also may negotiate a commitment from any e-book retailer to limit its annual discounts, so that each Settling Defendants may ensure that its

[8] *Cf. BNS,* 858 F.2d at 464 (holding that the court's ''ultimate authority under the [Tunney Act] is limited to approving or disapproving the consent decree''); *Gillette,* 406 F. Supp. at 716 (the court is constrained to ''look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass*''). See generally Microsoft,* 56 F.3d at 1461 (discussing whether ''the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest'''').

entire catalog of e-books is not sold by any retailer below its total e-book costs. PFJ § VI.B. Monitoring and enforcement of this provision is left to the discretion of Settling Defendants and the retailers with which they contract.

C. Compliance and Enforcement

To ensure that Settling Defendants abide by the substantive terms of the proposed Final Judgment and decrease the likelihood that they might attempt to collude in other ways, the proposed Final Judgment requires that Settling Defendants: (a) Provide the United States with copies of current retail agreements immediately, future contracts quarterly, competitor communication logs quarterly, and notification of new or changing joint ventures as needed; (b) allow the United States to investigate compliance from time to time, as authorized by the Assistant Attorney General for Antitrust; and (c) provide officers and employees counseling on the requirements of the proposed Final Judgment and the antitrust laws so they may understand their obligations. PFJ §§ IV.C, IV.D, VII.C, VII.I, VIII.A.

These mechanisms are commonly used means of ensuring compliance with a decree, while minimizing administrative costs. *See, e.g.,* Final Judgment at §§ IV.I–O, *United States* v. *Comcast,* 808 F. Supp. 2d 145 (D.D.C. 2011) (No. 1:11–cv–00106) (requiring quarterly provision of communication logs and retention of twelve categories of documents); Final Judgment at § IV.C, *United States* v. *Graftech Int'l Ltd.,* No. 1:10–cv–02039, 2011 WL 1566781 at *3 (D.D.C. Mar. 24, 2011) (requiring quarterly and annual provision of contracts and reports). None of these provisions requires the United States Department of Justice (''Department'') or the Court to become deeply involved in the daily operation of Settling Defendants' businesses. *Cf. Paramount Pictures,* 334 U.S. at 162 (rejecting provision of a consent decree because it ''involves the judiciary so deeply in the daily operation of this nation-wide business'').

In this case, the enforcement provisions focus on the specific terms that affected the conspiracy. Current and future agreements must be provided to confirm that retail pricing restrictions and price MFNs are not included. The requirement that Settling Defendants provide logs of communications among publishers will discourage unnecessary and anticompetitive communications, such as those that led to their e-books conspiracy. Likewise, as Publisher Defendants considered forming joint ventures to better coordinate pricing, Compl. ¶¶ 47–49, future joint ventures must be reviewed by the United States. In the event concerns about compliance arise, the proposed Final Judgment allows the United States to investigate. Finally, in order to empower Settling Defendants to avoid such concerns, antitrust counseling also is required.

V. Summary of Public Comments and the United States' Response

Comments opposing the proposed Final Judgment and those supporting it have at least one element in common: they agree that entry of the decree likely will reduce retail prices for e-books, at least in the short term. Detractors insist that lower pricing will mean reduced profits for bookstores, authors, literary agents, and publishers, and an eventual reduction in quality, service, variety, and other benefits to consumers. Supporters welcome a reduction in e-book prices for consumers, and dismiss any lost benefits to industry participants as undeserved, speculative, or irrelevant.

The comments submitted in opposition to entry of the proposed Final Judgment explored five common themes: (1) The legality of restoring discount authority to retailers; (2) the economic impact on industry participants of restoring discount authority to retailers; (3) the viability of collusive pricing as a defense against perceived monopolization and/or predatory pricing; (4) collusive pricing as protection from free riding and low-cost competition; and (5) the clarity and breadth of the proposed Final Judgment.[9] Section A responds to these themes in detail. Section B highlights portions of the most detailed comments for individual responses, including comments submitted by B&N, the CFA, the Independent Book Publishers, the ABA, and the Authors Guild. Section C addresses additional comments that presented distinct ideas.[10] Finally, Section D discusses the comment submitted by Apple, which is the only comment submitted by a defendant in this matter. The United States carefully reviewed all of the submitted comments and, after serious consideration, concludes that the proposed Final Judgment is in the public interest and requires no modification.

A. Prominent Themes in Industry Comments

1. A Window for Retail Discounting Eliminates Terms That Facilitated Collusion Without Imposing a Business Model on the Industry

Many comments, including those submitted by B&N, Books-A-Million (''BAM''), the ABA, and the Authors Guild, argue that the proposed Final Judgment inappropriately prohibits the use of an agency sales model. B&N claims that the ''[g]overnment should not regulate legal agreements that are independently negotiated by industry participants who are in the best position to determine if the agreements are in their interests.'' B&N (ATC–0097) at 24. BAM adds that ''[i]t is now well-established * * * that vertical restrictions, even vertical price restrictions, are not necessarily anticompetitive.'' BAM (ATC–0261) at 2.

As a preliminary matter, the proposed Final Judgment does not impose a business model on the e-book industry. Of course, publishers that were not parties to the conspiracy face no government challenge whatsoever as to agency agreements independently arrived at with e-book retailers. Even Settling Defendants, whose agency contracts were the product of the conspiracy, are not permanently barred from using the agency model. For two years, however, Settling Defendants cannot prohibit retailers from discounting e-books. The United States believes that this limited restriction is necessary to prevent Settling Defendants from continuing to benefit from their conspiracy by insisting that retailers enter new contracts that are identical to the contracts produced through collusion. *See* CIS at 10 (''[T]he

[9] Many of the 868 comments received from the public did not bear on issues related to the antitrust merits of the proposed Final Judgment or on any other issue arguably related to the Court's inquiry under the Tunney Act. While the United States did undertake herein to respond generally or specifically to all germane comments, we do not address those that are wholly outside the scope of Tunney Act proceedings. Following are some examples of the types of issues that arose in comments we determined were not relevant for Tunney Act review: (1) The Complaint should not have been filed, *see, e.g.,* Alicia Wendt (ATC–0314) at 1 (writing ''to urge the US Department of Justice to reconsider its complaint and drop the related charges''); (2) the United States should sue Amazon, *see, e.g.,* Nancy L. Cunningham (ATC–0733) (suggesting ''the Department of Justice should turn its attention to Amazon, a company that seeks to create a monopoly''); (3) tax reform is needed to require payment by online retailers, *see, e.g.,* Roberta Rubin (ATC–0323) (claiming Amazon is ''evading any tax demands in most of the states in which they sell books''); (4) the United States has been improperly influenced by Amazon to bring this lawsuit, *see, e.g.,* Richard Howorth (ATC–0790) at 1 (suggesting that the DOJ was improperly influenced because a former Deputy Attorney General sits on Amazon's board of directors).

[10] For ease of access, all of the comments discussed in Sections B and C have been collected and separately saved, and are available both in Exhibit A in the folder titled ''Detailed Comments'' and on the Antitrust Division's Web site, at *http://www.justice.gov/atr/cases/apple/index.html,* under ''Detailed Comments.''

proposed Final Judgment will ensure that the new contracts will not be set under the collusive conditions that produced the Apple Agency Agreements.'').[11]

Nor are restrictions on agency pricing inappropriate when necessary to prevent furtherance of a conspiracy or when agency contracts were the heart of a conspiracy. As the CFA observed, when B&N and other retailers negotiated agency contracts with publishers, they were ''not negotiating with independent publishers'' but ''with members of a cartel.'' CFA (ATC–0775) at 9. When ''otherwise permissible practices [are] connected with the acts found to be illegal'' then they ''must sometimes be enjoined'' to ensure relief. *United States* v. *Loew's, Inc.* 371 U.S. 38, 53 (1962); *see also U. S. Gypsum Co.,* 340 U.S. at 89 (''Acts entirely proper when viewed alone may be prohibited,'' if needed for effective relief). In this case, allowing retail price restrictions to continue without interruption would maintain the collusive status quo in the e-book industry. The limitations placed on the terms of agency contracts entered into by Settling Defendants for a period of two years will break the collusive status quo and allow truly bilateral negotiations between publishers and retailers to produce competitive results.

2. Consumers, the Victims of the Conspiracy, Will Benefit as Limits on Retail Discounting Are Lifted

Many comments maintain that brick-and-mortar booksellers such as B&N, BAM, and ABA member stores will be harmed if the proposed Final Judgment removes barriers to price competition. They contend that higher retail margins produced by the conspiracy ameliorated declines in brick-and-mortar revenues, generated ''procompetitive benefits'' such as entry by new retail competitors and innovation, and allowed brick-and-mortar booksellers to offer new marketing service and support for e-books. *See, e.g.,* B&N at 13–14, 20; ABA (ATC–0265) at 2–3. Of course, protecting profits attributable to collusion is squarely at odds with a fundamental purpose of the antitrust laws: The promotion of competition. And, many of the so-called ''procompetitive benefits'' that these commenters believe will be lost if the decree is entered are illusory or cannot be attributed to the collusion.

While the Tunney Act directs the court to consider the impact of the settlement on third parties, these third parties are limited to those ''alleging specific injury from the violations set forth in the complaint.'' 15 U.S.C. 16(e)(1)(B). In this case, the third parties that the Court is directed to consider under the Tunney Act are the consumers of e-books, not the brick-and-mortar booksellers, which admit that they *benefited* from the conspiracy. *See, e.g.,* B&N at 19. The booksellers' objection is not that they were harmed as a result of the violation, but that the proposed Final Judgment ends the collusively-attained equilibrium that provided them with an anticompetitive windfall. This is not the type of impact that the Tunney Act directs the Court to consider. Instead, the Court should consider that consumers who were actually injured by the conspiracy will benefit as the proposed Final Judgment returns price competition to the market. As the Second Circuit observed when terminating a consent decree despite competitor objections, ''[t]he purpose of the [Sherman] Act is not to protect businesses from the working of the market; it is to protect the public from the failure of the market.'' *Int'l Bus. Machines Corp.,* 163 F.3d at 741–42 (2d Cir. 1998) (quoting *Spectrum Sports, Inc.* v. *McQuillan,* 506 U.S. 447, 458 (1993)).[12]

In addition, many brick-and-mortar booksellers, as well as the Authors Guild, speculate that collusive limits on retail discounting were instrumental in encouraging new entry into e-book distribution by brick-and mortar booksellers, spurring entry by online distributors, and incentivizing e-reader innovation. To the contrary, brick-and-mortar stores, including B&N, were selling e-books before implementation of the Apple Agency Agreements.[13] Any expansion of brick-and-mortar sales after the Apple Agency Agreements were implemented was limited in its impact because new sellers could not compete by offering discounts. Likewise, online distributors such as B&N and Google had entered or planned to enter the e-book market before the Apple Agency Agreements were signed.[14] Additionally, innovations such as the iPad and B&N's Nook were either introduced or already planned prior to formation of the Apple Agency Agreements.[15] In the pre-conspiracy competitive market, innovation, discounting, and marketing were robust. In contrast, the conspiracy eliminated any number of potential procompetitive innovations, such as ''all-you-can-read'' subscription services, book club pricing specials, and rewards programs. *See* Compl. ¶ 98; CIS at 9.

3. Collusion Is Not Acceptable, Even in Response to Perceived Anticompetitive Conduct

B&N, BAM, the ABA, the Authors Guild, and other industry participants claim that collusive limits on retail discounting were a necessary response to anticompetitive behavior by Amazon and, thus, should be preserved.[16] B&N claims these limits are necessary to avoid ''competition with a potential Amazon below-cost price-point.'' B&N at 22–23. The ABA suggests that collusive agency pricing ''corrects a distortion in the market fostered primarily by Amazon.com.'' ABA (ATC–0265) at 1. The Authors Guild insists that removing limits on retailer discounting will enable Amazon to use ''predatory pricing'' to return to a dominant or ''monopoly'' position and allow the company to charge supracompetitive prices for e-books in the future. *See, e.g.,* The Authors Guild (ATC–0214) at 1–2.

There is no mistaking the fear that many of the commenters have of the prospect of competing with Amazon on price. No doubt Amazon is a vigorous e-book competitor. In addition to aggressive pricing, it was an early innovator in the e-book market, introducing its Kindle e-reader more

[11] As one comment put it more colloquially, defendants ''maxed out on chutzpah,'' and now ''[t]he only remedy for such blatant collusion is to wipe the slate clean'' and let the market sort pricing out. Courtney Milan (ATC–0262).

[12] Although the Tunney Act requires a ''public interest'' determination only to approve a consent decree, the Second Circuit applies the same ''consider[ation of] the public interest'' when evaluating a termination. *See Int'l Bus. Machines Corp.,* 163 F.3d 737, 740 (citations omitted).

[13] *See, e.g.,* Press Release, The American Booksellers Association, *ABA Indie Bookstores to Sell eContent, Sony Reader* (Aug. 25, 2009), *http://www.bookweb.org/about/press/20090825.html* (announcing more than 200 independent bookstores will sell ebooks through the ABA's IndieCommerce program).

[14] *See, e.g.,* David Weir, *Amazon* v. *Sony, et. al., in War of the eBook Giants,* BNet.com (Aug. 18, 2009), *http://www.cbsnews.com/8301-505123_162-33243776/amazon-v-sony-etal-in-war-of-the-ebook-giants/?tag=bnetdomain* (describing the eBook industry as ''a crowded field,'' noting Google is one of the other ''important players in this space,'' and Apple is expected to enter); Dan Fromer, *Sony to Unveil E–Reader With Wireless in 2 Weeks?,* Business Insider (Aug. 11, 2009), *http://articles.businessinsider.com/2009-08-11/tech/30085553_1_sony-reader-e-reader-wireless.*

[15] *See, e.g.,* Jeffrey A. Trachtenberg & Geoffrey A. Fowler, *Barnes & Noble Challenges Amazon's Kindle,* Wall Street Journal (July 21, 2009), available at *http://online.wsj.com/article/SB124812243356966275.html.*

[16] Other comments dispute the benefits of retail price control. As one commenter put it, Publisher Defendants ''were out-performed by Amazon'' which, in contrast to Publisher Defendants, ''did nothing illegal.'' Phillis A. Humphrey (ATC–0250). Another writes, ''I don't want to be forced to pay higher prices'' because Publisher Defendants ''work together to slow the adoption of this relatively new technology.'' Kathy Baughman (ATC–0094).

than two years before B&N's Nook and Apple's iPad. Of course, low prices, fierce rivalries, and innovation are among the core ambitions of free markets. Contrary to the apparent views of many commenters, ''the goal of antitrust law is to use rivalry to keep prices low for consumers' benefit. Employing antitrust law to drive prices up would turn the Sherman Act on its head.'' *Wallace* v. *Int'l Bus. Machine Corp.,* 467 F.3d 1104, 1107 (7th Cir. 2006).

Moreover, the notion that Amazon will come to exclude competition in e-books and monopolize the industry is highly speculative at best. Before the collusive Apple Agency Agreements, B&N had entered the market and taken significant share from Amazon. In addition, the e-book industry has attracted participation from the likes of Apple, Microsoft, Google, and Sony. The future is unclear and the path for many industry members may be fraught with uncertainty and risk. But certainly there is no shortage of competitive assets and capabilities being brought to bear in the e-books industry. A purpose of the proposed Final Judgment is to prevent entrenched industry members from arresting via collusion the potentially huge benefits of intense competition in an evolving market.

The United States recognizes that many of the comments reflect a concern that a firm with the heft of Amazon may harm competition through sustained low or predatory pricing. In the course of its investigation, the United States examined complaints about Amazon's alleged predatory practices and found persuasive evidence lacking. As is alleged in the Complaint, the United States concluded, based on its investigation and review of data from Amazon and others, that ''[f]rom the time of its launch, Amazon's e-book distribution business has been consistently profitable, even when substantially discounting some newly released and bestselling titles.'' Compl. ¶ 30.

Some of the criticism directed at Amazon may be attributed to a misunderstanding of the legal standard for predatory pricing. Low prices, of course, are one of the principal goals of the antitrust laws. *Cf. Atlantic Richfield Co.* v. *USA Petroleum Co.,* 495 U.S. 328, 340 (1990). This is because of the unmistakable benefit to consumers when firms cut prices. *Id.* ''Loss leaders,'' two-for-one specials, deep discounting, and other aggressive price strategies are common in many industries, including among booksellers. This is to be celebrated, not outlawed. Unlawful ''predatory pricing,'' therefore, is something more than prices that are ''too low.'' Antitrust law prohibits low prices only if the price is ''below an appropriate measure of * * * cost,'' and there exists ''a dangerous probability'' that the discounter will be able to drive out competition, raise prices, and thereby ''recoup[ ] its investment in below-cost pricing.'' *Brooke Group* v. *Brown and Williamson Tobacco Corp.,* 509 U.S. 209, 222–24 (1993). No objector to the proposed Final Judgment has supplied evidence that, in the dynamic and evolving e-book industry, Amazon threatens to drive out competition and obtain the monopoly pricing power which is the ultimate concern of predatory pricing law. The presence and continued investment by technology giants, multinational book publishers, and national retailers in e-books businesses renders such a prospect highly speculative. Of course, should Amazon or any other firm commit future antitrust violations, the United States (as well as private parties) will remain free to challenge that conduct.

Finally, even if there were evidence to substantiate claims of ''monopolization'' or ''predatory pricing,'' they would not be sufficient to justify self-help in the form of collusion. When Congress enacted the Sherman Act, it did ''not permit[] the age-old cry of ruinous competition and competitive evils to be a defense to price fixing,'' no matter if such practices were ''genuine or fancied competitive abuses'' of the antitrust laws. *See United States* v. *Socony-Vacuum Oil,* 310 U.S. 150, 221–22 (1940); *see also, e.g., FTC* v. *Superior Court Trial Lawyers Ass'n,* 493 U.S. 411, 421–22 (1990) (''[I]t is not our task to pass upon the social utility or political wisdom of price-fixing agreements.''). Competitors may not ''take the law into their own hands'' to collectively punish an economic actor whose conduct displeases them, even if they believe that conduct to be illegal. *See FTC* v. *Ind. Fed'n of Dentists,* 476 U.S. 447, 465 (1986) (''That a particular practice may be unlawful is not, in itself, a sufficient justification for collusion among competitors to prevent it.''); *Fashion Originators' Guild of Am.* v. *FTC,* 312 U.S. 457, 467–68 (1941) (rejecting defendants' argument that their conduct ''is not within the ban of the policies of the Sherman and Clayton Acts because the practices * * * were reasonable and necessary to protect the manufacturer, laborer, retailer and consumer against'' practices they believed violated the law (internal quote omitted)); *Am. Med. Ass'n* v. *United States,* 130 F.2d 233, 249 (D.C. Cir. 1942), *aff'd* 317 U.S. 519 (1943) (''Neither the fact that the conspiracy may be intended to promote the public welfare, or that of the industry nor the fact that it is designed to eliminate unfair, fraudulent and unlawful practices, is sufficient to avoid the penalties of the Sherman Act.''). Thus, whatever defendants' and commenters' perceived grievances against Amazon or any other firm are, they are no excuse for the conduct remedied by the proposed Final Judgment.

4. Protection From Aggressive Competition Does Not Justify Keeping Collusive Agreements Intact

The ABA, B&N, the Authors Guild, and others contend that brick-and-mortar booksellers require agency pricing to insulate themselves from competition from online e-book sellers, and they accuse online competitors of free riding on their efforts.[17] In support of its argument, the ABA claims that online retailers such as Amazon usurp brick-and-mortar store ''showrooms,'' encouraging customers to browse in physical stores but buy online. However, to the extent that free riding occurs, it is just as likely that print book sales by online sellers free ride on the efforts of brick-and-mortar booksellers as e-book sales. The ABA and its members do not distinguish between print and e-book online sales, and they offer no explanation for why e-books allow free riding by online sellers but print books, which are unaffected by the proposed Final Judgment, do not.

Further, to the extent a response to ''free riding'' by online retailers is desirable, the proposed Final Judgment provides a path for it: Settling Defendants may compensate brick-and-mortar retailers for e-book ''marketing or other promotional services.'' PFJ § VI.A. The CIS elaborates that this provision is intended ''to support brick-and-mortar retailers by directly paying for promotion or marketing efforts.'' CIS at 14. Rather than subsidizing these services with the earnings from collusive e-book profits, Settling Defendants may pay brick-and-mortar stores directly for marketing and promotional support. Of course, retailers are not entitled to the continuation of a collusive equilibrium to maintain the windfall they enjoyed under that collusion. As noted above,

[17] The ABA alleges that Amazon's ''free-riding'' has been facilitated, in part, by ''sales tax avoidance,'' a strategy that is unavailable to brick-and-mortar booksellers. ABA at 4. A number of brick-and-mortar booksellers echoed the ABA's frustration with this cost advantage; representative comments include: Gayle Shanks (ATC–0251) and Kate Stine (ATC–0455).

the antitrust laws are not intended, after all, to protect firms from the rigors of a competitive market. *See United States* v. *Visa,* 163 F. Supp. 2d 322, 404–05 (S.D.N.Y. 2001) (rejecting free riding and creation of ''equal opportunity'' defenses for joint venture rules that prohibited members' issuance of competing credit cards); *see also* Section V.A.3, *supra.*

5. The Proposed Final Judgment Is Neither Too Regulatory Nor Too Ambiguous for Enforcement

Comments submitted by B&N, Independent Book Publishers, and others assert that the proposed Final Judgment is too ''regulatory'' in nature and is overbroad. At the opposite extreme, others maintain that at least one provision, Section VI.B, is vague and unenforceable. B&N argues that the proposed Final Judgment converts the Department into a ''regulator of an entire industry,'' by restricting future agency agreements and the use of MFN clauses, and by imposing enforcement provisions. B&N at 21–22. Mistakenly relying on *SBC Communications,* B&N submits that ''when the relief sought in the proposed settlement is unrelated to the violations alleged in the complaint, that relief should not be ordered.'' *Id.* at 15. B&N adds that, because these remedies are not included in the prayer for relief in the Complaint, they cannot be awarded. *Id.* at 21. In turn, the Independent Book Publishers object that Section VI.B, which allows Settling Defendants to negotiate retailer agreements to limit aggregate retailer discounts, is ''[u]nworkable and [u]nenforceable.'' Independent Book Publishers at 18.

To begin with, the proposed Final Judgment does not transform the Department into a ''regulator'' of the e-book industry, nor are its provisions any broader than necessary to remedy the harm alleged. Far from being ''unrelated'' to the harm alleged in the Complaint, most of the provisions in the decree are designed to return the market to the state of competition it enjoyed before the Apple Agency Agreements were signed. Further, nowhere does the *SBC Communications* court suggest that the Tunney Act requires a one-to-one correspondence between the specific relief requested in a complaint and the details of the remedy required by the consent decree. Instead, it emphasizes that a court must ''accord deference to the government's predictions about the efficacy of its remedies.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17; *see also U.S. Gypsum Co.,* 340 U.S. at 89 (holding that relief may ''range broadly through practices connected with acts actually found to be illegal''). Additionally, the provisions in the decree designed to facilitate enforcement are narrow, requiring little more than that Settling Defendants provide their current and future contracts to the Department, which will allow the United States to detect violations of the decree. Such a requirement is consistent with past practice, as a number of decrees entered in recent cases have required that contracts be provided to the Department so that it can monitor enforcement. *See, e.g., Graftech Int'l Ltd.,* 2011 WL 1566781 at *3,*5 (requiring contracts and other business documents be provided for a period of ten years). Consent decrees approving much more burdensome enforcement mechanisms have previously been approved by other courts. *See, e.g., Alex. Brown & Sons,* 963 F.Supp. at 237, 239, 242, 246–47 (approving a consent decree that required monitoring of up to seventy hours of phone conversations per week for five years, because it would help to ensure the return of competition). The proposed Final Judgment in this matter is no broader than the relief requested in the Complaint, which includes a request for an injunction against future misbehavior as well as ''further relief as may be appropriate.'' Compl. ¶ 104.

B&N, Independent Book Publishers, and others also contend that the proposed Final Judgment creates ''complicated safe harbors that are difficult to implement or administer.'' B&N at 22; *see also* Independent Book Publishers at 18. The proposed Final Judgment allows Settling Defendants to limit retailer discounting authority, up to the total commissions a particular retailer earns from the sale of that publisher's e-books. PFJ § VI.B. B&N and other commenters expressed concern that it will be impossible for Settling Defendants to enforce the limits on retail discounting permitted in this Section. However, this provision is entirely voluntary; neither Settling Defendants nor their retailers are compelled to enter any such agreement. Should they choose to do so, nothing in Section VI.B prohibits a Settling Defendant from agreeing with a retailer on reporting and enforcement provisions under which the Settling Defendant can ascertain the extent of the retailer's discounting of its e-books. For example, audit clauses are routinely used in contracts between publishers and retailers to enforce pricing and similar terms. *See* Section V.D.5, *infra* (discussing publishers' use of audit clauses to enforce its contracts with Apple). Significantly, Section VI.B was the product of settlement discussions between the United States and Settling Defendants. Settling Defendants evidently believed, in entering this settlement, that they could successfully implement this limited ''safe harbor'' for which they negotiated.

B. Individual Responses to Detailed Comments

1. Barnes & Noble, Inc.

B&N, which represents that it is ''the largest bookseller in the United States,'' B&N (ATC–0097) at 8, objects to the proposed Final Judgment primarily because blocking the ability of its retail competitors to discount is ''in B&N's economic interests,'' and entry of the proposed Final Judgment would upset the current collusive equilibrium. *See id.* at 19. In addition to the issues discussed in Section V.A, *supra,* B&N objects that: (a) Section IV.B of the proposed Final Judgment voids all of its agency contracts; (b) returning discount authority to retailers will have a negative ''competitive impact,'' and (c) the Complaint does not provide sufficient factual support for the remedy.

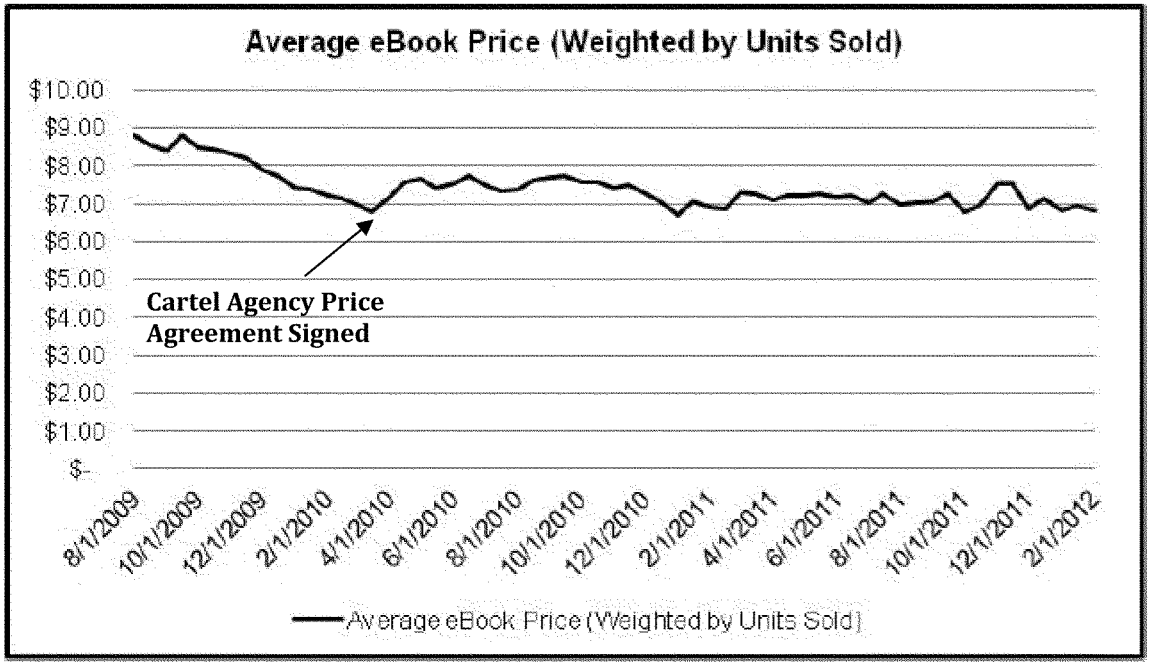
a. The Proposed Final Judgment Does Not Void Any Third Party Contracts

B&N's assertion that the proposed Final Judgment would ''declar[e] as null and void [its] agency contracts,'' B&N at 18, is inaccurate. The proposed Final Judgment neither voids nor requires the breach of any contract between a Settling Defendant and a third party. Rather, it requires that, for any such contract that restricts the retailer's discounting authority or contains a price MFN and remains in effect 30 days after entry of the Final Judgment, ''each Settling Defendant shall, as soon as permitted under the agreement, take each step required under the agreement to cause the agreement to be terminated and not renewed or extended.'' PFJ § IV.B. In other words, Settling Defendants simply must exit those agreements as provided for by the terms of the contracts themselves. B&N is not, then, simply a company concerned about its contractual rights. Instead, more basically, it is worried that it will make less money after the conspiracy than it collected while collusion was ongoing. *See* B&N at 19 (stating that B&N ''enjoy(s) somewhat greater profit margins'' under the collusive agency agreements than it ''experienced under the wholesale model.''). This concern, that the company will lose benefits generated by collusion, is not one that the Tunney Act directs the Court to consider. *See* Section V.A.2, *supra.*

b. Returning Discounting Authority to Retailers Is Not Likely To Have a Negative ''Competitive Impact''

B&N maintains that allowing retailer discounting will, by driving down consumer prices, subject consumers to a variety of anticompetitive effects. But the procompetitive consumer benefits that B&N alleges are the result of the conspiracy are either not substantiated or are untethered to the conspiracy. B&N does not explain how freeing retailers to compete on price will lead to ''uncompetitive,'' rather than competitive, pricing, and its claim that the return of retail price competition will discourage investment is belied by the fact that, shortly after the proposed Final Judgment was filed in this matter, B&N was able to attract a $300 million investment from Microsoft specifically to ''battle with Amazon and Apple in e-books.'' [18]

B&N also claims that ''average'' retail and wholesale prices for e-books have declined under the current, collusively-established regime, although it admits that the price of ''some e-books'' increased following Publisher Defendants' collective shift to agency and the Apple Agency Agreement price points. *See* B&N at 13–15. The United States obtained evidence that demonstrated that the conspiracy led to price increases not only in Publisher Defendants' most popular e-books, but also for ''the balance of Publisher Defendants' e-book catalogues, their so-called 'backlists.' '' Compl. ¶ 93. Although B&N does not describe the data that underlies its comments, it likely includes the growing volume of inexpensive (and possibly free) e-books from publishers other than Publisher Defendants, which offsets increases in the prices of Publisher Defendants' e-books, reducing ''average'' retail e-book prices. Further, unlike the United States, B&N does not have access to sales data from competing retailers, so its results only address one retailer's slice of the market.[19] However, as the CFA observed, even with these uncertainties, B&N's own data suggests that the collusive agreement played a role in stabilizing retail e-book prices. CFA at 13. As the CFA points out, just as the collusive agency agreements were taking effect in the spring of 2010, a trend of falling e-book pricing was arrested.[20]



CFA at 13, citing its source for the graph (excluding overlay text) as "Comments of Barnes and Noble, Inc. On the Proposed Final Judgment, Civil Action No. 1:12-CV-2826, June 7, 2012, p. 12."

Finally, many of the benefits that B&N attributes to collusive pricing could be otherwise achieved and may be of questionable worth. For instance, the company suggests higher retail prices allow it to invest more in services, stock, and space. However, B&N's claim that it ''must meet'' e-book prices set by a price leader and cannot maintain

[18] *See* Ingrid Lunden, *Microsoft Makes $300M Investment In New Barnes & Noble Subsidiary To Battle With Amazon And Apple In E-books,* TechCrunch (April 30, 2012), *http://techcrunch.com/2012/04/30/microsoft-barnes-noble-partner-up-to-do-battle-with-amazon-and-apple-in-e-books/;* Press Release, *Barnes & Noble, Microsoft Form Strategic Partnership to Advance World-Class Digital Reading Experiences for Consumers,* Microsoft News Center (April 30, 2012), *http://www.microsoft.com/en-us/news/Press/2012/Apr12/04-30CorpNews.aspx.*

[19] Even without access to industry data, readers noticed the price changes and attributed them to the conspiracy. One ''avid reader'' cites several examples of steep price hikes on books she had purchased, observing that ''[s]ince 'agency' pricing was forced on Amazon, book prices have gone up very dramatically.'' Adrianne Middleton (ATC–0158).

[20] CFA at 13. The CFA also disputes claims by B&N and others that publisher margins declined under agency. CFA observes that cost savings ''in the range of 50% to 70%'' associated with the production and distribution of e-books have boosted publisher profits. CFA at 15. According to CFA, publishers ''took the money that had been put on the table by technological change and put it in their pockets.'' CFA at 16.

higher prices to invest in its stores, B&N at 20, casts doubt on the value that consumers assign to non-price factors when it comes to e-books. In addition, increased profitability is possible not only by raising prices but by lowering costs, which B&N may be free to do should e-book sales continue to increase in volume.[21] The proposed Final Judgment also allows Settling Defendants to subsidize B&N and other brick-and-mortar retailers for the services they provide. PFJ § VI.A. Publishers need not increase retail e-book prices to support bookstores they value; they can support them directly.

c. The Complaint Provides Sufficient Factual Support for Entry of the Proposed Final Judgment, and Delay Will Extend Harm

B&N challenges the ''factual basis'' for a public interest finding, and calls on the Court to ''conduct a searching review'' as part of its public interest determination. B&N at 18. The company submits that the proposed Final Judgment ''requires close scrutiny because of its potential impact on the national economy and culture, including the future of copyrighted expression * * *'' *Id.* at 16.

The Tunney Act does not require the Court to gather evidence to supplement the facts alleged in the Complaint, no matter how broad an impact the decree may have. Instead, the statute simply *allows* the Court to gather additional evidence, at its discretion. *See* 15 U.S.C. 16(f) (''In making its determination * * * the court *may*—(1) take testimony * * *'' (emphasis added)). Nor is the Court compelled to conduct an evidentiary hearing or permit intervention. *See* 15 U.S.C. 16(e)(2) (''Nothing in this section shall be construed to require the court to conduct an evidentiary hearing * * *''). This is consistent with legislative history; as Senator Tunney explained: ''The court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' 119 Cong. Rec. 24,598 (1973).

In support of its position, B&N urges the Court to follow the expansive approach taken by the United States District Court for the District of Columbia in *SBC Communications.* But that case differed from this one in the complexity of the harm alleged, the relief imposed, and in the factual detail included in the complaint. *SBC Communications* considered potential anticompetitive effects in dozens of local markets, each including three separate product markets, arising from the merger of two telecommunications companies. 489 F. Supp. 2d at 18–19. The settlement under review in the Tunney Act process called for the divestiture of ten-year leasehold interests that gave the holder the right to use certain telecommunications fibers in 748 individual buildings. *See id.* at 7. In contrast, the United States, in this case, alleged a *per se* violation of the Sherman Act in a single national market, affecting one product area. Further, the conspiracy alleged in this matter was effectuated through the Apple Agency Agreements, the terms of which are not in dispute.[22] In addition, because litigation in this matter is proceeding against the three non-settling defendants, the United States submitted a detailed, thirty-five page complaint in this matter, which included easily verified public events and statements. In contrast, to support the relief requested in *SBC,* where the United States had already reached settlement terms with all parties, the United States submitted a twelve-page complaint typical of cases where the dispute has been wholly resolved. *See id.* at 9. *SBC* did not involve ongoing litigation or discovery. Indeed, in this case, litigating defendants have already admitted key allegations in their answers to the Complaint.[23]

Moreover, the ''impact'' of the proposed Final Judgment will be limited to restoring competitive conditions that prevailed before collusion ensued—only two years ago. Under these circumstances, detailed fact finding is likely not needed to evaluate the probable effects of the entry of the proposed Final Judgment. Further, delaying entry of the proposed Final Judgment to gather additional factual support will necessarily delay the beneficial impact of its provisions. In *SBC,* the United States moved for Entry of the Final Judgment on April 5, 2006, but the decree was not entered by the court for nearly a year, on March 29, 2007. *See SBC Commc'ns,* 489 F. Supp. 2d at 8, 24. The same delay of entry of the Final Judgment in this case would exceed the period the Court has reserved for litigation with respect to the non-settling defendants. Even a much shorter delay may threaten to disrupt the discovery process for the parties that continue to litigate. Any extension of the collusion that already has persisted for two years is unwarranted, and should be avoided.

2. Consumer Federation of America

The CFA is the only consumer organization that submitted a comment. It wrote in support of the proposed Final Judgment. The CFA is an association of almost 300 non-profit public interest groups. It frequently is called upon to advise on Internet and digital product issues. CFA (ATC–0775) at 1. The CFA's analysis: (a) Debunks the claimed procompetitive benefits of collusive pricing; and (b) concludes the proposed Final Judgment is not overbroad.

a. CFA Explains How Collusive Agency Pricing Harms Consumers

The CFA disputes the ''[f]airytale'' that collusive agency pricing produced benefits for consumers, reasoning that: (a) Collusion on price was not necessary to attract entry; (b) if consumers valued services provided by brick-and-mortar booksellers, they would be willing to pay for those services; and (c) most such benefits are otherwise available.

First, the CFA observes that the e-book ''space'' experienced significant entry ''before and after the advent of the cartel pricing model.'' *Id.* at 16. The CFA points out that B&N committed to entry before Publisher Defendants and Apple entered into agency contracts, no evidence suggests Apple would have withheld the iPad in the absence of collusion, and ''[w]e doubt that Microsoft will now exit the e-book market, or cancel its plans to offer a

[21] Indeed, cost reduction may be an option for all print booksellers. As one former bookstore manager explains: ''[t]raditional publishing is predicated on the expectation of waste,'' citing the routine destruction of unsold books by bookstores. Heather Ripkey (ATC–0276) at 1. Ms. Ripkey points out that, for e-book sales, ''there is no need to factor such extreme waste into the equation. *Id.*

[22] As the *SBC Communications* court observed, the United States ''need not prove its underlying allegations in a Tunney Act proceeding.'' 489 F. Supp. 2d at 20. Requiring it to do so ''would fatally undermine the practice of settling cases and would violate the intent of the Tunney Act.'' *Id.* (citing 15 U.S.C. 16(e)(2), which states that the Act does not require a court to hold an evidentiary hearing).

[23] *See, e.g.,* Apple Ans. at ¶ 62 (''Given the looming announcement of the iPad, each publisher would have been aware that Apple was necessarily negotiating simultaneously with numerous publishers and was attempting to develop an approach that would attract a sufficient number of publishers in total to warrant Apple's entry.''); Penguin Ans. at 33–34 (''Penguin admits that Penguin Group CEO John Makinson on June 16, 2009 attended a social dinner at Picholine along with the CEO of Random House, as well as the CEOs of Hachette, Harper Collins, and Simon & Schuster—but not the CEO of Macmillian. While, in addition to purely social matters, general book industry issues and trends were discussed at high-levels of generality, including the growth of eBooks and Amazon's role therein, Makinson did so pursuant to antitrust legal advice * * *''); Macmillan Ans. at ¶ 72 (''* * * admits that during December 2009 and January 2010, Mr. Sargent placed at least seven calls to the CEOs of other Publisher Defendants, five of which lasted no more than twenty seconds.'').

tablet'' should collusive pricing end. *Id.* at 16.

Second, the CFA questions the ''carefully concocted, self-serving argument'' that the physical book browsing allowed by brick-and-mortar bookstores is essential to the ''literary ecosystem'' when consumers ''are unwilling to pay for'' that experience. *Id.* at 3–4. According to the CFA, accepting ''cartel agency pricing'' in order to maintain physical bookstores improperly allows ''[c]olluding publishers, not the marketplace [to] decide what is good for consumers.'' *Id.* at 4.

Finally, the CFA points out that many of the benefits of bookstores can be realized digitally. Browsing, for instance, may be more effective online, where search engines and algorithms that personalize recommendations may make readers more inclined to try new authors and titles. *Id.* at 21. Benefits like these may, in fact, be lost if collusion, not competition, guides the market. In sum, the CFA concludes, ''[i]f publishers can dictate which business models flourish and which fail, consumers and authors will be worse off,'' because such a practice confers no advantage on the consumer, and might discourage procompetitive developments in the digital realm. *Id.* at 19.

b. The Remedy Appropriately Addresses the Collusion

The CFA rejects the assertions of B&N that the proposed Final Judgment imposes ''an unprecedented, draconian remedy that illegally and unnecessarily interrupts routine business practices * * *'' *Id.* at 11. As the CFA explains, the proposed remedy is consistent ''with normal antitrust practices'' and is less intrusive than remedies imposed to address antitrust concerns in related industries. *Id.* at 10–11. The CFA also articulates the importance of prohibiting Settling Defendants from restricting retailer discounting of e-books for two years: ''Without a moratorium on agency contracts for the colluding publishers, the publishers could tear up the offending contracts and immediately sign identical contracts, claiming to act individually to adopt terms and conditions that were worked out by the cartel. Such a remedy would make a mockery of antitrust law and enforcement.'' *Id.* at 9.[24] The United States shares this concern.

3. Independent Book Publishers

The ''Independent Book Publishers,'' a group of mid-sized trade publishers consisting of Abrams Books, Chronicle Books, Grove/Atlantic, Inc., Chicago Review Press, Inc., New Directions Publishing Corp., W.W. Norton & Company, Perseus Books Group, The Rowman & Littlefield Publishing Group, Inc., and Workman Publishing, submitted a joint comment.[25] They object to the proposed Final Judgment because they ''benefitted significantly from the fact that the Big Six publishers were able to adopt agency pricing arrangements with Amazon.'' Independent Book Publishers (ATC–0727) at 2. However, to the extent the Independent Book Publishers received benefits from Settling Defendants' conspiracy to raise e-book prices, those benefits were fruits of the conspiracy and that loss is not relevant in a Tunney Act determination. *See* 15 U.S.C. 16(e)(1)(B).

The Independent Book Publishers do not claim to be concerned about their current e-book contracts with any retailer, as they are not agency agreements. They instead take up the cause of their competitors, the three Settling Defendants, noting that agency agreements are not ''inherently unlawful,'' and complaining that ''the proposed settlements * * * would effectively ban the use of the agency model by Settling Defendants for two years.'' Independent Book Publishers at 13. They believe it would be more appropriate to ''void the existing agency agreements'' and allow Settling Defendants to enter into ''new agency agreements in the absence of collusion.'' *Id.* at 14. The Independent Book Publishers concede that the proposed Final Judgment does not dictate a business model, but only prohibits agreements that do not allow the retailer to discount prices (subject to the option of contracting to limit discounts to commissions earned over the course of a year). They say that this takes ''true agency sales agreement[s]'' off the table for two years for Settling Defendants. *Id.* at 14.

As discussed above, the United States determined that terminating existing agency agreements, without imposing limited restrictions on the contracts that would replace them, would allow Settling Defendants to immediately return to the same collusively-established contractual terms. Such an outcome would fail to eradicate the anticompetitive effects of the collusion. Courts are ''empowered to fashion appropriate restraints on [the trangressor's] future activities both to avoid a recurrence of the violation and to eliminate its consequences.'' *Nat'l Soc'y of Prof'l Eng'rs,* 435 U.S. at 697; *see also Zenith Radio Corp.,* 395 U.S. at 132–33 (upholding an injunction against the conspiracy to block Zenith's entry into worldwide markets that were not at issue in the litigation, after finding that defendants conspired to block Zenith from entering the Canadian market). While agency agreements are not inherently illegal, collusive agreements that prevent price competition are, and the settlement is designed to unwind the effects of agency contracts stemming from a collusive agreement.

4. American Booksellers Association and Members

The ABA submitted a detailed comment objecting to the restrictions on agency pricing in the proposed Final Judgment as well as other issues, most of which were discussed above.[26] The ABA raised one unique complaint about the impact of the proposed Final Judgment on agreements between ABA member organization IndieCommerce

[24] The CFA also notes that the two-year period is shorter than antitrust agencies normally impose to allow a ''market to heal.'' CFA at 8. But a few citizen comments took the contrary position that three to six months would provide a sufficient ''competitive reset.'' *See, e.g.,* Catherine Flynn Devlin (ATC–0084).

The United States determined that too short a period of time, such as three to six months, would not allow e-book retailers to stagger sufficiently the termination and renegotiation of their contracts with publishers. Allowing negotiations with multiple publishers at the same time risks continuing the collusion. *See* CIS at 10 (''Additionally, a retailer can stagger the termination dates of its contracts to ensure that it is negotiating with only one Settling Defendant at a time to avoid joint conduct that could lead to a return to the collusively established previous outcome.''). Also, if the cooling-off time period were too short, Settling Defendants might simply choose to forgo the sale of e-books through significant retailers in that short period of time, awaiting the opportunity to return to the collusively established agency terms.

[25] These nine publishers also complain that the United States did not contact them during its investigation. Independent Book Publishers (ATC–0727) at 3, 10. However, the United States reached out to a number of other publishers during the course of its investigation, and routinely attempts not to burden industry participants with demands for duplicative or cumulative information. In any event, industry participants that feel they have relevant information are free to contact the United States to share that information. When, as was the case here, the existence of an antitrust investigation is disclosed publicly, interested individuals frequently reach out to the United States to share their views and information. *See, e.g.,* Grant Gross, *DOJ investigating ebook pricing, official says,* Macworld (Dec. 7, 2011), *http://www.macworld.com/article/1164113/doj_investigating_ebook_pricing.html.*

[26] The ABA also solicited its member booksellers to submit comments in opposition to the proposed Final Judgment, outlining its objections. As a result, the United States received approximately 200 comments from bookstores, which largely mirrored the ABA's arguments. Representative examples include Susan Novotny (ATC–0213), Kenneth J. Vinstra (ATC–0216), and Barbara Peters (ATC–0295).

and Google, which were negotiated after April 2010. ABA (ATC–0265) at 5. The ABA claims that these agreements ''occurred long after * * * the dates at issue in the civil complaint,'' and were not the product of collusion. *Id.* However, the proposed Final Judgment, which addresses only contracts in which Settling Defendants are parties, has no direct or immediate impact on arrangements between ABA member booksellers and Google. Of course, it is certainly possible that Google may seek to modify the terms of its agreements with the bookstores to reflect its new authority to discount the books of the three Settling Defendants.[27] *See also* Section V.A.1, *supra.*

5. Authors Guild and Members

The Authors Guild, representing a collection of writers and literary agents, submitted a comment that addressed the impact of removing collusive pricing restrictions on price competition from Amazon. The Authors Guild claims the settlement will ''allow e-book vendors to routinely sell e-books at below cost, so long as the vendors don't lose money over the publisher's entire list of e-books over the course of a year.'' Authors Guild (ATC–0214) at 1. The Authors Guild also asked its members to submit comments, adding that the settlement ''needlessly imperils brick-and-mortar bookstores while it backs an online monopolist and discourages competition among e-book vendors and e-book device developers.'' [28] Many authors and agents took up the torch, submitting comments that paraphrased the arguments laid out by the Authors Guild or, in some cases, simply attached the Authors Guild's email, verbatim.[29]

The Authors Guild's primary argument, that collusion was a justified response to competition from low-priced rivals, and that collusive pricing is necessary to protect brick-and-mortar bookstores, is addressed in Section V.A.3, *supra.* Likewise, the Authors Guild's concerns with Section VI.B of the proposed Final Judgment, which permits (but does not require) Settling Defendants to limit retailer discounting to the aggregate commissions earned by the retailer, are addressed in Section V.A.5, *supra.* The Authors Guild and its members, however, make two unique observations: (a) Books are important cultural products and should be protected by price controls despite the antitrust laws; and (b) agency pricing is necessary to protect quality and diversity in books. But, as discussed below, some Guild members submitted comments disagreeing with their association's position, and other self-published authors see competition by e-book retailers as an opportunity to reach an audience without interference by traditional publishers.

a. The Sherman Act Applies to the Publishing Industry

While the Authors Guild did not make this argument directly, many of its members stated or implied that collusion or price fixing should be permitted in the publishing industry. They make the point that books play an important cultural role in our society. From there, these writers leap to the conclusion that a competitive marketplace cannot properly attract the investment required for books to survive. They posit that, absent an agreement that stops retailers from discounting e-books, declining revenues would undermine the perceived value of all books, reduce author royalties, and put booksellers out of business. A comment typical of this perspective suggests ''fixed pricing on books'' should be allowed ''to protect their value.'' Rebecca Gardner (ATC–0077) at 1. A literary agent likewise observed that price-fixing models are being adopted ''[n]early across the board'' in other countries, in response to online retail discounters. Molly Friedrich (ATC–0232) at 2. However, an argument that a particular industry or market deserves a blanket exemption from the antitrust laws should be directed to Congress, rather than the United States or the Court. Otherwise, all industries are subject to ''a legislative judgment that ultimately competition will produce not only lower prices, but also better goods and services.'' *Nat'l Soc'y of Prof'l Eng'rs,* 435 U.S. at 695.

b. There Is No Support for the Notion That Retail Discounts Will Reduce Quality or Diversity in Publishing

Many authors and agents complained that removing the ability of Settling Defendants to prohibit discounting would dissuade or prevent publishers from investing in ''quality'' books, or limit the variety of books likely to be published. Many comments state or imply that Publisher Defendants must stand in the place of consumers to preserve quality. Such a paternalistic view is inconsistent with the intent of the antitrust laws, which reflect a legislative decision to allow competition to decide what the market does and does not value.[30] A market fettered by a collusive agreement cannot properly assign such a value. These comments may also reflect a misunderstanding of the discounting authority granted by the proposed Final Judgment, which requires only that Settling Defendants, for two years, give retailers the authority to compete away their own margins. PFJ §§ V.A, VI.B. The proposed Final Judgment, however, does not otherwise limit how e-books are sold. Publishers would be free, for example, to negotiate a wholesale price with retailers, and require retailers to pay them the same amount per e-book sold, regardless of the discount applied to the sale to the consumer, just as they did prior to the collusive agreements. Thus, the author can be paid out of higher wholesale price, while consumers buy more of the author's books at a lower retail price.

c. The Authors Guild's Opposition to the Settlement Is Not Universal

It is worth noting that members of the Authors Guild also wrote in support of the proposed Final Judgment and against the Authors Guild's position. Joe Konrath, author of 46 books, clarifies that letter-writing campaigns by the Authors Guild and the Authors Representatives ''did not solicit the views of their members, that they in no way speak on behalf of all or even most of their members.'' Konrath (ATC–0144) at 1. He observes that agency pricing has slowed global growth and hurt

[27] Prior to the filing of the Complaint, Google announced that it was terminating its reseller program in 2013 since it had ''not gained the traction'' Google had hoped for and because it was ''clear that the reseller program has not met the needs of many readers or booksellers.'' Scott Dougall, *A Change to Our Retailer Partner Program: eBooks Resellers to Wind Down Next Year,* Google Book Search (Apr. 5, 2012), *http://booksearch.blogspot.com/2012/04/change-to-our-retailer-partner-program.html.*

[28] *See The Justice Department's E-Book Proposal Needlessly Imperils Bookstores; How to Weigh In,* The Authors Guild (June 4, 2012), *http://blog.authorsguild7.org/2012/06/04/the-justice-departments-e-book-proposal-needlessly-imperils-bookstores-how-to-weigh-in/; see also Last Call. Tell DOJ: Don't help Amazon target booksellers,* The Authors Guild (June 22, 2012), *http://authorsguild.org/advocacy/articles/last-call-tell-the-justice-department.html.*

[29] Representative comments include: T.J. Stiles (ATC–0177), Kristy Athens (ATC–0465), and Mirka Knaster (ATC–0462).

[30] Many authors and readers expressed skepticism of the capacity or willingness of Publisher Defendants to protect ''quality'' of publications. As a retired college librarian put it, ''[t]o suggest that only the Big Six are arbiters of quality is belied by much of what they have published,'' citing the absence of copy editing, long delays in publication, and a short shelf life for most titles. Eric Welch (ATC–0021) at 2. One reader observed anecdotally that Publisher Defendants recently granted an advance to reality television personality ''Snooki'' for a ghost-written book, implying themove was in response to commercial potential rather than literary quality. Cathy Greiner (ATC–0073).

consumers and writers. Lee Goldberg, a published author and member of the Authors Guild writes, ''I believe that it's detrimental to authors and readers, as well as to the establishment of a free and healthy marketplace, for publishers to collude with Apple to create artificially inflated prices for ebooks.'' (ATC–0553). Author Laura Resnick writes, ''breaking the law is *not* a reasonable reaction to being faced with aggressive business competition.'' (ATC–0801).

d. Self-Published Authors Disagree That Collusive Agency Pricing Is Necessary To Protect Authors' Interests

Many comments from self-published authors, in particular, expressed appreciation that Amazon opened a path to publication that was immune from Publisher Defendants' hegemony. David Gaughran, writing on behalf of 186 self-published co-signors, writes that ''Amazon is creating, for the first time, real competition in publishing'' by charting a ''viable path'' for self-published books. Gaughran (ATC–0125) at 1, 3. Mr. Gaughran observes that ''[t]he kind of disruption caused by the Internet is often messy,'' and those who ''do quite well under the status quo'' naturally resist change. *Id.* at 2. He compares publishers and literary agents to ''[a]ll kinds of middlemen,'' which have ''gone from being indispensible to optional'' with the rise of the Internet. *Id.* Writing in support of the proposed Final Judgment, Mr. Gaughran confirms that self-published writers, in particular, see opportunities in a market not subject to collusive pricing.

C. Additional Responses To Comments With Unique Perspectives

1. Brian DeFiore, Literary Agent

Many literary agencies submitted comments in opposition to the proposed Final Judgment, but Mr. DeFiore's submission raised a unique issue.[31] He argues that, by removing limits on retailer discounting, the proposed Final Judgment will allow retailers to apply discounts disproportionately, reducing the retail price of some titles much more than others. He argues that the uneven price cuts undermine the ability of authors to maximize their royalty income and may impact the value of individual author's rights in future books, foreign markets, film, and television. DeFiore (ATC–0242) at 3. However, to the extent that author royalties were buoyed by collusive pricing, that windfall should not be protected at the expense of thwarting the collusion. *See* Section V.A.2, *supra.*

The adequacy of the Final Judgment should be evaluated in light of the antitrust violations alleged in the Complaint, *SBC Commc'ns,* 489 F. Supp. 2d at 14–15, and those allegations explicitly address the contractual relationships between Settling Defendants and retailers. Authors have independent contracts with Settling Defendants that govern their intellectual property licenses, and those agreements are not discussed in the Complaint or addressed by the proposed Final Judgment. Thus, all of the intellectual property rights of authors remain subject to market competition. To the extent Mr. DeFiore's complaint reflects dissatisfaction with the state of that competition, it is not relevant to the proposed Final Judgment.

2. Bob Kohn, CEO of Royalty Share

Copyright attorney and CEO of RoyaltyShare, Bob Kohn, submitted a lengthy comment that focused largely on his criticisms of the Complaint. Kohn (ATC–0143). Mr. Kohn offers the Court his views of the proper standard it should employ in ruling on a motion to dismiss, even though none of the settling or non-settling defendants (each of which is represented by highly experienced and sophisticated counsel) chose to move to dismiss the Complaint. Similarly, Mr. Kohn suggests a series of dispositive motions that the Court should grant in favor of the defendants, although he does not indicate whether defendants themselves contemplate such motions or explain why the Court should substitute Mr. Kohn's litigation judgments for those of defendants' counsel. Mr. Kohn's determinations that ''The Complaint Alleges the Wrong Relevant Market,'' or ''Collective Action by Competitors to Fix Prices is Not Always Illegal,'' *id.* at 20, 21, reflect a misunderstanding of the role that public comments play in the Court's Tunney Act inquiry. For example, seeing corollaries between this case, copyright law, and the music industry, Mr. Kohn concludes that the proposed Final Judgment is not in the public interest because the ''factual allegations in the Complaint are plausibly explained by lawful behavior.'' *Id.* at 12. However, the Complaint sets forth in considerable detail the basis for a finding that the defendants have engaged in *per se* unlawful conduct. Defendants are, of course, free to dispute that evidence just as they are entitled to settle with the government. It would hardly be in the public interest to exclude settlements of antitrust cases whenever a member of the public asserts that there are possible ''plausible'' lawful explanations for the defendants' behavior. And it is difficult to see how the Court could reach the same conclusions as Mr. Kohn without the benefit of a full-blown, lengthy and expensive trial, thus substantially undercutting much of the benefit of the settlements. It is a misreading of the Tunney Act and the role of public comments to suggest that either the government or private parties should be so severely constricted in settling antitrust cases. *Microsoft,* 56. F.3d at 1459.

Mr. Kohn also takes issue with the standard of review articulated in the CIS for a Tunney Act determination. Mr. Kohn submits that, to find a settlement only ''within the reaches'' of the public interest is inconsistent with the text of the Tunney Act, as amended in 2004. Kohn at 16. He maintains this argument though the same standard was applied in this District as recently as last year in *KeySpan Corp.,*763 F. Supp. 2d at 637. Kohn at 16. Further, the court in *SBC Communications* thoroughly analyzed the legislative intent behind the 2004 amendments and concluded that a settlement should be approved if it lies ''within the reaches of the public interest.'' 489 F. Supp. 2d at 17.

Mr. Kohn also discusses language added to the Tunney Act in 2004 that requires the court to consider the impact of entry of the decree ''upon competition in the relevant market or markets.'' Kohn at 16 (emphasis omitted). However, the legislative history of that amendment does not support Mr. Kohn's argument that the change was designed to expand the court's role in Tunney Act review. Instead, it indicates the opposite, that the change was intended only to focus review on the competitive impact of ''the judgment, rather than extraneous factors irrelevant to * * * antitrust enforcement.'' 150 Cong Rec S 3610, *3618 (statement of Senator Kohl). Accordingly, ''the 2004 amendments have left in place the [D.C.] Circuit's holding that this Court cannot look beyond the complaint in making the public interest determination, unless [a] complaint is drafted so narrowly as to make a mockery of judicial power.'' *SBC Comm'cs,* 489 F. Supp. 2d at 15.

3. Steerads, Inc.

Steerads, Inc. (''Steerads'') is a Canadian digital advertising corporation based in Montreal, Quebec.[32] Steerads

[31] Simon Lipskar's comment (ATC–0807) is the most detailed of the many comments submitted by literary agents and agencies, but it did not raise unique issues. A less detailed, but typical, comment was submitted by the Association of Author's Representatives (ATC–0003).

[32] *See* STEER>ads.com, *http://www.steerads.com/* ; Steerads (ATC–0374) at 4.

concludes that the terms of the proposed Final Judgment are ''clear and complete, thus enforceable.'' Steerads (ATC–0374) at 1. The company requests, though, that the United States ''insist on the inclusion of a prima facie provision'' in the proposed Final Judgment in order to ''[e]ase[] recovery of treble damages'' by private litigants. *Id.* at 3. Steerads, however, misreads the statute, which allows the use of a ''final judgment or decree'' as *prima facie* evidence in other proceedings, but not if the ''consent judgment or decree[ ] [is] entered before any testimony has been taken.'' 15 U.S.C. 16(a). Because no testimony has been taken in this litigation, the proposed Final Judgment would not constitute *prima facie* evidence in any private litigation, regardless of how the decree is worded. Even if that were not the case, the Supreme Court has long endorsed the value of consent judgments in cases where there is no finding of liability, because they avoid the costs and delays associated with litigation.[33]

4. National Association of College Stores

The National Association of College Stores (''NACS'') expressed concern that the Proposed Final Judgment will apply to ''the entire e-book universe'' including ''e-textbooks.'' NACS (ATC–0845) at 7–8. NACS claims this broad application will injure third parties, including textbook publishers and textbook retailers, which would be barred from reaping the potential procompetitive benefits they might realize from the use of agency pricing. *Id.* at 9–10. NACS claims the Complaint did not identify harm arising in the e-textbook market, so the Final Judgment should be modified to exclude e-textbooks from the prohibition of limits on retail discounting in the decree. *Id.* at 11–12. However, it was not necessary to expressly exclude e-textbooks from the proposed Final Judgment because none of the Settling Defendants sell e-textbooks, and the Complaint already makes it clear that ''e-books'' in the context of this case does not encompass ''[n]on-trade e-books includ[ing] * * * academic textbooks * * *.'' Compl. ¶ 27 n.1; *see also* Compl. ¶ 99.

5. American Specialty Toy Retailing Association

The American Specialty Toy Retailing Association (''ASTRA'') writes that the proposed Final Judgment will have a chilling effect on the use of agency pricing in other markets. It reasons that the decree ''could create an environment in which manufacturers are uncertain about the legality of an important pro[]competitive pricing policy.'' ASTRA (ATC–0228) at 1. However, the proposed Final Judgment is limited to the three Settling Defendants, none of which sells toys. Further, because the CIS expressly states that agency pricing is permissible when unpaired with anticompetitive conduct, there seems to be no plausible risk of confusion.

D. Apple, Inc.

Apple, a non-settling defendant and party to the conspiracy described in the Complaint, opposes Court entry of the decree. Apple complains that the proposed Final Judgment: (1) Treats Apple unfairly; (2) ''seeks to impose a business model,'' rather than letting market forces play out; and (3) ''will enable the retrenchment of Amazon's e-book monopoly.'' Apple (ATC–0703) at 1, 7. While much of what Apple offers in its comment merely echoes the same points other commenters have made and should be rejected for the reasons noted above, the United States offers a detailed response to Apple because of its central role in the events leading to the underlying enforcement action. As set forth below, Apple's protests are based on factual errors and on an unsound view of Tunney Act jurisprudence.

1. The Proposed Final Judgment Reasonably Requires the Termination of the Apple Agency Agreements

Apple argues that it has been improperly ''singled out'' for ''uniquely punitive restrictions on its ability to negotiate agreements.'' *Id.* at 2. The requirement that the Apple Agency Agreements be terminated is reasonable, though, given the role of those agreements in cementing the terms of the conspiracy alleged. Further, stripped of Apple's rhetoric, there are only two substantive distinctions between Settling Defendants' required conduct as to Apple (governed by Section IV.A) and their required conduct as to all other e-book retailers (governed by Section IV.B), and those distinctions are both modest and necessary.

The agency agreements between Apple and Settling Defendants must be terminated within seven days of entry of the proposed Final Judgment, while Settling Defendants have thirty days to ''take each step required'' to terminate agreements with other retailers that include prohibited terms. *See* PFJ §§ IV.A, IV.B. However, as the Complaint alleges, the Apple Agency Agreements did not arise from bilateral negotiations between a retailer and a number of publishers, but from a conspiracy encompassing Apple and Publisher Defendants. Apple alone among e-book retailers was at the bargaining table when these collusive agency contracts were agreed to. Further, the Apple Agency Agreements also require immediate termination because they form the bedrock of the conspiracy and restrain trade directly. *See, e.g., Paramount Pictures,* 334 U.S. at 149 (ordering the termination of contracts used in collusion); *Nat'l Lead Co.,* 332 U.S. at 328 (upholding termination of patent cross licenses that allowed the patents to be ''forged into instruments of domination of an entire industry.'').

In addition, Apple's claim that it ''will have to quickly negotiate new agreements with these publishers under a dark cloud of uncertainty in just seven days,'' Apple at 5, ignores that more than three months have already passed since the proposed Final Judgment was filed, during which time Apple has been free to pursue its negotiations with Settling Defendants. Indeed, even under Apple's existing contracts with each Settling Defendants, each publisher has rights to terminate its own agreement. Likewise, Apple too has the right to terminate its agreement with each Settling Defendant on thirty to sixty days' notice.[34] Both Apple and Settling Defendants have been free even to execute new agreements during this period, so long as such agreements comply with the proposed Final Judgment. It is, in fact, quite typical that parties to a proposed Final Judgment execute their provisions or prepare to do so prior to entry of the decree.[35]

[33] *See Swift & Co.* v. *United States,* 276 U.S. 311, 327 (1928) (refusing to vacate injunctive relief in consent judgment that contained recitals in which defendants asserted their innocence); *United States* v. *Armour and Co.,* 402 U.S. 673, 676, 681 (1971) (interpreting consent decree in which defendants had denied liability for the allegations raised in the complaint); *see also* 18A Charles Alan Wright & Arthur R. Miller, *et al., Federal Practice and Procedure* § 4443, (2d ed. 2002) (''central characteristic of a consent judgment is that the court has not actually resolved the substance of the issues presented'').

[34] For instance, Apple's agreement with Hachette, signed Jan. 24, 2010, reads: '' 'Term' means the period beginning on the Effective Date and continuing for one (1) year, and renewing for one-month successive periods unless * * * terminated at any time after the first year period *by either Party* upon advance written notice of not less than thirty (30) days.'' EBOOK AGENCY DISTRIBUTION AGREEMENT, § 1(m), APPLETX00018481 at -18482 (emphasis added). This was the case when the proposed Final Judgment was being negotiated (and the United States has no reason to believe this has changed).

[35] For example, in *United States* v. *Graftech Int'l Ltd.,* GrafTech implemented, prior to entry of the decree, a requirement that it execute new contracts with its supplier. *See GrafTech,* 2011 WL 1566781 at *2 (requiring that ''[d]efendants shall not

Continued

2. The Proposed Final Judgment Does Not ''Impose a Business Model''

Apple asserts twice in a single page that the proposed Final Judgment would ''dictate business models.'' Apple at 7; *see also id.* at 1 (''impose a business model''). Apple fails, however, to explain what business model the proposed Final Judgment would dictate. That is because the proposed Final Judgment does nothing of the sort. Apart from the specific and limited proscriptions necessary to ensure the effectiveness of the consent decree, the proposed Final Judgment leaves open all possible legal business arrangements. Indeed, even Apple recognizes that ''[t]he Proposed Judgment modifies only two terms in Apple's agreements with the Settling Defendants—the MFN and Apple's pricing discretion under the agency agreement.'' *Id.* at 4.

To the extent the proposed Final Judgment requires changes to the business relationship between retailers such as Apple and Settling Defendants, it ensures that retailers have more flexibility, not less. Apple's stated position on this point is that ''eBook retailers such as Apple and Barnes & Noble should be free to continue with the agency model without Government-mandated changes.'' *Id.* at 3. They are indeed free to do so. Nothing in the proposed Final Judgment would force Apple or B&N to exercise discounting authority—they are free to carry out their own businesses exactly as before. What they may not do is continue to rely on a conspiracy to restrain their competitors.

3. The Proposed Final Judgment Will Help To Restore Competition, Not End It

Apple also insists that the proposed Final Judgment ''puts Apple, and every other eBook distributor [except Amazon], in peril.'' Apple at 7. This is so, Apple claims repeatedly, because the proposed Final Judgment will ''allow an eBook agent a nearly unfettered ability to discount a Settling Defendant's title.'' *Id.* at 2, 6. That is, Apple objects that the goal of the conspiracy—to raise e-book prices by wresting discount authority from retailers—will be undone by the proposed Final Judgment, at least with respect to Settling Defendants. Under such conditions, Apple worries, some ''retailers * * * may be unable to continue to do business,'' *id.* at 2, ''dramatic and irreversible'' consequences may limit innovation and diversity, *id.* at 3, and Amazon will be able to ''charge monopoly prices into perpetuity.'' *Id.* at 4.

First, Apple is not entitled to retain the benefits of any collusive agreement, much less one it participated in directly. As has been noted throughout, it is black letter law that that the Sherman Act was ''enacted for 'the protection of competition, not competitors.''' *Copperweld Corp.* v. *Independence Tube Corp.,* 467 U.S. 752, 767 n.14 (1984) (quoting *Brunswick Corp.* v. *Pueblo Bowl-O-Mat, Inc.,* 429 U.S. 477, 488 (1977) (quoting *Brown Shoe Co.,* 370 U.S. at 320)). Indeed, the Supreme Court has expressly recognized that the type of ''robust competition'' protected by the Sherman Act could well expose individual competitors to commercial harm. *Copperweld Corp.,* 467 U.S. at 767–68. If the proposed Final Judgment were expected to lead to a more intense competitive environment, that would be cause to embrace the proposed Final Judgment, not reject it. The same competitive forces that would pressure retailers would benefit consumers.

Further, the Tunney Act is not designed to be a weapon that is wielded by competitors seeking to forestall competition. The Act directs the Court to consider the impact of a proposed decree not on the participants in the anticompetitive conduct, but on those ''alleging specific injury from the violations set forth in the complaint.'' 15 U.S.C. 16(e)(1)(B); *see also Int'l Bus. Machines Corp.,* 163 F.3d at 740–42 (finding termination of a decree was in ''the public interest,'' despite competitor objections, because ''[t]he purpose of the [Sherman] Act is not to protect businesses from the working of the market; it is to protect the public from the failure of the market.'' (quoting *Spectrum Sports, Inc.,* 506 U.S. at 458). As neither the antitrust laws nor the Tunney Act purport to remedy the loss of ill-gotten gains, Apple's complaints need not be considered by the Court.

Second, Apple's claim, that the settlements will result in imminent retail exitings and lessened industry innovation, is not supported by any evidence. In fact, what the evidence does show, is to the contrary. As noted above, since the proposed Final Judgment was filed, Microsoft has made a significant investment in the industry. *See* Section II, footnote 6, *supra.* The investment is likely a boon to Apple's largest brick-and-mortar retail competitor, B&N. *See* Section V.B.1.b, footnote 18, *supra.* Google, too, rather than retiring from the e-book field, recently has announced a new investment in a tablet computer intended to promote its own e-book sales, through GooglePlay. *See* Section II, footnote 7, *supra.*

Third, like other retailers with an interest in high consumer prices and protected distributor margins, Apple makes the argument that the ability to compete on price ''will enable Amazon to charge monopoly prices into perpetuity.'' Apple at 4. That argument assumes, without support, that Amazon could or would exercise such market power, even in the face of significant share erosion, which was already significant prior to Apple's entry. Further, the entire conspiracy alleged here was, for Publisher Defendants, about increasing the retail price of e-books. As the Complaint alleges repeatedly, the shared goal of Publisher Defendants was to ''act collectively to force up Amazon's retail prices.'' Compl. ¶ 37. Publisher Defendants would have welcomed monopoly-like pricing with open arms; what they feared was the exact opposite—that the Amazon-led $9.99 price would stick, to the benefit of consumers and the perceived detriment of Publisher Defendants.[36] *See also* Section V.A.3, *supra.* The proposed Final Judgment will, of course, do nothing to undermine existing law prohibiting exclusionary conduct.

4. Apple Misstates the Standard of Review Under the Tunney Act

Apple also argues that the proposed Final Judgment ''ignores an important rule of law'' that a remedy must be ''directly related to the violations alleged in the Complaint.'' Apple at 6 (citing *SBC Communications*). But *SBC Communications* says no such thing. Instead, that court made clear that ''[t]he government need not prove that the settlements will perfectly remedy the alleged antitrust harms; it need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17. Furthermore, a court ''may not require that the remedies perfectly match the alleged violations.'' Instead, the court must defer ''to the government's predictions about the efficacy of its remedies.'' *Id.* Indeed, Apple's interpretation would suggest that a consent decree must be more narrowly tailored than judgments entered after trial, which often include much broader relief. *See, e.g., U.S. Gypsum Co.,* 340 U.S. at 89 (holding

consummate the Merger until the Supply Agreements have been modified in a manner consistent with this Final Judgment.''). Divestitures required for consummation of proposed mergers are also commonly executed and approved by the United States prior to entry of the Final Judgment.

[36] As Steve Jobs said, ''the customer pays a little more, but that's what you want anyway.'' Comp. ¶ 6.

that relief may ''range broadly through practices connected with acts actually found to be illegal'').

Apple's reliance on *SBC Communications* also is misplaced given that the court in that case entered the government's Proposed Final Judgment, notwithstanding arguments by amici that purchasers of the divested telecommunications assets were unlikely to fully replace the competition lost in the merger of two large telecommunications companies. The court acknowledged the purchasers' shortcomings had the potential to ''reduce the effectiveness of the proposed settlements,'' but concluded that ''the government ha[d] presented a reasonable basis for concluding that the proposed settlements * * * are reasonably adequate, and thus within the reaches of the public interest.'' *SBC Commc'ns,* 489 F. Supp. 2d at 21. Although the United States believes that the settlement reached in *SBC Communications* fully restored competition in the alleged relevant market, the case confirms that the United States is obligated only to show that the settlement was reasonable and within the reaches of the public interest.

5. Apple's Suggested Changes to the Proposed Final Judgment Are Self-Serving and Contrary to the Public Interest

Contrary to Apple's assertions, the terms of the proposed Final Judgment are not novel, and the provisions are closely tailored to address the harm alleged in the Complaint. *See* Section V.A.5. Apple's requested modifications to the proposed Final Judgment, on the other hand, would serve only to undermine the proposed Final Judgment's effectiveness, reducing the value of the settlement to consumers.

Apple proposes that Section VI.B be altered to ''allow retailers to discount from their commissions on a per unit and not an aggregate basis.'' Apple at 3. That suggested modification, however, is a naked attempt by Apple to have its competitors' ability to compete on price constrained—to take away the ''nearly unfettered ability to discount,'' *id.* at 2, 6, that a retailer who desires to compete would embrace but Apple fears. For example, Apple's modification would effectively prohibit retail innovations that benefit consumers, such as loss leading, ''buy one get one free,'' or subscription services. Apple has provided no basis to conclude that a ''per unit'' constraint would better serve the public interest than an aggregate constraint, and its enforceability argument is pure makeweight. Section VI.B, which is permitted not required conduct, contemplates voluntary agreements between Settling Defendants and retailers, and permits Settling Defendants to negotiate their own enforcement mechanisms with retailers, including Apple. That these sophisticated parties are capable of designing terms to enforce contractual obligations is demonstrated by the Apple Agency Agreements themselves, which provide an audit mechanism to verify proceeds due to the publisher on e-book sales.[37]

VI. Conclusion

The issues raised in the public comments were among the many considered by the United States when it evaluated the sufficiency of the proposed remedy. The United States has determined that the proposed Final Judgment, as drafted, provides an effective and appropriate remedy for the antitrust violations alleged in the Complaint and is therefore in the public interest. The United States will move this Court to enter the proposed Final Judgment after the comments are published on the Department's Web site and this Response to Comments is published in the **Federal Register**.

Dated: July 23, 2012.

Respectfully submitted,

Mark W. Ryan,
Stephanie A. Fleming,
Lawrence E. Buterman,
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Certificate of Service

I, Stephanie A. Fleming, hereby certify that on July 23, 2012, I caused a copy of the United States' Response to Public Comments to be served by the Electronic Case Filing System, which included the individuals listed below. Copies of all Public Comments, collected as digital files in a compact disc entitled ''Exhibit A,'' have also been sent via overnight delivery to the same individuals.

For Apple:

Daniel S. Floyd, Gibson, Dunn & Crutcher LLP, 333 S. Grand Avenue, Suite 4600, Los Angeles, CA 90070, (213) 229–7148, *dfloyd@gibsondunn.com.*

For Macmillan and Verlagsgruppe Georg Von Holtzbrinck GMBH:

Joel M. Mitnick, Sidley Austin LLP, 787 Seventh Avenue, New York, NY 10019, (212) 839–5300, *jmitnick@sidley.com.*

For Penguin U.S.A. and the Penguin Group:

Daniel F. McInnis, Akin Gump Strauss Hauer & Feld, LLP, 1333 New Hampshire Avenue NW., Washington, DC 20036, (202) 887–4000, *dmcinnis@akingump.com.*

For Hachette:

Walter B. Stuart, IV, Freshfields Bruckhaus Deringer LLP, 601 Lexington Avenue, New York, NY 10022, (212) 277–4000, *walter.stuart@freshfields.com.*

For HarperCollins:

Paul Madison Eckles, Skadden, Arps, Slate, Meagher & Flom, Four Times Square, 42nd Floor, New York, NY 10036, (212) 735–2578, *pmeckles@skadden.com.*

For Simon & Schuster:

Yehudah Lev Buchweitz, Weil, Gotshal & Manges LLP (NYC), 767 Fifth Avenue, 25th FL, New York, NY 10153, (212) 310–8000 x8256, *yehudah.buchweitz@weil.com.*

Additionally, courtesy copies of the Response to Public Comments, sent electronically, and Exhibit A, sent via overnight mail, have been provided to the following:

For the State of Connecticut:

W. Joseph Nielsen, Assistant Attorney General, Antitrust Division, Office of the Attorney General, 55 Elm Street, Hartford, CT 06106, (860) 808–5040, *Joseph.Nielsen@ct.gov.*

For the Private Plaintiffs:

Jeff D. Friedman, Hagens Berman, 715 Hearst Ave., Suite 202, Berkeley, CA 94710, (510) 725–3000, *jefff@hbsslaw.com.*

For the State of Texas:

Gabriel R. Gervey, Assistant Attorney General, Antitrust Division, Office of the Attorney General of Texas, 300 W. 15th Street, Austin, Texas 78701, (512) 463–1262, *gabriel.gervey@oag.state.tx.us.*

Stephanie A. Fleming, Counsel for the United States, Antitrust Division, 450 Fifth Street NW., Suite 8700, Washington, DC 20530, (202) 514–9228, *stephanie.fleming@usdoj.gov.*

[FR Doc. 2012–18313 Filed 7–26–12; 8:45 am]

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[37] ''Publisher, at its expense, may audit directly applicable records of Apple . * * * [No] audit shall be conducted for a period spanning less than six (6) months.'' EBOOK AGENCY DISTRIBUTION AGREEMENT, § 12(b), APPLETX00018481 at –18488.

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request: Definition of Plan Assets—Participant Contributions

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Employee Benefits Security Administration (EBSA) sponsored information collection request (ICR) titled, ''Definition of Plan Assets—Participant Contributions,'' to the Office of Management and Budget (OMB) for review and approval for continued use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*).

DATES: Submit comments on or before August 27, 2012.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site, *http://www.reginfo.gov/public/do/PRAMain,* on the day following publication of this notice or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov*.

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–EBSA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503, Telephone: 202–395–6929/Fax: 202–395–6881 (these are not toll-free numbers), email: *OIRA_submission@omb.eop.gov*.

FOR FURTHER INFORMATION: Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov*.

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: The regulation concerning plan assets and participant contributions provides guidance for fiduciaries, participants, and beneficiaries of employee benefit plans regarding how participant contributions to pension plans must be handled when they are either paid to the employer by the participant or directly withheld by the employer from the employee's wages for transmission to the pension plan. In particular, the regulation sets standards for the timely delivery of such participant contributions, including an outside time limit for the employer's holding of participant contributions. In addition, for those employers who may have difficulty meeting the regulation's outside deadlines for transmitting participant contribution, the regulation (29 CFR 2510.3–102(d) provides the opportunity for the employer to obtain an extension of the time limit by providing participants and the Department with a notice that contains specified information.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1210–0100. The current approval is scheduled to expire on July 31, 2012; however, it should be noted that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notice published in the **Federal Register** on April 5, 2012 (77 FR 20650).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1210–0100. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–EBSA.

Title of Collection: Definition of Plan Assets—Participant Contributions.

OMB Control Number: 1210–0100.

Affected Public: Private Sector—Businesses or other for profits.

Total Estimated Number of Respondents: 1.

Total Estimated Number of Responses: 251.

Total Estimated Annual Burden Hours: 8.

Total Estimated Annual Other Costs Burden: $1,088.

Dated: July 23, 2012.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2012–18367 Filed 7–26–12; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 12–059]

National Space-Based Positioning, Navigation, and Timing (PNT) Advisory Board; Meeting

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, and the President's 2004 U.S. Space-Based Positioning, Navigation, and Timing (PNT) Policy, the National Aeronautics and Space Administration (NASA) announces a meeting of the National Space-Based Positioning, Navigation, and Timing (PNT) Advisory Board.

DATES: Tuesday, August 14, 2012, 9 a.m. to 5 p.m.; and Wednesday, August 15, 2012, 9 a.m. to 12 p.m., Local Time.

ADDRESSES: The Sheraton Pentagon City, 900 South Orme Street, Arlington, VA 22204.

FOR FURTHER INFORMATION CONTACT: Mr. James J. Miller, Human Exploration and Operations Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–4417, fax (202) 358–2830, or *jj.miller@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key

participants. Visitors will be requested to sign a visitor's register.

The agenda for the meeting includes the following topics:

- Update on U.S. Space-Based Positioning, Navigation and Timing (PNT) Policy and Global Positioning System (GPS) modernization.
- Explore opportunities for enhancing the interoperability of GPS with other emerging international Global Navigation Satellite Systems (GNSS).
- Examine emerging trends and requirements for PNT services in U.S. and international arenas through PNT Board technical assessments.
- Prioritize current and planned GPS capabilities and services while assessing future PNT architecture options
- Assess the current and projected economic impact of GPS on the United States, and consider the effects of potential PNT service degradation if adjacent radio-band spectrum interference is introduced.

Susan M. Burch,

Acting, Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2012–18333 Filed 7–26–12; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Application Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received Under the Antarctic Conservation Act.

SUMMARY: Notice is hereby given that the National Science Foundation (NSF) has received a waste management permit application for operation of a 54-foot steel-hulled ketch, *Northanger,* sailing and making landings along the west coast of the Antarctic Peninsula, operated by the Explorer's Corner LLC, a company within the United States. The application is submitted to NSF pursuant to regulations issued under the Antarctic Conservation Act of 1978.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application within August 27, 2012. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Dr. Polly A. Penhale or Nadene Kennedy at the above address or (703) 292–8030.

SUPPLEMENTARY INFORMATION: NSF's Antarctic Waste Regulation, 45 CFR part 671, requires all U.S. citizens and entities to obtain a permit for the use or release of a designated pollutant in Antarctica, and for the release of waste in Antarctica. NSF has received a permit application under this Regulation for operation of a sailing ketch, *Northanger,* conducting passenger landings and camping along the western coast of the Antarctic Peninsula. The small amount of waste created by the expedition team will be removed, including all fuel bottles, batteries, plastics, and non-combustible wastes, including perishable and nonperishable food wastes.

The permit applicant is: Olaf Malver, Explorers' Corner LLC, C/O Natural Habitat Adventures, 833 W. South Boulder Road, Louisville, CO 80027. Application number: 2013 WM–001.

Nadene G. Kennedy,

Permit Officer.

[FR Doc. 2012–18308 Filed 7–26–12; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2012–0150]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of pending NRC action to submit an information collection request to the Office of Management and Budget (OMB) and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment about our intention to request the OMB's approval for renewal of an existing information collection that is summarized below. We are required to publish this notice in the **Federal Register** under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* NRC Form 590, ''Application/Permit for Use of the Two White Flint (TWFN) Auditorium.''

2. *Current OMB approval number:* 3150–0181.

3. *How often the collection is required:* Each time public use of the auditorium is requested.

4. *Who is required or asked to report:* Members of the public requesting use of the NRC Auditorium.

5. *The number of annual respondents:* 5.

6. *The number of hours needed annually to complete the requirement or request:* 1.25 hours (5 requests × 15 minutes per request).

7. *Abstract:* In accordance with the Public Buildings Act of 1959, an agreement was reached between the Maryland-National Capital Park and Planning Commission, the General Services Administration, and the U.S. Nuclear Regulatory Commission (NRC) that the NRC auditorium will be made available for public use. Public users of the auditorium will be required to complete NRC Form 590, Application/Permit for Use of Two White Flint North Auditorium. The information is needed to allow for administrative and security review and scheduling, and to make a determination that there are no anticipated problems with the requester prior to utilization of the facility.

Submit, by September 25, 2012, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

The public may examine, and have copied for a fee, publicly available documents, including the draft supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. OMB clearance requests are available at the NRC's Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/.*

The document will be available on the NRC home page site for 60 days after the signature date of this notice. Comments submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. Comments submitted should reference Docket No. NRC–2012–0150. You may

submit your comments by any of the following methods. Electronic comments: Go to *http://www.regulations.gov* and search for Docket No. NRC–2012–0150.

Mail comments to the NRC Clearance Officer, Tremaine Donnell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Questions about the information collection requirements may be directed to the NRC Clearance Officer, Tremaine Donnell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6258, or by email to *INFOCOLLECTS.Resource@NRC.GOV.*

Dated at Rockville, Maryland, this 10th day of July 2012.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2012–18350 Filed 7–26–12; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2012–0155]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of pending NRC action to submit an information collection request to the Office of Management and Budget (OMB) and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment about our intention to request the OMB's approval for renewal of an existing information collection that is summarized below. We are required to publish this notice in the **Federal Register** under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* NRC Form 244, Registration Certificate—Use of Depleted Uranium under General License.

2. *Current OMB approval number:* 3150–0031.

3. *How often the collection is required:* On occasion. NRC Form 244 is submitted when depleted uranium is received or transferred under a general license. Information on NRC Form 244 is collected and evaluated on a continuing basis as events occur.

4. *Who is required or asked to report:* Persons receiving, possessing, using, or transferring depleted uranium under the general license established in 10 CFR 40.25(a).

5. *The number of annual respondents:* 23.

6. *The number of hours needed annually to complete the requirement or request:* 23.

7. *Abstract:* Title 10 of the Code of Federal Regulations (10 CFR) Part 40, establishes requirements for licenses for the receipt, possession, use, and transfer of radioactive source and byproduct material. The NRC Form 244 is used to report receipt and transfer of depleted uranium under general license, as required by Section 40.25. The registration certification information required by the NRC Form 244 is necessary to permit the NRC to make a determination on whether the possession, use, and transfer of depleted uranium source and byproduct material is in conformance with the Commission's regulations for protection of public health and safety.

Submit, by September 25, 2012, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

The public may examine and have copied for a fee, publicly available documents, including the draft supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. OMB clearance requests are available at the NRC's Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/.*

The document will be available on the NRC home page site for 60 days after the signature date of this notice. Comments submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. Comments submitted should reference Docket No. NRC–2012–0155. You may submit your comments by any of the following methods. Electronic comments: Go to *http://www.regulations.gov* and search for Docket No. NRC–2012–0155.

Mail comments to the NRC Clearance Officer, Tremaine Donnell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Questions about the information collection requirements may be directed to the NRC Clearance Officer, Tremaine Donnell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6258, or by email to *INFOCOLLECTS.Resource@NRC.GOV.*

Dated at Rockville, Maryland, this 10th day of July, 2012.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2012–18351 Filed 7–26–12; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2012–0027]

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The NRC published a **Federal Register** Notice with a 60-day comment period on this information collection on April 4, 2012 (77 FR 20437).

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* Billing Instructions for NRC Cost Type Contracts.

3. *Current OMB approval number:* 3150–0109.

4. *The form number if applicable:* None.

5. *How often the collection is required:* Monthly and on occasion.

6. *Who will be required or asked to report:* NRC Contractors.

7. *An estimate of the number of annual responses:* 1,236.

8. *The estimated number of annual respondents:* 34.

9. *An estimate of the total number of hours needed annually to complete the requirement or request:* 618.

10. *Abstract:* In administering its contracts, the NRC Division of Contracts provides billing instructions for its contractors to follow in preparing invoices. These instructions stipulate the level of detail in which supporting data must be submitted for NRC review. The review of this information ensures that all payments made by NRC for valid and reasonable costs are in accordance with the contract terms and conditions.

The public may examine and have copied for a fee publicly available documents, including the final supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. OMB clearance requests are available at the NRC's Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by August 27, 2012. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Chad Whiteman, Desk Officer, Office of Information and Regulatory Affairs (3150–0109), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be emailed to *Chad_S_Whiteman@omb.eop.gov* or submitted by telephone at 202–395–4718.

The NRC Clearance Officer is Tremaine Donnell, telephone: 301–415–6258.

Dated at Rockville, Maryland, this 19th day of July 2012.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2012–18380 Filed 7–26–12; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2012–0165]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of pending NRC action to submit an information collection request to the Office of Management and Budget (OMB) and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment about our intention to request the OMB's approval for renewal of an existing information collection that is summarized below. We are required to publish this notice in the **Federal Register** under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* Reports Concerning Possible Non-Routine Emergency Generic Problems.

2. *Current OMB approval number:* 3150–0012.

3. *How often the collection is required:* On occasion.

4. *Who is required or asked to report:* Nuclear power reactor licensees, non-power reactors, and materials applicants and licensees.

5. *The number of annual respondents:* 235.

6. *The number of hours needed annually to complete the requirement or request:* 85,900.

7. *Abstract:* NRC is requesting approval authority to collect information concerning possible non-routine generic problems which would require prompt action from NRC to preclude potential threats to public health and safety.

Submit, by September 25, 2012, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

The public may examine and have copied for a fee publicly available documents, including the draft supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. OMB clearance requests are available at the NRC's Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/.*

The document will be available on the NRC home page site for 60 days after the signature date of this notice. Comments submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. Comments submitted should reference Docket No. NRC–2012–0165.

You may submit your comments by any of the following methods. Electronic comments: Go to *http://www.regulations.gov* and search for Docket No. NRC–2012–0165. Mail comments to NRC Clearance Officer, Tremaine Donnell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Questions about the information collection requirements may be directed to the NRC Clearance Officer, Tremaine Donnell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6258; email: *INFOCOLLECTS.Resource@NRC.GOV.*

Dated at Rockville, Maryland, this 19th day of July 2012.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2012–18379 Filed 7–26–12; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67485; File No. SR–NYSEArca–2012–50]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of Proposed Rule Change Relating to Listing and Trading of the First Trust CBOE VIX Tail Hedge Index Fund Under NYSE Arca Equities Rule 5.2(j)(3)

July 23, 2012.

I. Introduction

On May 25, 2012, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission''), pursuant

to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares (''Shares'') of the First Trust CBOE VIX Tail Hedge Index Fund (''Fund'') under NYSE Arca Equities Rule 5.2(j)(3). The proposed rule change was published in the **Federal Register** on June 8, 2012.[3] The Commission received no comments on the proposal. This order grants approval of the proposed rule change.

II. Description of the Proposal

The Exchange proposes to list and trade the Shares of the Fund under NYSE Arca Equities Rule 5.2(j)(3), the Exchange's listing standards for Investment Company Units (''Units''). The Shares will be offered by First Trust Exchange-Traded Fund (''Trust''), which is organized as a Massachusetts business trust and is registered with the Commission as an open-end management investment company.[4] The investment adviser to the Fund will be First Trust Advisors L.P. (''Adviser''). First Trust Portfolios L.P. will be the principal underwriter and distributor of the Fund's Shares. The Bank of New York Mellon Corporation will serve as administrator, custodian, and transfer agent for the Fund.

Description of the Fund

The Fund will seek investment results that correspond generally to the price and yield, before the Fund's fees and expenses, of an equity index called the CBOE S&P VIX Tail Hedge Index (''Index''). The Fund will normally invest at least 90% of its net assets (plus the amount of any borrowings for investment purposes) in common stocks included in the Index. In addition, the Fund will normally invest 0.0% to 1.0% of its net assets in VIX call options, as described below.

The Exchange submitted this proposed rule change because the Index for the Fund does not meet all of the ''generic'' listing requirements of Commentary .01(a)(A) to NYSE Arca Equities Rule 5.2(j)(3) applicable to the listing of Units based upon an index of US Component Stocks.[5] Specifically, Commentary .01(a)(A) to NYSE Arca Equities Rule 5.2(j)(3)[6] sets forth the requirements to be met by components of an index or portfolio of US Component Stocks. As described further below, the Index consists of an S&P 500 Index stock portfolio and a position in specified VIX Index (''VIX'') call options.[7] The Index meets all requirements of NYSE Arca Equities Rule 5.2(j)(3) and Commentary .01(a)(A) thereto, except that the Index includes VIX call options, which are not NMS Stocks as defined in Rule 600 of Regulation NMS. As described below, the Index is predominately S&P 500 companies and includes an exposure to VIX call options ranging from 0.00% to 1.00% of the weight of the Index. All securities in the S&P 500 Index are listed and traded on a national securities exchange. Options on the VIX are traded on the Chicago Board Options Exchange (''CBOE''). Notwithstanding that the Index does not meet all of the generic listing requirements of Commentary .01(a)(A) to NYSE Arca Equities Rule 5.2(j)(3), the Exchange believes that the Index is sufficiently broad-based to deter potential manipulation in that the S&P 500 Index stocks are among the most actively traded, highly capitalized stocks traded in the U.S. In addition, the Exchange states that VIX call options are highly liquid, with trading volume on the CBOE during the first quarter of 2012 of 257,220 contracts per day. VIX call options would represent, at most, only 1% of the total weight of the Index. All Index components are traded on exchanges that are members of the Intermarket Surveillance Group (''ISG''), and the Exchange, therefore, would be able to share surveillance information with such exchanges with respect to trading in all Index components.

The CBOE S&P VIX Tail Hedge Index

The Index is rules-based and is owned and was developed by Standard & Poor's Financial Services LLC (''Index Provider'').[8] The Index Provider will calculate and maintain the Index. The Index is designed to provide a benchmark for investors interested in hedging tail risk in an S&P 500 portfolio.[9] Index components are reviewed quarterly for eligibility, and the weights are re-set according to that distribution. As of the Index rebalance on March 21, 2012, the Index was comprised of 99.0% S&P 500 stocks and 1.00% VIX call options. The Index consists of an S&P 500 stock portfolio (with dividends reinvested), and an amount of one-month, 30-delta VIX call options that is determined by the level of forward volatility. On the day of the monthly expiration of VIX call options, previously purchased VIX call options are cash-settled, and new VIX call options are purchased at the 10 a.m., Central Time asking price. The percent of money allocated to VIX call options depends on the level of forward volatility at the next call expiration as measured by the opening price of VIX futures with the same expiration as the VIX call options as follows:

- VIX futures price less than or equal to 15,[10] no VIX call options are purchased;

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 67107 (June 4, 2012), 77 FR 34102 (''Notice'').

[4] The Trust is registered under the Investment Company Act of 1940 (''1940 Act''). On October 17, 2011, the Trust filed with the Commission an amendment to the Trust's registration statement on Form N–1A under the Securities Act of 1933 and under the 1940 Act relating to the Fund (File Nos. 333–125751 and 811–21774) (''Registration Statement''). In addition, the Commission has issued an order granting exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No. 27068 (September 20, 2005) (File No. 812–13000) (''Exemptive Order'').

[5] NYSE Arca Equities Rule 5.2(j)(3) provides that the term ''US Component Stock'' shall mean an equity security that is registered under Sections 12(b) or 12(g) of the Exchange Act or an American Depositary Receipt, the underlying equity security of which is registered under Sections 12(b) or 12(g) of the Exchange Act.

[6] Commentary .01(a)(A) to NYSE Arca Equities Rule 5.2(j)(3) states, in relevant part, that the components of an index of US Component Stocks, upon the initial listing of a series of Units pursuant to Rule 19b–4(e) under the Exchange Act, shall be NMS Stocks as defined in Rule 600 of Regulation NMS under the Exchange Act. *See* 17 CFR 242.600(b)(47) (defining ''NMS Stock'' as any NMS Security other than an option).

[7] The VIX Index is a measure of estimated near-term future volatility based upon the weighted average of the implied volatilities of near-term put and call options on the S&P 500.

[8] The Index Provider is not a broker-dealer and has implemented procedures designed to prevent the use and dissemination of material, non-public information regarding the Index.

[9] Tail hedging, in the context used by the Index Provider, is the practice of trying to hedge the portfolio from extreme market moves that are the result of random, unexpected, and unpredictable events. Unexpected events of this nature often result in rapid increases in market volatility, both realized and implied volatility. The Fund will utilize a tail hedging strategy which attempts to profit from the sudden rise in implied volatility due to any unexpected event. The gains from the ''tail hedge'' would then hopefully offset some of the losses incurred in the common stock portfolio due to the unexpected events.

[10] VIX futures represent the level of expected future 30-day volatility as measured in standard deviation units, expressed in percent terms (expected volatility multiplied by 100). For example, assume that on September 21, 2011, the September VIX call options expired and new call options expiring on October 19, 2011 were included within the Index. The amount or weighting assigned to the October VIX call options within the Index would have been determined by the opening price on September 21 of the October 2011 VIX futures contract. CBOE data indicate that the opening price was 31.15. Because the opening price of the October VIX futures contract was greater than 30.00 but less than or equal to 50.00, the allocation to VIX call options within the Index would have been equal to 0.50%, and the S&P 500 weighting would have been 99.50%. If the opening futures price had been equal to or below 15.0 or greater than 50.0, the allocation to the call options would have been 0% and the Index's composition would have been equal to the S&P 500's weightings. If the opening futures price had been greater than 15.0 but

• VIX futures price greater than 15 and less than or equal to 30, 1% Index weight in VIX call options;

• VIX futures price greater than 30 and less than or equal to 50, 0.50% Index weight in VIX call options; and

• VIX futures price above 50, no VIX call options are purchased.

This dynamic allocation to VIX call options is designed to reduce hedging costs by limiting the number of VIX call options that are purchased during periods of expected low volatility, and also has the effect of taking VIX call option profits when extreme volatility levels are reached. The Index is reconstituted and rebalanced monthly.

The Index Provider will, in most cases, use the quantitative ranking and screening system described herein. However, subjective screening based on fundamental analysis or other factors may be used, if, in the opinion of the Index Provider, certain components should be included or excluded from the Index.

The Fund intends to qualify annually and to elect to be treated as a Regulated Investment Company under Subchapter M of the Internal Revenue Code.

Additional information regarding the Trust, the Fund, and the Shares, including investment strategies, risks, creation and redemption procedures, fees, portfolio holdings disclosure policies, distributions, and taxes, among other things, is included in the Notice and Registration Statement, as applicable.[11]

III. Discussion and Commission's Findings

The Commission has carefully reviewed the proposed rule change and finds that it is consistent with the requirements of Section 6 of the Act [12] and the rules and regulations thereunder applicable to a national securities exchange.[13] In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[14] which requires, among other things, that the Exchange's rules be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission notes that the Fund and the Shares must comply with the requirements of NYSE Arca Equities Rules 5.2(j)(3) and 5.5(g)(2) to be listed and traded on the Exchange.

The Commission finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Act,[15] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for, and transactions in, securities. Quotation and last-sale information for the Shares will be available via the Consolidated Tape Association (''CTA'') high-speed line and, for the securities, including VIX call options, held by the Fund, will be available from the exchange on which they are listed.[16] The Index value will be widely disseminated at least every 15 seconds during the Core Trading Session by one or more major market data vendors, such as Bloomberg, and additional information regarding the Index and the underlying components (S&P 500 stock portfolio and the allocation of VIX call options) will be available at CBOE's Web site. In addition, an Intraday Indicative Value (''IIV'') for the Shares and the Index value will be widely disseminated at least every 15 seconds during the Core Trading Session (9:30 a.m. to 4 p.m., Eastern Time) by one or more major market data vendors.[17] On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Fund will disclose on its Web site the portfolio of securities and financial instruments that will form the basis for the Fund's calculation of NAV at the end of the business day.[18] The Fund's NAV will be determined as of the close of trading (normally 4 p.m., Eastern Time) on each day the New York Stock Exchange is open for business. A basket composition file, which includes the security names and share quantities required to be delivered in exchange for the Fund's Shares, together with estimates and actual cash components, will be publicly disseminated daily prior to the opening of the New York Stock Exchange via the National Securities Clearing Corporation. Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. The Fund's Web site will also include a form of the prospectus for the Fund, information relating to NAV (updated daily), and other quantitative and trading information.

The Commission further believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. The Commission notes that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and will be made available to all market participants at the same time.[19] If the IIV or the Index value is not being disseminated as required, the Exchange may halt trading during the day in which the interruption to the dissemination of the applicable IIV or Index value occurs. If the interruption to the dissemination of the applicable IIV or Index value persists past the trading day in which it occurred, the Exchange will halt trading.[20] In addition, if the Exchange becomes aware that the NAV is not being disseminated to all market participants at the same time, it will halt trading in the Shares on the Exchange

less than or equal to 30.0, the allocation to VIX call options within the Index would have been equal to 1.0%, and the S&P 500 weighting would have been equal to 99.0%.

[11] *See* Notice and Registration Statement, *supra* notes 3 and 4, respectively.

[12] 15 U.S.C. 78f.

[13] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 17 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[16] The intra-day, closing, and settlement prices of the portfolio securities will also be readily available from the securities exchanges trading such securities, automated quotation systems, published or other public sources, or on-line information services, such as Bloomberg or Reuters.

[17] *See* NYSE Arca Equities Rule 5.2(j)(3), Commentaries .01(b)(2) and .01(c). According to the Exchange, several major market data vendors widely disseminate IIVs taken from the CTA or other data feeds. *See* Notice, *supra* note 3, at 34104.

[18] On a daily basis, the Adviser will disclose for each portfolio security and other financial instrument of the Fund the following information on the Fund's Web site: ticker symbol (if applicable), name of security and financial instrument, number of shares or dollar value of financial instruments held in the portfolio, and percentage weighting of the security and financial instrument in the portfolio.

[19] *See* NYSE Arca Equities Rule 5.2(j)(3)(A)(v).

[20] With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the securities and/or the financial instruments comprising the Fund's portfolio; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

until such time as the NAV is available to all market participants. The Exchange states that it has a general policy prohibiting the distribution of material, non-public information by its employees. The Exchange further states that the Index Provider is not a broker-dealer and has implemented procedures designed to prevent the use and dissemination of material, non-public information regarding the Index.[21] The Commission notes that the Exchange would be able to obtain information with respect to the equity securities and VIX call options comprising the Index and which will be held by the Fund because such equity securities and VIX call options will trade in markets that are ISG members or are parties to comprehensive surveillance sharing agreements with the Exchange.

The Exchange represents that the Shares are deemed to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. In support of this proposal, the Exchange has made representations, including:

(1) The continued listing standards under NYSE Arca Equities Rules 5.2(j)(3) and 5.5(g)(2) applicable to Units shall apply to the Shares.

(2) In addition, the Fund and the Shares will comply with all other requirements applicable to Units including, but not limited to, requirements relating to the dissemination of key information such as the value of the Index, IIV, and NAV, rules governing the trading of equity securities, trading hours, trading halts, surveillance, information barriers, and Information Bulletin to Equity Trading Permit (''ETP'') Holders (each as described in more detail herein and in the Notice and Registration Statement, as applicable), as set forth in Exchange rules applicable to Units and prior Commission orders approving the generic listing rules applicable to the listing and trading of Units.

(3) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

(4) The Exchange's surveillance procedures applicable to derivative products, which include Units, are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. All Index components are traded on exchanges that are members of ISG.

(5) Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (a) The procedures for purchases and redemptions of Shares in Creation Unit Aggregations (as defined in the Notice) and that Shares are not individually redeemable; (b) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (c) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated IIV will not be calculated or publicly disseminated; (d) how information regarding the IIV is disseminated; (e) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (f) trading and other information.

(6) For initial and/or continued listing, the Fund will be in compliance with Rule 10A–3 under the Act,[22] as provided by NYSE Arca Equities Rule 5.3.

(7) The Fund will normally invest at least 90% of its net assets (plus the amount of any borrowings for investment purposes) in S&P 500 common stocks, which are listed and traded on a national securities exchange, and 0.0% to 1.0% of its net assets in VIX call options, which are traded on CBOE.

(8) VIX call options would represent, at most, 1.0% of the total weight of the Index, and the VIX options components of the Index, if any, must remain listed and traded on a national securities exchange.

(9) A minimum of 100,000 Shares of the Fund will be outstanding at the commencement of trading on the Exchange.

This approval order is based on all of the Exchange's representations, including those set forth above and in the Notice, and the Exchange's description of the Fund.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act[23] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[24] that the proposed rule change (SR–NYSEArca-2012–50) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–18311 Filed 7–26–12; 8:45 am]

BILLING CODE 8011–01–P

[21] The Commission also notes that an investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (''Advisers Act''). As a result, the Adviser and its personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) Adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[22] *See* 17 CFR 240.10A–3.

[23] 15 U.S.C. 78f(b)(5).

[24] 15 U.S.C. 78s(b)(2).

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67489; File No. SR–NYSEMKT–2012–26]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing of Proposed Rule Change Amending Rule 76—Equities To Add Supplementary Material Relating to a Cross Function That Provides a Regulation NMS Rule 611-Compliant Tool for Floor Brokers

July 23, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 13, 2012, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 76—Equities to add supplementary material relating to a cross function that provides a Regulation NMS Rule 611-compliant tool for Floor Brokers. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 76—Equities to describe an enhancement to the current processes used by Floor Brokers to manually cross orders in compliance with Regulation NMS Rule 611 (''Rule 611''). Specifically, the Exchange proposes to allow Floor Brokers to use new functionality for the wireless hand held devices (''HHD'') that will assist them in meeting their Rule 611 compliance requirements by providing for a ''look-back'' period in effecting crosses under Exchange rules. The Exchange believes that use of the HHD by Floor Brokers to assist in the execution of manual cross trades, combined with a brief and reasonable amount of time to accommodate the manual manner by which Floor Brokers must comply with Exchange crossing rules, will enhance the efficiency of such crosses and provide a better audit trail for purposes of Rule 611. The new functionality (''Cross Function'') and the proposed procedures are described below.

Background

Rule 76—Equities governs the execution of ''cross'' or ''crossing'' orders by Floor Brokers. Rule 76—Equities applies only to manual transactions executed at the point of sale on the trading Floor and provides that when a member has an order to buy and an order to sell the same security that can be crossed at the same price, the member is required to announce to the trading crowd the proposed cross by offering the security at a price that is higher than his or her bid by a minimum variation permitted in the security before crossing the orders. Any other member, including the Designated Market Maker (''DMM''), can break up the announced bid and offer by trading with either side of the proposed cross transaction.[3] If no one in the trading crowd breaks up the proposed cross, the DMM on behalf of the Floor Broker enters the cross transaction into the Exchange's Display Book system as a completed transaction. The completed transaction is printed to the Consolidated Tape at that price.

Currently, after announcing a proposed cross transaction, the Floor Broker and DMM manually monitor the protected best bid or offer to ensure that the proposed cross can be executed in accordance with the customer's instructions and in compliance with Rule 611. In today's fast-moving, electronic markets, where prices can change in millisecond timeframes, this manual monitoring process may not be the optimal manner by which to facilitate and evidence such compliance.

The Commission and its staff have recognized the difficulty that broker-dealers face when manually handling orders in light of Rule 611. Specifically, the SEC staff has issued guidance pertaining to the manual execution of orders under staff FAQ 3.23 of Rule 611.[4] Under the FAQ, a broker-dealer that acts as agent in arranging block transactions between two or more parties at prices that are individually negotiated,[5] and at a price that is at or within the protected quotations must capture the negotiated price in its automated system within a reasonable time period.[6] Due to the manual nature of these transactions, the individually negotiated price may not be at or within the protected bid and offer at the time the transaction terms ultimately are captured in the automated system. FAQ 3.23 addresses this issue by permitting the broker-dealer to utilize a 20-second ''look-back'' period for purposes of demonstrating compliance with Rule 611.

As discussed below, the Exchange is proposing a similar means for assisting Floor Brokers with compliance with Rule 611 that is consistent with existing Exchange crossing rules. Exchange Floor Brokers cross large orders pursuant to Rule 76—Equities. In many cases, these orders are sent to a Floor Broker by customers seeking a primary market print, as well as orders from customers who do not wish to have their orders handled by broker-dealers that also trade as principal. While the crossing of orders by Floor Brokers using the proposed Cross Function would differ in degree from the crossing guidance in FAQ 3.23,[4] as discussed below, the fundamental issue of facilitating compliance with Rule 611 when handling large manual trades is the same. Moreover, the proposed Cross Function is narrowl y tailored to address the manual handling of cross orders by Floor Brokers, who face unique issues by virtue of their status as Floor-based participants.

Floor Broker activities are subject to various regulatory restrictions that are not imposed upon broker-dealers executing orders off the Floor of the Exchange. Floor Broker activities on the Floor of the Exchange are subject to Section 11(a) of the Exchange Act and the rules thereunder.[7] As such, Floor Brokers are limited in their ability to trade for their own account or for the account of an associated person or an account over which they exercise discretion. In addition, pursuant to Rule 112—Equities, Floor Brokers are also

[3] An agency ''cross'' of 10,000 shares or more at or between the Exchange best bid or offer has priority and can only be broken up to provide price improvement that is better than the cross price as to all or part of such bid or offer. A buy and sell order to be crossed pursuant to Rule 72(d)—Equities is subject to Rule 76—Equities, including the requirement that such a proposed cross be announced to the crowd. *See* Rule 72(d)—Equities. In addition, cross transactions to be executed at a clean-up price outside the current quotation on the Exchange are subject to Rule 127. See Rule 127—Equities.

[4] See ''Responses to Frequently Asked Questions Concerning Rule 611 and Rule 610 of Regulation NMS,'' FAQ 3.23 ''Agency Block Transactions with Non-Trade-Through Prices that are Individually Negotiated'' (''FAQ 3.23''). FAQ 3.23 is available at: *http://www.sec.gov/divisions/marketreg/nmsfaq610-11.htm.*

[5] The negotiations can occur either through communications with personnel of the broker-dealer or through direct communications between the parties of the transaction, and the negotiations may occur through a telephone conversation or through automated messages (*e.g.,* email).

[6] Under the FAQ, the transaction must be individually negotiated, and at least one of the parties individually negotiating the price of the transaction must be a ''customer,'' as defined in Rule 600(b)(16) of Regulation NMS. Similarly, crosses under the FAQ must be in block size, as defined in Rule 600(b)(9).

[7] 15 U.S.C. 78k(a). The Exchange notes that, although Section 11(a) provides for certain limited exceptions for Floor Broker activities (e.g., transactions to offset a transaction made in error), it generally imposes limitations on Floor Brokers that are not applicable to broker-dealers engaged in trading off the Floor of the Exchange.

prohibited from initiating orders on the Trading Floor. Consequently, Floor Brokers act only as agents on the Floor, even in circumstances where they are representing principal order flow from an associated person or upstairs desk. Moreover, because Floor Brokers may not access away markets directly while at the point of sale,[8] Floor Brokers cannot rely on the exception set forth in Rule 611(b)(6), which permits market participants to send intermarket sweep orders while simultaneously effecting a crossing transaction that may trade through protected quotations.

Furthermore, broker-dealers executing cross transactions off the floor of the Exchange are not subject to Rule 76—Equities requirements. Rule 76—Equities requires that Floor-based crossing transactions be exposed to the DMM and the crowd prior to being executed, which provides other Exchange members and public customers the ability to participate in such transactions. Because of this requirement, Floor Broker proposed cross transactions are required to be exposed publicly in a manner not required of off-Floor participants.

As explained in greater detail below and given the regulatory restrictions applicable to the operation of Floor Brokers, the Exchange believes the proposal is consistent with the purposes underlying FAQ 3.23, notwithstanding certain factual differences in the scenarios. As previously noted, Floor Brokers currently monitor protected bids and offers manually to ensure that the proposed cross can be executed in accordance with Rule 611, which is not optimal in today's electronic markets. The relief provided in FAQ 3.23 is designed to facilitate compliance with Rule 611 for manual transactions. Likewise, the Exchange is proposing to amend Rule 76—Equities to enable Floor Brokers to effectively and efficiently cross customer orders in compliance with Exchange Rules and Regulation NMS.

Proposed Amendment to Rule 76—Equities

To assist Floor Brokers in monitoring the price of protected quotations and ensuring compliance with Rule 611, the Exchange proposes the Cross Function as set forth in the proposed supplementary material to Rule 76—Equities. As proposed, Floor Brokers would be able to submit not held orders to be crossed (purchase and sale of the same security) into the HHD at a limit price consistent with customer instructions and as determined by the Floor Broker. The Floor Broker, however, may not use the Cross Function with regard to a cross involving a principal order to buy and a principal order to sell submitted by the same broker-dealer. After the orders are entered into the HHD, a quote minder function within Exchange systems will monitor protected quotations to determine when the limit prices assigned to the buy and sell orders are such that the orders may be executed consistent with Rule 611. When the protected quotation permits a Rule 611-compliant print (i.e., the desired crossing price is at or between the protected bid and offer), the quote minder will:

(i) Deliver an Alert message to the Floor Broker's HHD indicating that the orders may be crossed;

(ii) Capture within Exchange systems a time-stamped quote that includes the time the Alert is sent to the HHD and the protected bid and offer at that time;

(iii) Start a 20-second timer (as discussed below), and

(iv) Enable a ''print'' key function in the HHD allowing the Floor Broker to execute the orders and send the trade report through Exchange systems to the Tape.

As proposed, the Cross Function includes a 20-second timer that commences from the moment the cross trade at its proposed price could be executed at or between the protected bid and offer. As detailed below, the Floor Broker will use this brief period to comply with the Rule 76—Equities requirement to announce the proposed cross transaction to the crowd. If Exchange systems do not receive the ''print'' message from the HHD within the allotted time period, the ability to execute the orders and print to the tape will expire and the cross instructions will be canceled.

As required by Rule 76—Equities, when using the proposed Cross Function, the Floor Broker must first ''clear'' the crowd before executing a cross transaction. Therefore, the Floor Broker is required to be physically present at the post/panel of the DMM for the subject security and must verbally announce the cross trade. If there is crowd and/or DMM interest in response to the Floor Broker's verbal announcement of the cross trade, the Floor Broker must trade with such interest on behalf of the applicable customer order(s), as required by Exchange Rules. Under the proposed functionality, if the original terms of the proposed cross transaction cannot be met for any reason, for example, if the crowd trades with a portion of either the proposed bid or offer and the Floor Broker cannot otherwise complete the proposed cross transaction in the size or price that was entered into the Crossing Function, the originally-entered proposed cross transaction will be cancelled.[9]

If the crowd or DMM does not break up the proposed cross trade, the Floor Broker may execute the trade by selecting the ''print'' key in the HHD prior to the expiration of the 20-second timer, which also will transmit a message to Exchange systems to print the transaction to the Tape. Thus, the 20-second timer permits a reasonable time for Floor Brokers to comply with Exchange crossing rules and establishes a brief ''look-back'' period that permits the crossing of the orders at the designated limit price even if the market for the security subsequently moves while the Floor Broker is meeting its obligation under Rule 76—Equities. The Exchange believes that providing the 20-second timer is consistent with FAQ 3.23 because, similar to how off-Floor transactions require sufficient time for negotiation and entry into execution systems, Floor Broker proposed transactions need a similar time period to be exposed to the public and then, once executed, to be transmitted through broker systems to the Display Book and then to the Tape.[10] To confirm compliance with Rule 76—Equities, the DMM will be required to enter the Floor Broker's badge number into Exchange systems.

A Floor Broker may cancel the orders associated with the proposed Cross Function at any time up to the point that the trade is executed (that is, at the time the ''print'' key is activated).[11]

In addition, consistent with FAQ 3.23, the proposed Cross Function would be

[8] *See* Rules 76—Equities and 70.40—Equities. Floor Brokers must be at the point of sale to execute crossing transactions pursuant to Rule 76—Equities.

[9] Currently, due to limitations in the functionality of the system, the Exchange cancels a proposed cross transaction when the originally-entered size of the cross changes. However, the Exchange is exploring the possibility of making system changes to allow a proposed cross transaction to proceed if the only change in the proposed cross is a change in the size.

[10] As with off-Floor crossing transactions that are executed consistent with FAQ 3.23, the time that the proposed Floor Broker cross transaction ''prints'' via the HHD key may be at a time when either the protected bid or offer or Exchange best bid or offer has moved. Accordingly, by using the Cross Function, Floor Brokers will ensure compliance with not only Rule 611, but also NYSE Rule 127—Equities in that the proposed cross transaction will not trade through the Exchange's best bid or offer at the time of Rule 611 validation.

[11] The Exchange notes that Floor Brokers are required to have policies and procedures designed to ensure compliance with, among other things, Rule 76—Equities. Therefore, Floor Brokers will be required to update their policies and procedures to reflect any amendments to Rule 76—Equities.

available only for proposed cross transactions that are for at least 10,000 shares or a quantity of stock having a market value of $200,000 or more, which is the definition of a block transaction under Regulation NMS Rule 600(b)(9).

Moreover, the Exchange proposes that the proposed cross transaction may not be for orders for the account of the member or member organization, an account of an associated person, or an account with respect to which the member, member organization or associated person thereof exercises investment discretion. The Exchange believes that requiring orders to be on behalf of unaffiliated entities provides the Floor broker analog to the FAQ 3.23 requirement that at least one side of the transaction be for a ''customer.'' As recognized in Rule 72(d)—Equities, which permits a Floor broker to assert priority on behalf of block-sized order flow from an unaffiliated member organization, Floor broker customers are not limited to non-broker dealers. The Exchange believes that the proposed limitation to use the proposed Cross Function on behalf of unaffiliated broker dealers meets the spirit of FAQ 3.23 by assuring that the Cross Function will not be used for affiliated principal order flow.

Accordingly, as proposed, a Floor broker may use the proposed Cross Function for any order flow he or she may receive from an unaffiliated member organization, even if one side of the proposed cross transaction is for the account of the unaffiliated member organization. Likewise, a Floor broker could use the proposed Cross Function for proposed crossed transactions that represent principal orders of two different unaffiliated broker-dealer customers.

The Exchange believes that Floor Brokers provide a useful service to the market and their customers in their ability to source liquidity and provide price discovery for transactions. Therefore, the Cross Function is designed to assist Floor Brokers in providing such services in a more efficient and effective manner in light of the requirements of Rule 611. Specifically, the Cross Function, with its ''look-back'' feature, would provide a more effective mechanism by which a Floor Broker can manually execute a cross in accordance with the customer's instructions and in compliance with Rule 611, particularly when there is significant quote traffic with flickering prices. Moreover, the proposed changes to Rule 76—Equities are narrowly drafted to address the practical issues and concerns related to the interaction between a manual process and electronic quotes as well as the unique limitations applicable only to Floor Brokers. It would not otherwise change the current operation of Rule 76—Equities; in particular, the requirement to expose crosses to the crowd for possible price improvement prior to finalizing the cross would remain intact.[12]

The Cross Function would not be available with regard to crosses involving buy and sell principal orders represented by the same broker-dealer, and all crosses, including crosses involving principal and agency orders, will be subject to being broken up upon exposure to the crowd and the DMM. The Exchange recognizes that a proposed Floor broker crossed transaction that represents principal orders of two separate broker-dealer customers differs from the scenario in FAQ 3.23. However, given the unique limitations on Floor Broker trading, including that Floor Brokers cannot initiate orders on the Floor and in such situations, are acting as agents for their broker-dealer customers, the Exchange believes that the intent is consistent with FAQ 3.23. In addition, the Cross Function will timely capture the transaction terms in an automated system, thereby providing a better audit trail for manually crossed orders. Such an audit trail will facilitate the review of the Floor Brokers' manual crosses to ensure their compliance with Rule 611.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b) of the Act,[13] in general, and Section 6(b)(5) of the Act,[14] in particular, in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism for a free and open market and a national market system and, in general, to protect investors and the public interest.

In particular, the Exchange believes that the proposed Cross Function and proposed amendment to Rule 76—Equities remove impediments to and perfect the mechanism for a free and open market because the Cross Function will assist Floor brokers' ability to meet both their Rule 611 obligations and existing Rule 76—Equities requirements with respect to crossed orders. Additionally, the Exchange believes the proposal removes impediments to and perfects the mechanism for a free and open market because Floor Brokers will have automated tools to enable their compliance with Rule 611 of Regulation NMS and efficiently execute the cross transactions. Furthermore, the Exchange believes the proposal will generate a better audit trail for purposes of Rule 611 of the crossed transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition 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

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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–NYSEMKT–2012–26 on the subject line.

[12] The Exchange notes that Rule 76—Equities currently governs the manual execution of cross orders by Floor Brokers without consideration of the order size. The Exchange is not proposing to amend Rule 76—Equities to limit Floor Brokers' ability to manually execute cross orders that are block size.

[13] 15 U.S.C. 78f(b).

[14] 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–NYSEMKT–2012–26. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2012–26 and should be submitted on or before August 17, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–18330 Filed 7–26–12; 8:45 am]

BILLING CODE 8011–01–P

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67484; File Number SR–FINRA–2012–036]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding the Implementation Date for Amendments to NASD Rules 1012 and 1017 in SR–FINRA–2012–018

July 23, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') and Rule 19b–4 thereunder, notice is hereby given that on July 20, 2012, Financial Industry Regulatory Authority, Inc. (''FINRA'') (f/k/a National Association of Securities Dealers, Inc. (''NASD'')) filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 under the Act, which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing a rule change to establish August 27, 2012 as the new implementation date for amendments to NASD Rules 1012 and 1017 in SR–FINRA–2012–018 approved by the Commission on May 31, 2012.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, Proposed Rule Change

1. Purpose

On May 31, 2012, the SEC approved amendments to NASD Rules 1012 (General Provisions) and 1017 (Application for Approval of Change in Ownership, Control, or Business Operations) to adopt a new standardized electronic form, Form CMA, to be used by all continuing membership applicants as part of their continuing membership applications. On July 5, 2012, FINRA published Regulatory Notice 12–33 announcing that, beginning on July 23, 2012, continuing membership applicants would need to submit the new electronic Form CMA as part of their continuing membership applications. FINRA is filing the proposed rule change to establish August 27, 2012 as the new implementation date for the amendments to NASD Rules 1012 and 1017 requiring continuing membership applicants to use the new Form CMA and resolve a discrepancy between the proposed implementation date set forth in the Form 19b–4 for SR–FINRA–2012–018 and the Notice of Filing of SR–FINRA–2012–018 in the **Federal Register**. As of July 23, 2012, continuing membership applicants will have the option to use the Form CMA to submit their continuing membership applications, but use of the Form CMA will not become mandatory until August 27, 2012.

FINRA has filed the proposed rule change for immediate effectiveness.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act, which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that establishing an implementation date of August 27, 2012 will provide firms with additional time to become familiar with the Form CMA.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–FINRA–2012–036 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.

All submissions should refer to File Number SR–FINRA–2012–036. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. 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–FINRA–2012–036 and should be submitted on or before August 17, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[1]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–18355 Filed 7–26–12; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67486; File No. SR–SCCP–2012–01]

Self-Regulatory Organizations; Stock Clearing Corporation of Philadelphia; Notice of Filing of Proposed Rule Change With Respect to the Amendment of the By-Laws of Its Parent Corporation, The NASDAQ OMX Group, Inc. (''NASDAQ OMX'')

July 23, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 11, 2012, the Stock Clearing Corporation of Philadelphia (''SCCP'' or the ''Corporation'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared primarily by the Corporation. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Corporation proposes a rule change with respect to the amendment of the by-laws of its parent corporation, The NASDAQ OMX Group, Inc. (''NASDAQ OMX'').

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 Corporation included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Corporation has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.[3]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

NASDAQ OMX is proposing amendments to provisions of its by-laws pertaining to the composition of the Management Compensation Committee of the NASDAQ OMX Board of Directors. Specifically, NASDAQ OMX is amending the compositional requirements of its Management Compensation Committee in Section 4.13 to replace a requirement that the committee be composed of a majority of Non-Industry Directors[4] with a

[1] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Commission has modified the text of the summaries prepared by SCCP.

[4] An ''Industry Director'' means a Director (excluding any two officers of NASDAQ OMX, selected at the sole discretion of the Board, amongst those officers who may be serving as Directors (the ''Staff Directors'')) who (1) Is or has served in the prior three years as an officer, director, or employee of a broker or dealer, excluding an outside director or a director not engaged in the day-to-day management of a broker or dealer; (2) is an officer, director (excluding an outside director), or employee of an entity that owns more than ten percent of the equity of a broker or dealer, and the broker or dealer accounts for more than five percent of the gross revenues received by the consolidated entity; (3) owns more than five percent of the equity securities of any broker or dealer, whose investments in brokers or dealers exceed ten percent of his or her net worth, or whose ownership interest otherwise permits him or her to be engaged in the day-to-day management of a broker or dealer; (4) provides professional services to brokers or dealers, and such services constitute 20 percent or more of the professional revenues received by the Director or 20 percent or more of the gross revenues

Continued

requirement that the number of Non-Industry Directors on the committee equal or exceed the number of Industry Directors. Thus, in the case of a committee composed of four Directors, the current by-law provides that only one Director may be an Industry Director, while the amended by-law would allow up to two Directors to be Industry Directors. The proposed compositional requirement for the committee with regard to the balance between Industry Directors and Non-Industry Directors would be the same as that already provided for in the by-laws with respect to the Executive Committee and the Nominating and Governance Committee, as well as the full Board of Directors.

NASDAQ OMX and the Corporation believe that the change will provide greater flexibility to NASDAQ OMX with regard to populating a committee that includes Directors with relevant expertise and that is not excessively large in relation to the size of the full Board of Directors while continuing to ensure that Directors associated with members of NASDAQ OMX's exchange subsidiaries and other broker-dealers do not exert disproportionate influence of the governance of NASDAQ OMX. As required by NASDAQ Stock Market Rule 5605(d), the committee would continue at all times to be composed solely of Directors who are independent within the meaning of that rule.

The Corporation believes that the proposed rule change is consistent with provisions of Section 17A of the Act because it will help ensure that the Corporation is so organized and has the capacity to comply with the provisions of the Act and the rules and regulations thereunder.[5] Specifically, the Corporation believes that the change will provide greater flexibility to NASDAQ OMX with regard to populating a committee that includes Directors with relevant expertise and that is not excessively large in relation to the size of the full Board of Directors, while continuing to ensure that Directors associated with members of NASDAQ OMX's exchange subsidiaries and other broker-dealers do not exert disproportionate influence of the governance of NASDAQ OMX.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Corporation does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

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 the proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–SCCP–2012–01 on the subject line.

Paper Comments

- Paper comments should be sent 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–SCCP–2012–01. 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 20549–1090, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Corporation. 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–SCCP–2012–01, and should be submitted on or before August 17, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–18327 Filed 7–26–12; 8:45 am]

BILLING CODE 8011–01–P

received by the Director's firm or partnership; (5) provides professional services to a director, officer, or employee of a broker, dealer, or corporation that owns 50 percent or more of the voting stock of a broker or dealer, and such services relate to the director's, officer's, or employee's professional capacity and constitute 20 percent or more of the professional revenues received by the Director or 20 percent or more of the gross revenues received by the Director's firm or partnership; or (6) has a consulting or employment relationship with or provides professional services to NASDAQ OMX or any affiliate thereof or to the Financial Industry Regulatory Authority (''FINRA'') or has had any such relationship or provided any such services at any time within the prior three years.

A ''Non-Industry Director'' means a Director (excluding the Staff Directors) who is (1) A Public Director; (2) an officer, director, or employee of an issuer of securities listed on a national securities exchange operated by any subsidiary of NASDAQ OMX that is a self-regulatory organization; or (3) any other individual who would not be an Industry Director.

A ''Public Director'' means a Director who has no material business relationship with a broker or dealer, NASDAQ OMX or its affiliates, or FINRA.

[5] 15 U.S.C. 78q–1.

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67487; File No. SR–BSECC–2012–001]

Self-Regulatory Organizations; Boston Stock Exchange Clearing Corporation; Notice of Filing of Proposed Rule Change With Respect to the Amendment of the By-Laws of Its Parent Corporation, The NASDAQ OMX Group, Inc. (''NASDAQ OMX'')

July 23, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 11, 2012, Boston Stock Exchange Clearing Corporation (''BSECC'' or the ''Corporation'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared primarily by the Corporation. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Corporation proposes a rule change with respect to the amendment of the by-laws of its parent corporation, The NASDAQ OMX Group, Inc. (''NASDAQ OMX'').

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 Corporation included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Corporation has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.[3]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

NASDAQ OMX is proposing amendments to provisions of its by-laws pertaining to the composition of the Management Compensation Committee of the NASDAQ OMX Board of Directors. Specifically, NASDAQ OMX is amending the compositional requirements of its Management Compensation Committee in Section 4.13 to replace a requirement that the committee be composed of a majority of Non-Industry Directors[4] with a requirement that the number of Non-Industry Directors on the committee equal or exceed the number of Industry Directors. Thus, in the case of a committee composed of four Directors, the current by-law provides that only one Director may be an Industry Director, while the amended by-law would allow up to two Directors to be Industry Directors. The proposed compositional requirement for the committee with regard to the balance between Industry Directors and Non-Industry Directors would be the same as that already provided for in the by-laws with respect to the Executive Committee and the Nominating and Governance Committee, as well as the full Board of Directors.

NASDAQ OMX and the Corporation believe that the change will provide greater flexibility to NASDAQ OMX with regard to populating a committee that includes Directors with relevant expertise and that is not excessively large in relation to the size of the full Board of Directors while continuing to ensure that Directors associated with members of NASDAQ OMX's exchange subsidiaries and other broker-dealers do not exert disproportionate influence of the governance of NASDAQ OMX. As required by NASDAQ Stock Market Rule 5605(d), the committee would continue at all times to be composed solely of Directors who are independent within the meaning of that rule.

The Corporation believes that that the proposed rule change is consistent with provisions of Section 17A of the Act because it will help ensure that the Corporation is so organized and has the capacity to comply with the provisions of the Act and the rules and regulations thereunder.[5] Specifically, the Corporation believes that the change will provide greater flexibility to NASDAQ OMX with regard to populating a committee that includes Directors with relevant expertise and that is not excessively large in relation to the size of the full Board of Directors, while continuing to ensure that Directors associated with members of NASDAQ OMX's exchange subsidiaries and other broker-dealers do not exert disproportionate influence of the governance of NASDAQ OMX.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Corporation does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] The Commission has modified the text of the summaries prepared by BSECC.

[4] An ''Industry Director'' means a Director (excluding any two officers of NASDAQ OMX, selected at the sole discretion of the Board, amongst those officers who may be serving as Directors (the ''Staff Directors'')) who (1) Is or has served in the prior three years as an officer, director, or employee of a broker or dealer, excluding an outside director or a director not engaged in the day-to-day management of a broker or dealer; (2) is an officer, director (excluding an outside director), or employee of an entity that owns more than ten percent of the equity of a broker or dealer, and the broker or dealer accounts for more than five percent of the gross revenues received by the consolidated entity; (3) owns more than five percent of the equity securities of any broker or dealer, whose investments in brokers or dealers exceed ten percent of his or her net worth, or whose ownership interest otherwise permits him or her to be engaged in the day-to-day management of a broker or dealer; (4) provides professional services to brokers or dealers, and such services constitute 20 percent or more of the professional revenues received by the Director or 20 percent or more of the gross revenues received by the Director's firm or partnership; (5) provides professional services to a director, officer, or employee of a broker, dealer, or corporation that owns 50 percent or more of the voting stock of a broker or dealer, and such services relate to the director's, officer's, or employee's professional capacity and constitute 20 percent or more of the professional revenues received by the Director or 20 percent or more of the gross revenues received by the Director's firm or partnership; or (6) has a consulting or employment relationship with or provides professional services to NASDAQ OMX or any affiliate thereof or to the Financial Industry Regulatory Authority (''FINRA'') or has had any such relationship or provided any such services at any time within the prior three years.

A ''Non-Industry Director'' means a Director (excluding the Staff Directors) who is (1) A Public Director; (2) an officer, director, or employee of an issuer of securities listed on a national securities exchange operated by any subsidiary of NASDAQ OMX that is a self-regulatory organization; or (3) any other individual who would not be an Industry Director.

A ''Public Director'' means a Director who has no material business relationship with a broker or dealer, NASDAQ OMX or its affiliates, or FINRA.

[5] 15 U.S.C. 78q–1.

(ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BSECC–2012–001 on the subject line.

Paper Comments

- Paper comments should be sent 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–BSECC–2012–001. 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 20549–1090, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Corporation. 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–BSECC–2012–001 and should be submitted on or before August 17, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–18328 Filed 7–26–12; 8:45 am]

BILLING CODE 8011–01–P

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67488; File No. SR–NYSE–2012–29]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change Amending NYSE Rule 76 To Add Supplementary Material Relating to a Cross Function That Provides a Regulation NMS Rule 611-Compliant Tool for Floor Brokers

July 23, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 13, 2012, New York Stock Exchange LLC (the ''Exchange'' or ''NYSE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Rule 76 to add supplementary material relating to a cross function that provides a Regulation NMS Rule 611-compliant tool for Floor Brokers. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 76 to describe an enhancement to the current processes used by Floor Brokers to manually cross orders in compliance with Regulation NMS Rule 611 (''Rule 611''). Specifically, the Exchange proposes to allow Floor Brokers to use new functionality for the wireless hand held devices (''HHD'') that will assist them in meeting their Rule 611 compliance requirements by providing for a ''look-back'' period in effecting crosses under NYSE rules. The Exchange believes that use of the HHD by Floor Brokers to assist in the execution of manual cross trades, combined with a brief and reasonable amount of time to accommodate the manual manner by which Floor Brokers must comply with NYSE crossing rules, will enhance the efficiency of such crosses and provide a better audit trail for purposes of Rule 611. The new functionality (''Cross Function'') and the proposed procedures are described below.

Background

NYSE Rule 76 governs the execution of ''cross'' or ''crossing'' orders by Floor Brokers. Rule 76 applies only to manual transactions executed at the point of sale on the trading Floor and provides that when a member has an order to buy and an order to sell the same security that can be crossed at the same price, the member is required to announce to the trading crowd the proposed cross by offering the security at a price that is higher than his or her bid by a minimum variation permitted in the security before crossing the orders. Any other member, including the Designated Market Maker (''DMM''), can break up the announced bid and offer by trading with either side of the proposed cross transaction.[3] If no one in the trading

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] An agency ''cross'' of 10,000 shares or more at or between the Exchange best bid or offer has priority and can only be broken up to provide price improvement that is better than the cross price as to all or part of such bid or offer. A buy and sell order to be crossed pursuant to Rule 72(d) is subject to Rule 76, including the requirement that such a proposed cross be announced to the crowd. *See*

crowd breaks up the proposed cross, the DMM on behalf of the Floor Broker enters the cross transaction into the Exchange's Display Book system as a completed transaction. The completed transaction is printed to the Consolidated Tape at that price.

Currently, after announcing a proposed cross transaction, the Floor Broker and DMM manually monitor the protected best bid or offer to ensure that the proposed cross can be executed in accordance with the customer's instructions and in compliance with Rule 611. In today's fast-moving, electronic markets, where prices can change in millisecond time frames, this manual monitoring process may not be the optimal manner by which to facilitate and evidence such compliance.

The Commission and its staff have recognized the difficulty that broker-dealers face when manually handling orders in light of Rule 611. Specifically, the SEC staff has issued guidance pertaining to the manual execution of orders under staff FAQ 3.23 of Rule 611.[4] Under the FAQ, a broker-dealer that acts as agent in arranging block transactions between two or more parties at prices that are individually negotiated,[5] and at a price that is at or within the protected quotations must capture the negotiated price in its automated system within a reasonable time period.[6] Due to the manual nature of these transactions, the individually negotiated price may not be at or within the protected bid and offer at the time the transaction terms ultimately are captured in the automated system. FAQ 3.23 addresses this issue by permitting the broker-dealer to utilize a 20-second ''look-back'' period for purposes of demonstrating compliance with Rule 611.

As discussed below, the Exchange is proposing a similar means for assisting Floor Brokers with compliance with Rule 611 that is consistent with existing Exchange crossing rules. Exchange Floor Brokers cross large orders pursuant to Rule 76. In many cases, these orders are sent to a Floor Broker by customers seeking a primary market print, as well as orders from customers who do not wish to have their orders handled by broker-dealers that also trade as principal. While the crossing of orders by Floor Brokers using the proposed Cross Function would differ in degree from the crossing guidance in FAQ 3.23,[4] as discussed below, the fundamental issue of facilitating compliance with Rule 611 when handling large manual trades is the same. Moreover, the proposed Cross Function is narrowly tailored to address the manual handling of cross orders by Floor Brokers, who face unique issues by virtue of their status as Floor-based participants.

Floor Broker activities are subject to various regulatory restrictions that are not imposed upon broker-dealers executing orders off the Floor of the Exchange. Floor Broker activities on the Floor of the Exchange are subject to Section 11(a) of the Exchange Act and the rules thereunder.[7] As such, Floor Brokers are limited in their ability to trade for their own account or for the account of an associated person or an account over which they exercise discretion. In addition, pursuant to NYSE Rule 112, Floor Brokers are also prohibited from initiating orders on the Trading Floor. Consequently, Floor Brokers act only as agents on the Floor, even in circumstances where they are representing principal order flow from an associated person or upstairs desk. Moreover, because Floor Brokers may not access away markets directly while at the point of sale,[8] Floor Brokers cannot rely on the exception set forth in Rule 611(b)(6), which permits market participants to send intermarket sweep orders while simultaneously effecting a crossing transaction that may trade through protected quotations.

Furthermore, broker-dealers executing cross transactions off the floor of the Exchange are not subject to Rule 76 requirements. Rule 76 requires that Floor-based crossing transactions be exposed to the DMM and the crowd prior to being executed, which provides other Exchange members and public customers the ability to participate in such transactions. Because of this requirement, Floor Broker proposed cross transaction are required to be exposed publicly in a manner not required of off-Floor participants.

As explained in greater detail below and given the regulatory restrictions applicable to the operation of Floor Brokers, the Exchange believes the proposal is consistent with the purposes underlying FAQ 3.23, notwithstanding certain factual differences in the scenarios. As previously noted, Floor Brokers currently monitor protected bids and offers manually to ensure that the proposed cross can be executed in accordance with Rule 611, which is not optimal in today's electronic markets. The relief provided in FAQ 3.23 is designed to facilitate compliance with Rule 611 for manual transactions. Likewise, the Exchange is proposing to amend Rule 76 to enable Floor Brokers to effectively and efficiently cross customer orders in compliance with NYSE Rules and Regulation NMS.

Proposed Amendment to Rule 76

To assist Floor Brokers in monitoring the price of protected quotations and ensuring compliance with Rule 611, the Exchange proposes the Cross Function as set forth in the proposed supplementary material to Rule 76. As proposed, Floor Brokers would be able to submit not held orders to be crossed (purchase and sale of the same security) into the HHD at a limit price consistent with customer instructions and as determined by the Floor Broker. The Floor Broker, however, may not use the Cross Function with regard to a cross involving a principal order to buy and a principal order to sell submitted by the same broker-dealer. After the orders are entered into the HHD, a quote minder function within Exchange systems will monitor protected quotations to determine when the limit prices assigned to the buy and sell orders are such that the orders may be executed consistent with Rule 611. When the protected quotation permits a Rule 611-compliant print (i.e., the desired crossing price is at or between the protected bid and offer), the quote minder will:

(i) Deliver an Alert message to the Floor Broker's HHD indicating that the orders may be crossed;

(ii) Capture within Exchange systems a time-stamped quote that includes the time the Alert is sent to the HHD and the protected bid and offer at that time;

NYSE Rule 72(d). In addition, cross transactions to be executed at a clean-up price outside the current quotation on the Exchange are subject to Rule 127. *See* NYSE Rule 127.

[4] See ''Responses to Frequently Asked Questions Concerning Rule 611 and Rule 610 of Regulation NMS,'' FAQ 3.23 ''Agency Block Transactions with Non-Trade-Through Prices that are Individually Negotiated'' (''FAQ 3.23''). FAQ 3.23 is available at: *http://www.sec.gov/divisions/marketreg/nmsfaq610-11.htm*.

[5] The negotiations can occur either through communications with personnel of the broker-dealer or through direct communications between the parties of the transaction, and the negotiations may occur through a telephone conversation or through automated messages (*e.g.,* email).

[6] Under the FAQ, the transaction must be individually negotiated, and at least one of the parties individually negotiating the price of the transaction must be a ''customer,'' as defined in Rule 600(b)(16) of Regulation NMS. Similarly, crosses under the FAQ must be in block size, as defined in Rule 600(b)(9).

[7] 15 U.S.C. 78k(a). The Exchange notes that, although Section 11(a) provides for certain limited exceptions for Floor Broker activities (*e.g.,* transactions to offset a transaction made in error), it generally imposes limitations on Floor Brokers that are not applicable to broker-dealers engaged in trading off the Floor of the Exchange.

[8] *See* NYSE Rules 76 and 70.40. Floor Brokers must be at the point of sale to execute crossing transactions pursuant to Rule 76.

(iii) Start a 20-second timer (as discussed below), and

(iv) Enable a ''print'' key function in the HHD allowing the Floor Broker to execute the orders and send the trade report through Exchange systems to the Tape.

As proposed, the Cross Function includes a 20-second timer that commences from the moment the cross trade at its proposed price could be executed at or between the protected bid and offer. As detailed below, the Floor Broker will use this brief period to comply with the Rule 76 requirement to announce the proposed cross transaction to the crowd. If Exchange systems do not receive the ''print'' message from the HHD within the allotted time period, the ability to execute the orders and print to the tape will expire and the cross instructions will be canceled.

As required by Rule 76, when using the proposed Cross Function, the Floor Broker must first ''clear'' the crowd before executing a cross transaction. Therefore, the Floor Broker is required to be physically present at the post/panel of the DMM for the subject security and must verbally announce the cross trade. If there is crowd and/or DMM interest in response to the Floor Broker's verbal announcement of the cross trade, the Floor Broker must trade with such interest on behalf of the applicable customer order(s), as required by NYSE Rules. Under the proposed functionality, if the original terms of the proposed cross transaction cannot be met for any reason, for example, if the crowd trades with a portion of either the proposed bid or offer and the Floor Broker cannot otherwise complete the proposed cross transaction in the size or price that was entered into the Crossing Function, the originally-entered proposed cross transaction will be cancelled.[9]

If the crowd or DMM does not break up the proposed cross trade, the Floor Broker may execute the trade by selecting the ''print'' key in the HHD prior to the expiration of the 20-second timer, which also will transmit a message to Exchange systems to print the transaction to the Tape. Thus, the 20-second timer permits a reasonable time for Floor Brokers to comply with Exchange crossing rules and establishes a brief ''look-back'' period that permits the crossing of the orders at the designated limit price even if the market for the security subsequently moves while the Floor Broker is meeting its obligation under Rule 76. The Exchange believes that providing the 20-second timer is consistent with FAQ 3.23 because, similar to how off-Floor transactions require sufficient time for negotiation and entry into execution systems, Floor Broker proposed transactions need a similar time period to be exposed to the public and then, once executed, to be transmitted through broker systems to the Display Book and then to the Tape.[10] To confirm compliance with Rule 76, the DMM will be required to enter the Floor Broker's badge number into Exchange systems.

A Floor Broker may cancel the orders associated with the proposed Cross Function at any time up to the point that the trade is executed (that is, at the time the ''print'' key is activated).[11]

In addition, consistent with FAQ 3.23, the proposed Cross Function would be available only for proposed cross transactions that are for at least 10,000 shares or a quantity of stock having a market value of $200,000 or more, which is the definition of a block transaction under Regulation NMS Rule 600(b)(9).

Moreover, the Exchange proposes that the proposed cross transaction may not be for orders for the account of the member or member organization, an account of an associated person, or an account with respect to which the member, member organization or associated person thereof exercises investment discretion. The Exchange believes that requiring orders to be on behalf of unaffiliated entities provides the Floor broker analog to the FAQ 3.23 requirement that at least one side of the transaction be for a ''customer.'' As recognized in Rule 72(d), which permits a Floor broker to assert priority on behalf of block-sized order flow from an unaffiliated member organization, Floor broker customers are not limited to non-broker dealers. The Exchange believes that the proposed limitation to use the proposed Cross Function on behalf of unaffiliated broker dealers meets the spirit of FAQ 3.23 by assuring that the Cross Function will not be used for affiliated principal order flow.

Accordingly, as proposed, a Floor broker may use the proposed Cross Function for any order flow he or she may receive from an unaffiliated member organization, even if one side of the proposed cross transaction is for the account of the unaffiliated member organization. Likewise, a Floor broker could use the proposed Cross Function for proposed crossed transactions that represent principal orders of two different unaffiliated broker-dealer customers.

The Exchange believes that Floor Brokers provide a useful service to the market and their customers in their ability to source liquidity and provide price discovery for transactions. Therefore, the Cross Function is designed to assist Floor Brokers in providing such services in a more efficient and effective manner in light of the requirements of Rule 611. Specifically, the Cross Function, with its ''look-back'' feature, would provide a more effective mechanism by which a Floor Broker can manually execute a cross in accordance with the customer's instructions and in compliance with Rule 611, particularly when there is significant quote traffic with flickering prices. Moreover, the proposed changes to Rule 76 are narrowly drafted to address the practical issues and concerns related to the interaction between a manual process and electronic quotes as well as the unique limitations applicable only to Floor Brokers. It would not otherwise change the current operation of Rule 76; in particular, the requirement to expose crosses to the crowd for possible price improvement prior to finalizing the cross would remain intact.[12]

The Cross Function would not be available with regard to crosses involving buy and sell principal orders represented by the same broker-dealer, and all crosses, including crosses involving principal and agency orders, will be subject to being broken up upon exposure to the crowd and the DMM. The Exchange recognizes that a proposed Floor broker crossed transaction that represents principal orders of two separate broker-dealer customers differs from the scenario in FAQ 3.23. However, given the unique

[9] Currently, due to limitations in the functionality of the system, the Exchange cancels a proposed cross transaction when the originally-entered size of the cross changes. However, the Exchange is exploring the possibility of making system changes to allow a proposed cross transaction to proceed if the only change in the proposed cross is a change in the size.

[10] As with off-Floor crossing transactions that are executed consistent with FAQ 3.23, the time that the proposed Floor Broker cross transaction ''prints'' via the HHD key may be at a time when either the protected bid or offer or Exchange best bid or offer has moved. Accordingly, by using the Cross Function, Floor Brokers will ensure compliance with not only Rule 611, but also NYSE Rule 127 in that the proposed cross transaction will not trade through the Exchange's best bid or offer at the time of Rule 611 validation.

[11] The Exchange notes that Floor Brokers are required to have policies and procedures designed to ensure compliance with, among other things, Rule 76. Therefore, Floor Brokers will be required to update their policies and procedures to reflect any amendments to Rule 76.

[12] The Exchange notes that Rule 76 currently governs the manual execution of cross orders by Floor Brokers without consideration of the order size. The Exchange is not proposing to amend Rule 76 to limit Floor Brokers' ability to manually execute cross orders that are block size.

limitations on Floor Broker trading, including that Floor Brokers cannot initiate orders on the Floor and in such situations, are acting as agents for their broker-dealer customers, the Exchange believes that the intent is consistent with FAQ 3.23. In addition, the Cross Function will timely capture the transaction terms in an automated system, thereby providing a better audit trail for manually crossed orders. Such an audit trail will facilitate the review of the Floor Brokers' manual crosses to ensure their compliance with Rule 611.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b) of the Act,[13] in general, and Section 6(b)(5) of the Act,[14] in particular, in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism for a free and open market and a national market system and, in general, to protect investors and the public interest.

In particular, the Exchange believes that the proposed Cross Function and proposed amendment to Rule 76 remove impediments to and perfect the mechanism for a free and open market because the Cross Function will assist Floor brokers' ability to meet both their Rule 611 obligations and existing Rule 76 requirements with respect to crossed orders. Additionally, the Exchange believes the proposal removes impediments to and perfects the mechanism for a free and open market because Floor Brokers will have automated tools to enable their compliance with Rule 611 of Regulation NMS and efficiently execute the cross transactions. Furthermore, the Exchange believes the proposal will generate a better audit trail for purposes of Rule 611 of the crossed transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[13] 15 U.S.C. 78f(b).

[14] 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

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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–NYSE–2012–29 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2012–29. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2012–29 and should be submitted on or before August 17, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–18329 Filed 7–26–12; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

Administrator's Line of Succession Designation, No. 1–A, Revision 34

This document replaces and supersedes ''Line of Succession Designation No. 1–A, Revision 33.''

Line of Succession Designation No. 1–A, Revision 34:

Effective immediately, the Administrator's Line of Succession Designation is as follows:

(a) In the event of my inability to perform the functions and duties of my position, or my absence from the office, the Deputy Administrator will assume all functions and duties of the Administrator. In the event the Deputy Administrator and I are both unable to perform the functions and duties of the position or are absent from our offices, I designate the officials in listed order below, if they are eligible to act as Administrator under the provisions of the Federal Vacancies Reform Act of 1998 (5 U.S.C. 3345–3349d), to serve as Acting Administrator with full authority to perform all acts which the Administrator is authorized to perform:

(1) Chief of Staff;

(2) General Counsel;

(3) Chief Operating Officer;

(4) Associate Administrator, Office of Disaster Assistance; and

[15] 17 CFR 200.30–3(a)(12).

(5) Regional Administrator for Region 9.

(b) Notwithstanding the provisions of SBA Standard Operating Procedure 00 01 2, ''absence from the office,'' as used in reference to myself in paragraph (a) above, means the following:

(1) I am not present in the office and cannot be reasonably contacted by phone or other electronic means, and there is an immediate business necessity for the exercise of my authority; or

(2) I am not present in the office and, upon being contacted by phone or other electronic means, I determine that I cannot exercise my authority effectively without being physically present in the office.

(c) An individual serving in an acting capacity in any of the positions listed in subparagraphs (a)(1) through (5), unless designated as such by the Administrator, is not also included in this Line of Succession. Instead, the next non-acting incumbent in the Line of Succession shall serve as Acting Administrator.

(d) This designation shall remain in full force and effect until revoked or superseded in writing by the Administrator, or by the Deputy Administrator when serving as Acting Administrator.

(e) Serving as Acting Administrator has no effect on the officials listed in subparagraphs (a)(1) through (5), above, with respect to their full-time position's authorities, duties and responsibilities (except that such official cannot both recommend and approve an action).

Dated: July 24, 2012.

Karen G. Mills,

Administrator.

[FR Doc. 2012–18424 Filed 7–26–12; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13143 and #13144]

New Jersey Disaster #NJ–00032

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of New Jersey (FEMA–4070–DR), dated 07/19/2012.

Incident: Severe Storms and Staight-line Winds.

Incident Period: 06/30/2012.

Effective Date: 07/19/2012.

Physical Loan Application Deadline Date: 09/17/2012.

Economic Injury (EIDL) Loan Application Deadline Date: 04/19/2013.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 07/19/2012, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Atlantic, Cumberland, Salem.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere ...	3.125
Non-Profit Organizations Without Credit Available Elsewhere	3.000
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 13143B and for economic injury is 13144B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Roger B. Garland,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2012–18425 Filed 7–26–12; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2012–0048]

Service Delivery Plan

AGENCY: Social Security Administration (SSA).

ACTION: Notice; request for comments.

SUMMARY: We are requesting public input as we develop our Service Delivery Plan (SDP). We recently completed our *Agency Strategic Plan (ASP) for 2013–2016.* The ASP identifies four goals: (1) Deliver quality disability decisions and services; (2) provide quality service to the public; (3) preserve the public's trust in our programs; and (4) strengthen our workforce and infrastructure. Consistent with these goals, our SDP will outline how we plan to provide our services over the next four years and beyond.

DATES: To ensure that we consider your comments, we must receive them no later than August 27, 2012.

ADDRESSES: You may submit comments by one of three methods—Internet, fax, or mail. Do not submit the same comments multiple times or by more than one method. Regardless of which of the following methods you choose, please state that your comments refer to Docket No. SSA–2012–0048 so that we associate your comments with the correct document.

Caution: You should be careful to include in your comments only information that you wish to make publicly available. Do not include in your comments any personal information, such as Social Security numbers or medical information.

1. *Internet:* We strongly recommend that you submit your comments via the Internet. Please visit the Federal eRulemaking portal at *http://www.regulations.gov.* Use the Search function of the Web page to find docket number SSA–2012–0048. The system will issue you a tracking number to confirm your submission. It may take up to one week for your comment to be viewable.

2. *Fax:* Fax comments to (410) 966–2830.

3. *Mail:* Mail your comments to the Office of Regulations, Social Security Administration, 107 Altmeyer Building, 6401 Security Boulevard Baltimore, Maryland 21235–6401.

FOR FURTHER INFORMATION CONTACT: Melissa Spencer, Social Security Administration, 900 Altmeyer Building, 6401 Security Boulevard Baltimore, MD 21235–6401, (410) 965–3830. For information about specific claims or our programs, please visit our Internet site, Social Security Online at *http://www.socialsecurity.gov*, or call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778.

SUPPLEMENTARY INFORMATION: Social Security affects nearly every American and contributes significantly to the Nation's economy. As we develop our plan, we are interested in hearing from you, our customers. We invite you to respond to several focused questions. Your answers to the following questions will help us think carefully about our future services. We will review all comments and consider your thoughts as we develop our plan.

Questions

1. We provide services to the public, such as handling claims for Social Security and Supplemental Security Income, that are clearly central to our core mission. Over time, we have taken on many other services that do not directly support our mission, such as responding to requests for verifying benefit amounts and assisting people with claims for other Federal benefits. Do you have suggestions for new or different ways that we can provide our core and non-core services?

2. Over the last ten years, we have had great success in enhancing and implementing many electronic services for the public, which have improved service while helping us handle increased workloads. We intend to continue to enhance our electronic services. Do you have suggestions for how we should proceed, including what services we should automate first?

3. What other suggestions do you have about how we handle our workloads and interact with our customers?

Please see the information under **ADDRESSES** earlier in this document for methods to give us your comments. We will not respond to your comments, but we will consider them as we review all responses.

Michael J. Astrue,

Commissioner of Social Security.

[FR Doc. 2012–18269 Filed 7–26–12; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 7965]

In the Matter of the Review of the Designation of the Islamic Resistance Movement (Hamas and Other Aliases)

As a Foreign Terrorist Organization pursuant to Section 219 of the Immigration and Nationality Act, as Amended

Based upon a review of the Administrative Record assembled pursuant to Section 219(a)(4)(C) of the Immigration and Nationality Act, as amended (8 U.S.C. 1189(a)(4)(C)) (''INA''), and in consultation with the Attorney General and the Secretary of the Treasury, I conclude that the circumstances that were the basis for the 2008 determination to maintain the designation of the aforementioned organization as a foreign terrorist organization have not changed in such a manner as to warrant revocation of the designation and that the national security of the United States does not warrant a revocation of the designation.

Therefore, I hereby determine that the designation of the aforementioned organization as a foreign terrorist organization, pursuant to Section 219 of the INA (8 U.S.C. 1189), shall be maintained.

This determination shall be published in the **Federal Register**.

Dated: July 18, 2012.

Hillary Rodham Clinton,

Secretary of State, Department of State.

[FR Doc. 2012–18368 Filed 7–26–12; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In June 2012, there were five applications approved. This notice also includes information on two applications, approved in May 2012, inadvertently left off the May 2012 notice. Additionally, six approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: City of McAllen, Texas.

Application Number: 11–05–C–00–MFE.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $19,145,000.

Earliest Charge Effective Date: June 1, 2013.

Estimated Charge Expiration Date: December 1, 2026.

Class of Air Carriers Not Required to Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information submitted in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at McAllen-Miller International Airport.

Brief Description of Projects Approved for Collection and Use:

Terminal building improvements.

Terminal area apron.

Shared use passenger processing system.

PFC application and administration fees.

Brief Description of Disapproved Project:

Sterilizer and steam generator.

Determination: Disapproved. This project does not meet the requirements of § 158.15(b).

Decision Date: May 2, 2012.

For Further Information Contact: Sarah Conner, Texas Airports Development Office, (817) 222–5682.

Public Agency: County of Westchester, White Plains, New York.

Application Number: 12–07–C–00–HPN.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $3,000,000.

Earliest Charge Effective Date: August 1, 2013.

Estimated Charge Expiration Date: August 1, 2014.

Class of Air Carriers Not Required to Collect PFC's: Nonscheduled/on-demand air carriers filing FAA Form 1800–31.

Determination: Approved. Based on information submitted in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Westchester County Airport.

Brief Description of Project Approved for Collection and Use:

Replace two existing jet bridges and procure two additional jet bridges.

Decision Date: May 17, 2012.

For Further Information Contact: Andrew Brooks, New York Airports District Office, (516) 227–3816.

Public Agency: Lancaster Airport Authority, Lititz, Pennsylvania.

Application Number: 12–02–C–00–LNS.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $110,174.

Charge Effective Date: Not applicable.

Charge Expiration Date: Not applicable.

Class of Air Carriers Not Required to Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use:

Rehabilitate southeast general aviation apron, design.

Replace perimeter fence with security fence, design.
Aircraft rescue and firefighting building.
Extend runway—relocate road.

Decision Date: June 6, 2012.

For Further Information Contact: Lori Ledebohm, Harrisburg Airports District Office, (717) 730–2835.

Public Agency: County of Wicomico, Salisbury, Maryland.

Application Number: 12–04–C–00–SBY.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $937,983.

Earliest Charge Effective Date: March 1, 2013.

Estimated Charge Expiration Date: February 1, 2017.

Class of Air Carriers Not Required to Collect PFC's: Part 135 carriers and foreign carriers.

Determination: Disapproved. The proposed class totally more than 1 percent of the airport's annual enplanements.

Brief Description of Projects Approved for Collection and Use:

Develop PFC application.
Rehabilitate air carrier terminal—phase 1.
Rehabilitate terminal vehicle access loop.

Brief Description of Withdrawn Project:

Air traffic control tower rehabilitation.

Date of Withdrawal: May 22, 2012.

Decision Date: June 11, 2012.

For Further Information Contact: Jeffrey Breeden, Washington Airports District Office, (703) 661–1363.

Public Agency: County of Emmet, Petoskey, Michigan.

Application Number: 12–12–C–00–PLN.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $481,281.

Earliest Charge Effective Date: October 1, 2014.

Estimated Charge Expiration Date: September 1, 2021.

Class of Air Carriers Not Required to Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use:

Snow removal equipment and aircraft rescue and firefighting facility.
New electrical vault.
Baggage claim vehicle doors.

Decision Date: June 13, 2012.

For Further Information Contact: Alex Erskine, Detroit Airports District Office, (734) 229–2927.

Public Agency: Columbus Consolidated Government, Columbus, Georgia.

Application Number: 12–05–C–00–CSG.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $601,216.

Earliest Charge Effective Date: August 1, 2012.

Estimated Charge Expiration Date: February 1, 2015.

Class of Air Carriers Not Required to Collect PFC's: Air taxi/commercial operators operating at Columbus Metropolitan Airport (CSG).

Determination: Approved. Based on information submitted in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at CSG.

Brief Description of Projects Approved for Collection and Use:

PFC update.
Airport entrance road improvements.
Terminal building improvements.
Airfield security improvement.
Taxiway C relocation phase II—design and construction.
Airport communications upgrade.
Aircraft rescue and firefighting equipment.

Decision Date: June 20, 2012.

For Further Information Contact: Anna Lynch, Atlanta Airports District Office, (404) 305–7146.

Public Agency: City of Hailey and County of Blaine, Hailey, Idaho.

Application Number: 12–08–C–00–SUN.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $527,500.

Earliest Charge Effective Date: January 1, 2014.

Estimated Charge Expiration Date: January 1, 2016.

Class of Air Carriers Not Required to Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information submitted in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Friedman Memorial Airport.

Brief Description of Projects Approved for Collection and Use:

Acquire snow removal equipment.
Security improvements.
PFC administrative costs.

Decision Date: June 25, 2012.

For Further Information Contact: Trang Tran, Seattle Airports District Office, (425) 227–1662.

AMENDMENTS TO PFC APPROVALS

Amendment No., city, State	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
97–03–C–02–IYK, Inyokern, CA	05/30/12	$232,373	$257,452	03/01/03	03/01/03
09–10–C–02–FLL, Fort Lauderdale, FL	05/30/12	227,729,300	230,829,300	04/01/17	09/01/17
09–03–C–01–NYL, Yuma, AZ	06/01/12	1,251,361	1,371,361	07/01/18	03/01/19
97–05–C–02–CLE, Cleveland, OH	06/06/12	41,844,570	36,187,509	11/01/99	05/01/00
09–11–C–01–SLC, Salt Lake City, UT	06/15/12	68,334,400	75,162,900	06/01/11	08/01/11
09–04–C–02–ROW, Roswell, NM	06/26/12	627,519	1,450,118	11/01/13	02/01/19

Issued in Washington, DC, on July 18, 2012.

Joe Hebert,

Manager, Financial Analysis and Passenger Facility Charge Branch.

[FR Doc. 2012–18208 Filed 7–26–12; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2012–23]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number involved and must be received on or before August 16, 2012.

ADDRESSES: You may send comments identified by Docket Number FAA–2012–0533 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

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

FOR FURTHER INFORMATION CONTACT: Tyneka Thomas ARM–105, (202) 267–7626, FAA, Office of Rulemaking, 800 Independence Ave SW., Washington, DC 20591. This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on July 18, 2012.

Lirio Liu,

Acting Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2012–0533.

Petitioner: I–TEC.

Section of 14 CFR Affected: 14 CFR part 61, Subparts J and K.

Description of Relief Sought: The relief sought would allow pilots who hold a sport pilot certificate and flight instructors with a sport pilot rating to operate an ITEC Maverick SP roadable aircraft.

[FR Doc. 2012–18363 Filed 7–26–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2012–27]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before August 16, 2012.

ADDRESSES: You may send comments identified by Docket Number FAA–2012–0081 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

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

FOR FURTHER INFORMATION CONTACT: Frances Shaver, ARM–207, (202) 267–4059, FAA, Office of Rulemaking, 800 Independence Ave. SW., Washington, DC 20591. This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on July 19, 2012.

Lirio Liu,

Acting Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2012–0081.

Petitioner: Blue Ridge Community College.

Section of 14 CFR Affected: § 147.21(b)(1), (2) and (3).

Description of Relief Sought: The petitioner requests relief to allow it to redistribute the overall 1,900 mandated

hours of instruction within the General, Airframe and Powerplant cirriculum.

[FR Doc. 2012–18376 Filed 7–26–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35648]

Penn-Ohio Transportation, LLC—Acquisition Exemption—Eastern States Railroad, LLC and Columbiana County Port Authority

Penn-Ohio Transportation, LLC (Penn-Ohio), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to: (1) Acquire from Eastern States Railroad, LLC (ESR), its lease and operating rights to approximately 35.7 miles of rail line, referred to as the Youngstown-Darlington Line, extending between milepost 0.0 in Youngstown, Ohio, and milepost 35.7 in Darlington, Pa., currently operated by the Youngstown & Southeastern Railway Company (YSRC) and owned by Columbiana County Port Authority (CCPA); (2) receive permanent assignment of ESR's and CCPA's agreements and operating rights to approximately 3 miles of continuous track segments running east of milepost 0.0 that connect to the Youngstown-Darlington Line and that facilitate interchange with Norfolk Southern Railway Company and CSX Transportation, Inc.; and (3) acquire from CCPA the Youngstown-Darlington Line, as well as any operating rights held by CCPA.

Penn-Ohio intends to continue to have YSRC operate the line or to lease the line to a new operator, which would seek appropriate authority from the Board. Penn-Ohio states that it will retain a residual common carrier obligation on the line.

The transaction may be consummated on or after August 12, 2012, the effective date of the exemption (30 days after the notice of exemption was filed).

Penn-Ohio certifies that its projected annual revenues as a result of this transaction will not exceed $5 million and will not result in the creation of a Class I or Class II rail carrier.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Stay petitions must be filed no later than August 3, 2012 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35648, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on David M. Williamson, Alston & Bird, LLP, The Atlantic Building, 950 F Street, Washington, DC 20004.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: July 23, 2012.

By the Board, Richard Armstrong, Acting Director, Office of Proceedings.

Raina S. White,

Clearance Clerk.

[FR Doc. 2012–18369 Filed 7–26–12; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Quarterly Publication of Individuals, Who Have Chosen To Expatriate, as Required by Section 6039G

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This notice is provided in accordance with IRC section 6039G of the Health Insurance Portability and Accountability Act (HIPPA) of 1996, as amended. This listing contains the name of each individual losing United States citizenship (within the meaning of section 877(a) or 877A) with respect to whom the Secretary received information during the quarter ending June 30, 2012. For purposes of this listing, long-term residents, as defined in section 877(e)(2), are treated as if they were citizens of the United States who lost citizenship.

Last name	First name	Middle name/ initials
AKAGAWA	ROY	KOICHI
ALZOUMAN	SALEH	F.
ALZOUMAN	SARAH	S.
ANDERSON	ERIC	MOLTZAU
AU–YEUNG	RORCE	
BALL	ROBERT	JAMES
BARKAS	DIANNE	JANET
BARKAS	ROY	HOWARD
BECK	MICHAEL	JOSEF
BELL	MARILYN	JAYNE
BENDER	SALLIE	JEAN
BENTLEY	JOHN	JOSEPH
BENTLEY	JOHN	J.
BETZ–VAIS	KLAUS	
BI	JEFF	HUA
BI	WEI	LI
BLENKERS	TED	
BODMER	ANDREA	ISABELLE
BRINGOLF	BRENDA	VICKI
BROOKES	IAN	KENNETH
BURKE	ANGELA	ROSEMARIE BROWN
CAMPBELL	DANIEL	
CARLTON	NANCY	
CELLIER–PESTALOZZI	URSULA	BETTINA
CHAN	DAISY	ANN
CHAN	JENNY	SIU CHUN
CHAN	JUSTIN	CHANG YI
CHANG	DEBBIE	P.
CHANG	JACINTA	YEUNG CHEONG
CHANG	MICHAEL	YIO-HOW
CHENG	NICOLAS	VINCENT
CHI	TELLY	TAI HSUAN
CHINOY	SAMIR	MUSTAPHA
CHIRATHIVAT	SOOKTA	
CHIU	HARVEY	
CHOI	ANTHONY	SHEUNGLI
CHOI	JASON	STUART
COHEN	LYNNE	GAIL
COLEMAN	CAROLE	CHRISTINE
COLEMAN	JAMES	RANDOLPH
CRONE	MORTICIA	AUTUMN
D'ANNOUX	MARIE–CHRISTINE	BAUDENET
DAVIRON	CHRISTOPHE	JEAN LINDSEY
DELISSER	PAMELA	LYN MCKEE
DINU	SURESCU	
DUBS	CHRISTIAN	PAUL
DUPONT–WILNER	CATHERINE	ANN
EDESSARY	SWETHA	
EREZ	DAPHNE	BARAK
FAZANDE	MARTINE	
FAZANDE	MICHELE	MARIE
FIDANI	ROBERT	MICHAEL
FITZPATRICK	PAMELA	MARGARET
FLEISHER	ANDREW	ROY
FRESIA	BRADLEY	DUANE
GAUDINO	MIKA	ALDRICH
GODFREY	SEAN	MICHAEL
GOH	DENISE	SU-LI
GOLD	MARVIN	BENJAMIN
GONG	CHENGQIAN	
GRENIER	MARTIN	
GUT	PHILIP	CHRISTOPHER
HAERING	MARKUS	PETER
HEARREAN	ELDA	MARGUERITE
HEARREAN	ROY	EDWARD
HEMMINGS	MARY	SUE
HINDS	PHILLIP	BRADLEY
HONDEGHEM	KATHY	YVONNE
HSU	DONALD	P.
HU	RICHARD	YAO YUAN
HUDYMA	RONAYE	
HWANG	HYONGTAEK	
IYNEDJIAN	MARC	ALEXANDER
JAFFER	ADIL	KADER
JANISCH	CHERYL	LYNN
JANKOW	DANIELLE	ESTER

Last name	First name	Middle name/ initials
JEFFERSON	GEORGE	KENNETH
JONES	DENNIS	CHARLES
JONES	MARJEAN	
JONES	STEPHANIE	ESTHER
JOYCE	MARY	THELMA
KANEB	STEPHANIE	MARGARET
KARAGEORGEVIC	ELIZABETH	
KELLER	ELLIOT	
KIM	DAVID	
KIM	KEEHOWAN	
KIM	MI	LIE
KIM	MYUNG	OK
KIM	YEONG	JUN
KONDRATIEV	MARIE	NADEJDA
KOO	DOROTHEA	GERALDINE
KRAMER	ANGELA	ELISABETH
KUEBLER	PHILIP	MARC
LAMBA	ROMNESH	
LAU	KA	SHI BETSY
LAUTERBURG	BERNHARD	HANS
LAW	ALICE	
LEE	ANDREW	HENRY
LEE	BONG	
LEE	DENNIS	JEE-WOO DEAN
LEE	TONY	KWOK CHEN
LEE	VICTORIA	KATIE
LEE	WENDY	WAI SHUM
LEUNG	KING	ANSELM
LI	ADRIENNE	MAY
LI	JEREMY	YUEN LIM
LLAMANZARES	MARY	GRACE POE
LO	TINA	YI-CHUN
LOMAX	BRITANNIA	ROSE
LU	LUCY	KAI YEE
LUI	ANDREA	
MAALOUF	RACHID	FAUZI
MAK	ARTHUR	TAK LEUNG
MAMON	GARY	ALLAN
MARK	SHARON	LANNE
MC KILLOP	RICHARD	WAYNE
MILLAR	JORDAN	MICHELLE
MOSKEY	MATTHEW	LOVE
NAHMANI	GABRIELLE	OLIVIA
NAM	CHRIS	MOONKEY
NG	EARNEST	FU FONG
NG	GLORIA	SOOK MUN
ODERMATT	RONALD	ELDON
O'SHEA	JOHN	JAMES
PATALE	AMEY	SUNIL
PENNER	MARTHA	LEE
PROCTOR	ROSEMARY	HELENA
PU	HAI	
PUESCHEL	GUNTER	PAUL
ROHMEDER	MICHAEL	PETER
ROOS	RACHEL	NATALIA
ROPER III	FRANK	A.
RYU	KWANGHYUN	DANIEL
RYU	SEUNGWOON	
SADIQ	NUZHAT	
SANGER	MARTINE	HENRIETTE
SAU	MARK	
SCHIESS	FRANCISCA	CAROL
SCHINDLER	ANNETTE	
SHEVELL–BERGER	TRUDI	LYN
SIMETH	EVA	MARIA
SISMONDO	SOPHIA	M.
SKWAROK	ELEANOR	HELENE
SO	FIONA	WAI LUI
SOJER	CAMILLE	JOAN
ST CHARLES	CAROLE	
STAR	GRACE	DANA WHITE
STATHAM	ANDREW	CRAIG
STATON	ALICE	MARY
STEIN	AMELIA	YUEN-YU
STEPHANSEN	JOYCE	CORINNE
STIEGELMAIR	HEIDI	YVETTE
STIEGELMAIR	TONJA	YVONNE
SU	JIN	CHIN
SU	XIAOBO	SARA SHAO
SUEN	SAMSON	C. L.
SY	KEVIN	NEIL
TAN	LAI	HING
THARALDSEN	PAUL	SVERRE SILJAN
TONKINSON	KENNETH	WILLIAM
TRUBOWITZ	EUGENE	BERNARD
TSAI	ALBERT	JIN-MIN
TSAI	MAGGIE	M H UENG
TSAI	RICHARD	MING–HSING
TSENG	EDWIN	
TU	JAMES	XINJUN
VACCANI	STACY	BROWN OVERBEY
WANG	JEFF	DA-SHIN
WANG	ZHI	
WARREN	DONALD	
WEDEL	RUDOLF	KLAUS WALTER
WEISSHAAR	JASMIN	PATRICIA
WILEY	STEVE	
WILLIS	SANDRA	ANN
WONG	ADRIAN	CHUN KIT
WONG	JASPER	CHINCHUNG
WONG	SZE	TCHUNG
WOO	TRACY	
YANG	BESSIE	SHIH-FUN
YEN	RICHARD	TSAN KWONG
YEUNG	ANDREW	
YEUNG	CARMEN	
YI	HYON	SUN
YI	RAO	
YUNG	ANDREA	STEPHANIE
ZELASKO	ANDREW	ARIE
ZELASKO	CHANA	MIRIAM
ZELUCK	GREGORY	MICHAEL
ZHU	MANTIAN	MYRON

Dated: July 11, 2012.

Ann V. Gaudelli,

Manager Team 103, Examinations Operations—Philadelphia Compliance Services.

[FR Doc. 2012–18309 Filed 7–26–12; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL REGISTER

Vol. 77 Friday,

No. 145 July 27, 2012

Part II

Office of Personnel Management

2011 Career Reserved Senior Executive Positions; Notice

OFFICE OF PERSONNEL MANAGEMENT

2011 Career Reserved Senior Executive Positions

AGENCY: U.S. Office of Personnel Management (OPM).

ACTION: Notice.

SUMMARY: As required by section 3132(b)(4) of title 5, United States Code, this gives notice of all positions in the Senior Executive Service (SES) that were career reserved during calendar year 2011.

FOR FURTHER INFORMATION CONTACT: Phyllis Proctor, Senior Executive Resources Services, Executive Resources and Employee Development, Employee Services, 202–606–2246, *SERS@opm.gov*.

SUPPLEMENTARY INFORMATION: Below is a list of titles of SES positions that were career reserved at any time during calendar year 2011, regardless of whether those positions were still career reserved as of December 31, 2011. Section 3132(b)(4) of title 5, United States Code, requires that the head of each agency publish such lists by March 1 of the following year. The Office of Personnel Management is publishing a consolidated list for all agencies.

Agency	Organization	Title
ADMINISTRATIVE CONFERENCE OF THE UNITED STATES.	Research Office	Research Director.
		General Counsel.
	Administrative Conference of the United States.	General Counsel.
		Executive Director.
ADVISORY COUNCIL ON HISTORIC PRESERVATION.	Office of the Executive Director	Executive Director.
DEPARTMENT OF AGRICULTURE	Office of Communications	Deputy Director, Creative Development.
	Office of the Chief Information Officer	Associate Chief Information Officer.
		Deputy Chief Information Officer.
	Office of the Chief Financial Officer	Associate Chief Financial Officer, Financial Systems Planning and Management.
		Associate Chief Financial Officer for Financial Policy and Planning.
		Deputy Chief Financial Officer.
	National Finance Center	Deputy Director, National Finance Center.
		Director, Financial Services Division.
		Director, Information Resources Management Division.
	Office of the General Counsel	Assistant General Counsel.
		Assistant General Counsel, Legislation, Litigation and General Law.
	Office of the Chief Economist	Director, Global Change Program Office.
		Director, Office of Risk Assessment and Cost-Benefit Analysis.
		Chairperson.
		Director, Office of Energy Policy and New Uses.
	Office of Human Resources Management	Provost, USDA Virtual University.
	Office of Advocacy and Outreach	Director, Office of Advocacy and Outreach.
	Office of Operations	Director, Office of Operations.
	Procurement and Property Management	Director, Procurement and Property Management.
	Rural Business Service	Deputy Administrator, Business Programs.
	Rural Housing Service	Chief Financial Officer.
		Administrator, Operations and Management.
		Director, Human Resources.
		Deputy Administrator, Multi-Family Housing.
		Budget Officer.
		Deputy Administrator for Operations and Management.
		Deputy Administrator, Centralized Servicing Center.
	Agricultural Marketing Service	Deputy Administrator, Dairy Programs.
		Deputy Administrator, Science and Technology Programs.
		Deputy Administrator, Poultry Programs.
		Deputy Administrator, Livestock and Seed Programs.
		Deputy Administrator for National Organic Programs.
		Deputy Administrator, Cotton and Tobacco Programs.
		Deputy Administrator, Compliance and Analysis.
		Deputy Administrator, Fruit and Vegetable Programs.
		Deputy Administrator, Information Technology Services.

Agency	Organization	Title
		Deputy Administrator, Transportation and Marketing Programs.
		Associate Administrator.
	Animal and Plant Health Inspection Service ...	Director, Center for Veterinary Biologics.
		International Services Area Director (Trade).
		Director, Information Technology Division.
		Deputy Administrator, Animal Care.
		Deputy Administrator for Marketing and Regulatory Programs-Business Services.
		Director, Investigative and Enforcement Services.
		Director, National Wildlife Research Center.
		Deputy Administrator, Legislative and Public Affairs.
		Deputy Administrator for International Services.
		Deputy Administrator, Biotechnology Regulatory Programs.
		Associate Deputy Administrator, Veterinary Services, Emergency Programs.
		Director, Western Region, Wildlife Services.
		Director, Center for Plant Health Science and Technology.
		Assistant Deputy Administrator, Emergency and Domestic Programs.
		Associate Deputy Administrator, Wildlife Services.
		Senior Animal and Plant Health Inspection Service International Organization Coordinator.
		Director, Eastern Region, Wildlife Services.
		Associate Deputy Administrator for Marketing and Regulatory Programs—Business Services.
		Associate Deputy Administrator, Emerging and International Programs.
		Chief Advisor (Government, Academia and Industry Partnership).
		Associate Deputy Administrator for Animal Care.
		Executive Associate Deputy Administrator.
		Human Resources Officer.
	Veterinary Services	Associate Deputy Administrator, National Animal Health Policy Programs.
		Director, Eastern Region, Veterinary Services.
		Director, Western Region, Veterinary Services.
		Director, Center for Epidemiology and Animal Health.
		Deputy Administrator, Wildlife Services.
	Plant Protection and Quarantine Service	Director, Eastern Region, Plant Protection and Quarantine.
		Director, Western Region, Plant Protection and Quarantine.
		Director, Plant Health Programs, Plant Protection and Quarantine.
	Office of the Under Secretary for Food Safety	United States Manager for Codex.
	Food Safety and Inspection Service	Assistant Administrator, Office of Policy and Program Development.
		Assistant Administrator, Office of Catfish Inspection Programs.
		Executive Associate for Regulatory Operations, Office of Field Operations.
		Deputy Assistant Administrator, Office of Program Evaluation Enforcement and Review.
		Deputy Assistant Administrator, Office of Policy and Program Development.
		Assistant Administrator, Office of Public Affairs, Education and Outreach.
		Assistant Administrator, Office of Management.
		Assistant Administrator, Office of Data Integration and Food Protection.

Agency	Organization	Title
		Deputy Assistant Administrator, Office of Data Integration and Food Protection.
		Assistant Administrator, Office of Program Evaluation Enforcement and Review.
		Deputy Assistant Administrator, Office of Management.
		Executive Associate for Regulatory Operations, Office of Field Operations.
		Executive Associate for Public Health.
		Executive Associate for Regulatory Operations, Office of Field Operations.
		Deputy Assistant Administrator, Office of International Affairs.
		Executive Associate for Regulatory Operations, Office of Field Operations.
		Executive Associate for Laboratory Services, Office of Public Health Science.
		Assistant Administrator, Office of International Affairs.
		Assistant Administrator.
		Deputy Assistant Administrator, Office of Field Operations.
		Deputy Assistant Administrator, Office of Public Health Science.
		Deputy Administrator.
		Assistant Administrator, Office of Field Operations.
		Chief Financial Officer.
		Chief Information Officer.
		Deputy Administrator.
	Food and Nutrition Service	Director, Office of Research, Nutrition and Analysis.
		Financial Manager.
		Program Manager (Deputy Administrator for Management).
		Associate Administrator for Management and Finance.
		Program Manager (Associate Administrator for Regional Operations and Support).
	Foreign Agricultural Service	Deputy Administrator, Office of Scientific and Technical Affairs.
		Associate Administrator (Chief Operating Officer).
		Deputy Administrator, Office of Global Analysis.
	Farm Service Agency	Director, Office of Budget and Finance.
		Director, Conservation Environment Programs Division.
		Deputy Director, Office of Budget and Finance.
		Assistant Deputy Administrator for Farm Programs.
		Deputy Administrator for Farm Loan Programs.
	Risk Management Agency	Deputy Administrator for Research and Development.
		Deputy Administrator for Insurance Services Division.
	Office of the Under Secretary for Research, Education, and Economics.	Director, Office of the USDA Chief Scientist.
	Agricultural Research Service	Associate Deputy Administrator for Administrative and Financial Management.
		Chief Budget Officer.
		Associate Administrator, Research Operations and Management.
		Deputy Administrator, Animal Production and Protection.
		Director, Office of International Research Programs.
		Deputy Administrator, Food Nutrition, Safety and Quality.
		Deputy Administrator for Administrative and Financial Management.
		Director, Office of Pest Management Policy.

Agency	Organization	Title
		Director, National Animal Disease Center.
		Assistant Administrator for Technology Transfer.
	National Program Staff Office	Deputy Administrator.
		Associate Administrator, National Programs.
		Deputy Administrator for Natural Resources and Sustainable Agriculture Systems.
	Beltsville Area Office	Director, Beltsville Human Nutrition Research Center.
		Associate Director, Beltsville Area.
		Director, Animal and Natural Resources Institute.
		Director, U.S. National Arboretum.
		Director, Plant Sciences Institute.
		Chief Information Officer.
		Director, Beltsville Area Office.
	North Atlantic Area Office	Director, North Atlantic Area.
		Director, Eastern Regional Research Center.
		Associate Director, North Atlantic Area.
	South Atlantic Area Office	Associate Director, South Atlantic Area.
		Director, South Atlantic Area.
	Midwest Area Office	Associate Director, Midwest Area.
		Director, National Center for Agriculture Utilization.
		Director, Midwest Area.
	Mid-south Area Office	Associate Director, Mid-South Area.
		Director, Southern Regional Research Center.
		Director, Mid-South Area.
	Southern Plains Area Office	Director, Southern Plains Area.
		Associate Director, Southern Plains Area.
	Northern Plains Area Office	Director, Northern Plains Area.
		Director, United States Meat Animal Research Center.
		Associate Director, Northern Plains Area Office.
	Pacific Office, West Area	Associate Director, Pacific West Area Office.
		Director, Western Regional Research Center.
		Director, Pacific West Area Office.
		Director, Western Human Nutrition Research Center.
	National Institute of Food and Agriculture	Assistant Director, Office of Information Technology.
		Assistant Director, Office of Grants and Financial Management.
		Assistant Director, Institute of Bioenergy, Climate and Environment.
		Senior Advisor to the Director.
		Assistant Director, Institute of Food Safety and Nutrition.
		Assistant Director, Institute of Food Safety and Nutrition.
	Economic Research Service	Director, Information Services Division.
		Administrator, Economic Research Service.
		Director, Market and Trade Economics Division.
		Budget Coordinator and Strategic Planner.
		Director, Food and Rural Economics Division.
		Director, Resource Economics Division.
		Associate Administrator, Economic Research Service.
	National Agricultural Statistics Service	Administrator, National Agricultural Statistics Service.
		Director, Research and Development Division.
		Deputy Chief for Programs.
		Director, Information Technology Division.
		Director, Census and Survey Division.
		Director, Statistics Division.
		Director, Eastern Field Operations.
		Associate Deputy Administrator (Western United States).
		Director, Western Field Operations.
		Associate Administrator.
		Chairperson of the U.S. Agricultural Statistics Board.

Agency	Organization	Title
		Special Assistant.
		Director, National Operations Center.
	Natural Resources Conservation Service	Deputy Chief for Strategic Planning and Accountability.
		Director, Resource Conservation and Rural Lands Division.
		Director, Conservation Engineering Division.
		Director, Ecological Sciences Division.
		Associate Deputy Chief for Science and Technology.
		Director, Resource Economics, Analysis and Policy Division.
		Director, Conservation Planning and Technical Assistance Division.
		Director, Animal Husbandry and Clean Water Programs Division.
		Senior Advisor, Chesapeake Bay Watershed.
		Director, Resource Inventory Division.
		Director, Operations Management and Oversight.
		Director, Easement Programs Division.
		Associate Deputy Chief for Management.
		Chief Financial Officer.
		Deputy Chief for Easements and Landscape Planning.
		Special Assistant to Chief.
		Special Assistant to Chief.
		Director, Resource Assessment Division.
		Deputy Chief for Programs.
		Director, Financial Assistance Programs Division.
		Director, Soil Survey Division.
	Forest Service	Deputy Chief, Business Operations.
		Director, Acquisition Management.
		Chief Financial Officer.
		Associate Deputy Chief for Business Operations.
		Director, Law Enforcement and Investigations.
		Associate Deputy Chief, Research and Development.
		Associate Deputy Chief, Research and Development.
		Director, Fire and Aviation Staff.
	Research Office	Director, Science Policy, Planning and Information Staff.
		Director, Environmental Sciences.
		Director, Resource Use Sciences.
		Director, Vegetation Management and Protection Research Staff.
	National Forest System	Director, Ecosystem Management Coordination.
		Director, Minerals and Geology Management Staff.
		Director, Lands Management Staff.
		Director, Engineering.
		Director, Forest Management Staff.
		Director, Rangeland Management.
		Director, Water, Fish, Wasteland, Air and Rare Plants.
	State and Private Forestry	Director, Forest Health Protection.
		Senior Advisor to the Deputy Chief, State and Private Forestry.
		Director, Cooperative Forestry.
	Field Units	Northeast Area Director, State and Private Forestry.
		Director, Rocky Mountain Forest and Range Experiment Station (Fort Collins).
		Director, Pacific Southwest Forest and Range Experiment Station (Vallejo).
		Director, Forest Products Laboratory (Madison).
		Director, Southern Research Station (Asheville).

Agency	Organization	Title
		Station Director, Northeastern Forest Experiment Station (Newtown Square).
		Director, Pacific Northwest Research Station.
	International Forest System	Director, International Institute of Tropical Forest (Rio Piedras).
DEPARTMENT OF AGRICULTURE OFFICE OF THE INSPECTOR GENERAL.	Office of the Inspector General	Deputy Inspector General.
		Counsel to the Inspector General.
	Office of the Assistant Inspector General for Management.	Assistant Inspector General for Management.
	Office of the Assistant Inspector General for Audit.	Deputy Assistant Inspector General for Audit.
		Deputy Assistant Inspector General for Audit.
		Assistant Inspector General for Audit.
		Deputy Assistant Inspector General for Audit.
	Office of the Assistant Inspector General for Investigations.	Assistant Inspector General for Investigations.
		Deputy Assistant Inspector General for Investigations.
AMERICAN BATTLE MONUMENTS COMMISSION.	Office of the Secretary	Deputy Secretary.
		Director, European Region.
ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (UNITED STATES ACCESS BOARD).	Office of the Executive Director	Executive Director.
		Director, Office of Technical and Information Services.
BROADCASTING BOARD OF GOVERNORS	International Broadcasting Bureau	Deputy for Network Operations.
		Director, Engineering and Technical Operations.
		Associate Director for Management.
		Deputy for Engineering Resource Control.
CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD.	Office of the Chief Operating Officer	Chief Operating Officer.
DEPARTMENT OF COMMERCE	Office of the Secretary	Deputy Chief Financial Officer/Deputy Chief Administrative Officer.
		Deputy Assistant Inspector General for Auditing.
		General Counsel.
		Director, Governmental Affairs.
		Director, Office of Information Technology Security, Infrastructure and Technology.
		Director, Office of Information Technology Policy and Planning.
	Office of the Chief Information Officer	Special Assistant for Program Management.
	Office of the General Counsel	Assistant General Counsel for Finance and Litigation.
		Chief, Ethics Division.
		Director, Office of Executive Support.
	Office of the Chief Financial Office	Deputy Assistant Secretary for Resource Management.
		Deputy for Procurement Performance Excellence.
		Deputy Director, Office of Budget.
		Director for Administrative Services.
		Director for Y2K Outreach.
		Director, Office of Acquisition Management.
		Deputy Director for Financial Management.
		Deputy Director for Administrative Services.
		Deputy for Acquisition Program Management.
		Director of the Office of Budget.
		Executive Director, Commerce Connect.
		Director, Human Resources Operations Center.
		Deputy Chief Information Officer.
	Office of the Assistant Secretary for Administration.	Director, Office of Security.
		Deputy Director for Acquisition Management.
		Deputy Director for Human Resources Management.
		Director for Human Resources Management.
	Director for Financial Management	Director for Financial Management and Deputy Chief Financial Officer.
	Office of Budget Management and Information and Chief Information Officer.	Director, Office of Budget.
	Director for Executive Budgeting and Assistance Management.	Director for Federal Assistant and Management Support.
	Office of Security	Deputy Director for Security.

Agency	Organization	Title
		Director, Office of Security.
	Office of the Assistant Secretary for Administration.	Director for Technology Management.
		Deputy Assistant Secretary and Director for Security.
	Office of the Inspector General	Deputy Assistant Inspector General for Economic and Statistical Program Assessment.
		Assistant Inspector General for Systems Evaluation.
		Assistant Inspector General for Administration.
	Office of Counsel to the Inspector General	Counsel to the Inspector General.
	Office of Inspections and Program Evaluation	Assistant Inspector General for Inspections and Program Evaluation.
	Office of Audits	Assistant Inspector General for Auditing.
	Office of Investigations	Assistant Inspector General for Investigations.
	Economics and Statistics Administration	Chief Financial Officer and Director for Administration.
	Bureau of the Census	Senior Advisor for Project Management.
		Associate Director for Administration and Chief Financial Officer.
		Associate Director for Research and Methodology.
		Assistant Director for Research and Methodology.
		Chief, Center for Administrative Records Research and Applications.
		Associate Director for 2020 Census.
		Chief, Decennial Research and Planning Office.
		Senior Advisor for Service Delivery.
		Assistant Director for Decennial Information Technology and Geographic Systems.
		Associate Director for Information Technology and Chief Information Officer.
		Associate Director for Strategic Planning and Innovation.
		Chief, Human Resources Division.
		Assistant Director for American Community Survey and Decennial Census.
		Chief, Center for Economic Studies and Chief Economist.
		Chief, Field Division.
		Comptroller.
		Chief, Budget Division.
		Chief Technology Officer.
	Office of the Director	Chief, Decennial Systems and Contracts Management Office.
		Associate Director for Field Operations.
	Administrative and Customer Services Division.	Chief, Administrative and Customer Services Division.
	Office of the Associate Director for Finance and Administration.	Chief, Acquisition Division.
	Data Preparation Division	Chief, National Processing Center.
	Office of the Associate Director for Economic Programs.	Assistant Director for Economic Programs.
		Associate Director for Economic Programs.
	Economic Planning and Coordination Division	Chief, Economic Planning and Coordination Division.
	Economic Statistical Methods and Programming Division.	Chief, Economic Programming Division.
	Agriculture and Financial Statistics Division	Chief, Company Statistics Division.
	Services Division	Chief, Service Sector Statistics Division.
	Foreign Trade Division	Chief, Foreign Trade Division.
	Governments Division	Chief, Governments Division.
	Manufacturing and Construction Division	Chief, Manufacturing and Construction Division.
	Associate Director for Decennial Census	Associate Director for Decennial Census.
		Chief, American Community Survey Office.
	Decennial Management Division	Chief, Decennial Management Division.
	Geography Division	Chief, Geography Division.
	Decennial Statistical Studies Division	Chief, Decennial Statistical Studies Division.
	Office of the Associate Director for Demographic Programs.	Associate Director for Demographic Programs.

Agency	Organization	Title
		Chief, Demographic Surveys Division.
		Chief, Population Division.
	Housing and Household Economic Statistics Division.	Chief, Social, Economic, and Housing Statistics Division.
	Demographic Statistical Methods Division	Chief, Demographic Statistical Methods Division.
	Statistical Research Division	Chief, Statistical Research Division.
	Bureau of Economic Analysis	Chief, Balance of Payments Division.
		Chief Information Officer.
		Associate Director for Industry Accounts.
	Office of the Director	Deputy Director, Bureau of Economic Analysis.
		Chief Economist.
		Chief Statistician.
		Director, Bureau of Economic Analysis.
		Associate Director for Regional Economics.
		Associate Director for International Economics.
	Office of the Associate Director for National Income, Expenditure, and Wealth Accounts.	Chief, National Income and Wealth Division.
		Associate Director for National Income, Expenditure and Wealth Accounts.
	Bureau of Industry and Security	Director, Office of Enforcement Analysis.
		Chief Financial Officer and Director of Administration.
	Office of the Director of Administration	Deputy Chief Financial Officer.
	Office of the Assistant Secretary for Export Enforcement.	Deputy Director, Office of Export Enforcement.
		Deputy Assistant Secretary for Export Enforcement.
		Director, Office of Export Enforcement.
	Economic Development Administration	Chief Financial Officer/Director of Administration.
	Office of the Assistant Secretary for Economic Development.	Chief Financial Officer/Chief Administrative Officer (Chief Financial Officer/Chief Administrative Officer).
	International Trade Administration	Executive Director for Antidumping and Countervailing Duty Operations.
		Director, Office of Environmental Technologies Industries.
		Senior Director, China/Non-Market Economy Compliance Unit.
	Office of the Under Secretary	Chief Financial Officer and Director of Administration.
	Office of the Deputy Under Secretary	Deputy Chief Administrative Officer.
	Office of the Director of Administration	Human Resources Manager.
	Office of Consumer Goods	Director, Office of Consumer Goods.
	Office of the Deputy Assistant Secretary for Market Access and Compliance.	Director, Trade Compliance Center.
	Market Access and Compliance	Director, Office of Multilateral Affairs.
		Director, Office of China Economic Area.
	Office of the Deputy Assistant Secretary for Trade Agreements and Compliance.	Associate Director for Management.
	National Oceanic and Atmospheric Administration.	Deputy Chief Administrative Officer.
		Director, Office of Education.
		Chief Information Officer and Director for High Performance Computing and Communications.
		Chief Financial Officer.
		Deputy Director, Acquisition and Grants Office.
		Chief, Resource and Operations Management.
		Director, Joint Polar Satellite Systems.
		Deputy Chief Information Officer.
		Director, Acquisition and Grants Office.
		Deputy Director for Workforce Management.
		Deputy Director, Office of Marine and Aviation Operations.
		Director, Office of Ocean Exploration and Research.

Agency	Organization	Title
		System Program Director, National Polar-Orbiting Operational Environmental Satellite System.
		Chief Administrative Officer.
		Program Executive Officer, National Polar-Orbiting Operational Environmental Satellite System.
		Director, Integrated Ocean Observing System.
		Deputy Assistant Administrator for Systems.
		Director, Ocean Prediction Center.
		Chief Financial Officer/Chief Administrator Officer.
		Chief Information Officer for NESDIS.
		Director, Space Environment Center.
	National Oceanic and Atmospheric Administration Coastal Ocean Program Office.	Director, Budget Office.
	Office of Finance and Administration	Director, Finance Office/Comptroller.
		Director, Real Property, Facilities and Logistics Office.
		Director for Workforce Management.
	National Ocean Service	Director, Office of National Geodetic Survey.
		Technical Director.
		Associate Assistant Administrator for Management and Chief Financial Officer/Chief Administrative Officer.
	National Oceanic and Atmospheric Administration Coastal Services Center.	Director, National Centers for Coastal Ocean Science.
	Hazardous Materials Response and Assessment Division.	Director, Office of Response and Restoration.
	Office of the Assistant Administrator for Weather Services.	Director, Strategic Planning and Policy Office.
	Office of the Chief Information Officer	Chief Information Officer for Weather Service.
	Office—Federal Coordinator—Meteorology	Director, Office of the Federal Coordinator for Meteorology.
	Office of Hydrologic Development	Director, Office of Hydrologic Development.
	Hydrology Laboratory	Chief, Hydrology Laboratory.
	Office of Science and Technology	Chief, Programs and Plans Division.
		Director, Office of Science and Technology.
	Meteorological Development Laboratory	Director, Meteorological Development Laboratory.
	Systems Engineering Center	Director, Systems Engineering Center.
	Office of Operational Systems	Director, Office of Operational Systems.
	Field Systems Operations Center	Director, Field Systems Operations Center.
	Telecommunications Operations Center	Chief, Telecommunications Operations Center.
	Maintenance, Logistics and Acquisition Division.	Chief, Operations Division.
	Radar Operations Center	Director, Radar Operations Center.
	National Data Buoy Center	Director, National Data Buoy Center.
	Office of Climate, Water and Weather Services.	Director, Office of Climate, Water and Weather Services.
		Chief, Meteorological Services Division.
	Eastern Region	Director, Eastern Region, National Weather Service.
	Southern Region	Director, Southern Region.
	Central Region	Director, Central Region.
	Western Region	Director, Western Region.
	Alaska Region	Director, Alaska Region, Anchorage.
	National Centers for Environmental Prediction	Director, National Center for Environmental Prediction.
		Director, Environmental Modeling Center.
		Director, National Severe Storms Laboratory.
		Director, Aviation Weather Center.
	National Centers for Environmental Prediction Central Operations.	Director, Central Operations.
	Hydro-meteorological Prediction Center	Chief, Meteorological Operations Division.
	Climate Prediction Center	Director, Climate Prediction Center.
	Storm Prediction Center	Director, Storm Prediction Center.
	Tropical Prediction Center	Director, Tropical Prediction Center/National Hurricane Center.
	Office of Assistant Administrator for Fisheries	Director, Office of Management and Budget.
	National Marine Fisheries Service	Director, Seafood Inspection Program.
		Senior Advisor for Intergovernmental Programs.

Agency	Organization	Title
		Science and Research Director, Pacific Island Region.
		Deputy Assistant Administrator for Regulatory Programs.
		Director for Habitat Conservation.
		Science and Research Director, Southwest Region.
		Director, International Affairs.
		Director, Office of Sustainable Fisheries.
	Office of Fisheries Conservation and Management.	Director, Office of Enforcement.
		Director, Scientific Programs and Chief Science Advisor.
	Office of Protected Resources	Director, Office of Science and Technology.
	Northeast Fisheries Science Center	Science and Research Director, Northeast Region.
	Southeast Fisheries Science Center	Science and Research Director, Southeast Region.
	Northwest Fisheries Science Center	Science and Research Director, Northwest Region.
	Alaska Fisheries Science Center	Science and Research Director.
	Office of Assistant Administrator Satellite, Data Information Service.	Chief Financial Officer/Chief Administrative Officer.
		System Program Director for Goes-R Program.
		Senior Scientist for Environmental Satellite, Data and Information Services (National Environmental Satellite, Data and Information Services).
	Office of the Director, National Polar-Orbiting Operational Environmental Satellite System Integrated Program.	Systems Program Director.
	National Climatic Data Center	Director, National Climatic Data Center.
	National Oceanographic Data Center	Director, National Oceanographic Data Center.
	National Geophysical Data Center	Director, National Geophysical Data Center.
	Office of Systems Development	Director, Satellite and Ground Systems Program.
		Director, Office of Systems Development.
		Director, Requirements, Planning and System Integration Division.
	Office of Assistant Administrator, Ocean and Atmospheric Research.	Chief Financial Officer/Chief Administrative Officer.
		Program Director for Weather Research.
		Deputy Assistant Administrator for Extramural Research.
		Director, Climate Program Office.
		Deputy Assistant Administrator, Laboratories and Cooperative Institutes and Director.
	Office of Oceanic Research Programs	Director, Atlantic Oceanographic and Meteorological Laboratory.
	National Sea Grant College Program	Director, National Sea Grant College Program.
	Aeronomy Laboratory	Director, Chemical Science Division.
	Air Resources Laboratory	Director, Air Resources Laboratory.
	Atlantic Oceanographic and Meteorology Laboratory.	Director, Atlantic Oceanographic and Meteorological Laboratory.
	Geophysical Fluid Dynamics Laboratory	Director, Office of Geophysical Fluid Dynamics Laboratory.
	Great Lakes Environmental Research Laboratory.	Director, Office of Great Lakes Environmental Research Laboratory.
	Pacific Marine Environmental Research Laboratory.	Director, Office of Pacific Marine Environmental Laboratory.
	Environmental Technology Laboratory	Director, Physical Science Division.
	Forecast Systems Laboratory	Director, Global Systems Division.
	Climate Monitoring and Diagnostics Laboratory.	Director, Global Monitoring Division.
	National Telecommunications and Information Administration.	Chief Financial Officer and Director of Administration.
	Institute for Telecommunication Sciences	Associate Administrator for Telecommunications Science.
	Institute for Telecommunication Sciences, Systems and Networks Division.	Deputy Director for Systems and Networks.
	Patent and Trademark Office	Director of Trademark Information Resources.

Agency	Organization	Title
		Administrator for Policy and External Affairs.
		Associate Commissioner for Patent Recourses and Planning.
		Deputy Commissioner for Trademark Operations.
	Office of the Administrator for External Affairs	Deputy Director for Intellectual Property Policy and Enforcement.
		Associate Director, Education and Training.
		Director, Intellectual Property Policy and Enforcement.
	Office of the General Counsel	Deputy General Counsel for Intellectual Property Law and Solicitor.
	Board of Patent Appeals and Interferences	Chief Administrative Patent Judge.
		Chief Administrative Patent Judge.
		Vice Chief Administrative Patent Judge.
	Trademark Trial and Appeal Board	Chairman, Trademark Trial and Appeal Board.
	Office of the Chief Financial Officer	Chief Financial Officer.
		Deputy Chief Financial Officer.
	Office of the Chief Administrative Officer	Director, Human Capital Management.
	Office of the Chief Information Officer	Chief Technology Officer.
	Office of the Commissioner for Patents	Deputy Commissioner for Patent Operations.
		Administrator, Search and Information Resources Administration.
		Deputy Director for the Office of Patent Training.
		Director, Office of Patent Training.
	Examining Group Directors	Group Director (33 positions).
	Office of the Commissioner for Trademarks	Deputy Commissioner for Trademark Operations.
		Deputy Commissioner for Trademark Examination Policy.
		Group Director, Trademark Law Offices (2 positions).
	National Institute of Standards and Technology.	Program Manager, Coordinated National Security Standards Program.
		Chief Safety Officer.
		Executive Director for Business Services and Deputy Chief Financial Officer.
		Boulder Laboratories Site Manager.
		National Coordinator for Smart Grid Interoperability.
		Senior Advisor for Cloud Computing.
		Associate Director for Innovation and Industry Services.
		Associate Director for Management Resources.
		Associate Director for Laboratory Programs.
		Senior Advisor for Voting Standards.
		Director, Standards Coordination Office.
		Senior Information Technology Policy Advisor.
		Director, Smart Grid and Cyber-Physical Systems Program Office.
		Chief Human Capital Officer for National Institute of Standards and Technology.
		Director, Law Enforcement Standards Office.
		Special Assistant for International Metrology.
		Director, National Institute of Standards and Technology Center for Neutron Research.
		Director, Manufacturing Engineering Laboratory.
		Chief of Staff for National Institute of Standards and Technology.
		Deputy Director, National Institute of Standards and Technology Center for Neutron Research.
		Director, Center for Nanoscale Science and Technology.
		Deputy Director, Center for Nanoscale Science and Technology.
		Chief Cybersecurity Advisor.
		Director, Technology Innovation Program.
		Director, Impact Analysis Office.
		Chief Facilities Management Officer.
		Deputy Director, Building and Fire Research.

Agency	Organization	Title
		Deputy Director, National Institute of Standards and Technology Center for Neutron Research.
		Director, Information Technology and Applications Office.
		Chief, Optical Technology Division.
	Office of the Director, National Institute of Standards and Technology.	Chief Financial Officer for NIST.
		Chief Information Officer for National Institute of Standards and Technology.
		Director, Boulder Laboratories.
		Executive Director, Visiting Committee on Advanced Technology Program.
		Director for Administration and Chief Financial Officer.
		Deputy Director for Safety and Facilities.
	Baldrige Performance Excellence Program	Deputy Director, Office of Quality Programs.
		Director, Baldrige Performance Excellence Program.
	Program Office	Director, Program Office.
		Deputy Director, Information Technology Laboratory.
	Office of International and Academic Affairs ...	Director, International and Academic Affairs.
		Chief Financial Officer.
	Manufacturing Extension Partnership Program	Director, Manufacturing Extension Partnership Program.
		Deputy Director, Manufacturing Extension Partnership Program.
		Associate Director for National Programs.
	Director's Office, Technology Innovation	Director, Office of Technology Evaluation and Assessment.
	Director's Office, Advanced Technology Program.	Director, Electronics and Photonics Technology Office.
		Director, Materials and Manufacturing Technology Office.
		Director, Information Technology Laboratory.
		Deputy Director, Advanced Technology Program.
		Associate Director for Policy and Operations.
	Electronics and Electrical Engineering Laboratory.	Chief, Optoelectronics Division.
		Director, Office of Microelectronics Programs.
		Director, Electronics and Electrical Engineering Laboratory.
		Deputy Director for Measurement Services.
	Manufacturing Engineering Laboratory	Deputy Director for Manufacturing.
		Deputy Director, Manufacturing Engineering Laboratory.
		Chief, Office of Manufacturing Programs.
	Precision Engineering Division	Chief, Precision Engineering Division.
	Intelligent Systems Division	Chief, Intelligent Systems Division.
	Chemical Science and Technology Laboratory Office.	Director, Material Measurement Laboratory.
		Chief, Process Measurements Division.
		Deputy Director, Chemical Scientist and Technology Laboratory.
	Physical and Chemical Properties Division	Chief, Physical and Chemical Properties Division.
	Analytical Chemistry Division	Chief, Analytical Chemistry Division.
	Physics Laboratory Office	Manager, Fundamental Constants Data Center.
		Director, Physical Measurement Laboratory.
		Deputy Director, Physics Laboratory.
	Electron and Optical Physics Division	Chief, Electron and Optical Physics Division.
	Atomic Physics Division	Chief, Atomic Physics Division.
		Chief, Quantum Metrology Division.
	Time and Frequency Division	Chief, Time and Frequency Division.
	Quantum Physics Division	Chief, Quantum Physics Division.
		Senior Scientist and Fellow of Joint Institute for Laboratory Astrophysics.
		Senior Scientist and Fellow of Joint Institute for Laboratory Astrophysics.
	Materials Science and Engineering Laboratory Office.	Director, Materials Scientist and Engineering Laboratory.

Agency	Organization	Title
	Ceramics Division	Chief, Ceramics Division.
	Materials Reliability Division	Chief, Materials Reliability Division.
	Reactor Radiation Division	Chief, National Institute of Standards and Technology Center for Neutron Research.
		Chief, Reactor Operations and Engineering.
	Building and Fire Research Laboratory	Chief, Fire Safety Engineering Division.
		Director, Engineering Laboratory.
		Chief, Fire Safety Engineering Division.
	Building Materials Division	Chief, Building Materials Division.
	Building Environment Division	Chief, Building Environment Division.
	Fire Science Division	Chief, Fire Science Division.
	Computer Systems Laboratory Office	Associate Director for Program Implementation.
	Advanced Network Technologies Division	Chief, Advanced Network Technologies Division.
	Computing and Applied Mathematics Laboratory Office.	Associate Director for Computing.
		Chief, High Performance Systems and Services Division.
	National Technical Information Service	Deputy Director, National Technical Information Service.
	Office of the Assistant Director for Financial and Administrative Management.	Associate Director for Finance and Administration.
	Information Technology Laboratory	Deputy Director, Information Technology Laboratory.
		Director, Information Technology Laboratory.
	Office of the Chief Financial Officer	Director, Office of Budget and Planning.
DEPARTMENT OF COMMERCE OFFICE OF THE INSPECTOR GENERAL.	Office of the Inspector General	Deputy Inspector General.
	Office of Audit and Evaluation	Principal Assistant Inspector General for Audit and Evaluation.
	Office of Economic and Statistical Program Assessment.	Assistant Inspector General for Economic and Statistical Program Assessment.
	Office of Systems Acquisitions and IT Security	Assistant Inspector General for Systems Acquisitions and IT Security.
	Office of Audit	Assistant Inspector General for Audit.
	Office of Program Assessment	Deputy Assistant Inspector General for Program Assessment.
	Office of Investigations	Assistant Inspector General for Investigations.
	Office of Counsel	Counsel to the Inspector General.
CONSUMER PRODUCT SAFETY COMMISSION.	Office of Executive Director	Assistant Executive Director for Information and Tech Services.
		Director, Office of International Programs and Intergovernmental Affairs.
		Assistant Executive Director for Compliance and Administrative Litigation.
	Office of Hazard Identification and Reduction	Assistant Executive Director for Hazard Identification and Reduction.
		Associate Executive Director for Economic Analysis.
		Associate Executive Director for Epidemiology.
		Deputy Assistant Executive Director for Hazard Identification and Reduction.
		Associate Executive Director for Engineering Sciences.
COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA.	Office of the Associate Director	Associate Director for Special Criminal Justice Programs.
		Attorney (General Counsel).
		Associate Director of Human Resources.
		Director.
		Deputy Director.
		Associate Director, Legislative, Intergovernmental and Public Affairs.
		Associate Director for Research and Evaluation.
		Associate Director for Management and Administration.
		Chief Information Officer.
		Associate Director for Community Supervision.
		Associate Director for Community Justice Programs.
		Chief Financial Officer.

Agency	Organization	Title
	Pretrial Services Agency	Director of Finance and Administration.
		Deputy Director.
		Director.
		Operations Director.
OFFICE OF THE SECRETARY OF DEFENSE	Office of the Secretary	Assistant to the Secretary of Defense for Intelligence Oversight.
	Office of the Under Secretary of Defense, Policy.	Deputy Assistant Secretary of Defense (Defense Continuity and Crisis Management).
		Foreign Relations and Defense Policy Manager (3 positions).
	Office of Special Operations, Low Intensity Conflict and Interdependent Capabilities.	Director, Resources Management Office.
	Office of Director, Operational Test and Evaluation.	Deputy Director for Live Fire Test and Evaluation.
	Office of Inspector General	Assistant Inspector General for Investigative Policy and Oversight.
		Assistant Inspector General for Inspections and Evaluations.
		Deputy Director, Defense Criminal Investigative Service.
		Assistant Inspector General, Defense Financial Auditing Service.
		Principal Deputy Assistant Inspector General, Defense Financial Auditing Service.
		Assistant Inspector General, Office of Communications and Congressional Liaison.
		Principal Audit Inspector General for Auditing.
		General Counsel and Assistant Inspector General for the Office of Legal Counsel.
		Deputy Inspector General for Intelligence.
		Deputy Inspector General for Inspections and Policy and Oversight.
		Assistant Inspector General for Audit Policy and Oversight.
		Deputy Inspector General for Auditing.
		Assistant Inspector General for Administrative Investigations.
		Assistant Inspector General for Administration and Management.
		Director, Defense Criminal Investigative Service—Assistant Inspector General for Investigations.
		Assistant Inspector General for Readiness and Operations Support.
		Principal Deputy Inspector General.
		Deputy Inspector General for Investigations.
		Assistant Inspector General for Acquisition and Contract Management.
	Office of the Under Secretary of Defense, Personnel and Readiness.	Chief of Staff.
	Office of the Assistant Secretary of Defense, Health Affairs.	Regional Director, Tricare Regional Office—North.
		Deputy Chief, Tricare Acquisitions Directorate.
		General Counsel.
		Director, Information Management, Technology and Reengineering/Military Health System Chief Information Officer.
		Regional Director, Tricare Regional Office—South.
	Office of the Assistant Secretary of Defense, Reserve Affairs.	Principal Director (Manpower and Personnel).
	Office of the Assistant Secretary of Defense, Public Affairs.	Deputy Director, American Forces Information Service.
		Director, Armed Forces Radio and Television Service.
		Director, Defense Media Activity.
	Office of the Under Secretary of Defense (Comptroller).	Deputy Chief Financial Officer.
		Deputy Director for Operations.
		Deputy Director for Program and Financial Control.
		Assistant Deputy Chief Financial Officer.
		Director, Program and Financial Control.
	Washington Headquarters Services	Director, Human Resources Directorate.

Agency	Organization	Title
		Director, Freedom of Information and Security Review.
		Director, Acquisition and Procurement Office.
		Director, Human Resources Directorate.
		Deputy Director, Human Resources Directorate.
		Deputy Director, Defense Facilities Directorate.
	Pentagon Force Protection Agency	Assistant Director, Law Enforcement.
		Principal Deputy Director, Pentagon Force Protection Agency.
		Director, Pentagon Force Protection Agency.
	Office of the General Counsel	Deputy General Counsel (Inspector General).
		Director, Office of Litigation.
		Director, Defense Office of Hearings and Appeals.
	Office of the Assistant Secretary (Networks and Information Integration).	Deputy Chief Information Officer (Information and Identity Assurance).
	Office of the Under Secretary of Defense (Acquisition, Technology, and Logistics).	Deputy Director, Enterprise Information and OSD Studies.
		Director, Pacific Armaments Cooperation.
		Director (Planning and Analysis).
		Director, Environmental Readiness and Safety.
		Director, Acquisition Resources and Analysis.
		Deputy Director, Resource Analysis.
		Principal Deputy, Acquisition Resources and Analysis.
		Director for Administration.
		Director, Defense Procurement and Acquisition Policy.
		Deputy Director, Enterprise Information and OSD Studies.
		Deputy Director, Acquisition Management.
		Director for Administration.
		Director, Treaty Compliance and Homeland Defense.
	Office of Acquisition and Technology	Deputy Director, Land Warfare and Munitions.
		Special Assistant, Concepts and Plans.
		Deputy Director, Treaty Compliance.
		Deputy Director, Program Acquisition and Contingency Contracting.
		Director, Defense Procurement and Acquisition Policy.
		Deputy Director, Acquisition Management.
		Assistant Director, Land Systems.
		Deputy Director, Contract Policy and International Contracting.
		Deputy Director, Acquisition Workforce and Career Management.
		Deputy Director, Naval Warfare.
		Deputy Director for Cost, Price and Finance.
		Assistant Deputy Under Secretary of Defense (Acquisition Process and Policies).
		Deputy Director, Strategic Sourcing.
		Deputy Director, Air Warfare.
		Deputy Director, Assessments and Support.
		Deputy Director, Developmental Test and Evaluation.
		Deputy Director, Defense Acquisition Regulations System.
		Technical Director, Force Development.
	Office of the Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs.	Deputy Assistant to the Secretary of Defense (Nuclear Matters).
	Office of the Director of Defense Research and Engineering.	Director, Human Performance, Training and Biosystems.
		Assistant Deputy Under Secretary of Defense (Full Dimensional Protection).
		Director for Weapons Systems.
		Director, Space and Sensor Technology.
		Director for Information Technology.
		Director, Plans and Programs.

Agency	Organization	Title
		Principal Deputy Director, Defense Research and Engineering/Director, Plans and Programs.
		Director for Science and Technology Plans and Programs.
	Defense Advanced Research Projects Agency	Director, Advanced Technology Office.
		Deputy Director, Defense Advanced Research Project Agency.
		Director, Support Services Office.
		Director, Contracts Management Office.
		Deputy Director, Defense Advanced Research Projects Agency/Director, Defense Science Office.
		Director, Information Processing Technology Office.
		Deputy Director, Tactical Technology Office.
		Joint Applications Study Group Program Manager.
		Deputy Director, Advanced Technology Office.
		Director, Special Projects Office.
	Office of the Joint Chiefs of Staff	Vice Assistant Deputy Director, Joint Development.
		Assistant Deputy Director, Synchronization and Integration.
		Vice Deputy Director for Joint and Coalition Warfighting.
		Executive Director, Force Generation.
		Assistant Deputy Director for Command and Control.
	Missile Defense Agency	Program Director for Battle Management, Command and Control.
		Program Director, Ground-Based Midcourse Defense.
		Chief Engineer, Ground-Based Midcourse Defense.
		Program Director, Ground Missile Defense.
		Director for Advanced Technology.
		Program Director, Multiple Kill Vehicle.
		Executive Director.
		Deputy for Acquisition Management.
		Deputy for Engineering.
		Director for Systems Engineering and Integration.
		Program Director, Targets and Countermeasures.
		Director, Contracting.
		Deputy Program Director for Battle Management, Command and Control.
		Deputy Director, Joint National Integration Center.
		Deputy Program Director, BC.
		Deputy Program Manager for Assessment and Integration, Ballistic Missile Defense System.
	Defense Contract Audit Agency	Deputy Director, Defense Contract Audit Agency.
		Special Assistant.
		Assistant Director, Policy and Plans.
		Assistant Director, Operations.
		Director, Field Detachment.
		Deputy Regional Director, Western Region.
		Director, Defense Contract Audit Agency.
	Regional Managers	Regional Director, Mid-Atlantic.
		Deputy Regional Director, Mid-Atlantic Region.
		Deputy Regional Director, Eastern Region.
		Deputy Regional Director, Northeastern Region.
		Regional Director, Eastern.
		Assistant Director, Integrity and Quality Control.
		Regional Director, Western.
		Regional Director, Central.
		Regional Director, Northeastern.

Agency	Organization	Title
	Defense Logistics Agency	Deputy Regional Director, Central Region.
		Deputy Director, Acquisition Management.
		Vice Director, Defense Logistics Agency.
		Executive Director, Enterprise Solutions.
		Deputy Director, Defense Energy Support Center.
		Director, Defense Reutilization and Marketing Services.
		Deputy Director, Customer Operations and Readiness.
		Executive Director, BRAC Implementation.
		Deputy Commander, Defense Supply Center, Columbus.
		Deputy Commander, Defense Supply Center, Richmond.
		Deputy Commander, Defense Supply Center, Philadelphia.
		Deputy General Counsel (Administration).
		Deputy Commander, Defense Distribution Center.
		Chief Financial Officer.
		Executive Director, Aviation Contracting and Acquisition Management.
		Director, Defense Logistics Agency Accountability Office.
		Director, Information Operations/Chief Technical Officer.
		Executive Director, Human Resources.
		General Counsel.
		Deputy Director, Information Operations/Chief Technical Officer.
		Principal Deputy Comptroller.
		Program Executive Officer.
		Executive Director, Material Policy, Process and Assessment.
		Deputy Director, Logistics Operations and Readiness.
		Director, Defense Energy Support Center.
	Defense Human Resources Activity	Chief Actuary.
		Director, Civilian Personnel Management Service.
		Deputy Director, Defense Manpower Data Center.
		Director, Defense Manpower Data Center.
		Deputy Director for Advisory Services, Defense Human Resources Activity.
	Defense Contract Management Agency	Director, Defense Contract Management Agency West.
		Director, Defense Contract Management Agency East.
		Deputy Director, Defense Contract Management Agency District Boston.
		Director, Defense Contract Management Agency District Los Angeles.
		Executive Director, Financial and Business Operations and Comptroller.
		Director, Defense Contract Management Agency.
		Executive Director, Naval Sea Systems Division, Boston.
		Executive Director, Ground Systems and Munitions Division.
		Deputy Director, Defense Contract Management Agency.
		Deputy Executive Director, Contract Management Operations.
		Executive Director, Contract Management Operations.
		Chief Information Officer.
		Executive Director, Program Support and Customer Relations.
		Defense Acquisition Regulations Counsel.
		General Counsel.
	Defense Information Systems Agency	Chief Financial Executive/Comptroller.

Agency	Organization	Title
		Director for Strategic Planning and Information.
		Inspector General.
		Congressional Liaison Officer.
		Professor of Information Science.
		Chief Engineer, Information Systems Security.
		Chief Executive for Information Technology.
		Principal Director for Network Services.
		Deputy Chief Financial Executive/Comptroller.
		Chief Technology Officer.
		Director for Manpower, Personnel and Security.
		Chief, Center for Network Services.
		Director, Enterprise Engineering.
		Chief Information Officer.
		Vice Principal Director, Operations.
		Deputy Director, Net Centric Enterprise Services.
		Vice Director for Computing Services.
		Vice Chief Information Officer.
		Director for Network Services.
		Principal Director, Operations Director.
		Test and Evaluation Executive.
		Component Acquisition Executive.
		BRAC Transition Executive.
		Program Executive Officer, Satcom, Teleport and Services.
		Director for Procurement and Chief, Defense Information Technology Contracting Organization.
		Program Executive Officer, Information Assurance Networks Operations.
		Program Executive Officer, Communication.
		Vice Director for Network Services.
		Vice Director for Procurement and Vice Chief Defense Information Technology Contracting Office.
		Vice Component Acquisition Executive.
		Principal Director for Computing Services.
		Chief, Corporate Planning and Mission Integration.
	Defense Threat Reduction Agency	Associate Director, Business Enterprise.
		Director, On-Site Inspections Directorate.
		Deputy Associate Director, Business Enterprise.
		Associate Director, Operations Enterprise.
		Director, Counter Weapons of Mass Destruction Technologies.
		Director, System Applications Division.
		Director, Chemical-Biological Defense Technologies Directorate.
		Director, Nuclear Technologies Directorate.
		Chief, Operational Applications Division.
		Deputy Director, Operations Directorate.
		Director for Electronics and Systems.
		Chief, Simulation and Test Division.
		Director, Counter proliferation Support and Operations.
	Defense Security Cooperation Agency	Chief Information Officer/Principal Director for Information Technology.
		Principal Director for Strategy.
DEPARTMENT OF THE AIR FORCE	Office of the Secretary	Liaison to the Department of the Interior.
		Director of Communications and Information.
		Director, Installations, Logistics and Mission Support.
		Director of Staff, Legislative Liaison.
		Director, Air Force Rapid Capabilities Office.
		Deputy and Technical Director, Rapid Capabilities Office.
	Office of the Under Secretary	Deputy Under Secretary of the Air Force (Space Programs).
	Deputy Under Secretary (International Affairs)	Director, Strategy, Operations, and Resources.
		Deputy Under Secretary (International Affairs).

Agency	Organization	Title
		Director of Policy, International Affairs.
	Office of Administrative Assistant to the Secretary.	Administrative Assistant.
		Director, Headquarters Air Force Information Management.
		Deputy Administrative Assistant.
	Office of Small and Disadvantaged Business Utilization.	Director, Office of Small and Disadvantaged Business Utilization.
	Office of Public Affairs	Deputy Director, Public Affairs.
	Office of the Auditor General	Auditor General of the Air Force.
		Assistant Auditor General, Field Offices Directorate.
	Air Force Audit Agency (Field Operating Agency).	Assistant Auditor General (Acquisition and Logistics Audits).
		Assistant Auditor General (Financial and Systems Audits).
		Assistant Auditor General (Support and Personnel Audits).
	Air Force Office of Special Investigations (Field Operating Agency).	Executive Director.
		Executive Director, Defense Cyber Crime Center (Defense Cyber Crime Center).
	Office of the General Counsel	Deputy General Counsel (Installations and Environmental Law).
		Deputy General Counsel (International Affairs).
		Deputy General Counsel (Acquisition).
	Office of Assistant Secretary of the Air Force for Financial Management and Comptroller.	Chief Information Officer.
	Office of the Deputy Assistant Secretary for Budget.	Assistant Deputy Comptroller, Budget.
		Director, Budget Investment.
		Director, Budget Management and Execution.
	Office of the Deputy Assistant Secretary (Cost and Economics).	Deputy Assistant Secretary (Cost and Economics).
		Associate Deputy Assistant Secretary (Cost and Economics).
	Office of the Deputy Assistant Secretary (Financial Operations).	Deputy Assistant Secretary, Plans, Systems and Analysis.
		Associate Deputy Assistant Secretary, Financial Operations and Technology.
	Office of the Assistant Secretary of the Air Force for Acquisition.	Associate Deputy Assistant Secretary, Contracting.
		Deputy Assistant Secretary, Science, Technology and Engineering.
		Deputy Assistant Secretary, Management Policy and Program Integration.
		Program Executive Officer for Space Launch.
		Director of Contracting (Special Access Programs).
		Deputy Air Force Program Executive Officer (Combat and Mission Support).
		Director, Information Dominance Programs.
		Associate Deputy Assistant Secretary, Acquisition Integration.
	Office of the Deputy Assistant Secretary (Contracting).	Associate Deputy Assistant Secretary, Contracting.
	Directorate of Space and Nuclear Deterrence	Associate Director, Nuclear Weapons and Counter proliferation.
		Deputy Assistant Chief of Staff, Strategic Deterrence and Nuclear Integration.
	Office of the Assistant Secretary of the Air Force for Manpower and Reserve Affairs.	Chief Financial Officer, Air Force Review Board Agency.
	Air Force Review Boards Agency (Air Force Review Boards Agency)—Field Operating Agency.	Deputy for Air Force Review Boards.
	Office of the Assistant Secretary of the Air Force, Installations, Environment, and Logistics.	Deputy Assistant Secretary, Energy.
		Deputy Assistant Secretary, Logistics.
	Air Force Base Conversion Agency (Field Operating Agency).	Director, Air Force Real Property Agency.
	Office of the Deputy Assistant Secretary (Installations).	Deputy Assistant Secretary, Installations.
	Office of the Chief of Staff	Deputy Director of Staff.
		Director, Quadrennial Defense Review Organization.

Agency	Organization	Title
		Director, Air Force History and Museums Policy and Programs.
	Air Force Office of Safety and Air Force Safety Center (Field Operating Agency).	Deputy Chief of Safety.
	Judge Advocate General	Director, Administrative Law.
	Test and Evaluation	Deputy Director, Test and Evaluation.
		Director, Test and Evaluation.
	Air Force Studies and Analyses Agency (Direct Reporting Unit (DRU)).	Principal Deputy Director, Studies and Analyses, Assessments and Lessons Learned.
		Director, Air Force Studies and Analyses, Assessments and Lessons Learned.
	Deputy Chief of Staff, Warfighting Integration	Director, Architecture and Operational Support Modernization.
		Assistant Deputy Chief of Staff for Warfighting Integration.
		Deputy Director, Information Services and Integration.
	Deputy Chief of Staff, Installations and Logistics.	Director, Global Combat Support.
		Deputy Director, Security Forces.
		Assistant Deputy Chief of Staff, Installation and Logistics.
	Office of the Civil Engineer	Deputy Civil Engineer.
	Office of the Civil Engineer for Maintenance	Deputy Director of Logistics.
	Office of the Civil Engineer for Logistics Readiness.	Associate Deputy Director of Logistics.
	Office of the Civil Engineer for Resources	Deputy Director of Resources.
		Chief, Weapon Systems Sustainment Division.
	Office of the Civil Engineer for Innovation and Transformation.	Director, Innovation and Transformation.
	Air Force Center for Environmental Excellence (Field Operating Agency).	Director of the Air Force Center for Engineering and the Environment.
	Deputy Chief of Staff, Plans and Programs	Assistant Deputy Chief of Staff, Strategic Plans and Programs.
		Deputy Director of Strategic Planning.
		Associate Director, Programs.
	Deputy Chief of Staff, Personnel	Director of Services.
		Director, Airman Development and Sustainment.
		Deputy Director, Force Management Policy.
		Assistant Deputy Chief of Staff for Personnel.
		Director, Plans and Integration.
		Director, Air Force Culture, Region and Language Program Office.
		Deputy Director, Air Force Manpower, Organization and Resources.
		Deputy Director, Airman Development and Sustainment.
		Deputy Director of Services.
	Air Force Personnel Center (Field Operating Agency).	Director, Civilian Force Integration.
		Executive Director, Air Force Personnel Center.
	Office of the Deputy Chief of Staff, Air and Space Operations.	Deputy Director, Operational Planning, Policy and Strategy.
		Deputy Director of Operational Planning, Policy and Strategy.
		Deputy for Operations.
		Director, Irregular Warfare.
		Director of Weather.
		Associate Deputy Chief of Staff for Operations, Plans and Requirements.
	Office of the Deputy Chief of Staff for Intelligence, Surveillance and Reconnaissance.	Director of Intelligence, Surveillance, Reconnaissance, Innovations and Unmanned Aerial Systems Task Force.
	Air Force Operational Test and Evaluation Center (Direct Reporting Unit).	Executive Director, Air Force Operational Test and Evaluation Center.
	Air Force Materiel Command	Director, Manpower, Personnel and Services.
		Director, National Museum of the United States Air Force.
		Director, Communications, Installations and Mission Support.
		Executive Director, AFNWC.
		Executive Director, Air Force Materiel Command.

Agency	Organization	Title
		Program Executive Officer, Cyber-Metacentric Programs.
		Director of Engineering, ASC.
		Director, Enterprise Sourcing Group.
		Deputy Director, Manpower, Personnel and Services.
		Executive Director, AFGLSC.
	Office of the Director of Engineering, Contracting.	Director, Contracting, Air Force Materiel Command.
	Office of the Director for Logistics	Deputy Director for Logistics, Air Force Materiel Command.
	Office of Engineering and Technical Management.	Director, Engineering and Technical Management, Air Force Materiel Command.
	Office of Financial Management and Comptroller.	Deputy Director, Financial Management and Comptroller, Air Force Materiel Command.
	Officer of Requirements	Deputy Director, Intelligence, Surveillance, Reconnaissance and Requirements.
	Operations Directorate	Deputy Director, Air, Space and Information Operations.
	Staff Judge Advocate	Principal Deputy Staff Judge Advocate.
	Air Force Materiel Command Law Office	Director, Air Force Materiel Command Law Office.
	Air Force Office of Scientific Research	Director, Air Force Office of Scientific Research.
		Deputy Director, Transformational Communications and Chief Technical Adviser.
		Director of Physics and Electronics Sciences.
	Electronic Systems Center	Program Executive Officer, C2ISR.
		Executive Director, Electronic Systems Center.
		Director, Contracting, Electronic Systems Center.
		Director, Engineering and Technical Management, Electronic Systems Center.
	Aeronautical Systems Center	Director Financial Management and Comptroller, Aeronautical Systems Center.
		Program Executive Officer, Mobility Aircraft.
		Program Executive Officer for Agile Combat Support.
		Director of Engineering, Joint Strike Fighter.
		Executive Director, Aeronautical Systems Center.
		Director, Contracting, Aeronautical Systems Center.
	Engineering Directorate	Director, Engineering, Aeronautical Systems Center.
	Air Force Research Laboratory	Director, Plans and Programs, Air Force Research Laboratory.
		Executive Director, Air Force Research Laboratory.
		Director, Human Performance Wing.
	Air Vehicles Directorate	Associate Director for Air Platforms.
	Air Force Research Laboratory- Munitions Directorate.	Director, Munitions, AAC.
	Space Vehicles Directorate	Associate Director for Space Technology.
	Information Directorate	Director, Information.
	Directed Energy Directorate	Director, Directed Energy.
	Materials and Manufacturing Directorate	Director, Materials and Manufacturing.
	Sensors Directorate	Director, Sensors.
	Human Effectiveness Directorate	Director, Human Effectiveness Directorate.
	Air Force Flight Test Center	Executive Director, Air Force Flight Test Center.
	Air Logistics Center, Oklahoma City	Executive Director, Oklahoma City Air Logistics Center.
		Director, Contracting, OC–ALC.
		Director, Engineering and Technical Management, OC–ALC.
		Director, 448th Combat Sustainment Wing.
		Executive Director.
		Deputy Director, 76th Maintenance Wing.
	Air Logistics Center, Warner Robins	Deputy Director, 402nd Maintenance Wing.
		Director, Contracting, Air Logistics Center, Warner Robins.

Agency	Organization	Title
		Executive Director, Air Logistics Center, Warner Robins.
	Air Logistics Center, Ogden	Director Contracting, Oo-ALC.
		Deputy Director, 309th Maintenance Wing.
		Director, Engineering and Technical Management, Oo-ALC.
		Executive Director, Oo-ALC.
	Air Armament Center	Director, Armament Systems Wing.
		Executive Director, Air Logistics Center.
	Air Combat Command	Deputy Director of Logistics, Air Logistics Center.
		Director, Air Force Global Cyberspace Integration Center.
		Director, Acquisition Management and Integration Center.
	Air Mobility Command	Deputy Director, Installations, Mission Support and Air Mobility Command.
		Deputy Director of Logistics, Air Mobility Command.
	Air Education and Training Command	Director, Center for Systems Engineering.
		Director, International Training and Education.
		Director, Logistics, Installations, Mission Support, Air Education and Training Command.
	Air Force Reserve Command	Air Commander, 22nd Air Force.
		Director of Staff.
		Air Commander, 4th Air Force.
		Director, Plans.
	United States Central Command	Director of Resources, Requirements, Budget and Assessment.
		Deputy Director, Logistics and Engineering, Uscentcom.
		Deputy Director of Operations Interagency Action Group (IAG).
	Air Force Space Command	Director, Space Protection Program Office.
		Director of Installations and Logistics, Air Force Space Command.
	United States Special Operations Command	Director, Financial Management and Comptroller, United States Special Operations Command.
		Deputy Director, Center for Special Operations Acquisition and Logistics.
		Director of Acquisition, United States Special Operations Command.
		Director, Interagency Task Force, United States Special Operations Command.
		Director, Plans, Policy and Strategy, United States Special Operations Command.
		Director and Chief Information Officer for Special Operations Networks and Communications Center.
	Air Force Special Operations Command	Director of Financial Management and Comptroller, Air Force Special Operations Command.
	Space and Missile Systems Center	Director, Milsatcom Systems Wing.
		Deputy Director and Chief Technical Advisor.
	United States Strategic Command	Director, Capability and Resource Integration.
		Deputy Director, Plans and Policy, United States Strategic Command.
		Director, Command, Control, Command Computer Systems.
		Director, Joint Exercises and Training, United States Strategic Command.
		Associate Director, Capability and Resource Integration.
		Director, Global Innovation Strategy Center.
		Special Command Advisor, Information Assurance and Cyber Security.
	United States Transportation Command	Deputy Director, Strategies and Policy, United States Transportation Command.
		Deputy Director of Command, Control Communications and Computer Systems.
		Director, Program Analysis and Financial Management.
		Director, Acquisition.

Agency	Organization	Title
	Joint Staff	President, Joint Special Operations University.
	United States Northern Command	Domestic Policy Advisor.
		Director, Programs and Resources, United States Northern Command.
		Director, Interagency Coordination, United States Northern Command.
		Deputy Commander, Joint Forces Headquarters—National Capital Region.
		Director, Joint Exercises and Training, United States Northern Command.
DEPARTMENT OF THE ARMY	Office of the Secretary	Deputy Joint Program Executive Officer for Chemical and Biological Defense.
		Deputy G–5/7 for Operations and Plans.
		Director for Forces, Resources and Assessments (J8).
		Director of Resource Integration.
		Director for Partnering.
		Deputy Program Executive Officer, Intelligence, Electronic Warfare and Sensors.
		Director, Capability Development Integration Directorate (CDID).
		Deputy to the Commanding General, ARNORTH.
		Assistant Deputy Chief of Staff, G–6.
		Director, Soldier and Family Legal Services.
		Deputy to the Commanding General of the Family, Morale, Welfare and Recreation Command.
		Deputy Director of Operations, J3.
		Executive Director, U.S. Army Information Technology Agency.
		Deputy Program Executive Officer, Enterprise Information Systems.
		Executive Director, U.S. Army Headquarters Services.
		Deputy Program Executive Officer (Simulation, Training and Instrumentation).
		Superintendent, Arlington National Cemetery.
		Deputy Director for Partnership Strategy.
		Executive Director of the Army National Cemeteries Program.
		Director, Human Capital Strategy/Deputy to Deputy Under Secretary of the Army.
		Director, Test and Evaluation Office.
	Office of the Under Secretary	Special Assistant to the Under Secretary of the Army.
		Director, Business Assessment Directorate.
		Director, Business Transformation Directorate.
		Deputy Chief Management Officer.
	Office of the Deputy Under Secretary of the Army, Operations Research.	Director, Civilian Senior Leader Management Office.
	Office of the Administrative Assistant to the Secretary of the Army.	Administrative Assistant to the Secretary of the Army.
		Deputy Administrative Assistant to the Secretary of the Army/Director for Shared Services.
		Executive Director, U.S. Army Resources and Program Agency.
	Office of the General Counsel	Deputy General Counsel, Ethics and Fiscal.
	Office of the Assistant Secretary of the Army, Civil Works.	Deputy Assistant Secretary of the Army, Management and Budget.
	Office of the Assistant Secretary of the Army, Financial Management and Comptroller.	Director of Investment.
		Deputy Assistant Secretary of the Army, Financial Operations.
		Director for Business Resources.
		Deputy Assistant Secretary of the Army, Cost and Economics.
		Director of Operations and Support.
		Director, Programs and Strategy.
		Deputy Director and Senior Advisor for Army Budget (DDSA (Budget)).
		Director for Accountability and Audit Readiness.
		Director of Management and Control.

Agency	Organization	Title
		Director, Financial Information Management.
		Director, Programs and Strategy, Advisory.
	Office of the Assistant Secretary of the Army, Installations and Environment.	Deputy Assistant Secretary of the Army (Strategic Infrastructure).
	Office of the Assistant Secretary Army, Manpower and Reserve Affairs.	Deputy Assistant Secretary of the Army, Equal Employment Opportunity and Civil Rights.
		Deputy Assistant Secretary of the Army, Diversity and Leadership.
		Director, Strategic Initiatives Group.
		Deputy Assistant Secretary of the Army, Civilian Personnel/Quality of Life.
		Deputy Assistant Secretary of the Army, Military Personnel.
		Director, Reserve Affairs Integration Office.
		Deputy Assistant Secretary of the Army, Army Review Boards Agency.
	Office of the Assistant Secretary of the Army, Acquisition, Logistics and Technology.	Deputy Program Executive Officer, Ground Combat Systems.
		Director, Army Contracting Agency.
		Deputy Assistant Secretary of the Army for Services.
		Deputy Program Manager (Platform) Program Manager, Future Combat System (Brigade Combat Team).
		Special Assistant to the Assistant Secretary of the Army, Acquisition, Logistics and Technology.
		Deputy Program Executive Officer, Missiles and Space (Fires).
		Director of Systems Engineering.
		Deputy Assistant Secretary of the Army for Integrated Logistics Support.
		Deputy Assistant Secretary of the Army, Elimination of Chemical Weapons.
		Deputy Assistant Secretary for Research and Technology/Chief Scientist.
		Deputy Assistant Secretary of the Army, Policy and Procurement.
		Deputy Assistant Secretary of the Army for Plans, Programs and Resources.
		Director for Research and Laboratory Management.
		Director for Technology.
		Program Executive Officer, Ground Combat Systems.
	Army Acquisition Executive	Deputy Program Executive Officer, Command Control and Communications Tactical.
		Program Executive Officer, Enterprise Information Systems.
		Deputy Program Executive Officer, Ammunition.
		Deputy Program Executive Officer for Soldier.
		Program Executive Officer for Simulation, Training and Instrumentation.
		Program Executive Officer, Aviation.
		Director, Combined Test Organization, Program Manager, Future Combat System (Brigade Combat Team).
		Deputy Joint Program Executive Officer, Joint Tactical Radio System.
		Deputy Program Executive Officer, Combat Support and Combat Service Support.
		Program Executive Officer, Ammunition.
	Army Contracting Agency	Deputy Director, Army Contracting Command.
		Director, Southern Region, United States Army Contracting Agency.
		Director, Information Technology, Electronic Commerce and Contracting Center.
		Director, Northern Region, United States Army Contracting Agency.
	Office of the Inspector General	Principal Director for Inspections.
	Chief Information Officer/G–6	Director for Army Architecture Integration Cell.

Agency	Organization	Title
		Director, Governance, Acquisition/Chief Knowledge Officer.
		Deputy Chief Information Officer/G–6.
	Office of the Chief of Public Affairs	Principal Deputy Chief of Public Affairs/Director, Soldiers Media Center.
	Army Audit Agency	Deputy Auditor General, Forces and Financial Audits.
		Deputy Auditor General, Financial Management Audits.
		Deputy Auditor General, Policy and Operations Management.
		Deputy Auditor General, Acquisition and Logistics Audits.
		Principal Deputy Auditor General.
		Auditor General, U.S. Army.
		Deputy Auditor General, Manpower and Training Audits.
	Office of the Chief of Staff	Director, Enterprise Systems Technology Activity.
	U.S. Army Test and Evaluation Command	Executive Director, Operational Test Command.
		Director of Test Management, Developmental Test Command.
		Director, Army Evaluation Center.
		Executive Director, White Sands.
	Office of the Chief Army Reserve	Assistant Chief of the Army Reserve.
		Director of Resource Management.
	Office of the Assistant Chief of Staff for Installation Management.	Deputy Assistant Chief of Staff for Installation Management.
		Director, Installation Services.
		Director of Logistics.
		Regional Director (West).
		Executive Director/Director of Services.
		Chief Information Technology Officer (OACSLIM/LMCOM).
		Regional Director (Northeast).
		Regional Director (Europe).
		Regional Director (Pacific).
		Regional Director (Southeast).
	Office of the Deputy Chief of Staff, G–4	Director for Maintenance Policy, Programs and Processes.
		Director, Logistics Innovation Agency.
		Director for Supply Policy, Programs and Processes.
		Director, Force Projection and Distribution.
		Assistant Deputy Chief of Staff, G–4.
	Office of the Deputy Chief of Staff, G–8	Assistant Deputy Chief of Staff, G–8.
		Director of Modernization.
	Office of the Deputy Chief of Staff, G–3	Deputy Director for Force Management.
		Assistant Deputy Chief of Staff for Operations.
		Technical Advisor to the Deputy Chief of Staff, G–3.
		Director, Army Model and Simulation Office.
		Deputy Director for Plans and Policy.
	Office of the Deputy Chief of Staff, G–1	Assistant Deputy Chief of Staff, G–1.
		Deputy Assistant G–1, Civilian Personnel Policy.
		Director, Military Human Resources Integration.
		Director, United States Army Research Institute and Chief Psychologist.
		Assistant Deputy Chief of Staff, G–1, Advisory.
		Director, MANPRINT Directorate.
		Director of Plans, Resources and Operations.
		Assistant G–1, Civilian Personnel Policy.
	Office of the Surgeon General	Chief of Staff, Health System Admin.
	United States Army Medical Research and Materiel Command.	Principal Assistant for Research and Technology.
		Principal Assistant for Acquisition.
	United States Army Medical Department Center and School.	Deputy to the Commanding General.

Agency	Organization	Title
	United States Army Space and Missile Defense Command.	Director, Space and Cyberspace Technology.
		Principal Assistant Responsible for Contracting.
		Chief Technology Officer.
		Director, Technology Integration and Interoperability for Space and Missile Defense.
		Director, Advanced Technology Directorate.
		Director, Space and Missile Defense Battle Laboratory.
		Deputy to the Commander, Research, Development and Acquisition.
	United States Army Training and Doctrine Command (TRADOC).	Deputy to the Commanding General, Combined Arms Support Command.
		Deputy to the Commanding General Fires/Director, Capabilities, Development and Integration.
		Deputy Chief of Staff G–1/4, Personnel and Logistics.
		Assistant Deputy Chief of Staff for Combat Development.
		Assistant Deputy Chief of Staff G–3/5/7, TRADOC/RADOC/DEP G–3 for Training.
		President, Army Civilian University.
		Director, Capabilities Development and Integration.
		Deputy to the Commanding General, Signal Center of Excellence.
		Deputy to the Commanding General, Combined Arms Center.
	United States Army Training and Doctrine Command Analysis Center.	Director of Operations.
		Director.
		Director of Operations.
	Military Surface Deployment Distribution Command.	Executive Director, Transportation Engineering Agency/Director Joint Distribution Process Analysis Center.
		Deputy to the Commander, Surface Deployment and Distribution Command.
	United States Army Forces Command	Deputy Chief of Staff for Resource Management.
		Assistant Deputy Chief of Staff for Logistics and Readiness.
		Chief Executive Officer.
		Assistant Deputy Chief of Staff, G1.
		Assistant Deputy Chief of Staff G–3/5/7.
	United States Army Network Enterprise Technology Command/9th Army Signal Command.	Deputy for Cyber Operations/Director of Operations.
		Deputy to Commander/Senior Technical Director/Chief Engineer.
	United States Army Corps of Engineers	Division Programs Director.
		Division Programs Director.
		Director, Real Estate.
		Director of Corporate Information.
		Regional Business Director.
		Director of Contracting.
		Director, Research and Development and Director, Engineering Research and Development Center.
		Director, Information Technology Laboratory.
		Division Programs Director.
		Division Programs Director.
		Director of Human Resources.
		Chief Military Programs Integration Division.
		Division Programs Director.
		Division Programs Director, Transatlantic Division.
		Regional Business Director, Mississippi Valley Division.
		Director of Resource Management.
		Director, Task Force Hope.
	Directorate of Research and Development	Deputy Director.
	Directorate of Civil Works	Chief, Planning and Policy Division/Community of Practice.
		Director of Civil Works.

Agency	Organization	Title
		Chief, Engineering and Construction Community of Practice.
		Chief, Programs Management Division.
		Chief, Operations Division and Regulatory Community of Practice.
	Directorate of Military Programs	Chief, Interagency and International Services Division.
		Chief, Installation Support Division.
		Chief, Environmental Community of Practice.
		Director of Military Programs.
	Directors of Programs Management	Division Programs Director (3 positions).
	Directors of Engineering and Technical Services.	Regional Business Director. (5 positions).
	Engineer Research and Development Center	Director, Environmental Laboratory.
		Deputy Director, Engineer Research and Development Center.
		Director, Coastal and Hydraulics Laboratory.
		Director, Geotechnical and Structures Laboratory.
	Engineer Topographic Laboratories, Center of Engineers.	Director, Army Geospatial Center.
	Construction Engineering Research Laboratory Champaign, Illinois.	Director, Construction Engineering Research Laboratories.
	Cold Regions Research and Engineering Laboratory Hanover, New Hampshire.	Director, Cold Regions Research and Engineering Laboratory.
	United States Army Materiel Command	Deputy to the Commander, United States Army Expeditionary Contracting Command.
		Director, Communications-Electronics Life Cycle Management Command Logistics and Readiness Center.
		Executive Director, Munitions Engineering Technology Center, ARDEC.
		Deputy Chief of Staff for Business Transformation, G–7.
		Executive Director, Weapons and Software Engineer Center.
		Deputy G–3 for Current Operations.
		Director, Chemical Materials Agency.
		Director for Contracting.
		Deputy Chief of Staff for Corporate Information/Chief Information Officer.
		Deputy to the Commander/Deputy Director, Mission and Installation Command.
		Deputy to the Commanding General/Director, Logistics and Readiness Center.
		Assistant Deputy Chief of Staff, G–4 for Support Operations.
	Office of the Deputy Chief of Staff for Logistics and Operations.	Principal Deputy G–3 for Operations/Executive Deputy, Supply Chain and Industrial Operations.
		Deputy G–3 for Enterprise Integration.
		Deputy Chief of Staff G–5 for Strategy and Concepts.
	Office of the Deputy Commanding General	Executive Deputy to the Commanding General.
	Office of the Deputy Chief of Staff for Personnel.	Deputy Chief of Staff for Personnel.
	Office of the Deputy Chief of Staff for Resource Management.	Assistant Deputy Chief of Staff for Resource Management, G–8/Executive Director for Business.
		Deputy Chief of Staff for Resource Management.
	United States Army Security Assistance Command.	Deputy United States Army Security Assistance Command.
	United States Army Sustainment Command	Executive Director for Ammunition.
		Executive Director for LOGCAP.
		Executive Director for Field Support.
		Executive Director Rock Island Contracting Center.
		Deputy to the Commander.
	Natick Soldier Center	Director, Natick Soldier Research and Development Engineering Center.

Agency	Organization	Title
	United States Army Soldier and Biological Command.	Director, Engineering Directorate.
		Director, Research and Technology Directorate.
		Executive Director, Research Development and Engineering Command, Acquisition Center.
		Technical Director.
		Director for Programs Integration.
	United States Army Communications Election Command Center.	Director, Communications Election Command Acquisition Center.
	Communications Electronics Command Research, Development and Engineering Center.	Director, Command and Control Directorate.
		Director, Software Engineering Directorate.
		Director, Night Vision/Electromagnetics Sensors Directorate.
		Director Research, Development and Engineering/Army Systems Engineer.
		Director, Intelligence and Information Warfare Directorate.
		Director, Space and Terrestrial Committee Directorate.
	United States Army Research Laboratory	Director, United States Army Research Laboratory.
		Director, Human Dimension Simulations and Training Directorate.
		Director, Computational and Information Sciences Directorate.
	Survivability/Lethality Analysis Directorate	Director, Survivability/Lethality Analysis Directorate.
	Army Research Office	Director, Engineering Sciences Directorate.
		Director, Army Research Office.
	Sensors and Electron Devices Directorate	Director.
	Weapons and Material Research Directorate	Director, Weapons and Materials Research Directorate.
	United States Army Aviation and Missile Command (Army Materiel Command).	Executive Director, Acquisition Center.
		Director for Test Measurement, Diagnostic Equipment Activity.
		Deputy to the Commander.
		Executive Director, Aviation and Missile Command G–3 (Operations).
		Director for Engineering.
		Executive Director, Integrated Material Management Center.
	Missile Research Development and Engineering Center.	Director for Missile Guidance.
		Technology Director for Missiles and Development, Research, Development and Engineering Center.
		Associate Director for Aviation and Missile Systems.
		Director for Systems Simulation and Development.
		Director for Aviation Development.
	Aviation Research, Development and Engineering Center.	Associate Director for Technical Applied/Director of Special Program.
		Director of Aviation Engineering.
	Research, Development and Engineering Command.	Director for Army Research, Development, and Engineering Command.
		Deputy to the Commander.
	Tank-Automotive and Armaments Command (Tank-Automotive and Armaments Command).	Director of Acquisition Center.
		Deputy to the Commander.
		Executive Director, Integrated Logistics Support Center.
	Tank-Automotive Research, Development and Engineering Center (Tank-Automotive Research, Development and Engineering Center).	Director, Research, Technology Development and Integration.
		Executive Director for Product Development.
		Executive Director for Engineering.
		Director.
	United States Army Armament Research, Development and Engineering Center (Armament Research, Development and Engineering Center).	Director for Armament Research, Development and Engineering.
		Executive Director, Enterprise and Systems Integration Center.
	United States Army Simulation, Training and Instrumentation Command.	Deputy to the Commander.
	U.S. Army Joint Munitions Command	Deputy to the Commander, Joint Munitions Command.

Agency	Organization	Title
	United States Army Materiel Systems Analysis Activity.	Director, Army Materiel Systems Analysis Activity.
		Technical Director.
	Headquarters, United States Army, Europe	Deputy Chief of Staff, G1.
		Deputy Chief of Staff, G–8.
		Deputy Director, Logistics and Security Assistance.
		Director, European Security and Defense Policy Defense Advisor to U.S. Mission to the European Union.
	United States Army Military District of Washington.	Director of Cemetery Operations.
	United States Southern Command	Executive Director for Resources and Assessments.
		Director, Enterprise Support (ESD).
		Deputy Director, Strategy and Policy.
	United States European Command	Director, Joint Interagency Coordination Group.
		Deputy Director, Security Cooperation (DJ5).
		Director, Interagency Partnering, J9.
	United States Africa Command	Director of Resources, United States Africa Command.
		Deputy Director of Resources, J1/J8.
DEPARTMENT OF THE NAVY	Office of the Secretary	Director, Sexual Assault Prevention and Response.
		Director, Operations Directorate.
		Director, Office of Program and Process Assessment.
		Assistant for Administration.
	Office of the Under Secretary of the Navy	Director, Operations Integration Group.
		Principal Deputy Under Secretary of the Navy for Business Operations and Transformation).
		Senior Director for Intelligence.
		Senior Director for Policy.
		Director, Maritime Domain Awareness.
	Office of the Naval Inspector General	Deputy Naval Inspector General.
	Office of the Auditor General	Auditor General of the Navy.
		Deputy Auditor General of the Navy.
		Assistant Auditor General for Financial Management and Comptroller Audits.
		Assistant Auditor General for Manpower and Reserve Affairs Audits.
		Assistant Auditor General for Installation and Environment Audits.
		Assistant Auditor General for Research, Development, Acquisition and Logistics Audits.
	Office of the Assistant Secretary of Navy, Manpower and Reserve Affairs.	Assistant General Counsel, Manpower and Reserve Affairs.
		Deputy Assistant Secretary of the Navy, Civilian Human Resources.
		Deputy Assistant Secretary of the Navy, Reserve Affairs.
	Office of Civilian Human Resources	Director, Human Resources Operations and Customer Engagement.
		Director, Human Resources Policy and Program Department.
		Director, Human Resources Systems, Processes and Productivity.
		Director, Office of Civilian Human Resources.
	Office Assistant Secretary of Navy, Energy, Installations and Environment.	Deputy Assistant Secretary of the Navy, Energy.
		Assistant General Counsel, Energy, Installations and Environment.
		Director, Joint Guam Program Office.
	Office of the Assistant Secretary of the Navy, Research, Development and Acquisition.	Executive Director, Navy International Programs Office.
		Deputy Assistant Secretary of the Navy, C4i/Space.
		Deputy for Test and Evaluation.
		Chief Systems Engineer.
		Executive Director, Integrated Warfare Systems.

Agency	Organization	Title
		Deputy Assistant Secretary of the Navy, Ships.
		Chief of Staff/Policy.
		Principal Civilian Deputy Assistant Secretary of the Navy, Acquisition Workforce.
		Executive Director, F–35, Joint Program Office.
		Director, Program Analysis and Business Transformation.
		Assistant General Counsel, Research, Development and Acquisition.
		Deputy Assistant Secretary of the Navy, C4I/Space.
	Program Executive Officers	Executive Director, Program Executive Officers for Aircraft Carriers.
		Deputy Program Executive Officers for Space Systems and Executive Director, Space and Naval Warfare Systems Command, Space Field Activity.
		Deputy Program Executive Officers for Tactical Air Programs.
		Program Executive Officer, Land Systems.
		Technical Director, Program Executive Officer, Submarines.
		Joint Program Executive Officers for Joint Tactical Radio Systems.
		Executive Director, Amphibious, Auxiliary and Sealift Ships, Program Executive Officers Ships.
		Executive Director, Combatants, Program Executive Officers Ships.
		Executive Director, Program Executive Office for Space Systems.
		Deputy Program Executive Officer for Unmanned Aviation Programs.
		Executive Director, Program Executive Office Submarines.
		Deputy Program Executive Officers Air Assault and Special Mission.
		Director for Above Water Sensors Directorate.
		Executive Director for Command, Control, Communications, Computers and Intelligence (C4i).
		Director for Integrated Combat Systems for Integrated Warfare Systems.
		Executive Director, Program Executive Officer Littoral and Mine Warfare.
		Program Executive Officer, Littoral and Mine Warfare.
		Executive Director, Program Executive Officers for Integrated Warfare Systems.
		Deputy Program Executive Officers for Strike Weapons.
	Strategic Systems Programs	Counsel, Strategic Systems Programs.
		Branch Head, Reentry Systems Branch.
		Assistant for Systems Integration and Compatibility.
		Director, Integrated Nuclear Weapons Safety and Security and Director, Strategic Systems Programs.
		Technical Plans and Payloads Integration Officer.
		Head, Resources Branch Comptroller and Deputy Director, Plans and Program Division.
		Assistant for Missile Engineering Systems.
		Branch Head, Reentry Systems Branch.
		Assistant for Shipboard Systems.
		Director, Plans and Programs Division.
		Chief Engineer.
		Principal Deputy, Strategic Systems Programs.
		Assistant for Missile Production, Assembly and Operations.

Agency	Organization	Title
	Office of the Assistant Secretary of Navy, Financial Management and Comptroller.	Principal Deputy Assistant Secretary of the Navy, Financial Management and Comptroller.
		Deputy Assistant Secretary of the Navy for Cost and Economics.
		Director, Program/Budget Coordination Division.
		Deputy Assistant Secretary of the Navy for Financial Operations.
		Director, Budget and Policy and Procedures Division.
		Director, Investment and Development Division.
		Assistant General Counsel, Financial Management and Comptroller.
		Associate Director, Office of Budget/Fiscal Management Division.
		Director, Civilian Resources and Business Affairs Division.
		Deputy Director, Financial Operations.
		Deputy Assistant Secretary of the Navy for Cost and Economics.
	Office of the General Counsel	Assistant General Counsel, Intelligence Law.
		Special Counsel for Litigation.
	Naval Criminal Investigative Service	Criminal Investigator, Executive Assistant Director for Criminal Operations.
		Criminal Investigator, Executive Assistant Director for Management and Administration.
		Criminal Investigator, Deputy Director, Naval Criminal Investigative Service.
		Criminal Investigator, Executive Assistant Director for Pacific Operations.
		Criminal Investigator, Executive Assistant Director for Global Operations.
		Criminal Investigator, Director, Naval Criminal Investigative Service.
		Criminal Investigator, Executive Assistant Director for Atlantic Operations.
	Office of the Chief of Naval Operations	Director, Research, Modeling and Analysis Division.
		Assistant Deputy Chief of Naval Operations, Manpower, Personnel, Training and Education.
		Deputy Director, Afloat Readiness and Maintenance Division (N43).
		Special Assistant to Principal Deputy Undersecretary of Defense, Personnel and Readiness.
		Head, Campaign Analysis Branch.
		Director, Naval History and Heritage Command.
		Technical Director, Oceanographer of the Navy.
		Assistant Deputy Chief of Naval Operations of Logistics.
		Assistant Deputy Chief of Naval Operations for Integration of Capabilities and Resources, N8b.
		Director, Special Programs Division.
		Financial Manager and Chief Resources Officer for Manpower, Personnel, Training and Education.
		Director, Logistics Planning and Innovation.
		Deputy Director, Environmental Readiness Division.
		Assistant Deputy Chief of Naval Operations for Information Dominance (N2/N6b).
		Director, Strategic Sealift Division.
		Director, Assessment and Compliance.
		Deputy Director for Strategy and Policy.
	Commander, Navy Installations Command	Deputy Commander.
		Counsel, Commander Navy Installations Command.
		Comptroller.

Agency	Organization	Title
		Director, Total Force Manpower.
		Deputy Regional Commander, Mid-Atlantic Region.
		Region Executive Director.
	Bureau of Medicine and Surgery	Director, Total Force.
		Comptroller/Deputy Chief of Staff for Resource Management.
	Military Sealift Command	Counsel, Military Sealift Command.
		Comptroller.
		Executive Director.
		Director, Military Sealift Command Manpower and Personnel.
		Director, Contractor Operated Ships.
		Director, Government Operations NFAF and Special Mission Ships.
		Director, Naval Fleet Auxiliary Force and Special Mission Ships.
		Director, Strategic Sealift and Prepositioning.
	Naval Meteorology and Oceanography Communications, Stennis Space Center, Mississippi.	Technical/Deputy Director.
	Office of Commander, United States Fleet Forces Command/Joint Forces Command.	Director, Fleet Manpower and Personnel.
		Deputy for Naval Air and Missile Defense Command.
		Executive Director, Joint Warfare Analysis Center.
		Director, Joint Deployment, Employment, and Sustainment.
		Enterprise Business Director.
		Executive Director, Joint Capability Development (Forward).
		Executive Director, Joint Warfighting Center.
		Deputy Director, Joint Concept Development and Experimentation.
		Deputy Director, Joint Operations and Global Force Management.
		Executive Director, Joint Requirements and Integration Directorate.
		Deputy Director, Fleet Warfare Programs.
		Chief of Staff.
		Deputy Director, Fleet Readiness and Training.
	Office of the Commander, Naval Surface Forces.	Executive Director, Naval Surface Forces.
	Office of the Commander, Naval Air Forces	Executive Director, Naval Air Forces.
	Office of the Commander, Submarine Forces	Executive Director, Submarine Forces.
	Office of the Commander, Naval Expeditionary Combat Command.	Executive Director, Navy Expeditionary Combat Command.
	Navy Cyber Forces	Deputy Commander, Navy Cyber Forces.
	Office of the Commander, United States Pacific Command.	Chief Information Officer.
		Director, Pacific Outreach Directorate.
		Director for Forces Resources and Management.
	Office of the Commander, United States Pacific Fleet.	Executive Director, Total Force Management.
		Executive Director, Fleet Command, Control, Communications and Computer Systems and Command Information Officer.
		Executive Director, Pacific Fleet Plans and Policy.
		Executive Director, Fleet Warfare Requirements, Resources and Force Structure.
		Deputy for Naval Mine and Anti-Submarine Warfare Command.
	Naval Air Systems Command Headquarters	Principal Assistant for Air Warfare Acquisition Analysis and Planning.
		Assistant Commander for Contracts.
		Deputy Commander, Naval Air Systems Command.
		Deputy Assistant Commander for Research and Engineering.
		Assistant Commander for Acquisition Processes and Execution.
		Director, Tactical Aircraft and Missiles Contracts Department.

Agency	Organization	Title
		Director, Air Anti-Submarine Warfare, Assault and Special Mission Programs Contracts Department.
		Director, Strike Weapons, Unmanned Aviation, Naval Air Programs Contracts Department.
		Deputy Counsel, Office of Counsel.
		Director, Propulsion and Power.
		Director, Design Interface and Maintenance Planning.
		F–35 Joint Strike Fighter, Director of Logistics and Sustainment.
		Director, Cost Analysis Department.
		Director, Industrial Operations.
		Director, Air Platform Systems.
		Director, Enterprise Analysis and Planning.
		Director, Aviation Readiness and Resource Analysis.
		Deputy Assistant Commander for Logistics and Industrial Operations.
		Comptroller.
		Assistant Commander, Corporate Operations and Total Force.
		Command Information Officer.
		Principal Assistant for Air Warfare Acquisition Analysis and Planning.
		Counsel, Naval Air Systems Command.
		Director, Systems Engineering Department.
		Director, Avionics Department.
		Director, Air Vehicles and Unmanned Air Vehicles.
		Director, Logistics Management Integration.
	Naval Air Warfare Center Aircraft Division	Director, Flight Test Engineering.
		Director, Battlespace Simulation.
		Deputy Assistant Commander for Test and Evaluation/Executive Director Naval Air Warfare Center Aircraft Division/Director, Test and Evaluation NAWCAD.
		Director, Aircraft Launch and Recovery Equipment/Support Equipment.
		Director, Integrated Systems Evaluation Experimentation and Test Department.
	Naval Air Warfare Center Weapons Division, China Lake, California.	Director, Weapons and Energetics Department.
		Director, Electronic Warfare/Combat Systems.
		Director, Range Department.
		Director, Software Engineering.
		Executive Director, Naval Air Warfare Center Weapons Division/Director, Research Engineering.
	Naval Air Warfare Center Training Systems Division.	Director, Human Systems Department.
	Space and Naval Warfare Systems Command	Director, Corporate Operations/Command Information Officer.
		Counsel, Space and Naval Warfare Systems Command.
		Director, Contracts.
		Comptroller, Business Resources Manager.
		Director, Readiness/Logistics Directorate.
		Deputy Commander.
		Deputy Chief Engineer.
	Space and Naval Warfare Systems Center	Executive Director.
		Head, Intelligence, Surveillance, and Reconnaissance and Information Operations Department.
		Director, Science, Technology, and Engineering.
		Head, Communication and Information Systems Department.
		Head, Command and Control Department.
		Head, Research and Applied Sciences Department.
	Space and Naval Warfare Systems Center, Charleston.	Executive Director.

Agency	Organization	Title
	Naval Facilities Engineering Command	Assistant Commander/Chief Management Officer.
		Executive Director.
		Comptroller.
		Program Manager, Base Realignment and Closure Management Office.
		Director of Assets Management.
		Director, Special Venture Acquisition.
		Counsel, Naval Facilities Engineering Command.
		Director of Contracts Support.
		Chief Engineer.
		Director of Environment.
		Director, Navy Crane Center.
	Naval Sea Systems Command	Director, Reactor Refueling Division.
		Deputy Commander/Comptroller.
		Deputy Director, Advanced Undersea Systems Program Office.
		Assistant Deputy Commander, Regional Maintenance Centers.
		Assistant Deputy Commander, Maintenance, Modernization, Environment and Safety.
		Director of Radiological Controls.
		Executive Director, Ship Design, and Engineering Directorate.
		Deputy Director, Advanced Aircraft Carrier System Division.
		Director, Fleet Readiness Division.
		Command Information Officer.
		Executive Director.
		Director, Surface Systems Contracts Division.
		Deputy Counsel, Naval Sea Systems Command.
		Director for Aircraft Carrier Design and Systems Engineering.
		Deputy Director for Advanced Submarine Reactor Servicing and Spent Fuel Management.
		Director for Ship Survivability and Structural Integrity.
		Director for Machinery Systems.
		Head, Advanced Reactor Branch.
		Executive Director, Surface Warfare Directorate.
		Director, Undersea Systems Contracts Division.
		Director, Nuclear Components Division.
		Counsel, Naval Sea Systems Command.
		Director for Contracts.
		Director, Reactor Materials Division.
		Director for Surface Ship Design and Systems Engineering.
		Director, Cost Engineering and Industrial Analysis.
		Director, Shipbuilding Contracts Division.
		Assistant Deputy Commander for Industrial Operations.
		Deputy for Weapons Safety.
		Executive Director, Warfare Systems Engineering/Battle Force Systems Engineer.
		Deputy Commander, Corporate Operations Directorate.
		Executive Director for Logistics Maintenance and Industrial Operations Directorate.
		Executive Director, Undersea Warfare Directorate.
		Director, Reactor Plant Components and Auxiliary Equipment Division.
		Director, Surface Ship Systems Division.
		Director, Reactor Safety and Analysis Division.
		Director for Submarine/Submersible Design and Systems Engineering.

Agency	Organization	Title
		Program Manager for Commissioned Submarines.
		Director, Office of Resource Management.
		Deputy Commander, Human Systems Integration Directorate.
	Naval Shipyards	Nuclear Engineering and Planning Manager, Puget Sound Naval Shipyard.
		Nuclear Engineering and Planning Manager; Portsmouth Naval Shipyard.
		Nuclear Engineering and Planning Manager; Pearl Harbor Naval Shipyard.
		Naval Shipyard Nuclear Engineering and Planning Manager, Norfolk Naval Shipyard.
	Naval Surface Warfare Center	Technical Director.
	Naval Undersea Warfare Center	Technical Director.
		Division Technical Director, Naval Undersea Warfare Center.
	Naval Surface Warfare Center, Crane Division	Division Technical Director, Naval Surface Warfare Center, Crane, Indiana.
	Naval Undersea Warfare Center Division, Keyport, Washington.	Division Technical Director, Naval Undersea Warfare Center, Keyport Division.
	Naval Surface Warfare Center, Port Hueneme Division.	Division Technical Director, Naval Surface Warfare Center, Port Hueneme Division.
	Naval Surface Warfare Center, Corona Division.	Division Technical Director, Naval Surface Warfare Center, Corona Division.
	Naval Surface Warfare Center, Indian Head Division.	Division Technical Director, Naval Surface Warfare Center, Indian Head Division.
	Naval Surface Warfare Center, Carderock Division.	Division Technical Director, Naval Surface Warfare Center, Carderock Division.
	Naval Surface Warfare Center, Dahlgren Division.	Division Technical Director, Naval Surface Warfare Center, Dahlgren Division.
		Division Technical Director, Naval Surface Warfare Center, Panama City Division.
	Naval Undersea Warfare Center Division, Newport, Rhode Island.	Netwar/Forcenet Enterprise Executive.
		Corporate Business Executive.
	Naval Supply Systems Command Headquarters.	Counsel, Naval Supply Systems Command.
		Deputy Commander, Financial Management/Comptroller.
		Deputy Commander, Acquisition, Naval Supply Systems Command.
		Deputy Commander, Corporate Operations.
		Director, Defense Technology Analysis Office.
		Executive Director, Office of Special Projects.
		Senior Acquisition Logistician/Enterprise Resource Planning Program Manager.
		Vice Commander.
	Naval Inventory Control Point	Vice Commander, Naval Inventory Control Point.
	Fleet and Industrial Supply Centers	Deputy Commander, Fleet and Industrial Supply Centers.
	United States Marine Corps Headquarters Office.	Assistant Deputy Commandant for Manpower and Reserve Affairs.
		Assistant Deputy Commandant for Aviation.
		Marine Corps Business Enterprise Director.
		Deputy Assistant Deputy Commandant, Installations and Logistics (Facilities).
		Director, Manpower Plans and Policy Division.
		Assistant Deputy Commandant, Installations and Logistics (E-Business and Contracts).
		Counsel for the Commandant.
		Deputy Counsel for the Commandant.
		Assistant Deputy Commandant for Plans, Policies and Operations (Security).
		Assistant Deputy Commandant for Programs and Resources Director, Fiscal Division.
		Assistant Deputy Commandant, Installations and Logistics.
		Assistant Deputy Commandant for Programs and Resources.
		Director, Program Assessment and Evaluation Division.
	Marine Corps Systems Command	Deputy Commander, Command, Control, Communications, Computer, Intelligence, Surveillance and Reconnaissance.

Agency	Organization	Title
		Executive Director.
		Deputy for Financial Management.
	Marine Corps Logistics Command Albany, Georgia.	Executive Deputy, Marine Corps Logistics Command.
	Office of Naval Research	Patent Counsel of the Navy.
		Executive Director for Acquisition Management.
		Head, Sea Warfare and Weapons Science and Technology Department.
		Director, Hybrid Complex Warfare Sciences Division.
		Director of Transition.
		Head, Ocean, Battlespace Sensing Science and Technology Department.
		Head, Command, Control, Communications, Intelligence, Surveillance, and Reconnaissance (C4isr) Science and Technology Department.
		Head, Warfighter Performance Science and Technology Department.
		Executive Director.
		Counsel, Office of Naval Research.
		Comptroller.
		Head, Air Warfare and Weapons Science and Technology Department.
		Head, Expeditionary Warfare and Combating Terrorism Science and Technology Department.
		Director, Electronics, Sensors, and Networks Research Division.
		Director, Life Sciences Research Division.
		Director, Undersea Weapons and Naval Materials Science and Technology Division.
		Director, Ocean, Atmosphere and Space Science and Technology Processes and Prediction Division.
		Director of Innovation.
		Director, Ship Systems and Engineering Division.
		Director, Mathematical, Computer, and Information Sciences Division.
		Director for Aerospace Science Research Division.
	Naval Research Laboratory	Superintendent, Materials Science and Technology Division.
		Superintendent, Oceanography Division.
		Associate Director of Research for Business Operations.
		Associate Director of Research for Ocean and Atmospheric Science and Technology.
		Superintendent, Optical Sciences Division.
		Superintendent, Marine Geosciences Division.
		Superintendent, Chemistry Division.
		Associate Director of Research for Material Science and Component Technology.
		Director of Research.
		Superintendent, Center for Bio-Molecular Science and Engineering.
		Superintendent, Marine Meteorology Division.
		Superintendent, Remote Sensing Division.
		Chief Scientist, Laboratory for Computational Physics and Fluid Dynamics.
		Superintendent, Information Technology Division.
		Superintendent, Electronics Science and Technology Division.
		Superintendent, Plasma Physics Division.
		Superintendent, Radar Division.
		Superintendent, Space Sciences Division.
		Superintendent, Information Technology Division.
		Superintendent, Acoustics Division.
		Director, Naval Center for Space Technology.

Agency	Organization	Title
		Superintendent, Space Systems Development Department.
		Associate Director of Research for Systems.
		Superintendent, Spacecraft Engineering Department.
		Superintendent, Tactical Electronic Warfare Division.
	The Joint Staff	Assistant Deputy Director, Synchronization and Integration.
		Executive Director, Force Generation.
		Vice Assistant Deputy Director, Joint Development.
		Vice Deputy Director, Joint and Coalition Warfighting.
		Assistant Deputy Director for Command and Control.
OFFICE OF THE SECRETARY OF DEFENSE/ OFFICE OF THE INSPECTOR GENERAL.	Office of the Inspector General	Principal Deputy Inspector General.
	Office of the General Counsel	General Counsel.
	Office of Communications and Congressional Liaison.	Assistant Inspector General, Office of Communications and Congressional Liaison.
	Office of the Deputy Inspector General for Auditing.	Deputy Inspector General for Auditing.
	Office of the Principal Deputy Inspector General for Auditing.	Principal Assistant Inspector General for Auditing.
	Acquisition and Contract Management	Assistant Inspector General for Acquisition and Contract Management.
	Defense Business Operations	Assistant Inspector General for Payments and Accounting Operations.
		Assistant Inspector General for Financial Management and Reporting.
	Office of Readiness, Operations and Support	Assistant Inspector General for Readiness, Operations and Support.
	Office of the Deputy Inspector General for Investigations.	Deputy Inspector General for Investigations.
	Defense Criminal Investigative Service	Assistant Inspector General for Investigations.
		Assistant Inspector General for Investigative Operations.
	Office of the Executive Assistant Director, Defense Criminal Investigative Service.	Executive Assistant Director, Defense Criminal Investigative Service.
	Defense Criminal Investigative Service	Assistant Inspector General for International Operations.
	Administrative Investigations	Deputy Inspector General for Administrative Investigations.
	Office of the Deputy Inspector General for Policy and Oversight.	Deputy Inspector General for Policy and Oversight.
	Audit Policy and Oversight	Assistant Inspector General for Audit Policy and Oversight.
	Investigative Policy and Oversight	Assistant Inspector General for Investigative Policy and Oversight.
	Office of the Deputy Inspector General for Intelligence.	Deputy Inspector General for Intelligence.
	Office of Administration and Management	Assistant Inspector General for Administration and Management.
	Office of the Deputy Inspector General for Administrative Investigations.	Deputy Inspector General for Special Plans and Operations.
DEFENSE NUCLEAR FACILITIES SAFETY BOARD.	Defense Nuclear Facilities Safety Board	Technical Director.
		Deputy Technical Director.
		Deputy General Counsel.
		Deputy General Manager.
		Group Lead for Nuclear Weapon Programs.
		Group Lead for Nuclear Facility Design and Infrastructure.
		Group Lead for Nuclear Materials Processing and Stabilization.
		Group Lead for Nuclear Programs and Analysis.
		Technical Advisor for Engineering Studies.
DEPARTMENT OF EDUCATION	Office of the Chief Financial Officer	Director, Financial Improvement and Post Audit Operations.
		Director, Contracts and Acquisitions Management.
		Deputy Chief Financial Officer.

Agency	Organization	Title
		Executive Assistant to the Chief Financial Officer.
		Chief Information Officer.
	Office of Management	Director, Human Resources Services.
		Chairperson, Education Appeal Board.
	Office of the General Counsel	Assistant General Counsel for Educational Equity.
		Assistant General Counsel for Postsecondary Education and Education Research Division.
		Assistant General Counsel for Business and Administration Law.
	Institute of Education Sciences	Associate Commissioner for Assessment.
	Federal Student Aid	Chief Financial Officer.
DEPARTMENT OF EDUCATION OFFICE OF THE INSPECTOR GENERAL.	Office of the Inspector General	Counsel to the Inspector General.
		Deputy Inspector General.
		Assistant Inspector General for Audit Services.
		Deputy Assistant Inspector General for Audit Services.
		Assistant Inspector General for Information Technology Audits and Computer Crime Investigations.
		Assistant Inspector General for Evaluation, Inspection and Management Services.
		Assistant Inspector General for Investigative Services.
DEPARTMENT OF ENERGY	Office of the Secretary	Assistant Manager for Science.
		Associate Chief Information Officer for Operations.
	Loan Programs Office	Director for Portfolio Management.
	National Nuclear Security Administration	Chief of Defense Nuclear Counterintelligence.
		Director of Congressional, Intergovernmental and Public Affairs.
		Deputy Chief Information Officer for Information Technology.
	Office of the Associate Administrator for Acquisition and Project Management.	Director, Office of Acquisition and Supply Management.
	National Nuclear Security Administration Service Center.	Director, Office of Field Financial Management.
	Office of Management and Budget	Director, Diskless Workstation Task Force Office.
		Director, Office of Human Capital Management Programs.
	Office of the Deputy Administrator for Defense Programs.	Manager, Savannah River Site Office.
		Manager, Sandia Site Office.
		Deputy Manager, Technical Programs.
		Senior Advisor for Complex 2030 Implementation.
		Deputy Manager, Pentax Site Office.
		Principal Assistant Deputy Administrator for Defense Program.
		Manager, Livermore Site Office.
		Manager, Nevada Site Office.
	Office of the Deputy Administrator for Defense Nuclear Nonproliferation.	Director, Office of International Cooperation.
	Office of the Deputy Administrator for Naval Reactors.	Deputy Director for Naval Reactors.
		Director, Instrumentation and Control Division.
		Director of Regulatory Affairs.
		Senior Naval Reactors Representative, Puget Sound Naval Ship.
		Senior Naval Reactors Representative.
		Manager, Naval Reactors Laboratory Field Office.
		Program Manager for Surface Ship Nuclear Propulsion.
		Deputy Director, Nuclear Technology Division.
		Senior Naval Reactors Representative, Yokosuka, Japan.
		Director, Advanced Submarine Systems Division.
	Office of Infrastructure and Environment	Director, Office of Nuclear Materials Integration.

Agency	Organization	Title
		Director, Office of Infrastructure and Environment.
	National Nuclear Security Administration Field Site Offices.	Chief Counsel.
	Office of Security	Deputy Director, Office of Security Affairs.
	Office of the Chief Information Officer	Associate Chief Information Officer for Cyber Security.
		Associate Chief Information Officer for Information Technology Support Services.
		Chief Information Officer.
	Office of Human Capital Management	Director, Office of Headquarters and Executive Personnel Services.
		Director, Office of Headquarters and Executive Human Resources.
	Office of Management	Director, Office of Administration.
		Deputy Director, Office of Management, Budget and Evaluation/Deputy Chief Finance Officer.
		Director, Project Management Systems and Assessments.
	Office of the Chief Financial Officer	Deputy Chief Financial Officer.
		Director, Financial Policy.
		Deputy Chief Financial Officer.
		Director, Office of Budget.
	Office of Electricity Delivery and Energy Reliability.	Deputy Assistant Secretary for Permitting, Siting and Analysis.
		Director, Office of Energy Assurance.
	Office of Independent Oversight and Performance Assurance.	Director, Office of Security Oversight.
	Office of Safeguards and Security Evaluations	Deputy Director, Office of Independent Oversight and Performance.
	Office of Security and Safety Performance Assurance.	Director, Office of Safeguards and Security Evaluations.
		Director, Office of Safeguards and Security Training.
		Deputy Director, Office of Headquarters Security Operations.
		Director, Office of Independent Oversight and Performance.
		Director, Office of Headquarters Security Operations.
		Director, Office of Security and Safety Performance.
	Assistant Secretary for Energy Efficiency and Renewable Energy.	Program Manager.
		Director, Regional Office and Deployment Operations.
		Program Manager.
		Manager, Golden Field Office.
		Program Manager, Office of Geothermal Technologies Program.
		Deputy Manager, Golden Field Office.
		Program Manager.
	Assistant Secretary for Environment, Safety and Health.	Director, Office of Regulatory Liaison.
		Director, Office of Nuclear Safety, Policy and Standards.
	Energy Information Administration	Director, Energy Markets and Contingency Information Division.
		Director, Office of Oil and Gas.
		Director, Petroleum Division.
		Director, Coal, Nuclear and Renewables Division.
		Director, Electric Power Division.
		Director, Coal and Electric Power Division.
		Director, Office of Energy Consumption and Energy Efficiency Analysis.
		Director, Office of Integration Analysis and Forecasting.
		Director, Electrical Power Division.
		Director, Natural Gas Division.
		Director, Office of Petroleum and Biofuels Statistics.
		Director, Office of Oil, Gas and Coal Supply Statistics.

Agency	Organization	Title
		Director, Office of Electricity, Coal Nuclear and Renewables.
		Assistant Administrator for Energy Analysis.
		Assistant Administrator for Resources and Technology Management.
		Assistant Administrator for Communications.
		Director, Office of Integrated and International Energy Analysis.
		Director, Office of Petroleum Gas and Biofuels Analysis.
	Office of Environmental Management	Science Advisor.
		Director, Office of Safeguard and Security/Emergency Management.
	Environmental Management Consolidated Business Center.	Deputy Manager.
	Office of Science	Director, High Energy Physics Division.
		Site Office Manager, Fermi.
		Director, Facilities Division.
		Director, Financial Management Division.
		Associate Director, Office of Resource Management.
		Director, Health Effects and Life Scientist Research Division.
	Office of Fossil Energy	Director, Materials Partnerships Research Center.
	Albuquerque Operations Office	Assistant Manager for Management and Administration.
		Carlsbad Area Office Manager.
		Director, Weapons Programs Division.
		Director, Transportation Safeguards Division.
	Chicago Operations Office	Director, New Brunswick Laboratory.
		Assistant Manager, Acquisition and Assistance.
		Deputy Manager, Chicago Office.
	Idaho Operations Office	Chief Financial Officer/Chief Operating Officer.
	Ohio Field Office	Deputy Manager, Ohio Field Office.
		Manager, Ohio Field Office.
	Oakland Operations Office	Associate Manager for Site Management.
	Oak Ridge Operations Office	Chief Financial Officer.
		Assistant Manager for Administration.
	Rocky Flats Office	Assistant Manager for Administration and Transition.
	Office of General Counsel	Assistant General Counsel for General Law.
	Office of Hearings and Appeals	Director of Hearings and Appeals.
		Deputy Director for Legal Analysis.
		Deputy Director for Financial Analysis.
		Deputy Director for Economic Analysis.
	Office of Nuclear Energy, Science and Technology.	Director, Office of Light Water Reactor Deployment.
		Associate Director for Nuclear Facilities Management.
	Western Area Power Administration	Chief Financial Officer.
		Transmission Infrastructure Program Manager.
		Chief Operating Officer.
DEPARTMENT OF ENERGY OFFICE OF THE INSPECTOR GENERAL.	Office of the Inspector General	Deputy Inspector General for Investigations.
		Counsel to the Inspector General.
		Deputy Inspector General Management and Administration.
		Assistant Inspector General for Inspections.
		Principal Deputy Inspector General.
		Assistant Inspector General for Financial, Technology and Corporate Audits.
		Director, National Nuclear Security Administration and Science Audits Division.
		Deputy Inspector General for Investigations and Inspections.
		Director, Environment Technology Corporate and Financial Audits Division.
		Assistant Inspector General for Audits.
		Director, Energy Audits Division.
		Deputy Inspector General for Audits and Inspections.

Agency	Organization	Title
ENVIRONMENTAL PROTECTION AGENCY	Environmental Appeals Board	Environmental Appeals Judge (4 Positions).
	Office of Homeland Security	Director, Office of Homeland Security.
	Office of Executive Support	Director, Office of Executive Services.
	Office of the Chief Financial Officer	Associate Chief Financial Officer.
		Senior Advisor.
		Deputy Chief Financial Officer.
	Office of Planning, Analysis and Accountability.	Director, Office of Planning, Analysis and Accountability.
	Center for Environmental Finance	Director, Center for Environmental Finance.
	Office of Budget	Director, Office of Budget.
	Office of Financial Management	Director, Office of Financial Management.
	Office of Financial Services	Director, Office of Financial Services.
	Office of Technology Solutions	Director, Office of Technology Solutions.
	Office of Technology Operations and Planning	Director, National Computer Center.
	Office of the Assistant Administrator for Administration and Resources Management.	Deputy Assistant Administrator for Administration and Resources Management.
		Senior Policy Advisor.
	Office of Policy and Resource Management	Director, Office of Policy and Resource Management.
	Office of Administration	Deputy Director, Office of Administrative Services.
		Director, Facilities Management and Services Division.
		Director, Safety, Health and Environmental Management Division.
		Director, Office of Administration.
	Office of Human Resources	Deputy Director, Office of Human Resources.
		Director, Executive Resources Division.
		Director, Office of Human Resources.
	Office of Acquisition Management	Deputy Director, Office of Acquisition Management.
		Director, Superfund/Resource Conservation and Recovery Act Regional Procurement Operations Division.
		Director, Office of Acquisition Management.
	Office of Grants and Debarment	Director, Office of Grants and Debarment.
		Director, Grants Administration Division.
		Deputy Director, Office of Grants and Debarment.
	Office of Administration and Resources Management—Cincinnati Ohio.	Director, Office of Administration and Resources Management.
	Office of Administration and Resources Management—Research Triangle Park, North Carolina.	Director, Office of Administration and Resources Management.
	Federal Facilities Enforcement Office	Director, Federal Facilities Enforcement Office.
	Office of Environmental Justice	Director, Office of Environmental Justice.
	Office of Compliance	Director, Office of Compliance.
		Director, Enforcement Targeting and Data Division.
		Deputy Director, Office of Compliance.
		Director, National Enforcement Training Institute.
		Director, Compliance Assessment and Media Programs Division.
	Office of Criminal Enforcement, Forensics and Training.	Director, Office of Criminal Enforcement, Forensics and Training.
		Director, National Enforcement Investigations Center.
		Director, Criminal Investigation Division.
		Deputy Director, Office of Criminal Enforcement, Forensics Training.
		Assistant Director, Office of Criminal Enforcement, Forensics and Training.
	Office of Federal Activities	Director, International Compliance Assurance Division.
	Office of Civil Enforcement	Director, Air Enforcement Division.
		Director, Office of Civil Enforcement.
		Deputy Director, Office of Civil Enforcement.
	Office of Site Remediation Enforcement	Deputy Director, Office of Site Remediation Enforcement.
		Director, Office of Site Remediation Enforcement.
	Office of Deputy General Counsel	Director, Resources Management Office.

Agency	Organization	Title
	Office of the Inspector General	Counsel to the Inspector General.
		Deputy Inspector General.
	Office of Audit	Assistant Inspector General for Audits.
	Office of Investigations	Assistant Inspector General for Investigations.
	Office of Program Evaluation	Assistant Inspector General for Program Evaluation.
	Office of Human Capital	Assistant Inspector General for Human Capital.
	Office of Mission Systems	Assistant Inspector General for Mission Systems.
	Office of Planning, Analysis and Results	Assistant Inspector General for Planning, Analysis and Results.
	Office of Congressional and Public Liaison	Assistant Inspector General for Congressional and Public Liaison.
	Office of Ground Water and Drinking Water	Director, Standards and Risk Management Division.
		Director, Drinking Water Protection Division.
	Office of Science and Technology	Director, Standards and Health Protection.
		Director, Engineering and Analysis Division.
		Director, Health and Ecological Criteria Division.
	Office of Waste Water Management	Director, Water Permits Division.
		Director, Municipal Support Division.
	Office of Wetlands, Oceans and Watersheds	Director, Assessment and Watershed Protection Division.
		Director, Wetlands Division.
		Director, Oceans and Coastal Protection Division.
	Office of the Assistant Administrator for Solid Waste and Emergency Response.	Director, Land Revitalization Staff.
	Office of Superfund Remediation and Technology Innovation.	Director, Technology Innovation and Field Services Division.
		Director, Assessment and Remediation Division.
		Director, Resources Management Division.
	Office of Resource Conservation and Recovery.	Director, Program Implementation and Information Division.
		Director, Materials Recovery and Waste Management Division.
		Director, Resource Conservation and Sustainability Division.
	Office of the Assistant Administrator for Air and Radiation.	Senior Policy Advisor (Agriculture).
		Senior Advisor.
		Director, Office of Policy Analysis and Review.
	Office of Air Quality Planning and Standards	Deputy Director, Office of Air Quality Planning and Standards.
		Director, Outreach and Information Division.
		Director, Sector Policies and Programs Division.
		Director, Health and Environmental Impacts Division.
		Director, Air Quality Assessment Division.
		Associate Office Director for Program Integration and International Air Quality Issues.
		Director, Air Quality Policy Division.
	Office of Transportation and Air Quality	Director, Advanced Technology Division.
		Director, Transportation and Regional Programs Division.
		Director, Assessment and Standards Division.
		Director, Compliance and Innovative Strategies Division.
	Office of Radiation and Indoor Air	Director, Indoor Environments Division.
		Deputy Director, Office of Radiation and Indoor Air.
		Director, Radiation Protection Division.
	Office of Atmospheric Programs	Director, Climate Protection Partnership Division.
		Director, Climate Change Division.
		Director, Clean Air Markets Division.
	Office of Program Management Operations	Associate Assistant Administrator.
	Office of Pesticide Programs	Director, Information Technology and Resources Management Division.

Agency	Organization	Title
		Director, Biopesticides and Pollution Prevention Division.
		Director, Biological and Economic Analysis Division.
		Director, Registration Division.
		Director, Special Review and Reregistration Division.
		Director, Environmental Fate and Effects Division.
		Director, Health Effects Division.
		Director, Antimicrobials Division.
		Director, Field and External Affairs Division.
	Office of Pollution Prevention and Toxics	Director, Pollution Prevention Division.
		Director, Risk Assessment Division.
		Director, Information Management Division.
		Director, Chemical Control Division.
		Director, Economics Exposure and Technology Division.
		Director, National Program Chemicals Division.
		Director, Environmental Assistance Division.
	Office of the Assistant Administrator for Research and Development.	Director for Ecology.
		Chief Innovation Officer.
		Director, Office of Scientific Information Management.
	National Homeland Security Research Center	Deputy Director for Management, National Homeland Security Research Center.
		Director, National Homeland Security Research Center.
	Office of Resources Management and Administration.	Director, Office of Resources Management and Administration.
	National Health and Environmental Effects Research Laboratory.	Associate Director for Health.
		Director, National Health and Environmental Effects Research Laboratory.
		Deputy Director for Management.
		Associate Director for Ecology.
	Atlantic Ecology Division	Director, Atlantic Ecology Division.
	Western Ecology Division	Director, Western Ecology Division.
	Gulf Ecology Division	Director, Gulf Ecology Division.
	Mid-Continent Ecology Division	Director, Mid-Continent Ecology Division.
	Human Studies Division	Director, Human Studies Division.
	National Exposure Research Laboratory	Director, Microbiological and Chemical Assessment Research Division.
		Director, National Exposure Research Laboratory.
		Deputy Director for Management.
	Environmental Sciences Division	Director, Environmental Sciences Division.
	Ecosystems Research Division	Director, Ecosystems Research Division.
	Human Exposure and Atmospheric Sciences Division.	Director, Human Exposure and Atmospheric Science Division.
	National Risk Management Research Laboratory.	Director, National Risk Management Research Laboratory.
		Deputy Director for Management.
	Air Pollution Prevention and Control Division	Director, Air Pollution Prevention and Control Division.
	Ground Water Ecosystems Restoration Division.	Director, Ground Water Ecosystems Restoration Division.
	Water Supply and Water Resources Division	Director, Water Supply and Water Resources Division.
	National Center for Environmental Assessment.	Deputy Director for Management.
		Director, National Center for Environmental Assessment.
		Associate Director for Ecology.
	National Center for Environmental Assessment, Washington, DC.	Director, National Center for Environmental Assessment.
	National Center for Environmental Assessment, Research Triangle Park, North Carolina.	Director, National Center for Environmental Assessment.
	National Center for Environmental Assessment, Cincinnati, Ohio.	Director, National Center for Environmental Assessment.
	National Center for Environmental Research	Director, National Center for Environmental Research.
		Deputy Director for Management.

Agency	Organization	Title
	Office of Administrative and Research Support.	Director, Office of Administrative and Research Support.
		Deputy Director, Office of Administrative and Research Support.
	Region 1, Boston, Massachusetts	Director, Office of Environmental Stewardship.
		Assistant Regional Administrator for Administration and Resources Management.
		Director, Office of Site Remediation Restoration.
		Director, Office of Ecosystem Protection.
	Office of Regional Counsel	Regional Counsel.
	Region 2, New York, New York	Director, Office of Emergency and Remedial Response.
		Director, Environmental Planning and Protection Division.
		Director, Environmental Science and Assessment Division.
		Assistant Regional Administrator for Policy and Management.
		Director, Enforcement and Compliance Assistance Division.
		Director, Caribbean Environmental Protection Division.
	Office of Regional Counsel	Regional Counsel.
	Region 3, Philadelphia, Pennsylvania	Assistant Regional Administrator for Policy and Management.
		Director, Chesapeake Bay Program Office.
		Director, Water Protection Division.
		Director, Air Protection Division.
		Director, Environmental Assessment and Innovation Division.
		Director, Waste and Chemical Management Division.
		Director, Hazardous Site Cleanup Division.
	Office of Regional Counsel	Regional Counsel.
	Region 4, Atlanta, Georgia	Director, Science and Ecosystem Support Division.
		Director, Superfund Division.
		Director, Gulf of Mexico Program.
		Director, Water Management Division.
		Assistant Regional Administrator for Policy and Management.
		Director, Resource Conservation and Recovery Act Division.
		Director, Air, Pesticides and Toxics Management Division.
	Office of Regional Counsel	Regional Counsel.
	Region 5, Chicago, Illinois	Director, Great Lakes National Program Office.
		Director, Superfund Division.
		Director, Land and Chemicals Division.
		Director, Water Division.
		Director, Air and Radiation Division.
		Assistant Regional Administrator for Resources Management.
	Office of Regional Counsel	Regional Counsel.
	Region 6, Dallas, Texas	Assistant Regional Administrator for Management.
		Director, Compliance Assurance and Enforcement Division.
		Director, Superfund Division.
		Director, Water Quality Protection Division.
		Director, Multimedia Planning and Permitting Division.
	Office of Regional Counsel	Regional Counsel.
	Region 7, Kansas City, Kansas	Assistant Regional Administrator for Policy and Management.
		Director, Superfund Division.
		Director, Environmental Services Division.
		Director, Air, Resource Conservation and Recovery Act and Toxics Division.
		Director, Water, Wetlands and Pesticides Division.
	Office of Regional Counsel	Regional Counsel.

Agency	Organization	Title
	Region 8, Denver, Colorado	Assistant Regional Administrator for Ecosystems Protection and Remediation.
		Assistant Regional Administrator for Partnerships and Regulatory Assistance.
		Assistant Regional Administrator for Technical and Management Services.
	Office of Regional Counsel	Regional Counsel.
	Region 9, San Francisco, California	Director, Superfund Division.
		Assistant Regional Administrator for Management and Technical Services.
		Director, Waste Management Division.
		Director, Water Management Division.
		Director, Air Division.
		Director, Office of Public Affairs.
		Director, Cross Media Division.
	Office of Regional Counsel	Regional Counsel.
	Region 10, Seattle, Washington	Director, Office of Air, Waste and Toxics.
		Director, Office of Compliance and Enforcement.
		Director, Office of Water and Watersheds.
		Director, Office of Ecosystems, Tribal and Public Affairs.
		Director, Office of Environmental Cleanup.
		Assistant Regional Administrator for Management Programs.
		Senior Advisor.
	Office of Regional Counsel	Regional Counsel.
ENVIRONMENTAL PROTECTION AGENCY OFFICE OF THE INSPECTOR GENERAL.	Office of the Inspector General	Assistant Inspector General for Audits.
		Deputy Inspector General.
		Assistant Inspector General for Congressional and Public Liaison, and Management.
		Counsel to the Inspector General.
		Chief of Staff.
		Assistant Inspector General for Investigations.
		Assistant Inspector General for Program Evaluations.
		Assistant Inspector General for Mission Systems.
		Assistant Inspector General for Homeland Security and Customer Liaison.
	Office of Cyber Investigation and Homeland Security.	Assistant Inspector General for Cyber Investigation and Homeland Security.
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.	Office of the Inspector General	Inspector General.
	Office of Field Programs	District Director, Indianapolis.
		District Director, Atlanta.
		District Director, Houston.
		District Director, Detroit.
		District Director, San Francisco.
		District Director, Dallas.
		District Director, Chicago.
		District Director, St Louis.
		District Director, Miami.
		District Director, Memphis.
		District Director, Los Angeles.
		District Director, Denver.
		District Director, Birmingham.
		District Director, New Orleans.
		District Director, Phoenix.
		District Director, San Antonio.
		District Director, Charlotte.
		National Mediation Executive Advisor.
		District Director, Cleveland.
		District Director, Philadelphia.
		District Director, Baltimore.
		District Director, New York.
		Program Manager.
		District Director, Milwaukee.
	Field Management Programs	Director, Field Management Programs.
	Field Coordination Programs	Director, Field Coordination Programs.
FEDERAL COMMUNICATIONS COMMISSION	Office of Inspector General	Inspector General.
FEDERAL ENERGY REGULATORY COMMISSION.	Office of Energy Projects	Director, Division of Dam Safety and Inspection.
	Office of Administrative Litigation	Director, Legal Division.

Agency	Organization	Title
	Office of Enforcement	Chief Accountant and Director, Division of Financial Regulations.
FEDERAL LABOR RELATIONS AUTHORITY	Office of the Chairman	Senior Advisor.
		Chief Counsel.
		Solicitor.
		Director, Policy and Performance Management.
	Office of Member	Chief Counsel.
		Chief Counsel.
	Federal Service Impasses Panel	Executive Director, Federal Service Impasses Panel.
	Office of the Executive Director	Executive Director.
	Office of the General Counsel	Deputy General Counsel (2 positions).
	Office of the General Counsel Regional Offices.	Regional Director, Denver.
		Regional Director, Boston.
		Regional Director, Dallas.
		Regional Director, Chicago.
		Regional Director, San Francisco.
		Regional Director, Atlanta.
		Regional Director, Washington, DC.
FEDERAL MARITIME COMMISSION	Office of the Secretary	Secretary.
	Office of the General Counsel	Deputy General Counsel for Reports Opinions and Decisions.
	Bureau of Certification and Licensing	Director, Bureau of Certification and Licensing.
	Bureau of Trade Analysis	Director, Bureau of Trade Analysis.
	Bureau of Enforcement	Director, Bureau of Enforcement.
		Deputy Director, Bureau of Enforcement.
	Office of Administration	Director of Administration.
FEDERAL MEDIATION AND CONCILIATION SERVICE.	Office of the Director	National Representative.
		Chief of Staff.
	Office of the Deputy Director	Director of Field Operations.
FEDERAL RETIREMENT THRIFT INVESTMENT BOARD.	Federal Retirement Thrift Investment Board	Chief Financial Officer.
		Director, Office of Research and Strategic Planning.
		Associate Director of Publications.
		Chief Investment Officer.
		Director of Participant Services.
		Associate General Counsel.
		Chief Information Officer.
FEDERAL TRADE COMMISSION	Office of International Affairs	Deputy Director for International Consumer Protection.
	Office of the Executive Director	Chief Information Officer.
		Deputy Executive Director.
	Bureau of Competition	Deputy Director, Bureau of Competition.
FEDERAL TRADE COMMISSION OFFICE OF THE INSPECTOR GENERAL.	Office of the Inspector General	Inspector General.
GENERAL SERVICES ADMINISTRATION	Office of Emergency Response and Recovery	Chief, Emergency Response and Recovery Officer.
	Office of Citizen Services and Communications.	Director, Federal Citizen Information Center.
	Office of the Chief People Officer	Chief Information Officer.
		Director of Human Resources Services.
		Director of Human Capital Management.
		Chief Human Capital Officer.
		Deputy Chief Information Officer.
	Office of Governmentwide Policy	Deputy Associate Administrator for Technology Strategy.
		Director of Governmentwide Acquisition Policy.
		Deputy Associate Administrator for Travel, Transportation and Asset Management.
		Deputy Associate Administrator for Real Property Management.
		Director of the Federal Acquisition Institute.
	Office of the Chief Acquisition Officer	Director of Acquisition Integrity.
		Deputy Chief Acquisition Officer.
		Director of Acquisition Systems.
	Office of Inspector General	Principal Deputy Assistant Inspector General for Auditing.
		Counsel to the Inspector General.
		Assistant Inspector General for Investigations.

Agency	Organization	Title
		Deputy Assistant Inspector General for Investigations.
		Assistant Inspector General for Administration.
		Assistant Inspector General for Auditing.
		Deputy Inspector General.
	Office of the Chief Financial Officer	Chief Financial Officer.
		Director of Financial Management Systems.
		Director of Financial Policy and Operations.
		Director of Budget.
	Public Buildings Service	Deputy Assistant Commissioner for Real Property Disposal.
		Assistant Commissioner for Facilities Management and Services Programs.
		Director of Federal High-Performance Green Buildings.
		Program Executive.
		Assistant Commissioner for Real Property Asset Management.
		Assistant Commissioner for Leasing.
		Assistant Commissioner for Budget and Financial Management.
		Assistant Commissioner for Construction Programs.
		Assistant Commissioner for National Customer Services Management.
		Deputy Assistant Commissioner for Vendor Alliance and Vendor Acquisition.
		Assistant Commissioner for Organizational Resources.
		Deputy Assistant Commissioner for Real Estate Portfolio Management.
	Office of the Chief Information Officer	Director of Enterprise Management Services.
		Director of Enterprise Infrastructure.
		Senior Agency Information Security Officer.
	Federal Acquisition Service	Director of Motor Vehicle Management.
		Director of Supply Operations.
		Deputy Assistant Commissioner for General Supplies and Services.
		Director of Travel and Transportation Services.
		Assistant Commissioner for Acquisition Management.
		Assistant Commissioner for Assisted Acquisition Services.
		Chief Information Officer.
		Director of Acquisition.
		Controller.
		Assistant Commissioner for Customer Accounts and Research.
		Assistant Commissioner for Travel, Motor Vehicle and Card Services.
		Assistant Commissioner for General Supplies and Services.
		Deputy Assistant Commissioner for Integrated Technology Services.
		Director of Network Services Programs.
		Assistant Commissioner for Integrated Technology Services.
		Assistant Commissioner for Strategic Business Planning and Process Improvement.
		Director of Governmentwide Acquisition Contracts and Information Technology Schedule Programs.
		Deputy Chief Information Officer.
	New England Region	Regional Commissioner for Federal Acquisition Service, Region I.
		Regional Commissioner for Public Buildings Service.
	Northeast and Caribbean Region	Regional Commissioner for Public Buildings Service.
		Regional Commissioner for Federal Acquisition Service.
	Mid-Atlantic Region	Regional Counsel.

Agency	Organization	Title
		Regional Commissioner for Public Buildings Service.
		Regional Commissioner for Federal Acquisition Service.
	National Capital Region	Director of Facilities Management and Services Programs.
		Principal Deputy Regional Commissioner for Public Buildings Service.
		Director of Leasing.
		Project Executive for Real Estate Development.
		Regional Commissioner for Federal Acquisition Service.
		Director of Project Delivery.
		Director of Portfolio Management.
		Principal Deputy Regional Commissioner for Projects and Real Property Asset Management.
		Regional Commissioner for Public Buildings Service.
	Southeast Sunbelt Region	Regional Commissioner for Public Buildings Service.
		Regional Commissioner for Federal Acquisition Service.
		Deputy Regional Commissioner for Real Estate Design, Construction and Development.
	Great Lakes Region	Regional Commissioner for Public Buildings Service.
	the Heartland Region	Regional Commissioner for Public Buildings Service.
		Regional Commissioner for Federal Acquisition Service.
	Greater Southwest Region	Regional Commissioner for Federal Acquisition Service.
		Regional Commissioner for Public Buildings Service.
	Rocky Mountain Region	Regional Commissioner for Public Buildings Service.
		Regional Commissioner for Federal Acquisition Service, Region VIII.
	Pacific RIM Region	Assistant Regional Administrator, Federal Acquisition Service.
		Assistant Regional Administrator for Federal Supply Service.
		Principal Deputy Regional Commissioner for Public Buildings Service.
		Regional Commissioner for Public Buildings Service.
	Northwest/Arctic Region	Regional Commissioner for FAS, Region X.
		Regional Commissioner for Public Buildings Service.
DEPARTMENT OF HEALTH AND HUMAN SERVICES.	Office of Security and Strategic Information	Associate Director for Strategic Information.
		Director, Division of Physical Security.
		Associate Director for Personnel and Classified Information Security.
	Office of the Assistant Secretary for Administration.	Director, Atlanta Human Resources Center.
		Director, Office of Small and Disadvantaged Business Utilization.
	Office of the Deputy Assistant Secretary for Finance.	Director, Office of Financial Policy and Reporting.
		Deputy Assistant Secretary, Finance.
	Office of the Deputy Assistant Secretary for Information Resources Management.	Deputy Chief Information Officer.
	Office of the Assistant Secretary for Planning and Evaluation.	Associate Deputy Assistant Secretary for Planning and Evaluation (Health Services Policy).
	Office of the Assistant Secretary for Health	Director, Office of Research Integrity.
		Director, Office of Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome Policy.
	Associate General Counsel Divisions	Associate General Counsel, General Law Division.

Agency	Organization	Title
		Deputy Associate General Counsel, Business and Administrative Law Division.
		Deputy Associate General Counsel for Claims and Employment Law.
	Office of the Inspector General	Deputy Inspector General for Legal Affairs.
		Deputy Inspector General for Management and Policy.
		Principal Deputy Inspector General.
	Office of the Deputy Inspector General for Investigations.	Assistant Inspector General for Investigative Operations.
		Assistant Inspector General for Investigations (2 positions).
		Deputy Inspector General for Investigations.
	Office of the Deputy Inspector General for Audit Services.	Assistant Inspector General for Financial Management and Regional Operations.
		Assistant Inspector General for Medicare and Medicaid Service Audits.
		Deputy Inspector General for Audit Services.
		Assistant Inspector General for Audit Management and Policy.
		Assistant Inspector General for Grants and Internal Activities.
	Office of the Deputy Inspector General for Evaluation and Inspections.	Deputy Inspector General for Evaluation and Inspections.
	Program Support Center	Deputy Assistant Secretary for Program Support.
		Director, Information Systems Management Service.
	Office of Financial Management Service	Director, Financial Management Service.
	Office of Program Support	Director, Office of Financial Management.
	Office of Public Engagement	Deputy Director, Office of External Affairs.
	Office of the Actuary	Director, Office of the Actuary (Chief Actuary).
		Director, Parts C and D Actuarial Group.
		Director, Medicare and Medicaid Cost Estimates Group.
		Director, National Health Statistics Group.
	Center for Medicare	Director, Medicare Contractor Management Group.
	Center for Program Integrity	Director, Medicaid Integrity Group.
		Director, Medicare Program Integrity Group.
	Office of Acquisitions and Grants Management.	Deputy Director for Policy.
		Deputy Director, Office of Acquisition and Grants Management.
		Director, Office of Acquisitions and Grants Management.
	Office of Information Services	Deputy Director, Office of Information Services.
		Director, Office of Information Services (Chief Information Officer).
		Deputy Director, Office of Information Services.
	Office of Financial Management	Director, Financial Services Group.
		Director, Accounting Management Group.
		Director, Office of Financial Management.
		Deputy Director, Office of Financial Management.
	Office of Policy, Planning and Budget	Associate Administrator for Policy and Programs Coordinator.
	Center for Mental Health Services	Director, Division of State and Community Systems Development.
		Director, Center for Mental Health Services.
	Centers for Disease Control and Prevention	Chief Management Officer, Coordinating Office for Terrorism Preparedness and Emergency Response.
		Issues Analysis and Coordination Officer.
		Director, Procurement and Grants Office.
		Chief Learning Officer.
		Chief Management Officer, Office of the Director.
		Director, Procurement and Grants Office.
		Chief Management Officer, Information Resources Management Office.
		Chief Management Officer, Office of Terrorism Preparedness and Emergency Response.

Agency	Organization	Title
		Director, Financial Management Office.
		Chief Financial Officer.
		Director, Buildings and Facilities Office.
		Director, Information Technology Services Office.
	National Institute for Occupational Safety and Health.	Deputy Director for Management.
	National Center for Chronic Disease Prevention and Health Promotion.	Director, Office on Smoking and Health.
		Director, Division of Adult and Community Health.
	Coordinating Center for Health Information and Services.	Chief Management Officer, Coordinating Center for Health Information and Services.
	Office of Global Health	Chief Management Officer, Office of Global Health.
	Coordinating Center for Infectious Diseases	Chief Management Officer, Coordinating Center for Infectious Diseases.
	Office of Surveillance, Epidemiology, and Laboratory Services.	Chief Management Officer, Office of Workforce and Career Development.
	Coordinating Center for Health Promotion	Chief Management Officer, Coordinating Center for Health Promotion.
	Coordinating Center for Environmental Health, Injury Prevention, and Occupational Health.	Chief Management Officer, Coordinating Center for Environmental Health, Injury Prevention, and Occupational Health.
	Office of Chief Counsel	Associate Deputy Chief Counsel for Drugs and Biologics.
		Associate Deputy Chief Counsel for Devices, Foods and Veterinary Medicine.
		Deputy Chief Counsel for Program Review.
	Office of Management	Director, Office of Acquisitions and Grants Services.
	Office of Regulatory Affairs	Regional Food and Drug Director, Central Region.
		Deputy Director for Investigations.
		District Food and Drug Director, Los Angeles District.
		Deputy Associate Commissioner for Regulatory Affairs.
		Regional Food and Drug Director, Southeast Region.
		Regional Food and Drug Director, Northeast Region.
		Associate Commissioner for Regulatory Affairs.
		Regional Food and Drug Director, Southwest Region.
		Director, Office of Criminal Investigations.
		Associate Director of Investigations.
		District Food and Drug Director, New York District.
	Center for Biologics Evaluation and Research, Food and Drug Administration.	Associate Director for Compliance and Biologic Quality.
		Director, Office of Compliance and Biologics Quality.
	Center for Drug Evaluation and Research, Food and Drug Administration.	Director, Office of Management.
		Director, Office of Epidemiology and Biostatistics.
		Director, Office of New Drug Quality Assessment.
		Director, Division of Medical Imaging Surgical and Dental Products.
		Senior Advisor for Policy.
		Director, Office of Compliance.
		Director, Office of Generic Drugs.
	Center for Devices and Radiological Health	Director, Office of Science and Technology.
		Director, Office of Compliance.
		Director, Office of Device Evaluation.
		Director, Office of System and Management.
	Center for Food Safety and Applied Nutrition, Food and Drug Administration.	Director, Office of Field Programs.
		Director, Office of Plant and Dairy Foods and Beverages.
		Director, Office of Regulations and Policy.
		Director, Office of Seafood.
		Director, Office of Premarket Approval.

Agency	Organization	Title
	Center for Veterinary Medicine, Food and Drug Administration.	Director, Office of Science.
		Director, Office of Surveillance and Compliance.
	Special Programs Bureau	Associate Administrator, Special Programs Bureau.
	HIV/AIDS Bureau	Director, Office of Science and Epidemiology.
	Indian Health Service	Director, Office of Environmental Health and Engineering.
	National Institutes of Health	Director.
		Associate Director for Management.
		Associate Director for Administrative Management.
		Director, Office of Research Information Systems.
	Office of the Director	Associate Director for Security and Emergency Response.
		Director, Office of Research Facilities Development and Operations.
		Director, Office of Reports and Analysis.
		Senior Advisor for Policy.
		Associate Director for Disease Prevention.
		Director, Office of Medical Applications of Research.
		Director, Office of Policy for Extramural Research Administration.
		Director, Office of Contracts Management.
		Associate Director for Administration.
		Scientific Advisor for Capacity Development.
		Associate Director for Extramural Affairs.
		Director, Office of Strategic Planning for Administration.
		Senior Policy Officer (Ethics).
		Special Advisor to the Director.
		Director, Office of Financial Management.
		Deputy Director for Science, Outreach, and Policy.
	National Heart, Lung and Blood Institute	Director, Epidemiology and Biometry Program.
		Director, National Center for Sleep Disorders.
		Director, Division of Extramural Affairs.
		Associate Director for International Programs.
		Deputy Director, Division of Heart Vascular Diseases.
		Deputy Director, Division of Epidemiology and Clinical Application.
		Director, Division of Lung Diseases.
		Director, Division of Blood Diseases and Resources.
		Director, Office of Biostatics Research.
		Director, Division of Heart and Vascular Diseases.
	Intramural Research	Chief, Laboratory of Biochemical Genetics.
		Chief, Laboratory of Biochemistry.
		Chief, Laboratory of Biophysical Chemistry.
		Chief, Laboratory of Cardiac Energetics.
		Chief, Intermediary Metabolism and Bioenergetics Section.
		Chief, Metabolic Regulation Section.
		Chief, Laboratory of Kidney and Electrolyte Metabolism.
		Chief, Macromolecules Section.
	National Cancer Institute	Associate Director, Cancer Diagnosis Program.
		Associate Director for Budget and Financial Management.
		Associate Director, Referral Review and Program Coordination.
		Deputy Director for Administrative Operations.
		Associate Director for Intramural Management.
		Associate Director for Extramural Management.
		Deputy Director for Management.

Agency	Organization	Title
	Division of Cancer Biology, Diagnosis and Centers.	Deputy Director, Division of Cancer Biology Diagnosis and Centers.
		Chief, Dermatology Branch, Intramural Research Program.
		Chief, Cell Mediated Immunity Section.
		Chief, Laboratory of Tumor and Biological Immunology, Intramural Research Programs.
		Associate Director, Extramural Research Program.
		Associate Director, Centers Training and Resources Program.
		Chief, Microbial Genetics and Biochemistry Section, Laboratory of Biochemistry.
		Chief, Laboratory of Biochemistry Intramural Research Program.
		Director, Division of Cancer Biology Diagnosis and Centers.
	Division of Cancer Etiology	Chief, Laboratory of Biology.
		Director, Division of Cancer Etiology.
		Chief, Laboratory of Experimental Pathology.
		Chief, Laboratory of Molecular Carcinogenesis.
	Division of Cancer Prevention and Control	Associate Director, Surveillance Research Program.
		Associate Director, Early Development and Conchology Program.
		Deputy Director, Division of Cancer Prevention and Control.
	Division of Extramural Activities	Director, Division of Extramural Activities.
		Deputy Director, Division of Extramural Activities.
	Division of Cancer Treatment	Associate Director, Cancer Therapy Evaluation Program.
		Chief, Radiation Conchology Branch.
	National Institute of Diabetes and Digestive and Kidney Diseases.	Associate Director for Management.
		Director, Division Kidney Urologic and Hematologic Diseases.
		Deputy Director for Management and Operations.
		Associate Director for Management.
		Chief, Laboratory of Molecular and Cellular Biology.
		Director, Division of Extramural Activities.
	Intramural Research	Chief, Oxidation Mechanisms Section Laboratory of Bioorganic Biochemistry.
		Chief, Section on Biochemical Mechanisms.
		Chief, Section on Metabolic Enzymes.
		Chief, Section on Physical Chemistry.
		Chief, Section on Molecular Structure.
		Clinical Director and Chief, Kidney Disease Section.
		Chief, Laboratory of Bio-Organic Chemistry.
		Chief, Section Carbohydrates Laboratory of Chemistry/National Institute of Diabetes and Digestive and Kidney Diseases.
		Chief, Laboratory of Neuroscience, National Institute of Diabetes and Digestive and Kidney Diseases.
		Chief, Laboratory of Medicinal Chemistry.
		Chief, Laboratory of Biochemistry and Metabolism.
		Chief, Morphogenesis Section.
		Chief, Theoretical Biophysics Section.
		Chief, Section on Molecular Biophysics.
	National Institute of Arthritis and Musculoskeletal and Skin Diseases.	Deputy Director.
		Director, Extramural Program.
		Associate Director for Management and Operations.
	National Library of Medicine	Associate Director for Extramural Programs.
		Deputy Director, National Library of Medicine.
		Deputy Director for Research and Education.
		Associate Director for Library Operations.
		Associate Director for Extramural Programs.
		Director, Information Systems.

Agency	Organization	Title
		Deputy Director, Lister Hill National Center for Biomedical Commissioners.
		Director, National Center for Biotechnology Information.
		Associate Director for Health and Information Programs Development.
		Associate Director for Administrative Management.
		Director, Lister Hill National Center for Biomedical Community.
	National Institute of Allergy and Infectious Diseases.	Director, Division of Allergy/Immunology/Transplantation.
		Chief, Laboratory of Microbial Structure and Function.
		Director, Office of Communications and Government Relations.
		Chief, Laboratory of Molecular Microbiology.
		Chief, Biological Resources Branch.
		Head, Lymphocyte Biology Section.
		Chief, Laboratory of Infectious Diseases.
		Deputy Director, Division of Acquired Immunodeficiency.
		Head, Epidemiology Section.
		Director, Division of Acquired Immunodeficiency Syndrome.
		Director, Division of Intramural Research.
		Chief, Laboratory of Malaria Research.
		Deputy Chief, Laboratory of Immunology and Head, Lymphocyte Biology Section.
		Director, Division of Microbiology/Infectious Diseases.
		Chief, Laboratory of Immunogenetics.
		Director, Division of Extramural Activities.
		Chief, Laboratory of Parasitic Diseases.
	National Institute on Aging	Scientific Director, Gerontology Research Center.
		Clinical Director and Chief, Clinical Physiology Branch.
		Director of Management.
		Associate Director, Biology of Aging Program.
		Director of Behavioral and Social Research Program.
		Associate Director, Epidemiology, Demography, and Biometry Program.
		Associate Director, Office of Planning, Analysis and International Activities.
		Director of Neuroscience and Neuropsychology of Aging Program.
		Director, of Office of Extramural Affairs.
	National Institute of Child Health and Human Development.	Chief, Laboratory of Molecular Genetics.
		Chief, Section on Molecular Endocrinology.
		Chief, Section Neuroendocrinology.
		Chief, Section on Microbial Genetics.
		Chief, Laboratory of Comparative Ethology.
		Associate Director for Administration.
		Director, Center for Research for Mothers and Children.
		Chief, Section on Growth Factors.
		Associate Director for Prevention Research.
		Chief, Laboratory of Mammalian Genes and Development.
		Director, National Center for Medical Rehabilitation Research.
		Chief, Endocrinology and Reproduction Research Branch.
		Director, Center for Population Research.
	National Institute of Dental and Craniofacial Research.	Chief, Laboratory of Immunology.
		Associate Director for Management.
		Director, Extramural Program.
		Associate Director for Management.
		Associate Director for Program Development.
		Associate Director for International Health.

Agency	Organization	Title
	National Institute of Environmental Health Sciences.	Associate Director for Management.
		Chief, Laboratory of Molecular Carcinogenesis.
		Director, National Institute of Environmental Health Science.
		Senior Scientific Advisor.
		Director, Environmental Toxicology Program.
		Chief, Laboratory of Pulmonary Pathobiology.
		Head, Mutagenesis Section.
		Head, Mammalian Mutagenesis Section.
	National Institute of General Medical Sciences	Deputy Director, National Institute of General Medical Sciences.
		Associate Director for Extramural Activities.
		Director, Genetics Program.
		Director, Biophysics Physiological Sciences Program Branch.
		Director, Division of Pharmacology, Physiology, and Biological Chemistry.
		Director, Minority Opportunities In Research Program Branch.
		Associate Director for Administration and Operations.
	National Institute of Neurological Disorders and Stroke.	Associate Director for Administration.
		Director, Basic Neuroscientist Program/Chief/Laboratory of Neurochemistry.
		Director, Division of Fundamental Neurosciences.
		Chief, Laboratory of Molecular and Cellular Neurobiology.
	Intramural Research	Chief Stroke Branch.
		Chief, Laboratory of Neural Control.
		Chief, Neuroimaging Branch.
		Chief, Development and Metabolic Neurology Branch.
		Deputy Chief, Laboratory of Central Nervous System Studies.
		Chief, Brain Structural Plasticity Section.
		Chief, Laboratory of Neurobiology.
		Chief, Laboratory of Central Nervous System Studies.
	National Eye Institute	Chief, Laboratory of Sensorimotor Research.
		Chief, Laboratory of Molecular and Development Biology.
		Chief, Laboratory of Retinal Cell and Molecular Biology.
	National Institute on Deafness and Other Communication Disorders.	Chief, Laboratory of Cellular Biology.
		Associate Director for Administration.
		Director, Division of Extramural Research.
		Director, Division of Human Communication.
	National Institutes of Health Clinical Center	Chief Financial Officer.
		Associate Director for Planning.
		Chief Operating Officer.
		Associate Chief, Positron Emission Tomography and Radiochemistry.
		Deputy Director for Management and Operations.
	Center for Information Technology	Associate Director, Office of Computing Resources Services.
		Senior Advisor to Director, Center for Information Technology.
		Deputy Director.
		Chief, Computer Center Branch.
		Director, Center for Information Technology.
		Director, Division of Computer System Services.
	John E Fogarty International Center for Advanced Study in the Health Sciences.	Deputy Director, Fogarty International Center.
		Associate Director for International Advanced Studies.
		Special Advisor to the Fogarty International Center Director.
	National Center for Research Resources	Associate Director for Biomedical Technology.
		Associate Director for Research Infrastructure.
		Deputy Director, National Center for Research Resources.

Agency	Organization	Title
		Director, General Clinical Research Center for Research Resources.
		Director, National Center for Research Resources.
		Associate Director for Comparative Medicine.
	Center for Scientific Review	Director, Division of Biologic Basis of Disease.
		Senior Scientific Advisor.
		Associate Director for Statistics and Analysis.
		Associate Director for Referral and Review.
		Director, Division of Physiological Systems.
		Director, Division of Clinical and Population-Based Studies.
		Director, Division of Molecular and Cellular Mechanisms.
	National Institute of Nursing Research	Director, National Center for Nursing Research.
		Deputy Director/Director, Division of Extramural Activities.
	National Human Genome Research Institute	Associate Director for Management.
		Director, Division of Intramural Research, National Center Human Genome Research.
		Chief, Laboratory of Genetic Disease Research, National Center for Human Genome Research Institute.
		Chief, Diagnosis Development Branch, National Center for Human Genome Research Institute.
		Deputy Director.
		Director, Office of Population Genomics.
	National Institute on Drug Abuse	Associate Director for Clinical Neuroscience and Medical Affairs, Division of Treatment Research and Development.
		Senior Advisor and Counselor for Special Initiatives.
		Chief, Neuroscience Research Branch.
		Director, Medications Development Division.
		Director, Division of Clinical Research.
		Director, Office of Extramural Program Review.
		Associate Director for Management and Operations.
	National Institute of Mental Health	Chief, Section on Histopharmacology.
		Chief, Laboratory of Clinical Science.
		Chief, Biological Psychiatry Branch.
		Chief, Child Psychiatry Branch.
		Chief, Neuropsychiatry Branch.
		Director, Division of Neuroscience and Behavioral Scientist.
		Director, Office of Legislative Analysis and Coordinator.
		Executive Officer, National Institute of Mental Health.
		Associate Director for Prevention.
		Associate Director for Special Populations.
		Deputy Director, National Institute of Mental Health.
		Director, Division of Mental Disorders, Behavioral Research and Acquired Immunodeficiency Syndrome.
		Director, Office on Acquired Immunodeficiency Syndrome.
		Director, Division of Services and Intervention Research.
		Chief, Section on Cognitive Neuroscience.
		Chief, Section on Clinical and Experimental Neuropsychology.
	National Institute on Alcohol Abuse and Alcoholism.	Associate Director for Administration.
		Director, Division of Basic Research.
	Agency for Healthcare Research and Quality	Executive Officer.
DEPARTMENT OF HEALTH AND HUMAN SERVICES OFFICE OF THE INSPECTOR GENERAL.	Office of the Inspector General	Principal Deputy Inspector General.
	Office of the Counsel to the Inspector General	Assistant Inspector General for Legal Affairs.
		Chief Counsel to the Inspector General.

Agency	Organization	Title
	Office of Audit Services	Assistant Inspector General for Grants and Internal Activities.
		Assistant Inspector General for Audit Management and Policy.
		Deputy Inspector General for Audit Services.
		Assistant Inspector General for Medicare and Medicaid Service Audits.
		Assistant Inspector General for Financial Management and Regional Operations.
	Office of Evaluation and Inspections	Assistant Inspector General for Evaluation and Inspections.
		Deputy Inspector General for Evaluation and Inspections.
	Office of Investigations	Assistant Inspector General for Investigations (3 positions).
		Deputy Inspector General for Investigations.
	Office of Management and Policy	Assistant Inspector General for Management and Policy (Chief Operating Officer).
		Deputy Inspector General for Management and Policy.
		Assistant Inspector General for Information Technology (Chief Information Officer).
DEPARTMENT OF HOMELAND SECURITY	Ombudsman, Citizenship and Immigration Services.	Deputy Director, Ombudsman.
	National Cybersecurity Center	Chief Technology Officer.
	Office of the Executive Secretary for Operations and Administration.	Deputy Executive Secretary, Operations and Administration.
	Office of Operations Coordination and Planning Directorate.	Senior Department of Homeland Security Advisor to the Commander, U.S. Northern Command/North American Aerospace Defense Command.
	Office of the General Counsel	Associate General Counsel for Ethics.
		Assistant General Counsel for Acquisition and Procurement.
		Deputy Associate General Counsel for General Law.
	Office of Civil Rights and Civil Liberties	Deputy Civil Rights and Civil Liberties Officer, Programs and Compliance.
		Deputy Civil Rights and Civil Liberties Officer, Equal Employment Opportunity and Diversity Director.
		Director, Civil Rights and Civil Liberties Programs Division.
	Domestic Nuclear Detection Office	Assistant Director, Transformational and Applied Research Directorate.
		Assistant Director, National Technical Nuclear Forensics Center.
		Assistant Director, Product Acquisition and Deployment Directorate.
		Assistant Director, Architecture and Plans Directorate.
		Chief of Staff.
		Assistant Director, Operations Support Directorate.
		Deputy Director.
	Office of the Assistant Secretary for Policy	Department of Homeland Security Attache to Mexico.
		Associate Director, Identity Management.
	United States Citizenship and Immigration Services.	Associate Director, Customer Service.
		Deputy Chief Counsel for Field Management.
		Deputy Associate Director, Office of Management.
		Chief, Office of Transformation Coordination.
		Deputy Director, Office of Security and Integrity.
		Deputy Director, Service Center, Saint Albans, Vermont.
		Associate Director, Field Operations.
		Chief, Administrative Appeals.
		Chief, Verification Division.
		District Director, Field Services, Boston, Massachusetts.
		District Director, Field Services, Chicago, Illinois.

Agency	Organization	Title
		Deputy Chief, Office of Transformation Coordination.
		District Director, Field Services, Tampa, Florida.
		District Director, Field Services, Newark, New Jersey.
		District Director, Field Services, Atlanta, Georgia.
		Chief, Office of Security and Integrity.
		Associate Director, Enterprise Services Division.
		Deputy Associate Director, Refugee, Asylum and International Operations.
		Associate Director, Service Center Operations.
		Director, Los Angeles Asylum Office.
		Director, National Records Center.
		Deputy Director, Service Center, Laguna Niguel, California.
		Deputy Director, Service Center, Dallas, Texas.
		Chief, International Operations.
		Deputy Director, Service Center, Lincoln, Nebraska.
		Chief Financial Officer.
		District Director, Field Services, Miami, Florida.
		Chief, Office of Administration.
		Director, National Benefits Center.
		District Director, Field Services, Los Angeles California.
		District Director, Field Services, San Francisco California.
		Regional Director, Southeast Region.
		Associate Director, Fraud Detection and National Security.
		Chief, Office of Public Engagement.
		Director, Office of Refugee Affairs.
		Chief, Performance and Quality.
		Chief Information Officer.
		Associate Director, Office of Management.
		Director, Service Center, Lincoln, Nebraska.
		Director, Service Center, Laguna Niguel, California.
		Director, Service Center, Dallas, Texas.
		Director, Service Center, Saint Albans, Vermont.
		Central Regional Director (Dallas, Texas).
		Western Regional Director, Laguna Niguel, California.
		Eastern Regional Director, Burlington, Vermont.
		Chief, Intake and Document Production.
		Deputy General Counsel.
		Associate Director, Refugee, Asylum and International Operations.
		Chief, Asylum.
		Deputy Associate Director, Service Center Operations.
		District Director, Field Services, New York, New York.
		Deputy Associate Director, Enterprise Services Division.
		Deputy Associate Director, Office of Field Operations.
		Chief, Human Capital and Training.
	United States Secret Service	Special Agent In Charge, Vice Presidential Protective Division.
		Special Agent In Charge, Technical Security Division.
		Special Agent In Charge, Philadelphia Field Office.
		Chief Counsel.
		Director, United States Secret Service.

Agency	Organization	Title
		Special Agent In Charge, Los Angeles Field Office.
		Deputy Director, United States Secret Service.
		Assistant Director, Investigations.
		Assistant Director, Protective Operations.
		Assistant Director, Office of Technical Development and Mission Support.
		Assistant Director, Office of Administration.
		Assistant Director, Office of Professional Responsibility.
		Deputy Assistant Director, Protective Operations.
		Special Agent In Charge, Presidential Protective Division.
		Special Agent In Charge, New York Field Office.
		Assistant Director, Human Resources and Training.
		Deputy Assistant Director, Office of Investigations.
		Deputy Assistant Director, Office of Protective Operations.
		Chief Financial Officer.
		Special Agent In Charge, San Francisco Field Office.
		Special Agent In Charge, Dallas Field Office.
		Deputy Chief Counsel.
		Special Agent In Charge, Dignitary Protective Division.
		Deputy Assistant Director, Administration.
		Deputy Special Agent In Charge, Presidential Protective Division.
		Deputy Assistant Director, Human Resources and Training.
		Deputy Assistant Director, Investigations.
		Special Agent In Charge, Houston Field Office.
		Deputy Assistant Director, Rowley Training Center.
		Deputy Assistant Director, Technical Development and Mission Support.
		Deputy Special Agent In Charge, White House Complex.
		Chief Information Officer.
		Deputy Special Agent In Charge, Vice Presidential Protective Division.
		Special Agent In Charge, Atlanta Field Office.
		Special Agent In Charge, Honolulu Field Office.
		Special Agent In Charge, Washington Field Office.
		Component Acquisition Executive.
		Special Agent In Charge, Criminal Investigative Division.
		Special Agent In Charge, Rowley Training Center.
		Special Agent In Charge, Rome Field Office.
		Special Agent In Charge, Special Operations Division.
		Deputy Assistant Director, Office of Government and Public Affairs.
		Deputy Assistant Director, Office of Investigations.
		Deputy Assistant Director, Technical Development and Mission Support.
		Special Agent In Charge, Chicago Field Office.
		Assistant Director, Office of Government and Public Affairs.
		Chief of Staff.
		Special Agent In Charge, Protective Intelligence and Assessment Division.
		Chief Management Officer.

Agency	Organization	Title
	United States Coast Guard	Assistant Director, Office of Strategic Intelligence and Information. Deputy Assistant Director, Office of Professional Responsibility. Deputy Special Agent In Charge (White House Complex). Deputy Assistant Director, Strategic Intelligence and Information. Deputy Director of Acquisition Programs. Deputy Chief Financial Officer. Director, Marine Transportation System Management. Director, Coast Guard Investigative Service. Chief Procurement Law Counsel and Chief Trial Attorney. Director, Command, Control, Communications, Computers (C4) and Information Technology Service Center. Senior Procurement Executive/Head of Contracting Activity. Deputy Assistant Commandant for Acquisition/Director of Acquisition Services. Director, Global Maritime Operational Threat Response Coordination Center. Director, National Pollution Funds Center. Deputy Assistant Commandant for Intelligence and Criminal Investigations. Director, Incident Management and Preparedness Policy. Director of Financial Operations/Comptroller.
	Office of the Under Secretary for National Protection and Programs Directorate.	Assistant Director, Program Integration and Mission Services Division. Director, National Communications System. Director, Federal Protective Service. Director, Infrastructure Partnerships Division. Director, National Cyber Security Division. Deputy Director, United States, Visit Program. Director, Protective Security Coordination. Deputy Assistant Secretary for Infrastructure Protection. Deputy Manager, National Communications System. Chief Operating Officer. Assistant Director, Office of Resource Management. Director, Sector Specific Agency Executive Management Office. Assistant Director for Field Operations (East), Federal Protective Service. Deputy Director, National Cyber Security Division. Director, Critical Infrastructure Cyber Protection and Awareness. Deputy Assistant Secretary for Cyber Security. Director, Office of Emergency Communications. Director, Infrastructure Security Compliance Division. Director, Budget, Finance and Acquisition. Deputy Director, Infrastructure Security Compliance Division. National Protection and Programs Directorate, Chief Information Officer. Deputy Director, National Cybersecurity Center. Director, Federal Network Security. Director, Office of Compliance and Security. Director, Management. Director, Human Resources Management. Chief Technology Officer, Cyber Security and Communications. Principal Deputy Assistant Secretary for Infrastructure Protection.

Agency	Organization	Title
		Director, United States Computer Emergency Readiness Team (Cert) Operations.
		Assistant Director, Office of Resource Management, Federal Protective Service.
		Assistant Director, Office of Training and Career Development, Federal Protective Service.
		Senior Counselor to the Under Secretary for National Protection and Programs Directorate.
		Assistant Director of Operations, Federal Protective Services.
		Assistant Director for Field Operations, National Capital Region, Federal Protective Services.
		Assistant Director of Field Operations (West), Federal Protective Services.
		Assistant Director of Field Operations (Central), Federal Protective Services.
		Director, Global Cyber Security Management.
		Director, Network Security Deployment.
		Deputy Assistant Secretary, Communications.
		Director, National Cybersecurity and Communications Integration Center (NCCIC).
		Chief Technology Officer, United States Visit Program.
	Office of the Under Secretary for Intelligence and Analysis.	Director for Strategy, Plans, and Policy.
		Director, Mission Support Division.
		Principal Deputy Director, Terrorist Screening Center.
		Director, Production Management Division.
		Director, Cyber, Infrastructure, and Science Division.
		Chief of Staff.
		Director, Collection Requirements Division.
		Principal Deputy Counter Terrorism Coordinator.
		Director, Border Intelligence Fusion Section.
	Assistant Secretary for Health Affairs and Chief Medical Officer.	Principal Deputy Assistant Secretary for Health Affairs/Deputy Chief Medical Officer.
		Associate Chief Medical Officer.
	United States Immigration and Customs Enforcement.	Special Agent In Charge, Phoenix.
		Special Agent In Charge, El Paso.
		Special Agent In Charge, Miami.
		Deputy Assistant Director, National Security Investigations.
		Special Agent In Charge, New York.
		Deputy Director, Office of Homeland Security Investigations.
		Senior Management Counsel.
		Deputy Assistant Secretary, Operations.
		Assistant Director, Diversity and Civil Rights.
		Deputy Assistant Director, Critical Infrastructure, Protection, and Fraud.
		Director, Office of Budget and Program Performance.
		Senior Policy Administrator, Brussels.
		Deputy Assistant Director, Mission Support.
		Director of Enforcement and Litigation.
		Director, Office of Enforcement and Removal Operations.
		Special Agent In Charge, Seattle.
		Deputy Assistant Director, Financial, Narcotics and Public Safety.
		Director, International Affairs.
		Director, Intelligence.
		Special Agent In Charge, Chicago.
		Special Agent In Charge, Houston.
		Special Agent In Charge, Los Angeles.
		Special Agent In Charge, New Orleans.
		Special Agent In Charge, San Antonio.
		Special Agent In Charge, San Diego.
		Director, Office of Professional Responsibility.
		Special Agent In Charge, Dallas.

Agency	Organization	Title
		Special Agent In Charge, San Francisco.
		Chief Information Officer.
		Assistant Director for Secure Communities and Enforcement, Office of Enforcement and Removal Operations.
		Director, Office of Procurement.
		Chief Financial Officer.
		Assistant Director for Management, Office of Enforcement and Removal Operations.
		Director, Financial Management.
		Special Agent In Charge, Atlanta.
		Director, Office of Homeland Security Investigations.
		Deputy Principal Legal Advisor.
		Assistant Director, Human Resources Management.
		Deputy Director, Office of Professional Responsibility.
		Assistant Director for Investigations, Office of Professional Responsibility.
		Director, Office of Training and Career Development.
		Field Office Director, Office of Enforcement and Removal Operations, San Diego, California.
		Field Office Director, Office of Enforcement and Removal Operations, San Antonio, Texas.
		Assistant Director, Detention Management, Office of Enforcement and Removal Management.
		Deputy Director, Medical Affairs, Office of Enforcement and Removal Operations.
		Deputy Principal Legal Advisor for Management.
		Deputy Principal Legal Advisor for Field Operations.
		Deputy Principal Legal Advisor for Headquarters.
		Deputy Director, Enforcement and Removal Operations.
		Special Agent In Charge, Washington, DC.
		Deputy Director, International Affairs.
		Deputy Chief Financial Officer.
		Assistant Director for Field Operations, Office of Enforcement and Removal Operations.
		Executive Director, State and Local Coordination.
		Chief Counsel, New York City.
		Chief Counsel, Los Angeles.
		Executive Director, Law Enforcement Information Sharing Initiative.
		Special Agent In Charge, Detroit.
		Deputy Chief Information Officer.
		Assistant Director for Enforcement, Office of Enforcement and Removal Operations.
		Director, Intellectual Property Enforcement Operations.
		Deputy Assistant Director, Homeland Security Investigative Services.
		Assistant Director, Operations.
		Deputy Assistant Secretary for Management.
		Assistant Director, Mission Support, Office of Enforcement and Removal Operations.
		Deputy Assistant Director, Criminal Alien Division, Office of Enforcement and Removal Operations.
		Assistant Director for Detention Oversight and Inspections.
		Deputy Assistant Director, Domestic Operations.
		Field Office Director, Office of Enforcement and Removal Operations, Phoenix, Arizona.

Agency	Organization	Title
	United States Customs and Border Protection	Field Office Director, Office of Enforcement and Removal Operations, Los Angeles, California. Field Office Director, Office of Enforcement and Removal Operations, New York City, New York. Special Agent In Charge, Saint Paul, Minnesota. Special Agent In Charge, Tampa, Florida. Special Agent In Charge, Newark, New Jersey. Special Agent In Charge, Boston, Massachusetts. Special Agent In Charge, Philadelphia, Pennsylvania. Special Agent In Charge, Buffalo, New York. Deputy Director, Office of Detention Policy and Planning. Special Agent In Charge, San Juan, Puerto Rico. Director, Federal Export Enforcement Coordination Center. Special Agent In Charge, Denver. Assistant Director, Homeland Security Investigative Programs. Field Office Director, Office of Enforcement and Removal Operations, Miami, Florida. Director, Field Operations, Tucson. Executive Director, Enterprise Data Management and Engineering. Deputy Assistant Commissioner, Internal Affairs. Chief, Northern Border and Coastal Division. Executive Director, Mission Support, Office of Customs and Border Protection Air and Marine. Deputy Assistant Commissioner, Technology Innovation and Acquisition. Executive Director, Trade Policy and Programs. Executive Director, Operations, Air and Marine. Chief Patrol Agent, Rio Grande Valley. Executive Director, Mission Support. Executive Director, Enterprise Networks and Technology Support. Chief, Southwest Border Division. Director, Field Operations (Atlanta). Executive Director, Cargo and Conveyance Security. Deputy Director, Policy and Planning. Assistant Commissioner, Air and Marine. Chief Patrol Agent, Del Rio. Executive Director, Admissibility and Passenger Programs. Chief Patrol Agent, Yuma, Arizona. Executive Director, Agriculture Programs and Trade Liaison. Executive Director, Mission Support. Assistant Commissioner, Administration. Executive Director, Procurement. Port Director, San YSIDRO. Executive Director, Equal Opportunity. Chief, Operations Planning and Analysis Division. Deputy Assistant Commissioner, Office of Intelligence and Operations Coordination. Port Director, Laredo. Executive Director, Financial Operations. Executive Director, Commercial Targeting and Enforcement. Executive Director, Human Resources Operations, Programs and Policy.

Agency	Organization	Title
		Executive Director, Training, Safety and Standards.
		Executive Director, National Air Security Operations, Office of Customs and Border Protection Air and Marine.
		Deputy Chief, Southwest Border Division.
		Executive Director, Cargo Systems Programs Office.
		Executive Director, Field Support.
		Executive Director, Targeting and Analysis Systems.
		Deputy Director, El Paso Intelligence Center.
		Deputy Assistant Commissioner, International Affairs.
		Director, Border Enforcement Coordination Cell, El Paso.
		Executive Director, Passenger Systems Program Office.
		Director of Operations, Southwest Border, Office of Customs and Border Protection Air and Marine.
		Executive Director, Intelligence and Targeting.
		Director, Air and Marine Operations Center, Riverside, Office of Customs and Border Protection Air and Marine.
		Director of Operations, Southeastern Border, Miami, Florida, Office of Customs and Border Protection Air and Marine.
		Director of Operations, Northern Border, Detroit, Michigan, Office of Customs and Border Protection Air and Marine.
		Deputy Commissioner.
		Executive Director, Program Management Office.
		Deputy Chief Patrol Agent, San Diego.
		Chief Patrol Agent, El Centro, California.
		Deputy Chief Patrol Agent, Tucson.
		Joint Field Commander, State of Arizona, Joint Operations Directorate.
		Deputy Joint Field Commander.
		Executive Director, Programming.
		Executive Director, Joint Operations Directorate.
		Executive Director, Acquisition Management.
		Executive Director, Automated Commercial Environment Business Office.
		Assistant Commissioner, Office of Intelligence and Operations Coordination.
		Deputy Director, Procurement.
		Director, Field Operations, San Juan.
		Deputy Chief Patrol Agent, Rio Grande Valley.
		Assistant Commissioner, Technology Innovation and Acquisition.
		Deputy Chief Patrol Agent, El Paso.
		Port Director, JFK Airport.
		Executive Director, Planning, Program Analysis and Evaluation.
		Deputy Chief Counsel.
		Assistant Commissioner, Human Resources Management.
		Deputy Assistant Commissioner, Human Resources Management.
		Executive Director, Labor and Employee Relations.
		Executive Director, Facilities Management and Engineering.
		Assistant Commissioner, Training and Development.
		Assistant Commissioner, Office of International Trade.
		Executive Director, Regulatory Audit.
		Executive Director, Regulations and Rulings.

Agency	Organization	Title
		Deputy Assistant Commissioner, Administration.
		Executive Director, Budget.
		Deputy Director, Procurement.
		Assistant Commissioner, Information and Technology.
		Director, Field Operations, Boston.
		Port Director, Los Angeles Airport.
		Executive Director, Laboratories and Scientific Services.
		Assistant Commissioner, Field Operations.
		Deputy Assistant Commissioner, Field Operations.
		Deputy Chief, Border Patrol.
		Executive Director, Operations.
		Director, Field Operations, Seattle.
		Director, Field Operations, Detroit.
		Director, Field Operations, Buffalo.
		Deputy Assistant Commissioner, Office of Training and Development.
		Director, Field Operations, New York.
		Principal Executive for the Management of Resources.
		Port Director, Newark.
		Port Director, Miami International Airport.
		Director, Field Operations, Miami.
		Director, Field Operations, Chicago.
		Director, Field Operations, Los Angeles.
		Director, Field Operations, Houston.
		Director, Field Operations, Laredo.
		Director, Field Operations, San Diego.
		Deputy Assistant Commissioner, Air and Marine.
		Chief, Border Patrol.
		Chief Patrol Agent—Laredo Sector.
		Director, Field Operations, San Francisco.
		Chief Patrol Agent, El Paso.
		Chief Patrol Agent, San Diego.
		Director, Field Operations, El Paso.
		Associate Chief Counsel, Enforcement.
		Associate Chief Counsel, Trade, Tariffs and Legislation.
		Associate Chief Counsel, Administration.
		Associate Chief Counsel, Southeast.
		Associate Chief Counsel, New York.
		Associate Chief Counsel, Chicago.
		Associate Chief Counsel, Houston.
		Associate Chief Counsel, Los Angeles.
		Executive Director, Customs and Border Protection Basic Training.
		Chief Patrol Agent, Tucson.
		Port Director, Los Angeles/Long Beach Seaport.
		Port Director, El Paso.
		Deputy Assistant Commissioner, Information and Technology.
		Assistant Commissioner, Internal Affairs.
		Deputy Assistant Commissioner, International Trade.
		Executive Director, National Targeting Center.
		Port Director, San Francisco.
	Federal Law Enforcement Training Center	Chief Counsel.
		Director, Federal Law Enforcement Training Center.
		Deputy Director, Federal Law Enforcement Training Center.
		Assistant Director, Administration.
		Assistant Director, Field Training.
		Assistant Director, Training Innovation and Management Directorate.
		Assistant Director (Training Directorate).
		Assistant Director, Chief Information Officer.
		Deputy Assistant Director, Office of Artesia Operations.

Agency	Organization	Title
	Federal Emergency Management Agency	Assistant Director, Washington Office.
		Deputy Chief Financial Officer.
		Deputy Federal Insurance and Mitigation Administrator, Mitigation.
		Director, National Processing Service Center.
		Chief, Risk Reduction Branch (Mitigation).
		Chief Financial Officer.
		Deputy Chief Component Human Capital Officer.
		Director, Grants Management Division.
		Director, National Exercise Division.
		Chief Procurement Officer.
		Deputy Associate Administrator, Mission Support Bureau.
		Deputy Federal Insurance and Mitigation Administrator, Insurance.
		Deputy Chief Component Human Capital Officer.
		Director, National Training and Education Division.
		Director, Acquisition Programs and Planning Division.
		Director, Acquisition Operations Division.
		Director, Federal Coordinating Officer Operations.
		Deputy Assistant Administrator for Response.
		Deputy Executive Administrator, Mount Weathers Emergency Operations Center.
		Director, Emergency Communication Division.
		Executive Director for Readiness.
		Deputy Director, External Affairs.
		Director, National Preparedness Assessment Division.
		Deputy Chief Administrative Officer.
		Superintendent, Center for Domestic Preparedness.
		Deputy Chief Counsel.
		Deputy Assistant Administrator, Grants Program.
		Director, Financial Management Division.
		Director, Technological Hazards Division.
		Deputy Director, Policy and Program Analysis.
		Chief Administrative Officer.
		Senior Counselor to the Administrator and International Relations Officer.
		Chief Security Officer.
		Deputy Assistant Administrator for Long-Term Recovery.
	Office of Security	Chief Personnel Security Officer.
		Chief Security Officer.
		Chief, Counterintelligence and Investigations.
		Deputy Chief Security Officer.
	Office of the Chief Financial Officer	Director, Departmental General Accounting Office/Inspector General Liaison Office.
		Deputy Director, Financial Management.
		Director, Financial Management.
		Director, Program Analysis and Evaluation.
		Director, Resource Management Transformation Office.
		Director, Office of Budget.
		Director, Internal Control and Risk Management Division.
	Office of Procurement	Executive Director, Program Accountability and Risk Management Office.
		Executive Director, Office of Procurement Operations.
		Director, Strategic Initiatives (Acquisition).
		Senior Counselor.
		Director, Enterprise Acquisition and Information Technology.
		Director, Acquisition Program Management.
		Director, Procurement Policy and Oversight.
		Director, Oversight and Strategic Support.
		Chief Procurement Officer.

Agency	Organization	Title
		Deputy Chief Procurement Officer.
	Office of the Chief Human Capital Officer	Executive Director, Policy and Programs.
		Deputy Chief Human Capital Officer.
		Executive Director, Diversity and Inclusion.
		Executive Director, Human Capital Business Systems.
		Executive Director, Human Resources Management and Services.
	Office of the Chief Information Officer	Executive Director, Customer Relationship Management Division.
		Director, Enterprise Business Management Office.
		Executive Director, Information Technology Services Office.
		Deputy Chief Information Officer.
		Deputy Executive Director, Information Technology Services Office.
		Director, Chief Information Security Office.
		Director, Office of Applied Technology.
		Executive Director, Information Sharing.
		Director, Enterprise System Development Office.
	Office of Administration	Director, Administrative Operations.
		Director of Asset and Logistics Management.
		Director, Safety and Environmental Programs.
		Deputy, Chief Administrative Services Officer.
		Director, Headquarters Management and Development.
	Office of the Under Secretary for Science and Technology.	Director, Office of National Laboratories.
		Director, Explosives Division.
		Director, Infrastructure Protection and Disaster Management Division.
		Director, Finance and Budget Division.
		Director, Capstone Analysis and Requirements Office.
		Deputy Director, Homeland Security Advanced Research Projects Agency.
		Director, Human Factors/Behavioral Sciences Division.
		Director, Acquisition Support and Operations Analysis Division.
		Director, Interagency Office.
		Director, Chemical Biological Defense Division.
		Director, Borders and Maritime Security Division.
		Director, Test and Evaluations and Standards Office.
DEPARTMENT OF HOMELAND SECURITY OFFICE OF THE INSPECTOR GENERAL.	Department of Homeland Security Office of the Inspector General.	Deputy Assistant Inspector General, Investigations.
		Assistant Inspector General for Management.
		Assistant Inspector General, Audits.
		Counsel to the Inspector General.
		Assistant Inspector General, Investigations.
		Assistant Inspector General, Information Technology Audits.
		Deputy Assistant Inspector General, Audits.
		Assistant Inspector General for Emergency Management Oversight.
		Deputy Assistant Inspector General, Emergency Management Oversight.
		Deputy Assistant Inspector General, Audits.
		Deputy Inspector General.
		Deputy Assistant Inspector General, Investigations.
		Assistant Inspector General, Inspections.
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.	Office of the Secretary	Director, Office of Hearings and Appeals.
	Office of the Deputy Secretary	Chief Disaster and Emergency Operations Officer.
	Office of Strategic Planning and Management	Director, Grants Management Center.
	Office of the General Counsel	Director, Departmental Enforcement Center.
		Associate General Counsel for Program Enforcement.

Agency	Organization	Title
		Deputy Director, Operations and Compliance.
		Senior Counsel (Appeals, ODSEEO Advice and Special Projects).
	Office of the Chief Financial Officer	Deputy Chief Financial Officer.
		Assistant Chief Financial Officer for Accounting.
		Assistant Chief Financial Officer for Financial Management.
		Assistant Chief Financial Officer for Budget.
	Office of the Administration	Chief Learning Officer.
	Office of the Chief Procurement Officer	Deputy Chief Procurement Officer.
	Office of Policy Development and Research	Chief of Staff to the Deputy Secretary.
		Associate Deputy Assistant Secretary for Policy Development.
	Office of Housing	Associate Deputy Assistant Secretary for Single Family Housing.
		Deputy Assistant Secretary for Finance and Budget.
		Director, Office of Program Systems Management.
		Housing Federal Housing Administration Deputy Comptroller.
		Housing Federal Housing Administration Comptroller.
	Office of Departmental Equal Employment Opportunity.	Director, Office of Departmental Equal Employment Opportunity.
	Office of Community Planning and Development.	Deputy Assistant Secretary for Special Needs Programs.
		Director, Office of Community Viability.
	Government National Mortgage Association	Senior Vice President and Chief Risk Officer.
		Senior Vice President, Office of Finance.
		Senior Vice President, Office of Capital Markets.
		Senior Vice President for Mortgage-Backed Securities.
		Senior Vice President, Office of Management Operations.
		Senior Vice President, Office of Program Operations.
	Office of Public and Indian Housing	Director, Office of Housing Voucher Programs.
		General Deputy Assistant Secretary for Public and Indian Housing.
		Deputy Assistant Secretary for the Real Estate Assessment Center.
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT OFFICE OF THE INSPECTOR GENERAL.	Office of the Inspector General	Deputy Assistant Inspector General for Audit, Special Operations.
		Counsel to the Inspector General.
		Assistant Inspector General for Investigation.
		Assistant Inspector General for Audit.
		Deputy Inspector General.
		Deputy Assistant Inspector General for Audit (Field Operations).
		Deputy Assistant Inspector General for Investigation (Headquarters Operations).
		Deputy Assistant Inspector General for Audit (Headquarters Operations).
		Deputy Assistant Inspector General for Management and Policy.
		Deputy Assistant Inspector General for Investigation (Field Operations).
		Assistant Inspector General for Management and Policy.
DEPARTMENT OF THE INTERIOR	Office of the Solicitor	Associate Solicitor for Administration.
		Director, Office of Administration.
		Deputy Associate Solicitor, Division of Parks and Wildlife.
		Deputy Associate Solicitor, Mineral Resources.
		Director, Indian Trust Litigation Office.
		Deputy Associate Solicitor, General Law.
		Designated Agency Ethics Official.
		Deputy Associate Solicitor, Division of Land and Water Resources.

Agency	Organization	Title
	Office of the Inspector General	Assistant Inspector General for Administrative Services and Information Management.
		Deputy Assistant Inspector General for Investigations.
		Deputy Assistant Inspector General for Administrative Services and Information Management.
		Chief Information Officer.
		Assistant Inspector General for Investigations.
		Deputy Inspector General.
		Assistant Inspector General for Auditing.
		Deputy Assistant Inspector General for Audits.
	Assistant Secretary—Policy, Management and Budget.	Deputy Assistant Secretary, Budget and Business Management.
		Deputy Assistant Secretary, Law Enforcement, Security and Emergency Management.
		Geospatial Information Officer.
		Deputy Assistant Secretary, Human Capital and Diversity.
		Director, Office of Law Enforcement and Security.
		Deputy Chief Human Capital Officer.
		Deputy Director, Office of Financial Management.
		Associate Director for Financial Policy and Operations.
		Manager, Science and Engineering.
		Director, Office of Human Resources.
		Assistant Director for Economics.
		Chief Division of Budget and Program Review.
		Director, Office of Financial Management and Deputy Chief Financial Officer.
	Office of Hearings and Appeals	Director, Office of Hearings and Appeals.
	United States Fish and Wildlife Service	Chief, Office of Law Enforcement.
	National Park Service	Financial Advisor, Comptroller.
	Field Offices	Park Manager, Superintendent.
		Park Manager Everglades.
		Park Manager-Yosemite, Superintendent.
		Park Manager (2 positions).
		Superintendent (Park Manager), Everglades National Park.
		Director, Technical Services Center.
		Director, Management Services Office.
	United States Geological Survey	Chief, Geospatial Information, Integration and Analysis.
		Director, Office of Communications and Outreach.
		Deputy Director, United States Geological Survey.
		Associate Chief Biologist for Information.
		Associate Director for Natural Hazards.
		Associate Director for Human Capital.
		Associate Director for Water.
		Associate Director for Core Science Systems.
		Director, Office of Science Quality and Integrity.
		Associate Director for Ecosystems.
		Associate Director for Energy, Minerals and Environmental Health.
		Chief Scientist for Hydrology.
		Associate Director for Administrative Policy and Services.
		Associate Director for Climate Variability and Land Use Change.
		Chief Scientist for Biology.
		Chief, Office of Budget and Performance.
	Field Offices	Regional Executive, South Central.
		Regional Executive, Southeast.
		Regional Executive, Rocky Mountain.
		Regional Executive, North Central.
		Regional Executive, Midwest.
		Regional Executive, Northwest.

Agency	Organization	Title
		Regional Executive, Southwest.
		Regional Executive, Alaska.
		Regional Executive, Northeast.
		Deputy Assistant Director, Fire and Aviation at National Interagency Fire Center.
		Regional Director.
		Regional Director.
	Bureau of Ocean Energy Management	Program Director for Financial and Program Management.
		Chief, Offshore Engineering and Operations Division.
		Associate Director for Policy and Management Improvement.
		Strategic Resources Chief.
	Field Offices	Regional Director, Alaska Outer Continental Shelf Region.
		Regional Director, Gulf of Mexico Outer Continental Shelf Region.
		Deputy Associate Director for Minerals Revenue Management.
		Program Director for Asset Management.
		Program Director for Audit and Compliance Management.
	Assistant Secretary—Indian Affairs	Director of Human Capital Management.
	Bureau of Indian Affairs	Deputy Director, Field Operations.
DEPARTMENT OF THE INTERIOR OFFICE OF THE INSPECTOR GENERAL.	Office of the Inspector General	Chief of Staff.
		Chief of Staff.
		Deputy Inspector General.
	Office of General Counsel	General Counsel.
	Office of Recovery and Accountability	Assistant Inspector General for Recovery Oversight.
	Office of Investigations	Assistant Inspector General for Investigations.
	Office of Management	Deputy Assistant Inspector General for Management.
		Deputy Assistant Inspector General for Management.
		Assistant Inspector General for Management.
	Office of Information Technology	Assistant Inspector General for Information Technology.
	Office of Audits, Inspections, and Evaluations	Assistant Inspector General for Audits, Inspections and Evaluations.
		Deputy Assistant Inspector General for Compliance and Finance.
DEPARTMENT OF JUSTICE	Office of the Deputy Attorney General	Chief.
	Office of the Legal Counsel	Special Counsel.
		Special Counsel.
	Office of Professional Responsibility	Counsel on Professional Responsibility.
		Deputy Counsel on Professional Responsibility.
	Office of Dispute Resolution	Senior Counsel for Alternative Dispute Resolution.
	Justice Management Division	Special Assistant for Offices, Boards and Divisions, Information Technology Solutions.
		Director, Asset Forfeiture Management Staff.
		Deputy Chief Information Officer for Information Technology Security.
		Deputy Director, Budget Staff, Programs and Performance.
		Deputy Director, Auditing.
		Deputy Director, Human Resources.
		Assistant Attorney General for Administration.
		Deputy Assistant Attorney General, Policy, Management and Planning.
		Director, Human Resources.
		Director, Security and Emergency Planning Staff.
		Deputy Assistant Attorney General, Controller.
		Deputy Assistant Attorney General for Human Resources and Administration.
		Director Library Staff.
		Director, Facilities and Administrative Services Staff.
		Director, Office of Attorney Recruitment and Management.

Agency	Organization	Title
		Deputy, Chief Information Officer for E–Government Services Staff.
		Director, Information Technology Policy and Planning Staff.
		Director, Operations Services Staff.
		Director, Management and Planning Staff.
		Director, Budget Staff.
		Director, Debt Collection Management Staff.
		Senior Policy Advisor.
		Chief Information Officer.
		Director, Procurement Services Staff.
		General Counsel.
		Director, Equal Employment Opportunity Staff.
		Director, Enterprise Solutions Staff.
		Director, Departmental Ethics Office.
		Deputy Director, Budget Staff, Operations and Funds Control.
		Director Finance Staff.
	Professional Responsibility Advisory Office	Director, Professional Responsibility Advisory Office.
	Office of Federal Detention Trustee	Director, JPATS.
		Federal Detention Trustee.
	Federal Bureau of Prisons	Warden, Federal Correctional Complex, Oakdale, Louisiana.
		Warden, Federal Medical Center, Carswell, Texas.
		Warden, Federal Correctional Complex, Allenwood, Pennsylvania.
		Warden, Federal Transfer Center, Oklahoma City, Oklahoma.
		Senior Deputy Assistant Director, Administration.
		Warden, Federal Correctional Institution, El Reno, Oklahoma.
		Warden, Federal Detention Center, Miami, Florida.
		Warden, Federal Correctional Institution, Fairton, New Jersey.
		Senior Deputy Assistant Director, Program Review Division.
		Warden, Federal Correctional Institution, Edgefield, South Carolina.
		Warden, Federal Correction Complex, Petersburg, Virginia.
		Warden, United States Penitentiary, Big Sandy, Kentucky.
		Senior Counsel, Office of General Counsel.
		Warden, United States Penitentiary, Lee, Virginia.
		Warden, United States Penitentiary, Atwater, California.
		Warden, Federal Correctional Complex, Coleman, Florida.
		Warden, Federal Correctional Institution, Beckley, West Virginia.
		Warden, Federal Correctional Institution, Jessup, Georgia.
		Warden, Federal Correctional Institution, Otisville, New York.
		Warden, Metropolitan Correctional Center, New York, New York.
		Deputy Assistant Director for Administration.
		Warden, Metropolitan Detention Center, Brooklyn, New York.
		Warden, United States Penitentiary, Pollock, Louisiana.
		Senior Deputy Assistant Director, Correctional Programs Division.
		Warden, Federal Correctional Complex, Beaumont, Texas.
		Regional Director, Southeast Region.
		Warden, USP, Thomson, Illinois.
		Warden, FCI, Mendota, California.
		Warden, FCI, McDowell, West Virginia.

Agency	Organization	Title
		Senior Deputy Assistant Director, Industries, Education and Vocational Training.
		Senior Deputy Assistant Director, Health Services Division.
		Senior Deputy Assistant Director, Infrastructure, Policy and Public Affairs.
		Deputy General Counsel.
		Warden, Federal Correctional Institution, Berlin, New Hampshire.
		Warden, Federal Correctional Institution, Bennettsville, South Carolina.
		Warden, Federal Correctional Institution, Williamsburg, South Carolina.
		Warden, Federal Correctional Complex, Forrest City, Arkansas.
		Warden, Federal Correctional Institution, Ray Brook, New York.
		Warden, Federal Correctional Institution, Herlong, California.
		Warden, United States Penitentiary, Hazelton, West Virginia.
		Warden, Federal Correctional Complex, Yazoo City, Mississippi.
		Warden, United States Penitentiary, Canaan, Pennsylvania.
		Warden, Federal Correctional Institution Medium-I, Butner, North Carolina.
		Warden, United States Penitentiary Coleman-I, Coleman, Florida.
		Warden, United States Penitentiary, Tucson, Arizona.
		Warden, Federal Correctional Institution, Cumberland, Maryland.
		Warden, Federal Correctional Institution, Estill, South Carolina.
		Warden, Federal Correctional Institution, Greenville, Illinois.
		Warden, Federal Correctional Institution, McKean, Pennsylvania.
		Warden, Federal Correctional Institution, Oxford, Wisconsin.
		Warden, Federal Correctional Institution, Perkin, Illinois.
		Warden, Federal Correctional Institution, Schuylkill, Pennsylvania.
		Warden, Federal Correctional Institution, Three Rivers, Texas.
		Warden, Metropolitan Detention Center, Guaynabo, Puerto Rico.
		Warden, Federal Correctional Institution, Memphis, Tennessee.
		Warden, Federal Correctional Institution, Sheridan, Oregon.
		Warden, Federal Correctional Institution, Gilmer, West Virginia.
		Warden, Federal Correctional Institution, Manchester, Kentucky.
		Warden, United States Medical Center Federal Prisoners, Springfield, Missouri.
		Warden, Federal Medical Center, Lexington, Kentucky.
		Warden, United States Penitentiary, Marion, Illinois.
		Assistant Director, Industries, Education, and Vocational Training Division.
		Warden Federal Correctional Complex, Terre Haute, Indiana.
		Warden Federal Correctional Complex, Butner, North Carolina.
		Warden, Federal Correctional Institution, Marianna, Florida.
		Assistant Director for Human Resources Management.

Agency	Organization	Title
		Warden, Federal Correctional Complex, Victorville, California.
		Warden, United States Penitentiary, McCrery, Kentucky.
		Warden, Federal Medical Center, Devens, Massachusetts.
		Warden, Metropolitan Detention Center, Los Angeles, California.
		Assistant Director for Administration.
		Assistant Director Correctional Programs Division.
		Assistant Director, Office of General Counsel.
		Regional Director, Northeast Region.
		Regional Director, North Central Region.
		Regional Director, Western Region.
		Regional Director, South Central Region.
		Warden, United States Penitentiary, Atlanta, Georgia.
		Warden, United States Penitentiary, Leavenworth, Kansas.
		Warden, United States Penitentiary, Lewisburg, Pennsylvania.
		Warden, Federal Correctional Complex, Lompoc, California.
		Senior Deputy Assistant Director, Correctional Programs Division.
		Warden, Federal Correctional Institution, Phoenix, Arizona.
		Warden, Federal Medical Center, Rochester, Minnesota.
		Regional Director, Middle Atlantic Region.
		Assistant Director, Information, Policy, and Public Affairs Division.
		Warden, Federal Correctional Institution, Talladega, Alabama.
		Warden, Federal Correctional Institution, Fort Dix, New Jersey.
		Warden, Federal Correctional Complex, Florence, Colorado.
		Warden, United States Penitentiary-High, Florence, Colorado.
	Executive Office for Immigration Review	Vice Chairman, Board of Immigration Appeals.
		Associate Director.
		Chief Immigration Judge.
		Chairman, Board of Immigration Appeals.
		General Counsel.
		Chief Administrator Hearing Officer.
	Criminal Division	Chief, Narcotic and Dangerous Drug Section.
		Senior Counsel to the Assistant Attorney General.
		Chief, Child Exploitation and Obscenity Section.
		Chief, Computer Crime and Intellectual Property Section.
		Chief, Domestic Security Section.
		Senior Litigation Counsel, Public Integrity Section.
		Senior Litigation Counsel, Public Integrity Section.
		Chief, Organized Crime and Racketeering Section.
		Chief, Appellate Section.
		Chief, Fraud Section.
		Deputy Chief, Asset Forfeiture and Money Laundering Section.
		Chief, Public Integrity Section.
		Deputy Chief for Litigation.
		Chief, Asset Forfeiture and Money Laundering Section.
		Deputy Chief, Public Integrity Section.
		Deputy Chief, Appellate Section.
		Executive Officer.

Agency	Organization	Title
		Director, International Criminal Investigative Training Assistance Program.
		Deputy Chief, Computer Crime and Intellectual Property Section.
		Deputy Chief, Narcotic and Dangerous Drug Section.
		Director, Office of Overseas Prosecutorial Development, Assistance, and Training.
		Senior Counsel to the Assistant Attorney General.
	National Security Division	Deputy Chief for Public Integrity Section.
		Deputy Chief, Operations Section.
		Chief, Appellate Unit.
		Deputy Assistant Attorney General, FISA Operations and Intelligence Oversight.
		Chief, Operations Section.
		Chief, Oversight Section.
		Deputy Chief, Counterespionage Section.
		Deputy Chief, Counterterrorism Section.
		Deputy Counsel for Intelligence Law.
		Deputy Chief, Terrorism and Violent Crime, Counterterrorism Section.
	Executive Office for United States Attorneys	Chief, Information Officer.
		General Counsel.
		Counsel, Legal Programs and Policy.
		Deputy Director.
		Deputy Director for Administration and Management.
		Deputy Director for Operations.
		Associate Director, Office of Legal Education.
		Deputy Director, Financial Management Staff.
	United States Marshals Service	Deputy Director.
		Assistant Director, Financial Services.
		Associate Director, Operations.
		Associate Director, Administration.
		Assistant Director, Tactical Operations.
		Assistant Director for Prisoner Operations.
		Assistant Director, Information Technology.
		Assistant Director, Witness Security.
		Assistant Director, Management Support.
		Assistant Director, Asset Forfeiture.
		Assistant Director, Judicial Security.
		Assistant Director, Training.
		Assistant Director, Investigative Operations.
		Assistant Director, Justice Prisoner and Alien Transportation System.
		Assistant Director, Human Resources.
	Office of the Alcohol, Tobacco, Firearms and Explosives.	Deputy Assistant Director, Field Operations, East.
		Deputy Director, Terrorist Explosive Device Analytical Center.
		Division Director, Special Agent In Charge, Columbus.
		Division Director, Special Agent In Charge, New Orleans.
		Division Director, Special Agent In Charge, Baltimore.
		Division Director, Special Agent In Charge, Newark.
		Division Director, Special Agent In Charge, Denver.
		Assistant Director, Training and Professional Development.
		Deputy Assistant Director, Management.
		Assistant Director, Management and Chief Financial Officer.
		Deputy Assistant Director, Field Operations, West.
		Deputy Assistant Director, Training and Professional Development.
		Deputy Assistant Director, Industry Operations.
		Division Director, Special Agent In Charge, Nashville.

Agency	Organization	Title
		Division Director, Special Agent In Charge, Dallas.
		Assistant Director, Office of Strategic Intelligence and Information.
		Deputy Assistant Director, Office of Strategic Intelligence and Information.
		Assistant Director, Office of Public and Governmental Affairs.
		Deputy Assistant Director, Office of Public and Governmental Affairs.
		Division Director, Special Agent In Charge, Saint Paul.
		Division Director, Special Agent In Charge, Atlanta.
		Division Director, Special Agent In Charge, Boston.
		Division Director, Special Agent In Charge, Chicago.
		Division Director, Special Agent In Charge, Kansas City.
		Division Director, Special Agent In Charge, Philadelphia.
		Division Director, Special Agent In Charge, Phoenix.
		Division Director, Special Agent In Charge, San Francisco.
		Division Director, Special Agent In Charge, Miami.
		Division Director, Special Agent In Charge, Charlotte.
		Division Director, Special Agent In Charge, Detroit.
		Division Director, Special Agent In Charge, Louisville.
		Division Director, Special Agent In Charge, Seattle.
		Division Director, Special Agent In Charge, Tampa.
		Deputy Director.
		Assistant Director, Field Operations.
		Deputy Assistant Director, Field Operations, Central.
		Assistant Director, Enforcement Programs and Services.
		Deputy Assistant Director, Enforcement Programs and Services.
		Assistant Director, Office of Professional Responsibility and Security Operations.
		Deputy Assistant Director for Information Technology and Deputy Chief Information Officer.
		Assistant Director, Science and Technology.
		Director, Forensic Services.
		Associate Chief Counsel, Administration and Ethics.
		Division Director, Special Agent In Charge, Los Angeles.
		Division Director, Special Agent In Charge, New York.
		Division Director, Special Agent In Charge, Washington.
		Division Director, Special Agent In Charge, Houston.
		Deputy Assistant Director, Office of Professional Responsibility and Security Operations.
	Antitrust Division	Chief, Telecommunications and Media Section.
		Executive Officer.
		Director, Economic Enforcement.
	Civil Division	Deputy Branch Director.
	Office of the Assistant Attorney General	Director, Office of Management Programs.
	Appellate Staff	Deputy Director, Appellate Staff.
		Special Appellate Litigation Counsel.

Agency	Organization	Title
	Commercial Litigation Branch, Corporate/Financial Section.	Special Litigation Counsel, Corporate/Financial Section.
		Deputy Director, Corporate/Financial Section.
	Commercial Litigation Branch, Civil Fraud Section.	Deputy Director, Civil Fraud Section.
		Deputy Director, Civil Fraud Section.
	Commercial Litigation Branch, Foreign Litigation Section.	Director, Foreign Litigation Section.
	Federal Programs Branch	Deputy Branch Director, Federal Programs.
		Deputy Branch Director, Federal Programs.
		Deputy Branch Director, Federal Programs.
	Office of Consumer Litigation	Director, Office of Consumer Litigation.
	Torts Branch, Aviation and Admiralty Section	Special Litigation Counsel, Aviation and Admiralty Section.
	Office of Immigration Litigation, Appellate Section.	Deputy Director, Appellate Section.
	Environment and Natural Resources Division	Chief, Indian Resources Section.
		Chief, Environmental Defense Section.
		Chief, Wildlife and Marine Resources Section.
		Chief, Environmental Crimes Section.
		Chief, Environmental Enforcement Section.
		Senior Litigation Counsel.
		Deputy Chief, Natural Resources Section.
		Deputy Section Chief, Environmental Defense Section.
		Deputy Section Chief, Natural Resources Section.
		Chief, Natural Resources Section.
		Chief, Land Acquisition Section.
		Chief, Appellate Section.
		Deputy Chief, Environmental Enforcement Section.
		Senior Litigation Counsel Attorney, Examiner.
		Deputy Chief, Environmental Enforcement Section.
		Executive Officer.
	Tax Division	Executive Officer.
		Chief, Criminal Enforcement Section, Western Region.
		Senior Litigation Counsel.
		Special Litigation Counsel.
		Chief, Civil Trial Section, Eastern Region.
		Chief, Criminal Appeals and Tax Enforcement Policy Section.
		Chief, Civil Trial Section, Southwestern Region.
		Chief, Criminal Enforcement Section, South Region.
		Chief, Criminal Enforcement Section, North Region.
		Chief, Office of Review.
		Chief, Appellate Section.
		Chief, Claims Court Section.
		Chief, Civil Trial Section, Western Region.
		Chief, Civil Trial Section, Southern Region.
		Chief, Civil Trial Section, Northern Region.
		Chief, Civil Trial Section, Central Region.
	Civil Rights Division	Counsel to the Special Litigation Section Chief.
		Executive Officer.
	Executive Office for Organized Crime Drug Enforcement Task Forces.	Director, Organized Crime Drug Enforcement Task Forces.
		Executive Director, Organized Crime Drug Enforcement Task Forces.
	Office of Justice Programs	Director, Office of Audit, Assessment and Management.
		Deputy Director, Office for Victims of Crime.
		Director, Office of Administration.
		Deputy Chief Financial Officer.
		Chief Financial Officer.
	National Institute of Justice	Assistant Director, National Institute of Justice, Office of Science and Technology.
DEPARTMENT OF JUSTICE OFFICE OF THE INSPECTOR GENERAL.	Office of the Inspector General	Deputy Assistant Inspector General for Investigation.
		Deputy Assistant Inspector General for Audit.

Agency	Organization	Title
		Assistant Inspector General for Audit.
		Assistant Inspector General for Investigation.
		Assistant Inspector General, Evaluation and Inspections Division.
		Deputy Inspector General.
		General Counsel.
		Director, Office of Oversight and Review.
		Assistant Inspector General for Management and Planning.
DEPARTMENT OF LABOR	Office of the Secretary	Deputy National Director for Regional Operations.
		Deputy National Director for Regional Operations.
	Office of Public Affairs	Director, Division of Enterprise Communications.
	Bureau of International Labor Affairs	Director, Office of Trade and Labor Affairs.
	Office of the Assistant Secretary for Policy	Director, Office of Regulatory and Programmatic Policy.
	Office of the Solicitor	Regional Solicitor, Dallas.
		Regional Solicitor, Kansas City.
		Regional Solicitor, San Francisco.
		Deputy Solicitor, Regional Operations.
		Deputy Solicitor, National Operations.
		Associate Solicitor for Management and Administrative Legal Services.
		Associate Solicitor for Civil Rights and Labor Management.
		Associate Solicitor for Legal Counsel.
		Associate Solicitor for Black Lung and Longshore Legal Services.
		Associate Solicitor for Plan Benefits Security.
		Regional Solicitor, Chicago.
		Acting Deputy Assistant Secretary.
		Associate Solicitor for Occupational Safety and Health.
		Associate Solicitor for Mine Safety and Health.
		Associate Solicitor for Fair Labor Standards.
		Regional Solicitor, Atlanta.
		Associate Solicitor for Federal Employees' and Energy Workers' Compensation.
		Regional Solicitor, Boston.
		Regional Solicitor, New York.
		Regional Solicitor, Philadelphia.
	Office of Chief Financial Officer	Associate Deputy Chief Financial Officer for Financial Systems.
		Deputy Chief Financial Officer.
	Office of the Assistant Secretary for Administration and Management.	Director, Office of Budget.
		Director, National Capital Service Center.
		Director of Civil Rights.
		Deputy Director, Information Technology Center.
		Deputy Assistant Secretary for Operations.
		Director, Business Operations Center.
		Director, Program Planning and Results Center.
		Deputy Assistant Secretary for Budget and Performance Planning.
		Deputy Assistant Secretary for Security and Emergency Management.
	Employment Standards Administration	Director, Office of Management, Administration and Planning.
		Deputy Assistant Secretary for Operations.
	Wage and Hour Division	Deputy Wage and Hour Administrator (Operations).
	Office of Workers' Compensation Programs	Director of Coal Mine Workers' Compensation.
		Director for Federal Employees' Compensation.
		Director, Energy Employees' Occupational Illness Compensation.
		Director, Office of Enforcement and International Union Audits.

Agency	Organization	Title
	Office of Labor-Management Standards	Director, Office of Policy, Reports and Disclosure.
		Deputy Director, Office of Labor-Management Standards.
	Employee Benefits Security Administration	Director of Participant Assistance and Communications.
		Regional Director, New York.
		Director of Regulations and Interpretations.
		Director of Health Plan Standards Compliance and Assistance.
		Chief Accountant.
		Director of Enforcement.
		Director of Information Management.
		Senior Policy Advisor.
		Regional Director, Boston.
		Regional Director, Atlanta.
		Regional Director, Kansas City.
		Regional Director, San Francisco.
		Director of Exemption Determinations.
		Deputy Assistant Secretary for Program Operations.
	Bureau of Labor Statistics	Associate Commissioner, Productivity and Technology.
		Associate Commissioner for Prices and Living Conditions.
		Associate Commissioner for Administration.
		Associate Commissioner for Field Operations.
		Assistant Commissioner for Occupational Statistics and Employment Projections.
		Assistant Commissioner for Consumer Prices and Price Indexes.
		Associate Commissioner for Publications and Special Studies.
		Assistant Commissioner for International Prices.
		Associate Commissioner for Compensation and Working Conditions.
		Assistant Commissioner for Safety, Health and Working Conditions.
		Assistant Commissioner for Compensation Levels and Trends.
		Associate Commissioner for Technology and Survey Processing.
		Assistant Commissioner for Current Employment Analysis.
		Director of Technology and Computing Services.
		Director of Survey Processing.
		Associate Commissioner for Employment and Unemployment Statistics.
		Associate Commissioner for Survey Methods Research.
		Deputy Commissioner for Labor Statistics.
		Assistant Commissioner for Federal/State Cooperative Statistics Programs.
		Assistant Commissioner for Industrial Prices and Price Indexes.
	Employment and Training Administration	Administrator, Office of Performance and Technology.
		Administrator, Office of Financial and Administrative Management.
	Occupational Safety and Health Administration.	Director, Directorate of Cooperative and State Programs.
		Director, Directorate of Standards and Guidance.
		Director, Administrative Programs.
		Director, Directorate of Evaluation and Analysis.
		Directorate of Technical Support and Emergency Management.
	Mine Safety and Health Administration	Director of Assessments.
		Director, Office of Accountability, Audit, and Program Policy Evaluation.
		Director of Administration and Management.

Agency	Organization	Title
		Director of Program Evaluation and Information Resources.
		Director of Technical Support.
	Veterans Employment and Training Service ...	Deputy Assistant Secretary for Operations and Management.
		Director of Operations and Programs.
		Director, Department of Labor Homeless Assistance Program.
	Office of Disability Employment Policy	Director, Office of Operations.
DEPARTMENT OF LABOR OFFICE OF THE INSPECTOR GENERAL.	Office of the Inspector General	Assistant Inspector General for Labor Racketeering.
		Counsel.
		Deputy Inspector General.
		Assistant Inspector General for Audit.
		Deputy Assistant Inspector General for Audit.
		Deputy Assistant Inspector General for Labor Racketeering.
		Assistant Inspector General for Management and Policy.
		Assistant Inspector General for Inspections and Special Investigations.
MERIT SYSTEMS PROTECTION BOARD	Office of the Clerk of the Board	Clerk of the Board.
	Office of Financial and Administrative Management.	Director, Financial and Administrative Management.
	Office of Policy and Evaluation	Director, Office of Policy and Evaluation.
	Office of Information Resources Management	Director, Information Resources Management.
	Office of Regional Operations	Director, Office of Regional Operations.
	Atlanta Regional Office	Regional Director, Atlanta.
	Central Region, Chicago Regional Office	Regional Director, Chicago.
	Northeast Region, Philadelphia Regional Office.	Regional Director, Philadelphia.
	Western Region, San Francisco Regional Office.	Regional Director, San Francisco.
	Washington, DC Region, Washington Regional Office.	Regional Director, Washington, DC.
	Dallas Regional Office	Regional Director, Dallas.
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.	National Aeronautics and Space Administration.	Senior Technical Advisor to the Director.
		Deputy Director for Science.
		Director for Ames International Space Station Office.
		Director, National Aeronautics and Space Administration Lunar Science Institute.
	Exploration Systems Mission Directorate	Manager, Advanced Space Technology Program.
		Director, Resources Management Office.
		Manager, Strategic Planning.
		Assistant Associate Administrator for Administration.
		Director, Advanced Capabilities Division.
		Director, Strategic Integration and Management Office.
		Assistant Associate Administrator for Human Exploration Capability.
		Director, Mission Integration Division.
		Director, Business Operations Division.
		Assistant Associate Administrator, Strategic Integration and Management.
		Director, Directorate Integration Office.
	Space Operations Mission Directorate	Assistant Associate Administrator for Space Shuttle Program.
		Deputy Assistant Administrator for Program Integration.
		Assistant Associate Administrator for Resources Management and Analysis Office.
		Space Operations Mission Directorate Transition Manager.
		Director, International Space Station and Space Shuttle Program Resource.
		Assistant Associate Administrator for Space Shuttle Program.
		Assistant Associate Administrator for International Space Station.
		Manager, Rocket Propulsion Test Program Office.

Agency	Organization	Title
		Assistant Associate Administrator for Launch Services.
		Deputy Associate Administrator for Space Communications and Navigation.
	Science Mission Directorate	Deputy Director, Joint Agency Satellite Division.
		Director, Strategic Integration and Management Division.
		Director, Strategic Integration and Management Division.
		Director, Applications Division.
		Deputy Associate Administrator for Programs.
		Deputy Associate Administrator for Management.
		Senior Advisor.
		Deputy Director for Programs, Earth Science Division.
	Planetary Science Division	Deputy Director, Planetary Science Division.
		Director, Planetary Science Division.
		Mars Exploration Program Director.
	Astrophysics Division	Deputy Director, Astrophysics Division.
		Director, Astrophysics Division.
	Heliophysics Division	Program Director, Science Information and Telecommunications Systems.
		Deputy Director, Heliophyiscs Division.
		Director, Heliphysics Division.
	Earth Science Division	Program Director, Science Division.
		Program Director, Research and Analysis Program.
		Deputy Director, Earth Science.
	Aeronautics Research Mission Directorate	Director, Mission Support Office.
		Director, Integrated Systems Research Program Office.
		Director, Fundamental Aeronautics.
		Director, Mission Support Office.
		Director, Strategy Communications and Program Integration.
		Director, Aviation Safety Program Office.
		Director, Airspace Systems Program Office.
	Office of Program Analysis and Evaluation	Director, Cost Analysis Division.
		Deputy Director, Technical, Independent Program, Assessment.
		Deputy Associate Administrator.
		Director, Studies and Analysis Division.
		Deputy Director, Strategic Investment Division.
		Deputy Director, Strategic Investments Division.
		Director, Independent Program Assessment Office.
	Office of the Chief Financial Officer/Comptroller.	Deputy Chief Financial Officer, Agency Budget, Strategy and Performance.
	Office of Education	Deputy Associate Administrator for Integration.
	Office of the Chief Information Officer	Associate Chief Information Officer for Capital Planning and Governance.
	Office of Agency Operations	Director, Program Operations Division.
		Director, Analysis Division.
		Director, Workforce Systems and Accountability Division.
		Assistant Administrator, Small and Disadvantaged Business Utilization.
		Director, Contract Management Division.
		Director, Environmental Management Division.
		Assistant Administrator for Security and Program Protection.
		Assistant Administrator for Agency Operations.
		Director, Facilities Engineering and Real Property Division.
		Assistant Administrator for Procurement.
		Director, Programs, Planning and Evaluation Division.

Agency	Organization	Title
		Director, Headquarters Information Technology and Communications Division.
		Director, Strategic Capability Asset Program.
		Director, Workforce Management and Development Division.
		Deputy Assistant Administrator for Human Capital Management.
		Deputy Assistant Administrator for Policy.
		Director, Human Resource Management Division.
		Assistant Administrator for Human Capital Management.
		Director, Workforce Strategy Division.
	Office of Safety and Mission Assurance	Director, Safety and Assurance Requirements Division.
		Director, Mission Support Division.
		Chief, Safety and Mission Assurance Office.
		Deputy Chief Safety and Mission Assurance Officer.
	Office of the Chief Financial Officer/Comptroller.	Director, Budget Division.
		Senior Advisor to the Deputy Chief Financial Officer.
		Deputy Chief Financial Officer.
		Director, Quality Assurance.
		Director, Financial Management.
		Director for Performance Reporting.
		Director, Business Integration.
		Director, Strategic Management and Planning.
	Office of the Chief Information Officer	Deputy Chief Information Officer for Information Technology Security.
	Office of the Chief Engineer	Exploration Systems Mission Directorate Chief Engineer.
		Senior Advisor.
		Science Mission Chief Engineer.
		Chief Engineer, ARMD.
	Office of Communications	Director, Media Services Division.
		Deputy Associate Administrator for Legislative Affairs.
		Deputy Assistant Administrator for Legislative Affairs.
		Assistant Administrator for Legislative and Intergovernmental Affairs.
	Office of Program and Institutional Integrator	Deputy Director of the Office of Program and Institutional Integration.
		Director of Program and Institutional Integration Office.
	Office of Legislative and Intergovernmental Affairs.	Director, Space Operations Division.
		Manager, International Technology Transfer Policy.
		Director, Space Science and Aeronautics Division.
	National Aeronautics and Space Administration Shared Service Center.	Executive Director of National Aeronautics and Space Administration Shared Service Center.
		Director, Business and Administration.
		Deputy Director, National Aeronautics and Space Administration Shared Services Center.
	Johnson Space Center	Assistant to the Director, Engineering.
		Associate Director (Technical).
		Director of Human Resources.
		Chief Financial Officer.
		Director, External Relations.
		Associate Director, Management.
		Assistant to the Director, Innovation and Partnerships.
		Director, Astromaterials Research and Exploration Science.
		Associate Director for Strategic Capabilities.
		Deputy Associate Administrator, Strategic Program Planning.
		Chief Knowledge Officer.
		Chief of Staff, Office of the Director.

Agency	Organization	Title
		Manager, Advanced Planning.
	Space Station Program Office	Manager, Program Planning and Control Office, International Space Station.
		Manager, Mission Integration and Operations Office.
		Manager, International Space Station Payloads Office.
		Manager, Operations Integration.
		Manager, Avionics and Software Office.
		Manager, Safety and Mission Assurance/Program Risk Office, ISSP.
		Manager, International Space Station Program.
		Deputy Manager, International Space Station Program.
		Manager, Vehicle Office.
		Director, Human Space Flight Program—Russia.
		Senior Advisor, Exploration and Space Operations.
	Space Shuttle Program	Associate Manager, Space Shuttle Program.
		Manager, Safety and Mission Assurance Office.
		Deputy Manager, Space Shuttle Program.
		Manager, Space Shuttle Business Office.
		Deputy Space Shuttle Program Manager for Kennedy Space Center.
		Manager, Space Shuttle Systems Engineering and Integration Office.
		Manager, Orbiter Project Office.
		Manager, Space Shuttle Program.
		Manager Launch Integration, Kennedy Space Center.
	Mission Operations	Chief Flight Director Office.
		Deputy Director, Mission Operations.
		Chief, Engineering Projects.
		Director, Mission Operations.
	Constellation Program Office	Deputy Manager, Orbiter Project Office.
		Director, Systems Engineering and Integration, Constellation.
		Director, Program Planning and Control, Constellation.
		Director, Operation Integration, Constellation Program.
		Director, Safety Reliability and Quality Assurance, Constellation.
		Manager, Constellation Program.
		Deputy Manager, Constellation Office.
		Associate Program Manager for Lunar Formulation.
		Constellation Program Deputy for the Orion Project.
		Deputy Manager, Orion Project.
		Transition Manager, Operations and Test Integration Office, CX Program.
		Assistant Orion Project Manager, Program Planning and Control, Constellation.
		Assistant to the Director for Constellation.
	Flight Crew Operations	Director, Flight Crew Operations.
		Chief Astronaut Office.
		Chief, Aircraft Operations Division.
		Deputy Director, Flight Crew Operations.
		Assistant Director, Flight Crew Operations.
	Engineering	Deputy Director, Engineering.
		Chief, Crew and Thermal Systems Division.
		Manager, Engineering Services and Management Integration Office.
		Manager, Program Engineering Integration Office.
		Manager, Systems Architecture and Integration Office.
		Director, Engineering.
		Chief, Structural Engineering Division.
	Space and Life Sciences	Manager, Human Research Program.

Agency	Organization	Title
		Deputy Director, Space and Life Sciences.
		Director, Space Life Sciences.
	Information Resources	Director, Information Resources.
	Office of Procurement	Director, Office of Procurement.
	Center Operations	Director Center Operations.
	Safety and Mission Assurance	Director, Safety and Mission Assurance.
		Deputy Director, Safety and Mission Assurance.
		Assistant to the Director, Safety and Mission Assurance.
	White Sands Test Facility	Manager, National Aeronautics and Space Administration White Sands Test Facility.
	EVA Project Office	Manager, EVA Project Office.
	Kennedy Space Center	Deputy Director, Management, Constellation Project Office.
		Deputy Director, Constellation Project Office.
		Director, Constellation Project Office.
		Director, Center Operations.
		Deputy Director, Technical, Engineering and Technology Directorate.
		Director, Engineering and Technology Directorate.
		Deputy Director, Management, Engineering and Technology Directorate.
		Chief, Mechanical Division, Engineering Directorate.
		Deputy Director, International Space Station and Spacecraft Processing Directorate.
		Director, John F Kennedy Space Center.
		Associate Director for Business Operations, John F Kennedy Space Center.
		Special Assistant to the Director.
		Chief Financial Officer.
		Associate Director for Engineering and Technical Operations.
		Special Assistant for Engineering and Technical Operations.
		Special Assistant to the Deputy Director.
		Special Assistant to the Deputy Director.
		Associate Director, International Space Station and Spacecraft Processing.
		Chief Medical Officer.
		Director, Constellation Space Transportation Planning Office.
		Deputy Director, Constellation Space Transportation Planning Office.
		Manager, Spacecraft Flight Hardware Project.
		Manager, Launch Vehicle Project, Constellation Space Transportation Planning Office.
		Manager, Flight and Ground Project Office, Constellation Space Transportation Planning Office.
		Chairperson, Engineering Services Contract Source Evaluation Board.
		Director, Public Affairs.
		Director, Launch Vehicle Processing Directorate.
		Deputy Director, Launch Vehicle Processing Directorate.
		Director, International Space Station and Spacecraft Processing Directorate.
		Deputy Director, Design and Development, Engineering and Technology Directorate.
		Director, Operational Systems Engineering Office, Engineering Directorate.
		Manager, Constellation Ground System Project Office, Constellation Project Office.
	Office of Procurement	Director, Procurement Office.
	Office of Human Resources	Director, Human Resources Office.
	Office of Information Technology and Communications Services.	Director, Information Technology and Communications Services.
	Shuttle Processing	Deputy Director, Shuttle Processing.
	Safety and Mission Assurance	Deputy Director, Safety and Mission Assurance.

Agency	Organization	Title
		Director, Safety and Mission Assurance.
	Office of External Relations	Director, External Relations.
		Deputy Director, External Relations and Business Development.
	Launch Services Program	Manager, Launch Services Program.
		Deputy Manager, Launch Services Program.
		Director, Expendable Launch Vehicle Launch Services.
	Marshall Space Flight Center	Deputy Director, Flight Projects Office.
		Assistant for Project Management and Development.
	Office of the Director	Deputy Manager, Constellation Program.
		Special Assistant to the Director.
	Office of the Deputy Director	Senior Executive for Technology and Integration.
		Associate Program Manager, Constellation Program.
	Office of the Associate Director	Associate Director, George C Marshall Space Flight Center.
	Michaud Assembly Facility	Chief Operating Officer, Michaud Assembly Facility.
		Director.
	Engineering Directorate	Director, Mission Operations Laboratory.
		Associate Director for Technical Management.
		Assistant to the Chief Engineer.
		Deputy Chief Engineer.
		Chief Engineer.
		Deputy Director, Engineering Directorate.
		Deputy Director, Space Systems Department.
		Director, Space Systems Department.
		Director, Materials and Processes Laboratory.
		Director, Propulsion Systems Department.
		Deputy Director, Propulsion Systems Department.
		Director, Test Laboratory.
		Director, Spacecraft and Vehicle Systems Department.
		Deputy Director, Spacecraft and Vehicle Systems Department.
		Associate Director for Operations.
	Office of the Chief Financial Officer	Chief Financial Officer (2 positions).
		Deputy Chief Financial Officer.
	Office of Center Operations	Director, Office of Center Operations.
		Deputy Director, Office of Center Operations.
	Office of Procurement	Director, Office of Procurement.
	Shuttle Propulsion Office	Manager, Propulsion Systems Engineering and Integration Office.
		Manager, Shuttle Propulsion Office.
		Deputy Manager, Shuttle Propulsion Office.
		Manager, Reusable Solid Rocket Booster Project.
		Manager, Space Shuttle Main Engine Project, Shuttle Propulsion Office.
		Manager, External Tank Project.
	Safety and Mission Assurance Directorate	Deputy Director, Safety and Mission Assurance Directorate.
		Chief Safety Officer.
		Deputy Director for Program Assurance.
		Director, Safety and Mission Assurance Directorate.
	Science and Mission Systems Office	Manager, Science and Mission Systems Office.
		Manager, Lunar Program and Projects Office.
		Deputy Manager, Science and Mission Systems Office.
		Manager, Science Programs and Projects Office.
		Chief Scientist, Aerospace Technology and Science Program Management.
	Office of Strategic Analysis and Communications.	Director, Office of Strategic Analysis and Communications.
	ARES Projects Office	Manager, Vehicle Integration Office.
		Manager, Ares Projects Office.
		Manager, Upper Stage Office.

Agency	Organization	Title
		Manager, First Stage Office.
		Deputy Manager, Ares Projects Office.
		Manager, Upper Stage Engine Office.
	Space Launch System Program Office	Manager, Program Planning and Control Office.
		Manager, Engines Office.
		Manager, Stages Office.
		Deputy Manager.
		Manager.
		Manager, Boosters Office.
	Science and Technology Office	Senior Science Advisor.
		Deputy Manager.
		Manager.
	Shuttle-ARES Transition Office	Manager.
	Office of Chief Information Officer	Deputy Chief Information Officer.
	Flight Programs and Partnerships Office	Manager.
		Deputy Manager.
	Office of Human Capital	Director, Office of Human Capital.
		Special Assistant to Director, Office of Human Capital.
	Stennis Space Center	Director, Center Operations Directorate.
		Director, Business Management Directorate.
		Director, Engineering and Science Directorate.
		Deputy Director, Stennis Space Center.
		Associate Director.
		Director, Projects Directorate.
		Deputy Director, Engineering and Science Directorate.
		Chief Financial Officer.
		Chair, Source Evaluation Board.
	Chief of Strategic Communications	Director, Business and Administration Operations.
	AMES Research Center	Deputy Director of Aeronautics.
		Deputy Director, Center Operations.
		Chief Counsel.
		Chief, Aviation Systems Division.
		Director, Office of Safety, Environment and Mission Assurance.
		Chief, Computational Sciences Division.
		Deputy Director, AMES Research Center.
		Deputy Director for Research.
		Special Assistant to the Director.
		Chief Financial Officer.
		Director of Center Operations.
		Associate Director for Institutional Management and Engineering.
		Chief, Space Technology Division.
		Human Capital Director.
		Director, Exploration Technology Directorate.
		Deputy Associate Director for Institutions and Research.
		Procurement Officer.
		AMES Research Center Liaison for University Affiliated Research Center.
		Chief Information Officer.
		Chief, Intelligent Systems Division.
		Director, National Aeronautics and Space Administration Astrobiology Institute.
		Director, Programs and Projects Directorate.
		Director, Aeronautics Test Program.
		Director, New Ventures and Communications Directorate.
		Associate Director for Institutions and Research.
		Deputy Director, Exploration Technology.
		Director of Engineering.
		Chief, Flight Vehicle Research and Tech Division.
	Astrobiology and Space Research	Director of Science.
		Chief, Life Sciences Division.
	Dryden Flight Research Center	Director, Flight Operations Directorate.
		Chief Financial Officer (Financial Manager).
		Director for Safety and Mission Assurance.

Agency	Organization	Title
	Langley Research Center	Chief Counsel.
		Associate Director for Operations.
		Deputy Associate Director for Operations.
		Associate Director for Programs.
		Deputy Associate Director for Programs.
		Director of Mission Information and Test Systems.
		Program Manager for SOFIA.
		Chief Financial Officer.
		Director, Exploration and Space Operations Directorate.
		Director, Flight Projects Directorate.
		Deputy Director for Programs.
		Deputy Director for Safety.
		Director, Ground Facilities and Testing Directorate.
		Deputy Director, Research and Technology Test Operations.
		Deputy Director, Research and Technology Program Implementation.
		Associate Director for Special Programs.
		Director, Advanced Planning and Partnership Office.
		Associate Director, Langley Research Center.
		Deputy Director, Safety and Mission Assurance Office.
		Deputy Director for Advanced Projects.
		Chief Information Officer.
		Director, Safety and Mission Assurance Office.
		Director, Office of Procurement.
		Deputy Director, National Aeronautics and Space Administration Engineering and Safety Center.
		Director, Flight Research Services Directorate.
		Director, Systems Analysis and Advanced Concepts Directorate.
		Director, Science Directorate.
		Director, Aeronautics Research Directorate.
		Director, Center Operations Directorate.
		Deputy Director, Research and Technology Directorate.
		Director, Research and Technology Directorate.
		Deputy Director, Systems Engineering Directorate.
		Director, Systems Engineering Directorate.
		Manager, Systems Engineering Office.
		Director, Earth System Science Pathfinder Program Office.
		Special Assistant to the Director.
		Director, National Aeronautics and Space Administration Engineering and Safety Center.
		Manager, Management and Technical Support Office.
		Director, Office of Human Resources.
	Glenn Research Center	Chief, Office of Acquisition.
		Plum Brook Station Manager.
		Director, Systems Management Office.
		Director of Center Operations.
		Associate Director for Technical Planning, Policy, Analysis and Evaluation.
		Chief Financial Officer.
	Facilities and Test Directorate	Deputy Director of Facilities and Test.
		Chief Facilities and Test Engineering Division.
		Director of Facilities and Test.
		Associate Director for Infrastructure Assessment.
	Research and Technology Directorate	Chief, New Business and Partnership Office.
		Chief, Communications, Instrumentation and Controls Division.
		Chief, Power and On-Board Propulsion Division.

Agency	Organization	Title
		Chief, Aero Propulsion Division.
		Chief, Structures and Materials Division.
	Space Flight Systems Directorate	Deputy Director, Space Flight Systems.
		Chief, Advanced Flight Projects Office.
	Engineering Directorate	Chief, Chief Engineer Office.
		Chief, Systems Engineering and Analysis Division.
		Chief, Mechanical and Fluid Systems Division.
		Deputy Director of Engineering and Technical Services.
		Chief, Power and Avionics Division.
		Director of Engineering.
	Office of the Chief Information Officer	Chief, Computer Services Division.
	Safety and Mission Assurance Directorate	Director, Office of Safety, Environmental and Mission Assurance.
	National Aeronautics and Space Administration's Safety Center.	Director, Audits and Assessments.
		Director, Technical Excellence.
	Goddard Space Flight Center	Assistant Director for Advanced Concepts.
		Special Assistant to Deputy Director.
		Special Assistant to the Director.
	Office of Human Resources	Director of Human Capital Management.
	Office of the Comptroller	Deputy Chief Financial Officer.
		Chief Financial Officer/Comptroller.
	Office of Management Operations	Associate Director for Acquisition.
		Deputy Director of Management Operations.
	Flight Assurance	Director of Systems Safety and Mission Assurance.
		Deputy Director of Systems Safety and Mission Assurance.
	Flight Projects	Associate Director for Earth Science Projects Division.
		Deputy Associate Director for Earth Science Projects Division.
		Associate Director for Joint Polar Satellite System (JPSS) Program.
		Associate Director for Earth Science Technology Office (ESTO).
		Deputy Director for Planning and Business Management.
		Deputy Associate Director for Joint Polar Satellite System (JPSS) Program.
		Associate Director for Astrophysics Projects Division.
		Deputy Associate Director for Explorers and Heliophysics Science Projects Division.
		Associate Director for Space Servicing Capabilities Project.
		Associate Director for Landsat Data Continuity Mission Project.
		Director of Flight Projects.
		Deputy Director of Flight Projects.
		Associate Director for Exploration and Space Communications Projects Division.
		Associate Director for Explorers and Heliophysics Projects Division.
	Applied Engineering and Technology Directorate.	Chief, Mechanical Systems Division.
		Chief, Mission Engineering and Systems Analysis Division.
		Chief, Instrument Systems and Technology Division.
		Chief, Information Systems Division.
		Chief, Electrical Systems Division.
		Deputy Director of Applied Engineering and Technology.
		Deputy Director of Applied Engineering and Technology for Planning and Business Management.
	Sciences and Exploration	Deputy Director of Sciences and Exploration for Planning and Business Management.
		Director of Sciences and Exploration.
		Deputy Director, Solar System Exploration Division.
		Director, Astrophysics Science Division.
		Chief, Goddard Institute for Space Studies.

Agency	Organization	Title
		Deputy Director of Sciences and Exploration.
		Director, Earth Sciences Division.
		Director, Solar System Exploration Division.
		Deputy Director, Earth Sciences Division.
		Chief, Laboratory for Atmospheres.
		Director, Heliophysics Science Division.
		Associate Director for Advanced Concepts and Planning.
	Information Technology	Deputy Director for Operations.
	Suborbital Projects and Operations	Special Assistant for Project Management Training.
	Office of Security Management and Safeguards.	Deputy Assistant Administrator for Security and Program Protection.
	Office of Chief Education Officer	Director, Elementary and Secondary Education Division.
		Deputy Chief Education Officer.
	Office of Security Management and Safeguards.	Deputy Assistant Administrator for Security Management and Safeguards.
		Assistant Administrator for Security Management.
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION OFFICE OF THE INSPECTOR GENERAL.	Office of the Inspector General	Deputy Inspector General.
		Assistant Inspector General for Investigations.
		Counsel to the Inspector General.
		Assistant Inspector General for Management and Planning.
		Assistant Inspector General for Auditing.
NATIONAL ARCHIVES AND RECORDS ADMINISTRATION.	Archivist of United States and Deputy Archivist of the United States.	Deputy Archivist of the United States.
	Office of Administration	Assistant Archivist for Administration.
	Office of Regional Records Services	Assistant Archivist for Regional Records Services.
	Office of Records Services, Washington, DC	Assistant Archivist for Records Services.
	Office of the Chief Operating Officer	Chief Operating Officer.
	Agency Services	Chief Records Officer.
		Agency Services Executive.
	Business Support Services	Business Support Services Executive.
		Chief Financial Officer.
	Research Services	Research Services Executive.
	Office of the Federal Register	Director of the Federal Register.
	Information Services	Information Services Executive/Chief Information Officer.
	Legislative Archives, Presidential Libraries and Museum Services.	Legislative Archives, Presidential Libraries and Museum Services Executive.
	Office of Presidential Libraries	Deputy for Presidential Libraries.
	Office of Human Capital	Chief Human Capital Officer.
	Office of Strategy and Communications	Chief Strategy and Communications Officer.
NATIONAL ARCHIVES AND RECORDS ADMINISTRATION OFFICE OF THE INSPECTOR GENERAL.	Office of the Inspector General	Inspector General.
NATIONAL CAPITAL PLANNING COMMISSION.	National Capital Planning Commission Staff	General Counsel.
		Executive Director.
		Deputy Executive Director.
		Chief Operating Officer.
NATIONAL ENDOWMENT FOR THE ARTS	Office of the Chief Information Officer	Chief Information Officer.
		Deputy Chairman for Programs and Partnerships.
		Director, Research and Analysis.
		Deputy Chairman for Management and Budget.
NATIONAL ENDOWMENT FOR THE ARTS OFFICE OF THE INSPECTOR GENERAL.	Office of the Inspector General	Inspector General.
NATIONAL ENDOWMENT FOR THE HUMANITIES.	Office of the Assistant Chairman for Planning and Operations.	Assistant Chairman for Planning and Operations.
NATIONAL LABOR RELATIONS BOARD	Office of the Deputy Associate General Counsel, Litigation.	Deputy Associate General Counsel, Division of Enforcement Litigation.
	Office of the Board Members	Executive Secretary.
		Chief Information Officer.
		Deputy Executive Secretary.
		Inspector General.
	Division of Enforcement Litigation	Director, Office of Appeals.
		Deputy Associate General Counsel, Appellate Court Branch.
	Division of Advice	Deputy Associate General Counsel, Division of Advice.

Agency	Organization	Title
		Associate General Counsel, Division of Advice.
	Division of Administration	Director, Division of Administration.
		Deputy Director, Division of Administration.
	Division of Operations Management	Associate General Counsel, Division of Operation-Management.
		Deputy Associate General Counsel, Division of Operations-Management.
		Assistant General Counsel (3 positions).
		Assistant to General Counsel.
	Regional Offices	Regional Director, Region 13, Chicago, Illinois.
		Regional Director, Region 14, Saint Louis, Missouri.
		Regional Director, Region 15, New Orleans, Louisiana.
		Regional Director, Region 16, Fort Worth, Texas.
		Regional Director, Region 17, Kansas City, Kansas.
		Regional Director, Region 18, Minneapolis, Minnesota.
		Regional Director, Region 19, Seattle, Washington.
		Regional Director, Region 20, San Francisco, California.
		Regional Director, Region 21, Los Angeles, California.
		Regional Director, Region 22, Newark, New Jersey.
		Regional Director, Region 24, HATO Rey, Puerto Rico.
		Regional Director, Region 25, Indianapolis, Indiana.
		Regional Director, Region 26, Memphis, Tennessee.
		Regional Director, Region 27, Denver, Colorado.
		Regional Director, Region 28, Phoenix, Arizona.
		Regional Director, Region 29, Brooklyn, New York.
		Regional Director, Region 30, Milwaukee, Wisconsin.
		Regional Director, Region 32, Oakland, California.
		Regional Director, Region 31, Los Angeles, California.
		Regional Director, Region 34, Hartford, Connecticut.
		Regional Director, Region 3, Buffalo, New York.
		Regional Director Region 2, New York.
		Regional Director, Region 1, Boston, Massachusetts.
		Regional Director, Region 12, Tampa, Florida.
		Regional Director, Region 11, Winston Salem, North Carolina.
		Regional Director, Region 10, Atlanta, Georgia.
		Regional Director, Region 9, Cincinnati, Ohio.
		Regional Director, Region 8, Cleveland, Ohio.
		Regional Director, Region 7, Detroit, Michigan.
		Regional Director, Region 4, Philadelphia, Pennsylvania.
		Regional Director, Region 5, Baltimore, Maryland.
		Regional Director, Region 6, Pittsburgh, Pennsylvania.
NATIONAL SCIENCE FOUNDATION	Office of the Director	Chief Technology Officer.
	Office of Integrative Activities	Senior Advisor (2 positions).
		Senior Scientist.
		Senior Advisor (Level -II).

Agency	Organization	Title
	Office of Diversity and Inclusion	Office Head, Office of Diversity and Inclusion.
	Office of the General Counsel	Deputy General Counsel.
	Antarctic Infrastructure and Logistics Division	Division Director, Antarctic Infrastructure and Logistics.
	Office of International Science and Engineering.	Deputy Office Head.
		Senior Staff Associate.
	Office of the Inspector General	Inspector General.
		Assistant Inspector General for Audit.
		Associate Inspector General for Investigations.
		Deputy Inspector General.
	Directorate for Geosciences	Senior Facilities Advisor.
	Division of Atmospheric and Geospace Sciences.	Section Head NCAR/Facilities Section.
	Division of Earth Sciences	Head, Deep Earth Processes Section.
	Division of Ocean Sciences	Section Head, Integrative Programs Section.
	Directorate for Engineering	Senior Advisor.
	Division of Engineering Education and Centers.	Senior Staff Associate.
		Deputy Division Director (Education).
	Division of Civil, Mechanical, and Manufacturing Innovation.	Deputy Division Director.
	Division of Industrial Innovation and Partnerships.	Senior Advisor.
	Division of Chemical, Bioengineering, Environmental, and Transport Systems.	Senior Advisor.
		Deputy Division Director.
	Directorate for Biological Sciences	Deputy Assistant Director.
		Executive Officer.
	Division of Environmental Biology	Deputy Division Director.
	Division of Integrative Organismal Systems	Deputy Division Director.
	Directorate for Mathematical and Physical Sciences.	Senior Science Associate.
		Senior Advisor.
		Executive Officer.
		Deputy Assistant Director.
		Senior Advisor.
	Division of Mathematical Sciences	Deputy Division Director.
	Division of Materials Research	Deputy Division Director.
	Directorate for Education and Human Resources.	Deputy Assistant Director for Integrative Activities.
	Division of Research on Learning In Formal and Informal Settings.	Senior Advisor for Research.
	Directorate for Social, Behavioral and Economic Sciences.	Deputy Assistant Director.
		Deputy Assistant Director.
	Directorate for Computer and Information Science and Engineering.	Executive Officer.
		Deputy Assistant Director.
		Senior Staff Associate.
	Office of Budget, Finance and Award Management.	Deputy Director, Planning, Coordination and Analysis.
		Deputy Director, Management, Operations and Policy.
		Director, Budget, Finance, Award and Chief Financial Officer.
	Budget Division	Division Director.
		Deputy Director.
	Division of Financial Management	Deputy Division Director, Division of Financial Management.
		Division Director and Deputy Chief Financial Officer.
	Division of Grants and Agreements	Division Director.
	Division of Acquisition and Cooperative Support.	Division Director.
	Division of Institutional and Award Support	Deputy Division Director.
		Division Director.
	Office of Information and Resource Management.	Senior Advisor.
		Director.
		Deputy Director.
		Senior Staff Associate.
	Division of Information Systems	Deputy Division Director.
	Division of Human Resource Management	Division Director.
		Deputy Division Director (2 positions).
	Division of Administrative Services	Deputy Division Director (2 positions).
		Division Director (2 positions).
NATIONAL SCIENCE FOUNDATION OFFICE OF THE INSPECTOR GENERAL.	Office of the Inspector General	Inspector General.
		Assistant Inspector General for Audit.

Agency	Organization	Title
		Assistant Inspector General for Investigations.
		Deputy Inspector General.
NATIONAL TRANSPORTATION SAFETY BOARD.	Office of Management	Deputy Managing Director.
		Managing Director.
	Office of Administration	Director, Office of Administration.
	Office of Aviation Safety	Deputy Director, Office of Aviation Safety.
		Director Bureau of Accident Investigation.
		Deputy Director, Regional Operations.
	Office of Research and Engineering	Deputy Director, Office of Research and Engineering.
		Director, Office of Research and Engineering.
	Office of Chief Financial Officer	Chief Financial Officer.
	Office of Railroad, Pipeline and Hazardous Materials Investigations.	Deputy Director, Office of Railroad, Pipeline and Hazardous Materials Safety.
		Director, Office of Railroad, Pipeline and Hazardous Materials Investigations.
	Office of Communications	Deputy Director, Office of Communications.
	Office of Highway Safety	Director, Office of Highway Safety.
	Office of Chief Information Officer	Chief Information Officer.
	Office of Marine Safety	Director, Office of Marine Safety.
NUCLEAR REGULATORY COMMISSION	Office of the Chief Financial Officer	Deputy Director, Division of Planning, Budget, and Analysis.
		Controller.
		Deputy Chief Financial Officer.
		Budget Director.
	Office of Commission Appellate Adjudication	Director, Office of Commission Appellate Adjudication.
	Office of Information Services	Director, Program Management, Policy Development and Analysis Staff.
		Director, Business Process Improvement and Applications Division.
		Director, Information and Records Services Division (2 positions).
		Director, Infrastructure and Computer Operations Division.
		Deputy Director, Office of Information Services.
	Computer Security Office	Chief Information Security Officer/Director, Computer Security Office.
	Office of Administration	Director, Division of Facilities and Security.
		Director, Division of Administrative Services.
		Director, Division of Contracts.
		Deputy Director, Office of Administration.
		Associate Director for Space Planning and Consolidation.
		Associate Director for Strategic Acquisitions.
	Office of Nuclear Security and Incident Response.	Deputy Director, Office of Nuclear Security and Incident Response.
		Director, Program Management, Policy Development, and Analysis Staff.
	Division of Security Policy	Deputy Director, Division of Security Policy.
		Deputy Director for Reactor Security and Rulemaking.
		Director, Division of Security Policy.
		Deputy Director for Material Security.
		Director, Division of Security Policy.
	Division of Preparedness and Response	Deputy Director for Incident Response.
		Deputy Director for Emergency Preparedness.
		Director, Division of Preparedness and Response.
		Deputy Director for Emergency Preparedness.
	Division of Security Operations	Deputy Director for Security Oversight.
		Deputy Director for Security Programs.
		Director, Division of Security Operations.
	Office of Investigations	Deputy Director, Office of Investigations.
	Office of Small Business and Civil Rights	Director, Office of Small Business and Civil Rights.
	Office of New Reactors	Deputy Director, Office of New Reactors.
		Director, Division of Advanced Reactors and Rulemaking.
		Director, Division of Program Management, Policy Development and Analysis.
	Division of New Reactor Licensing	Director, Division of New Reactor Licensing.
		Deputy Director for Licensing Operations.

Agency	Organization	Title
		Deputy Director for Infrastructure and Policy.
	Division of Site Safety and Environmental Analysis.	Director, Division of Site Safety and Environmental Analysis.
		Director, Division of Site Safety and Environmental Analysis.
	Division of Safety Systems and Risk Assessment.	Deputy Director, Division of Safety Systems and Risk Assessment.
		Director, Division of Safety Systems and Risk Assessment.
	Division of Engineering	Director, Division of Engineering.
		Deputy Director, Division of Engineering.
	Division of Construction Inspection and Operational Programs.	Deputy Director, Division of Construction Inspection and Operational Programs.
		Director, Division of Construction Inspection and Operational Programs.
	Office of Nuclear Reactor Regulation	Director, Japan Lessons Learned Project Directorate.
		Deputy Director for Engineering and Corporate Support.
		Director, Program Management, Policy Development and Planning Staff.
	Division of Safety Systems	Deputy Director, Division of Safety Systems.
		Director, Division of Safety Systems.
	Division of Component Integrity	Deputy Director, Division of Component Integrity.
		Director, Division of Component Integrity.
	Division of Engineering	Deputy Director, Division of Engineering.
		Director, Division of Engineering.
	Division of Risk Assessment	Director, Division of Risk Assessment.
		Deputy Director, Division of Risk Assessment.
	Deputy Director for Reactor Safety Programs	Deputy Director for Reactor Safety Programs.
	Division of License Renewal	Director, Division of License Renewal.
		Deputy Director, Division of License Renewal.
	Division of Operating Reactor Licensing	Director, Division of Operating Reactor Licensing.
		Deputy Director, Division of Operating Reactor Licensing.
		Deputy Director, Division of Operating Reactor Licensing.
	Division of Inspection and Regional Support	Deputy Director, Division of Inspection and Regional Support.
		Deputy Director, Division of Inspection and Regional Support.
		Director, Division of Inspection and Regional Support.
	Division of Policy and Rulemaking	Deputy Director, Division of Policy and Rulemaking.
		Deputy Director, Division of Policy and Rulemaking.
		Director, Division of Policy and Rulemaking.
	Office of Nuclear Material Safety and Safeguards.	Director, Program Planning, Budgeting, and Program Analysis Staff.
	Division of Fuel Cycle Safety and Safeguards	Deputy Director, Fuel Facility Licensing Directorate.
		Director, Division of Fuel Cycle Safety and Safeguards.
		Deputy Director, Special Projects and Technical Support Directorate.
	Division of Spent Fuel Alternative Strategies	Deputy Director, Division of Spent Fuel Alternative Strategies.
		Deputy Director, Technical Review Directorate.
		Director, Division of Spent Fuel Alternative Strategies.
		Deputy Director, Licensing and Inspection Directorate.
	Division of Spent Fuel Storage and Transportation.	Director, Division of Spent Fuel Storage and Transportation.
		Deputy Director, Technical Review Directorate.
		Deputy Director, Licensing and Inspection Directorate.
	Office of Federal and State Materials and Environmental Management Programs.	Director, Program Planning, Budgeting and Program Analysis Staff.

Agency	Organization	Title
		Deputy Director, Office of Federal and State Materials and Environmental Management Programs.
	Division of Materials Safety and State Agreements.	Director, Division of Materials Safety and State Agreements (2 positions).
		Deputy Director, Division of Materials Safety and State Agreements.
		Deputy Director, National Materials Program Directorate.
	Division of Intergovernmental Liaison and Rulemaking.	Director, Division of Intergovernmental Liaison and Rulemaking.
		Deputy Director, Division of Intergovernmental Liaison and Rulemaking.
	Division of Waste Management and Environmental Protection.	Director, Division of Waste Management and Environmental Protection.
		Deputy Director, Environmental Protection and Performance Assessment Directorate.
		Deputy Director, Decommissioning and Uranium Recovery Licensing Directorate.
	Office of Nuclear Regulatory Research	Director, Program Management, Policy Development and Analysis Staff.
	Division of Engineering	Director, Division of Engineering.
		Deputy Director, Division of Engineering.
	Division of Systems Analysis	Director, Division of Systems Analysis.
		Deputy Director, Division of Systems Analysis.
	Division of Risk Analysis	Deputy Director, Division of Risk Analysis.
		Director, Division of Risk Analysis.
	Region I	Director, Division of Nuclear Materials Safety.
		Deputy Director, Division of Reactor Projects.
		Deputy Regional Administrator.
		Deputy Director, Division of Reactor Safety.
		Director, Division of Reactor Safety.
		Director, Division of Reactor Projects.
	Region II	Deputy Regional Administrator for Operations.
		Deputy Director, Division of Reactor Safety.
		Director, Division of Reactor Safety.
		Deputy Director, Division of Fuel Facility Inspection.
		Deputy Director, Division of Construction Inspection.
		Director, Division of Construction Inspection.
		Deputy Director, Division of Construction Projects.
		Director, Division of Construction Projects.
		Deputy Regional Administrator for Construction.
		Director, Division of Fuel Facility Inspection.
		Deputy Director, Division of Reactor Projects.
		Director, Division of Reactor Projects.
	Region III	Deputy Director, Division of Reactor Projects.
		Director, Division of Nuclear Materials Safety.
		Director, Division of Reactor Safety.
		Deputy Director, Division of Reactor Safety.
		Director, Division of Reactor Projects.
		Deputy Regional Administrator.
		Director, Division of Nuclear Materials Safety.
	Region IV	Director, Division of Nuclear Materials Safety.
		Director, Division of Reactor Projects.
		Director, Division of Reactor Safety.
		Deputy Director, Division of Reactor Projects.
		Deputy Regional Administrator.
		Deputy Director, Division of Reactor Safety.
NUCLEAR REGULATORY COMMISSION OFFICE OF THE INSPECTOR GENERAL.	Office of the Inspector General	Deputy Inspector General.
	Office of the Assistant Inspector General for Audits.	Assistant Inspector General for Audits.
	Office of the Assistant Inspector General for Investigations.	Assistant Inspector General for Investigations.
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.	Office of the Executive Director	Executive Director.
OFFICE OF GOVERNMENT ETHICS	Office of Government Ethics	Deputy Director for Agency Programs.
		Deputy Director for Government Relations and Special Projects.
		Deputy General Counsel.

Agency	Organization	Title
		Deputy Director for Administration.
		Deputy Director for Administration and Information Management.
OFFICE OF MANAGEMENT AND BUDGET	Office of the Director	Deputy Assistant Director for Management.
		Deputy Associate Director for Economic Policy.
		Assistant Director for Management and Operations.
		Senior Advisor to the Deputy Director for Management.
	Legislative Reference Division	Chief, Resources-Defense-International Branch.
		Chief, Labor, Welfare, Personnel Branch.
		Chief, Economics, Science and Government Branch.
		Assistant Director, Legislative Reference.
	Office of Federal Procurement Policy	Associate Administrator, Acquisition Policy.
		Deputy Administrator for Federal Procurement Policy.
		Associate Administrator.
		Associate Administrator for Procurement Law and Legislation.
		Associate Administrator for Acquisition Implementation.
		Associate Administrator.
	Office of the General Counsel	Associate General Counsel for Budget.
	Office of Information and Regulatory Affairs	Chief Statistical Policy Branch.
		Senior Advisor.
		Chief, Food, Health and Labor Branch.
		Chief, Information Policy and Technology Branch.
		Senior Advisor.
		Chief, Health, Transportation and General Government.
		Chief, Natural Resources and Environment Branch.
	Office of E–Government and Information Technology.	Chief Architect.
	Office of Federal Financial Management	Senior Advisor to the Director.
		Chief, Financial Standards and Grants Branch.
		Chief Federal Financial Systems Branch.
		Chief, Financial Integrity and Analysis Branch.
	Office of Budget Review	Deputy Chief, Budget Review Branch.
		Deputy Assistant Director for Budget Review and Concepts.
		Deputy Chief, Budget Analysis Branch.
		Chief, Budget Analysis Branch.
		Assistant Director for Budget Review.
		Deputy Assistant Director for Budget Analysis and Systems.
		Chief, Budget Concepts Branch.
		Chief, Budget Systems Branch.
		Chief, Budget Review Branch.
	International Affairs Division	Chief, Economic Affairs Branch.
		Deputy Associate Director for International Affairs.
		Chief, United States International Affairs Branch.
	National Security Division	Chief Operations and Support Branch.
		Chief, Veterans Affairs and Defense Health Branch.
		Chief, Force Structure and Investment Branch.
		Chief, Command, Control, Communications, and Intelligence Branch.
		Chief Veteran Affairs Branch.
		Deputy Associate Director for National Security.
	Human Resource Programs	Senior Advisor.
		Chief, Personnel Policy Branch.
		Deputy Associate Director, Education and Human Resources Division.
		Chief, Income Maintenance Branch.

Agency	Organization	Title
		Deputy Associate Director for Education, Income Maintenance and Labor.
		Chief, Education Branch.
		Chief, Labor Branch.
	Health Division	Chief, Medicare Branch.
		Chief, Public Health Branch.
		Chief, Medicaid Branch.
		Chief Health and Financing Branch.
		Chief, Health and Human Services Branch.
		Deputy Associate Director for Health.
	Transportation, Homeland, Justice and Services Division.	Chief Transportation Branch.
		Chief, Homeland Security.
		Chief, Transportation/General Services Administration Branch.
		Chief, Justice Branch.
		Deputy Associate Director, Transportation, Homeland, Justice and Services.
	Housing, Treasury and Commerce Division	Chief, Treasury Branch.
		Deputy Associate Director for Housing, Treasury and Commerce.
		Chief, Commerce Branch.
		Chief, Housing Branch.
	Natural Resource Programs	Senior Advisor.
	Natural Resources Division	Chief, Agricultural Branch.
		Deputy Associate Director for Natural Resources.
		Chief, Interior Branch.
		Chief, Environment Branch.
	Energy, Science and Water Division	Chief, Energy Branch.
		Chief, Water and Power Branch.
		Chief, Science and Space Programs Branch.
		Deputy Associate Director for Energy and Science Division.
OFFICE OF NATIONAL DRUG CONTROL POLICY.	Office of Supply Reduction	Assistant Deputy Director of Supply Reduction.
		Associate Director for Intelligence.
	National Youth Anti-Drug Media Campaign	Associate Deputy Director for State, Local and Tribal Affairs (National Youth Anti-Drug Media Campaign).
OFFICE OF PERSONNEL MANAGEMENT	Planning and Policy Analysis	Deputy Director, Actuary.
	Facilities, Security and Contracting	Deputy Director, Facilities, Security and Contracting.
		Director, Facilities, Security and Contracting.
	Healthcare and Insurance	Assistant Director, Federal Employee Insurance Operations.
	Retirement Services	Deputy Associate Director, Retirement Operations.
		Associate Director, Retirement Services.
		Deputy Associate Director, Retirement Services.
	Merit System Audit and Compliance	Deputy Associate Director, Merit System Audit and Compliance.
	Federal Investigative Services	Deputy Associate Director, Operations.
	Office of the Chief Financial Officer	Associate Chief Financial Officer, Financial Services.
		Chief Financial Officer.
		Deputy Chief Financial Officer.
	Office of the Chief Information Officer	Chief Information Officer.
OFFICE OF PERSONNEL MANAGEMENT OFFICE OF THE INSPECTOR GENERAL.	Office of the Inspector General	Deputy Inspector General.
	Office of Investigations	Deputy Assistant Inspector General for Investigations.
		Assistant Inspector General for Investigations.
	Office of Audits	Assistant Inspector General for Audits.
		Deputy Assistant Inspector General for Audits.
		Deputy Assistant Inspector General for Audits.
	Office of Legal Affairs	Assistant Inspector General for Legal Affairs.
	Office of Policy, Resources Management, and Oversight.	Assistant Inspector General for Management.
OFFICE OF SPECIAL COUNSEL	Office of Special Counsel, Headquarters	Chief Financial Officer and Director of Administrative Services.
		Associate Special Counsel, Planning and Oversight.

Agency	Organization	Title
		Associate Special Counsel for Legal Counsel and Policy.
		Director, Office of Planning and Analysis.
		Senior Associate Special Counsel for Investigation and Prosecution.
		Director of Management and Budget.
		Associate Special Counsel for Investigation and Prosecution (3 positions).
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.	Office of Trade Representative for Labor	Assistant United States Trade Representative for Labor.
	Industry, Market Access and Telecommunications.	Assistant United States Trade Representative for Industry, Market Access and Telecommunications.
	South Asian Affairs	Assistant United States Trade Representative for South Asian Affairs.
RAILROAD RETIREMENT BOARD	Office of the Board Staff	Director of Fiscal Operations.
		Director of Policy and Systems.
		Chief of Technology Service.
		Director of Hearings and Appeals.
		Chief Actuary.
		Director of Field Service.
		Director of Administration.
		Deputy General Counsel.
		Assistant Inspector General for Investigations.
		Chief Financial Officer.
		Assistant Inspector General for Audit.
		General Counsel.
		Director of Programs.
		Director of Operations.
		Chief Information Officer.
SELECTIVE SERVICE SYSTEM	Selective Service System	Associate Director for Operations.
	Office of the Director	Associate Director for Operations.
		Senior Advisor to the Director.
SMALL BUSINESS ADMINISTRATION	Office of the Inspector General	Counsel to the Inspector General.
		Deputy Inspector General.
	Management and Policy Division	Assistant Inspector General for Management and Policy.
	Auditing Division	Assistant Inspector General for Auditing.
	Investigations Division	Assistant Inspector General for Investigations.
	Office of the General Counsel	Associate General Counsel for General Law.
		Associate General Counsel for Procurement Law.
		Associate General Counsel for Financial Law and Lender Oversight.
		Associate General Counsel Litigation.
	Office of Field Operations	District Director.
		Senior Advisor to the Deputy Associate Administrator for Field Operations.
		District Director (5 positions).
	Office of Equal Employment Opportunity and Civil Rights Compliance.	Assistant Administrator for Equal Employment Opportunity and Civil Rights Compliance.
	Office of Hearings and Appeals	Assistant Administrator for Hearings and Appeals.
	Office of the Chief Financial Officer	Deputy Chief Financial Officer.
		Associate Administrator for Performance Management and Chief Financial Officer.
	Office of Capital Access	Deputy Associate Administrator for Capital Access.
	Office of Financial Assistance	Director of Financial Assistance.
		Deputy Associate Administrator for Financial Assistance.
		Assistant Administrator for Portfolio Management.
	Office of Surety Guarantees	Director for Surety Bonds and Guarantees Programs.
	Office of Entrepreneurial Development	Deputy Associate Administrator for Entrepreneurial Development.
	Office of Human Capital Management	Chief Human Capital Officer.
	Office of Government Contracting and Business Development.	Director of Business Development.
	Office of Business Development	Associate Administrator for Business Development.
	Office of Policy, Planning and Liaison	Associate Administrator for Procurement Policy and Liaison.

Agency	Organization	Title
SMALL BUSINESS ADMINISTRATION OFFICE OF THE INSPECTOR GENERAL.	Office of the Inspector General	Deputy Inspector General.
		Assistant Inspector General for Investigations.
		Assistant Inspector General for Management and Policy.
		Counsel to the Inspector General.
		Assistant Inspector General for Auditing Division.
SOCIAL SECURITY ADMINISTRATION	Office of the Chief Information Officer	Deputy Chief Information Officer.
		Associate Chief Information Officer for Information Technology Investment Management.
	Office of Quality Performance	Deputy Commissioner for Quality Performance.
		Assistant Deputy Commissioner for Quality Performance.
	Office of Disability Adjudication and Review	Deputy Commissioner for Disability Adjudication and Review.
		Assistant Deputy Commissioner for Disability Adjudication and Review.
	Office of Federal Reviewing Official	Chief Federal Reviewing Official.
	Office of Appellate Operations	Deputy Executive Director, Office of Appellate Operations.
		Executive Director, Office of Appellate Operations.
	Office of the Inspector General	Counsel to the Inspector General.
		Deputy Inspector General.
		Assistant Inspector General for External Relations.
	Office of Investigations	Deputy Assistant Inspector General for Investigations (National Investigative Operations).
		Deputy Assistant Inspector General for Investigations (Field Operations).
		Assistant Inspector General for Investigations.
	Office of Audit	Deputy Assistant Inspector General for Audit, Program Audits and Evaluations.
		Assistant Inspector General for Audit.
		Deputy Assistant Inspector General for Audit.
	Office of Technology and Resource Management.	Assistant Inspector General for Technology and Resource Management.
		Deputy Assistant Inspector General for Technology and Resource Management.
	Office of Medical and Vocational Expertise	Associate Commissioner for Medical and Vocational Expertise.
	Office of the Chief Actuary	Deputy Chief Actuary, Short-Range.
		Deputy Chief Actuary, Long-Range.
		Chief Actuary.
	Office of Disability Determinations	Associate Commissioner for Disability Determinations.
	Office of Personnel	Associate Commissioner for Personnel.
		Deputy Associate Commissioner for Personnel.
	Office of Civil Rights and Equal Opportunity	Associate Commissioner for Civil Rights and Equal Opportunity.
	Office of Labor-Management and Employee Relations.	Deputy Associate Commissioner for Labor-Management and Employee Relations.
		Associate Commissioner for Labor-Management and Employee Relations.
	Office of Budget, Finance and Management	Assistant Deputy Commissioner for Budget, Finance and Management.
	Office of Financial Policy and Operations	Deputy Associate Commissioner Financial Policy and Operations.
		Deputy Associate Commissioner for Financial Policy and Operations, Payments, Conference Management and Travel.
		Associate Commissioner, Office of Finance Policy and Operations.
	Office of Budget	Associate Commissioner for Budget.
		Deputy Associate Commissioner for Budget.
	Office of Acquisition and Grants	Associate Commissioner for Acquisition and Grants.
		Deputy Associate Commissioner for Acquisition and Grants.
	Office of Telecommunications and Systems Operations.	Deputy Associate Commissioner for Telecommunications and Systems Operations.

Agency	Organization	Title
		Assistant Associate Commissioner for Enterprise Information Technology Services Management.
		Associate Commissioner for Telecommunications and Systems Operations.
		Deputy Associate Commissioner for Telecommunications and Systems Operations (Telecommunications).
		Deputy Associate Commissioner for Telecommunications and Systems Operations (Systems Operations).
	Office of General Law	Deputy Associate General Counsel for General Law.
		Associate General Counsel for General Law.
	Office of Program Law	Deputy Associate General Counsel for Program Law.
	Office of Public Disclosure	Executive Director for Public Disclosure.
SOCIAL SECURITY ADMINISTRATION OFFICE OF THE INSPECTOR GENERAL.	Office of the Inspector General	Deputy Inspector General.
	Office of Counsel to the Inspector General	Counsel to the Inspector General.
	Office of External Relations	Assistant Inspector General for External Relations.
		Assistant Inspector General for External Relations.
	Office of Audit	Assistant Inspector General for Audit.
		Deputy Assistant Inspector General for Audit (Program Audit and Evaluations).
		Deputy Assistant Inspector General for Audit (Financial Systems and Operations Audits).
	Office of Investigations	Deputy Assistant Inspector General for Investigations (NIO).
		Assistant Inspector General for Investigations.
		Deputy Assistant Inspector General for Investigations (FO).
	Office of Technology and Resource Management.	Assistant Inspector General for Technology and Resource Management.
		Deputy Assistant Inspector General for Technology and Resource Management.
DEPARTMENT OF STATE	Office of the Legal Adviser	Assistant Legal Adviser.
	Office of the Inspector General	Deputy Inspector General.
		Deputy Assistant Inspector General for Investigations.
		Deputy Assistant Inspector General for Audits.
		Deputy Inspector General.
		Assistant Inspector General for Management.
		Assistant Inspector General for Audits.
		General Counsel to the Inspector General.
		Deputy Inspector General.
		Assistant Inspector General for Investigations.
	Bureau of Intelligence and Research	Executive Director.
	Bureau of Administration	Director, Office of Acquisitions.
	Bureau of Human Resources	Principal Deputy Assistant Secretary.
		Human Resources Officer.
	Bureau of Consular Affairs	Director for Consular Technology.
	Bureau of International Security and Nonproliferation.	Office Director.
		Office Director.
	Bureau of Political and Military Affairs	Political Advisor.
		Managing Director.
	Bureau of Arms Control, Verification, and Compliance.	Director, Office of Strategic Negotiations and Implementation.
TRADE AND DEVELOPMENT AGENCY	Office of the Director	Assistant Director for Policy and Programs.
DEPARTMENT OF TRANSPORTATION	Office of Intelligence, Security and Emergency Response.	Deputy Director.
		Director, Office of Intelligence, Security and Emergency Response.
	Office of Safety, Energy and Environment	Director.
	Assistant Secretary for Budget and Programs	Deputy Chief Financial Officer.
		Chief Financial Officer.
	Assistant Secretary for Administration	Assistant Secretary for Administration.
	Office of the Senior Procurement Executive	Senior Procurement Executive.
	Administrator	Executive Director.
	Associate Administrator for Administration and Finance.	Director, Office of Financial Management/ Deputy Chief Financial Officer.
	Associate Administrator for Railroad Safety	Associate Administrator for Railroad Safety and Chief Safety Officer.

Agency	Organization	Title
	Associate Administrator for Environment and Compliance.	Associate Administrator for Environment and Compliance.
		Deputy Associate Administrator for Environment and Compliance.
	Office of the Administrator	Director of Innovative Program Delivery.
		Executive Director.
	Office of the Chief Financial Officer	Chief Financial Officer.
		Deputy Chief Financial Officer and Chief Budget Officer.
	Office of Real Estate Services	Director, Office of Real Estate Services.
	Associate Administrator for Safety	Associate Administrator for Safety.
	Office of Acquisition Management	Director, Office of Acquisition Management.
	Office of Safety Research and Development	Director, Office of Safety Research, Development and Technology.
	Office of the Administrator	Chief Financial Officer.
		Assistant Administrator and Chief Safety Officer.
	Office of Bus and Truck Standards and Operations.	Director, Office of Bus and Truck Standards and Operations.
	Office of Enforcement and Compliance	Director, Office of Enforcement and Compliance.
	Associate Administrator for Enforcement	Director, Office of Defects Investigation.
		Director, Office of Vehicle Safety Compliance.
		Associate Administrator for Enforcement.
	Proceedings	Deputy Director, Legal Analysis.
	Office of Economic, Environmental Analysis and Administration.	Director of Economic, Environmental Analysis and Administration.
	Office of Chief Safety Officer	Assistant Administrator and Chief Safety Officer.
	Office of Pipeline Safety	Deputy Associate Administrator for Policy and Programs.
		Deputy Associate Administrator for Field Operations.
		Associate Administrator for Pipeline Safety.
DEPARTMENT OF TRANSPORTATION OFFICE OF THE INSPECTOR GENERAL.	Office of the Deputy Inspector General	Deputy Inspector General.
	Principal Assistant Inspector General for Auditing and Evaluation.	Principal Assistant Inspector General for Auditing and Evaluation.
		Assistant Inspector General for Financial and Information Technology Audits.
	Assistant Inspector General for Acquisition and Procurement Audits.	Assistant Inspector General for Acquisition and Procurement Audits.
	Assistant Inspector General for Aviation and Special Program Audits.	Assistant Inspector General for Aviation and Special Program Audits.
	Assistant Inspector General for Surface and Maritime Program Audits.	Assistant Inspector General for Highway and Transit Audits.
	Assistant Inspector General for Amtrak, High Speed Rail and Economic Analysis.	Assistant Inspector General for Amtrak, High Speed Rail and Economic Analysis.
	Deputy Assistant Inspector General for Aviation and Special Program Audits.	Deputy Assistant Inspector General for Aviation and Special Program Audits.
	Deputy Assistant Inspector General for Surface and Maritime Program Audits.	Deputy Assistant Inspector General for Highway and Transit Audits.
	Principal Assistant Inspector General for Investigations.	Principal Assistant Inspector General for Investigations.
	Assistant Inspector General for Investigations	Deputy Assistant Inspector General for Investigations.
	Assistant Inspector General for Administration	Assistant Inspector General for Administration.
	Assistant Inspector General for Legal, Legislative and External Affairs.	Assistant Inspector General for Legal, Legislative and External Affairs.
DEPARTMENT OF THE TREASURY	Office of the Assistant Secretary	Fiscal Assistant Secretary.
		Deputy Assistant Secretary for Fiscal Operations and Policy.
		Deputy Assistant Secretary (Accounting Policy).
	Financial Management Service	Director, Regional Financial Center, Austin.
		Director, Regional Financial Center, Kansas City.
		Director, Regional Financial Center, Philadelphia.
		Assistant Commissioner, Governmentwide Accounting.
		Assistant Commissioner, Financial Operations.

Agency	Organization	Title
		Director, Birmingham Debt Management Operations Center.
		Assistant Commissioner, Business Architecture.
		Comptroller and Deputy Chief Financial Officer.
		Assistant Commissioner, Payment Management.
		Director, Cash Management Infrastructure Group.
		Deputy Assistant Commissioner, Payment Management.
		Director, Cash Management Enterprise Architecture.
		Deputy Assistant Commissioner, Governmentwide Accounting.
		Director, Information Services Directorate.
		Deputy Chief Information Officer.
		Assistant Commissioner, Governmentwide Accounting Operations.
		Assistant Commissioner, Debt Management Services.
		Director, Revenue Collection Group.
		Assistant Commissioner, Regional Operations.
		Assistant Commissioner, Management (Chief Financial Officer).
		Commissioner, Financial Management Service.
		Assistant Commissioner, Information Resources.
		Assistant Commissioner, Federal Finance.
		Deputy Commissioner, Financial Management Service.
		Director, Regional Financial Center, San Francisco.
	Bureau of the Public Debt	Commissioner of the Public Debt.
		Executive Director, Government Securities Regulations.
		Assistant Commissioner, Office of Information Technology.
		Assistant Commissioner, Public Debt Accounting.
		Assistant Commissioner, Office of Management Services.
		Assistant Commissioner, Office of Retail Securities.
		Senior Advisor.
		Deputy Executive Director, Administrative Resources Center.
		Deputy Assistant Commissioner, Financing.
		Deputy Assistant Commissioner, Office of Information Technology.
		Deputy Assistant Commissioner, Office of Retail Securities.
		Executive Director, Administrative Resource Center.
		Assistant Commissioner, Financing.
		Deputy Commissioner of the Public Debt.
	Office of the Assistant Secretary for Financial Institutions.	Director, Federal Insurance Office.
		Deputy Director, Federal Insurance Office.
	Office of the Assistant Secretary for Terrorist Financing.	Director, Executive Office for Asset Forfeiture.
	Office of Financial Crimes Enforcement Network.	Associate Director, Analysis and Liaison Division.
		Associate Director, Technology Solutions and Services Division/Chief Information Officer.
		Associate Director, Regulatory Policy and Programs Division.
		Deputy Director.
		Associate Director, Management Programs Division.
		Chief Counsel, Financial Crimes Enforcement Network.

Agency	Organization	Title
		Executive Advisor.
		Deputy Associate Director, Compliance and Enforcement Programs.
		Associate Director (International).
		Director, Financial Crimes Enforcement Network.
	Assistant Secretary for Intelligence and Analysis.	Deputy Assistant Secretary for Security.
	Inspector General	Deputy Assistant Inspector General for Audit (Program Audits).
		Assistant Inspector General for Investigations.
		Assistant Inspector General for Management Services.
		Counsel to the Inspector General.
		Assistant Inspector General for Audit.
		Deputy Assistant Inspector General for Audit (Financial Management).
		Senior Technical Advisor to the Inspector General.
		Deputy Assistant Inspector General for Investigations.
	Treasury Inspector General for Tax Administration.	Deputy Inspector General.
		Associate Inspector General for Mission Support.
		Deputy Inspector General for Inspections and Evaluations.
		Assistant Inspector General for Investigations (Field Operations).
		Counsel to the Treasury Inspector General for Tax Administration.
		Assistant Inspector General for Audit, Wage and Investment.
		Deputy Inspector General for Audit.
		Assistant Inspector General for Investigation.
		Assistant Inspector General for Audit, Headquarters Operations.
		Assistant Inspector General for Audit, Small Business and Corporate Entities.
		Deputy Inspector General for Investigations.
		Assistant Inspector General for Audit, Information Systems Programs.
		Deputy Assistant Inspector General for Investigations.
	Office of the Assistant Secretary, Tax Policy	Director, Economic Modeling and Computer Applications.
		Deputy Director and Chief Economist.
	Alcohol and Tobacco Tax and Trade Bureau	Deputy Administrator, Alcohol and Tobacco Tax and Trade Bureau.
		Assistant Administrator, Headquarters Operations.
		Administrator, Alcohol and Tobacco Tax and Trade Bureau.
		Assistant Administrator, Field Operations.
		Assistant Administrator, Management and Chief Financial Officer.
		Assistant Administrator, Information Resources/Chief Information Officer.
	Office of the Assistant Secretary for Management.	Director, Office of Procurement.
		Deputy Chief Financial Officer.
		Director, Office of Minority and Women Inclusion.
	Internal Revenue Service	Area Director, Field Assistance, Area 2.
		Area Director, Field Assistance, Area 1.
		Executive Director, Systems Advocacy.
		Director, Real Estate and Facilities Operations.
		Director, Portfolio Control and Performance.
		Director, Business Services and Management.
		Deputy Associate Chief Financial Officer for Financial Management.
		Project Director.
		Director, Customer Service and Stakeholders.
		Director, Tax Forms and Publications.
		Director, Filing and Payment Compliance.

Agency	Organization	Title
		Deputy Commissioner for Support, Wage and Investment.
		Director, Compliance Campus Operations.
		Deputy Director, Return Preparer Office.
		Accounts Management Field Director.
		Director, Field Operations, International Business Compliance.
		Director, Filing and Premium Tax Credit.
		Project Director.
		Assistant Deputy Commissioner, International.
		Director, Information Technology Transition Initiatives.
		Field Director, Submission Processing.
		Director, Field Operations, Natural Resources.
		Director, Collection Area.
		Director, Campus Compliance Operations.
		Accounts Management Field Director.
		Director, Examination Area.
		Deputy Director, Office of Professional Responsibility Operations.
		Director, Abusive Transactions and Technical Issues.
		Director, Customer Service Support.
		Director, International Individual Compliance.
		Associate Chief Financial Officer, Corporate Planning and Internal Control.
		Director, Server, Middleware and Test Systems Infrastructure Division.
		Area Director, Field Assistance.
		Director, Examination Area.
		Director, Telecommunications Center of Excellence.
		Director, Customer Service.
		Accounts Management Field Director.
		Director, Real Estate and Facilities Operations.
		Director, E-File Systems.
		Director, Earned Income Tax Credit.
		Director, Business Performance Solutions.
		Director, Large Systems and Storage Infrastructure Division.
		Director, Filing and Payment Compliance.
		Deputy Director, Portal Program Management.
		Director, Accounts Management Services.
		Director, CADE 2 Database.
		Director, Field Operations, Field Specialists, West.
		Deputy Associate Chief Information Officer for Enterprise Services.
		Director, Collection Area.
		Director, International Business Compliance.
		Director, Field Operations, Retail, Food, Pharmaceuticals, and Healthcare.
		Director, Program Strategy and Integration.
		Deputy Director, Research, Analysis, and Statistics.
		Director, International Operations.
		Director, Transfer Pricing Operations.
		Project Director.
		Project Director.
		Area Director, Field Assistance.
		Director, Refund Crimes.
		Project Director.
		Area Director, Stakeholder Partnership, Education, and Communication.
		Area Director, Stakeholder Partnership, Education, and Communication.
		Director, Examination Policy.
		Deputy Associate Chief Information Officer for Enterprise Networks.
		Deputy Associate Chief Information Officer for Applications.
		Chief Engineer.

Agency	Organization	Title
		Associate Chief Information Officer, Affordable Care Act, Program Management Office.
		Deputy Commissioner, Operations Support.
		Director, Operations Service Support.
		Director, Examination Operations Support.
		Deputy Director, Strategy and Finance.
		Deputy Director, Pre-Filing and Technical Guidance.
		Director, Return Preparer Office.
		Compliance Services Field Director.
		Director, Field Operations, Field Specialists, East.
		Director, Field Operations, International Business Compliance, West.
		Director, Transition State 2 Program Management.
		Director, Enterprise Collection Strategy.
		Director, Examination Area.
		Director, Campus Compliance Operations.
		Director, Information Technology Technical Director.
		Director, Implementation Oversight.
		Director, Examination Area.
		Director, Business Modernization.
		Director, Program Management.
		Director, Enforcement.
		Director, Network Engineering.
		Deputy Associate Chief Information Officer for Cybersecurity.
		Director, Appeals Policy and Valuation.
		Senior Advisor to the Deputy Commissioner (Operations Support).
		Director, Strategy and Capital Planning.
		Director, Individual Master Files.
		Deputy Commissioner for Operations, Wage and Investment.
		Project Director.
		Associate Chief Information Officer, Strategy and Planning.
		Deputy Director, Employment, Talent, and Security.
		Project Director.
		Deputy Director, Enterprise Systems Testing.
		Director, Compliance Campus Operations.
		Director, Business Systems Planning.
		Project Director.
		Director, Management Services.
		Associate Chief Information Officer for Enterprise Operations.
		Director, Global High Wealth Industry.
		Project Director.
		Deputy Commissioner for Support, Wage and Investment.
		Deputy Director, Customer Relationships and Integration.
		Senior Advisor to the Deputy Commissioner for Services and Enforcement.
		Director, Delivery Management.
		Deputy Chief of Staff.
		Director, Abusive Transactions and Technical Issues.
		Director, Collection Area, Gulf States.
		Field Director, Compliance Services, Atlanta.
		Deputy Director, Enterprise Architecture.
		Director, Headquarters Operations.
		Field Director, Compliance Services.
		Director, Requirements and Demand Management.
		Director, Collection Area.
		Director, Enforcement.
		Submission Processing Field Director.
		Director, Filing and Payment Compliance.
		Deputy Chief of Staff.

Agency	Organization	Title
		Special Assistant to the Deputy Commissioner for Services and Enforcement.
		Deputy Director, Electronic Tax Administration and Refund Credits.
		Project Director.
		Director, Continuity Operations.
		Director, Enterprise Voice Networks.
		Project Director, Workforce of Tomorrow.
		Deputy Associate Chief Information Officer.
		Director, Program Integration.
		Project Director, Taxpayer Communication.
		Director, Service Delivery Management.
		Deputy Division Counsel #2, Operations, Small Business and Self Employed.
		Director, Collection Policy.
		Deputy Director, Program Management.
		Special Assistant to the Associate Chief Information Officer for Applications Development.
		Deputy Director, Submission Processing.
		Director, Planning, Research and Analysis.
		Project Director, Customer Account Data Engine.
		Director, Capital Planning and Investment.
		Counselor.
		Director, Office of Program Evaluation and Risk Analysis.
		Project Director.
		Director, Treaty Administration and Tax Advisory Services.
		Project Director.
		Project Director.
		Director, Personnel Security.
		Director, Office of Taxpayer Burden.
		Project Director.
		Director, Earned Income and Health Coverage Tax Credits.
		Submission Processing Field Director.
		Associate Chief Information Officer, Cybersecurity.
		Project Director.
		Director, Enterprise Networks Operations.
		Senior Advisor, Operational Information.
		Director, Operational Security Program.
		Director, Office of Privacy, Information Protection and Data Security.
		Field Director, Accounts Management.
		Associate Chief Information Officer, Enterprise Networks.
		Project Director, Private Debt Collection.
		Project Director.
		Deputy Associate Chief Information Officer, End User Equipment and Services.
		Project Director.
		Director, Online Fraud Detection and Prevention.
		Project Director, Security and Law Enforcement.
		Director, Campus Compliance Services.
		Executive Director, Case Advocacy.
		Project Director.
		Deputy Commissioner (Operations).
		Project Director.
		Director, Electronic Tax Administration.
		Deputy Associate Chief Information Officer, Enterprise Operations.
		Project Director.
		Associate Chief Information Officer, End User Equipment and Services.
		Director, Cyber Security Policy and Programs.
		Director, Data Strategy Implementation.
		Director, Infrastructure Architecture and Engineering.
		Director, Reporting Compliance.

Agency	Organization	Title
		Director, Stakeholder, Partnerships, Education, and Communications.
		Field Director, Accounts Management.
		Director, Development Services.
		Special Agent In Charge, Criminal Investigation.
		Project Director.
		Deputy Director, Customer Account Data Engine.
		Director, Retail, Food, Pharmaceutical and Health Care.
		Director, Field Operations, East.
		Deputy Chief Information Officer for Operations.
		Director, Business Rules and Requirements Management.
		Project Director.
		Senior Advisor to Associate Chief Information Officer (Enterprise Network).
		Project Director, Technology Operations and Investigative Services.
		Project Director.
		Director, Capital Planning and Investment.
		Director, Network Architecture, Engineering, and Voice.
		Director, Contact Center Support Division.
		Director, Field Operations.
		Deputy Commissioner, Large and Mid-Size Business, International.
		Accounts Management Field Director.
		Business Modernization Executive.
		Project Director.
		Deputy Director, Electronic Tax Administration.
		Director, Program Control and Process Management.
		Project Director.
		Project Director.
		Director, Centers of Excellence.
		Director, Earned Income and Health Coverage Tax Credits.
		Accounts Management Field Director.
		Director, Customer Applications Development.
		Director, Client Services Division.
		Deputy Director, Submission Processing.
		Director, Submission Processing.
		Director, Internal Management.
		Director, Project Services.
		Director, Individual Master File.
		Director, Corporate Data.
		Deputy Associate Chief Information Officer, Applications Development.
		Director, Enterprise Systems Testing.
		Deputy Commissioner, Services and Enforcement.
		Project Director.
		Project Director.
		Director, Management Services and Security.
		Director, International Compliance, Strategy, and Policy.
		Special Agent In Charge.
		Director, Business Systems Planning.
		Project Director.
		Director, Portal Program Management.
		Director, Product and Partnership Development.
		Director, Program Management and Technology.
		Director, Whistleblower Office.
		Director, Field Operations.
		Director, Office of Communications.
		Director, Office of Professional Responsibility.
		Supervisory Criminal Investigator, Project Director.

Agency	Organization	Title
		Director, Field Operations.
		Associate Chief Information Officer, Applications Development.
		Director, Examination Area, Boston.
		Director, Information Technology Infrastructure.
		Director, Information Technology Security Engineering.
		Accounts Management Field Director.
		Director, Collection Area (2 positions).
		Director, Examination Area.
		Director, Examination Policy.
		Director, Abusive Transactions.
		Director, Examination Area (3 positions).
		Director, Technical Services.
		Director, Specialty Programs.
		Director, Campus Reporting Compliance.
		Director, Compliance Campus Operations (5 positions).
		Director, Strategy and Resource Management.
		Director, Special Programs and Oversight.
		Submission Processing Field Director.
		Accounts Management Field Director (4 positions).
		Director, Examination Area (3 positions).
		Director, Campus Collection Compliance.
		Director, Employee Plans, Rulings, and Agreements.
		Chief, Agency-Wide Shared Services.
		Deputy Director, Accounts Management.
		Director, Field Operations.
		Project Director, National Research Study Project.
		Area Director, Southeast.
		Director, Correspondence Production Services.
		Director, Communications, Liaison and Disclosure.
		Director, Research.
		Director, Stakeholder Liaison Field.
		Project Director, Collection.
		Director, Field Operations.
		Director, Strategy, Research and Program Planning.
		Special Agent In Charge.
		Director, Burden Reduction and Compliance Strategies.
		Director, Fraud/Bank Secrecy Act.
		Director, Emergency Management Programs.
		Director, Customer Relationship and Integration.
		Project Director.
		Director, Workforce Progression and Management.
		Deputy Chief, Mission Assurance and Security Services.
		Associate Chief Financial Officer for Corporate Performance Budgeting.
		Associate Chief Financial Officer for Corporate Planning and Internal Control.
		Director, Examination Planning and Delivery.
		Director, Field Operations.
		Deputy Director, Field Assistance.
		Director, Cyber Security Operations.
		Director, E-File Systems.
		Associate Chief Information Officer for Management and Finance.
		Director, Field Operations-Financial Services.
		Director, Field Operations-Natural Resources and Construction.
		Project Director.
		Compliance Service Field Director.
		Accounts Management Fielded Director.

Agency	Organization	Title
		Submission Processing Field Director.
		Project Director (Small Business and Self Employed) Transition Executive).
		Compliance Service Field Director.
		Director, Product Assurance.
		Director, Field Operations-Heavy Manufacturing and Transportation.
		Deputy Director, Operation Standards.
		Deputy Director, Office of Professional Responsibility.
		Director, Internet Development Services.
		Special Agent In Charge.
		Deputy Director, Procurement.
		Director, Filing Systems.
		Accounts Management Field Director.
		Director, Leadership and Education.
		Deputy Director, Field Specialists.
		Deputy Division Commissioner.
		Director, Operational Assurance.
		Project Director, Business Requirements.
		Associate Chief Financial Officer for Revenue and Financial Management.
		Deputy Commissioner, Small Business/Self-Employed.
		Director, Employee Support Services.
		Director, Field Operations.
		Director, Advisory, Insolvency and Quality.
		Project Director.
		Director of Field Operations (2 positions).
		Director, Emergency Management Programs.
		Senior Advisor, Information Systems Current Processing Environment Security.
		Director, Examination Operations Support.
		Director, Joint Operations Center.
		Director, Filing and Payment Compliance.
		Accounts Management Field Director.
		Director, Refund Crimes.
		Director, Office of Privacy and Information Protection.
		Director, Media and Publications Distribution Division.
		Submission Processing Field Director.
		Area Director of Information Technology.
		Director, Compliance Services Campus Operations.
		Deputy Chief Human Capital Officer, Internal Revenue Service.
		Director, Collection Area.
		Submission Processing Field Director.
		Director, Workforce Relations.
		Director, Collection.
		Project Director.
		Director, Criminal Investigation Technology Operations and Investigative Services.
		Director, Taxpayer Education and Communication Field Operations.
		Modernization Executive.
		Director, Collection Policy.
		Director, Planning and Analysis.
		Director, Collection Business Reengineering.
		Director, Collection Area (4 positions).
		Director, Field Operations, East, Appeals.
		Director, Media and Publications Distribution Division.
		Director, Accounts Management, Wage and Investment.
		Deputy Director, Office of Professional Responsibility.
		Director, Reporting Compliance.
		Field Director, Accounts Management, Wage and Investment.
		Chief of Staff, Internal Revenue Service.
		Deputy Commissioner, Operations Support.
		Project Manager.

Agency	Organization	Title
		Compliance Service Field Director.
		Commissioner, Small Business and Self Employed.
		Commissioner, Large and Mid-Sized Business Division.
		Chief Information Officer.
		Information Technology Manager, Policy and Planning.
		Assistant to Director, Real Estate and Facilities Management.
		Director, Strategy, Criminal Investigations.
		Director, Financial Management Services.
		Chief Human Capital Officer, Internal Revenue Service.
		Assistant Deputy Commissioner for Operations Support.
		Director, Competitive Sourcing.
		Director, Stakeholder, Partnership, Education and Communications.
		Director, Operations Policy and Support.
		Chief, Mission Assurance and Security Services.
		Chief Financial Officer, Internal Revenue Service.
		Director, Strategy, Program Management and Personnel Security.
		Chief, Criminal Investigation.
		Director, Regulatory Compliance.
		Director, Employee Plan Determination Letter Redesign.
		Director, Research.
		Director, Enterprise Operations Services.
		Area Director, Field Assistance.
		Project Director.
		Director, Technical Services.
		Director, Compliance Area.
		Director, Compliance Area.
		Director, Development Services.
		Director, Tax Forms and Publications.
		Director, Technical Systems Software.
		Project Director.
		Director, Operational Readiness.
		Director, Employment, Talent and Security.
		Associate Chief Information Officer for Information Technology Services.
		Director of Field Operations.
		Chief, Communications and Liaison.
		Project Director, Office of Professional Responsibility.
		Deputy Associate Chief Information Officer, Business Systems Development.
		Director, Business Systems Planning.
		Project Director, Employee Tax Compliance.
		Deputy Chief Financial Officer.
		Director, Internal Management Systems Development Division.
		Assistant Deputy Commissioner for Services and Enforcement.
		Director, Financial Management Services.
		Deputy Director, Enterprise Operations Services.
		Project Director.
		Director, Office of Information Technology Acquisition.
		Area Director, Field Assistance.
		National Director of Appeals.
		Area Director, Western.
		Director, Legislative Affairs Division.
		Executive Director, Equity, Diversity, and Inclusion.
		Accounts Management Field Director.
		Director, Field Operations.
		Director, Taxpayer Education Area—Los Angeles.

Agency	Organization	Title
		Deputy Chief, Criminal Investigation.
		Deputy Director, Taxpayer Education and Communication.
		Director, Business Systems Planning.
		Area Director, Information Technology.
		Director, Field Operations West, Appeals.
		Director, Communication, Assistance, Research and Education.
		Director, Field Assistance Area, Wage and Investment, Phoenix.
		Director, Field Assistance, Wage and Investment.
		Director, Strategy and Finance, Wage and Investment.
		Director, Customer Account Services, Wage and Investment.
		Director, Submission Processing, Wage and Investment, Cincinnati.
		Director, Communications, Technology and Media Industry, Large and Mid-Size Business.
		Director, Personnel Services.
		Director, Field Operations, Financial Services, Laguna Niguel.
		Director, Tax Exempt Bonds.
		Director, Employee Plans.
		Deputy Division Commissioner, Tax Exempt and Government Entities.
		Chief, Management and Finance, Large and Mid-Size Business.
		Director, Heavy Manufacturing and Transportation.
		Director, Government Entities.
		Deputy Chief, Agencywide Shared Services.
		Commissioner, Tax Exempt and Government Entities Division.
		Deputy National Taxpayer Advocate.
		Director, Human Resources, Wage and Investment.
		Director of Compliance, Atlanta, Wage and Investment.
		Director, Portfolio Management.
		Director, Detroit Computing Center.
		Director, Compliance Area.
		Director, Program Analysis Customer Account Services, Wage and Investment.
		Director, Enterprise Computing Centers.
		Director, Exempt Organizations, Rulings and Agreements.
		Area Director, Field Assistance,Wage and Investment, San Francisco.
		Director, Field Operations, Special Wage and Investment.
		Director, Field Specialists, Large and Mid-Size Business.
		Director, Compliance Systems Division.
		Director of Research.
		Project Director.
		Director, Real Estate and Facilities Management.
		Division Information Officer, Large and Mid-Size Business.
		Senior Counselor to the Commissioner, Tax Administration, Practice and Professional Responsibility.
		Director, Human Resources, Small Business and Self Employed.
		Area Director, Stakeholder Partnership Education and Communication.
		Project Director, Small Business and Self Employed.
		Director, Research, Analysis and Statistics of Income.

Agency	Organization	Title
		Accounts Management Field Director, Wage and Investment, Austin.
		Compliance Service Field Director,Wage and Investment, Austin.
		Commissioner, Wage and Investment.
		Director, Equal Employment Opportunity and Diversity.
		Special Agent In-Charge, Los Angeles.
		Director, Field Operations, Communications, Technology and Media, Large and Mid-Size Business.
		Director, Personnel Policy.
		Director, Exempt Organizations.
		Accounts Management Field Director, Fresno.
		Accounts Management Field Director, Andover.
		Submission Processing Field Director, Philadelphia.
		Deputy Director, Submission Processing.
		Submission Processing Field Director, Atlanta.
		Submission Processing Field Director, Andover.
		Compliance Service Field Director, Kansas City.
		Compliance Service Field Director, Philadelphia.
		Director, Taxpayer Education and Communication, Small Business and Self Employed.
		Director, Exempt Organizations Examinations.
		Director of Field Operations, Southeast Area, Criminal Investigation.
		Deputy Director, Prefilling and Technical Guidance.
		Director, Performance, Quality and Innovation, Large and Mid-Size Business.
		Industry Director, Financial Services, Large and Mid-Size Business.
		Project Director, Appeals.
		Director, Business Systems Planning, Large and Mid-Size Business.
		Director, Compliance, Detroit—Small Business and Self Employed.
		Area Director, Stakeholder, Partnership, Education and Communications, New Orleans.
		Director, Strategy, Research and Performance Management.
		Chief, Information Technology Services.
		Deputy Director, Submission Processing, Small Business and Self Employed, Cincinnati.
		Deputy Chief, Appeals.
		Submission Processing Field Director, Austin.
		Director, Product Assurance.
		Director, Management and Support.
		Director, Strategy and Finance.
		Compliance Service, Field Director, Atlanta.
		Director, Strategy and Finance, Appeals.
		Director, Professional Responsibility.
		Director, Change Management and Release Management.
		Director, Management Services.
		Deputy Director, Business Systems Development Division.
		Director, Corporate Data and Systems Management Division.
		Director, Enterprise Operations Services.
		Deputy Director, Enterprise Operations Services.
		Director, Safety and Security.
		Director, Customer Account Manager.
		Area Director, Stakeholder, Partnership, Education and Communication.

Agency	Organization	Title
		Submission Processing Field Director, Fresno, California.
		Director, Compliance Area, Small Business and Self Employed, Denver.
		Director, Pre-Filing and Technical Guidance.
		Director, Strategic Planning and Program Management.
		Project Director.
		Associate Chief Financial Officer for Corporate Strategy.
		Director, Compliance Area.
		Director, Strategic Services.
		Director, Internet Development Services.
		Project Director.
		Director, Media and Publications.
		Executive Director, Systemic Advocacy, National Taxpayer Advocate.
		Director, Statistics of Income.
		Director, Compliance Area, Small Business and Self-Employed, Oakland.
		Project Director.
		Associate Chief Financial Officer for Internal Financial Management, National Headquarters.
		Director of Field Operations, Large and Mid-Size Business, New York.
		Accounts Management Field Director, Wage and Investment, Fresno.
		Director, Field Assistance Area.
		Director, Security Policy, Support and Oversight.
		Compliance Service Field Director, Andover—Wage and Investment.
		Director, Mission Assurance.
		Director, Compliance Area, Small Business and Self Employed, Dallas.
		Deputy Associate Commissioner, Systems Integration.
		Director, Taxpayer Education Area, Small Business and Self Employed, Chicago.
		Director, Procurement.
		Project Director.
		Director, Compliance Area, Small Business and Self Employed, Baltimore.
		Area Director, Stakeholder, Partnership, Education, and Communication, Wage and Investment, Dallas.
		Director, Taxpayer Education and Communication Area, Small Business and Self Employed, St Louis.
		Deputy Director, Procurement.
	Internal Revenue Service Chief Counsel	Division Counsel, Wage and Investment.
		Deputy Associate Chief Counsel, Strategic International Programs.
		Special Counsel to the Chief Counsel.
		Area Counsel, Small Business and Self Employed, Area 9.
		Deputy Division Counsel (Technical), Large Business and International.
		Deputy Associate Chief Counsel, International Field Service and Litigation.
		Senior Counsel to the Chief Counsel, Legislation.
		Director, Employee Plans Examinations.
		Special Counsel to the Chief Counsel.
		Associate Chief Counsel, International.
		Associate Chief Counsel, Finance and Management.
		Associate Chief Counsel, Financial Institutions and Products.
		Assistant Chief Counsel, International (Litigation).
		Deputy Associate Chief Counsel #2, Pass-through and Special Industries.

Agency	Organization	Title
		Deputy Associate Chief Counsel, Corporate.
		Deputy Division Counsel, Large and Mid-Size Business.
		Associate Chief Counsel, Pass-through and Special Industries.
		Deputy Associate Chief Counsel, Procedure and Administration.
		Associate Chief Counsel, Income Tax and Accounting.
		Deputy Division Counsel/Deputy Assistant Chief Counsel, Criminal Tax.
		Assistant Chief Counsel, Collection, Bankruptcy and Summonses.
		Assistant Chief Counsel, Disclosure and Privacy Law.
		Associate Chief Counsel, Procedure and Administration.
		Associate Chief Counsel, Corporate.
		Assistant Chief Counsel, Administrative Provisions and Judicial Practice.
		Deputy Division Counsel/Deputy Associate Chief Counsel.
		Deputy Associate Chief Counsel, General Legal Services.
		Associate Chief Counsel, General Legal Services.
		Deputy Division Counsel and Deputy Associate Chief Counsel, Tax Exempt and Government Entities.
		Special Counsel to the National Taxpayer Advocate.
		Deputy Associate Chief Counsel (International Technical).
		Associate Chief Counsel/Operating Division Counsel, Tax Exempt and Government Entities.
		Deputy Chief Counsel, Operations.
		Deputy Chief Counsel, Technical.
		Assistant Chief Counsel, Employee Benefits.
		Deputy Associate Chief Counsel, General Legal Services (Labor and Personnel Law).
		Division Counsel, Small Business and Self Employed.
		Deputy Associate Chief Counsel, Finance and Management.
		Area Counsel, Large and Mid-Size Business (Area 2) Heavy Manufacturing, Construction and Transportation.
		Area Counsel, Large and Mid-Size Business(Area 4) Natural Resources.
		Area Counsel, Large and Mid-Size Business (Area 5) Communications, Technology, and Media.
		Deputy Division Counsel, Small Business and Self Employed.
		Area Counsel, Small Business and Self Employed, New York.
		Area Counsel, Small Business and Self Employed, Philadelphia.
		Area Counsel, Small Business and Self Employed, Jacksonville.
		Area Counsel, Small Business and Self Employed, Chicago.
		Area Counsel, Small Business and Self Employed, Dallas.
		Area Counsel, Small Business and Self Employed, Denver.
		Area Counsel, Small Business and Self Employed, Los Angeles.
		Area Counsel, Small Business and Self Employed (Area 7).
		Deputy Associate Chief Counsel #1, Income Tax and Accounting.

Agency	Organization	Title
		Area Counsel (Large and Mid-Size Business)(Area 1) (Financial Services and Health Care).
		Deputy Associate Chief Counsel #1, Pass-through and Special Industries.
		Area Counsel, Large and Mid-Size Business (Area 3) Food, Mass Retailers, and Pharmaceuticals.
		Division Counsel/Associate Chief Counsel, Criminal Tax.
		Deputy Associate Chief Counsel #2, Income Tax and Accounting.
		Division Counsel, Large and Mid-Size Business.
		Deputy Associate Chief Counsel, Financial Institutions and Products.
	Office of the United States Mint	Associate Director for Workforce Solutions.
		Plant Manager, Philadelphia.
		Plant Manager.
		Associate Director for Information Technology, Chief Information Officer.
		Associate Director for Policy and Management/Chief Financial Officer.
		Associate Director for Sales and Marketing.
		Associate Director for Manufacturing.
		Senior Advisor.
DEPARTMENT OF THE TREASURY OFFICE OF THE INSPECTOR GENERAL.	Office of the Inspector General	Deputy Inspector General.
		Special Deputy Inspector General for Small Business Lending Fund.
	Office of Counsel	Counsel to the Inspector General.
	Office of Management	Assistant Inspector General for Management.
	Office of Audit	Assistant Inspector General for Audit.
		Deputy Assistant Inspector General for Audit (Program Audits).
		Deputy Assistant Inspector General for Audit (Financial Management).
	Office of Investigations	Deputy Assistant Inspector General for Investigations.
DEPARTMENT OF THE TREASURY SPECIAL INSPECTOR GENERAL FOR THE TROUBLED ASSET RELIEF PROGRAM.	Office of the Special Inspector General for the Troubled Asset Relief Program.	Assistant Deputy Special Inspector General for Audit and Evaluation.
		Chief Investigative Counsel.
		Deputy Special Inspector General Operations.
		Chief Counsel for Special Inspector General for the Troubled Asset Relief Program.
		Deputy Special Inspector for General Audit.
		Assistant Deputy Special Inspector General for Investigations.
		Deputy Special Inspector General, Investigations.
DEPARTMENT OF THE TREASURY TAX ADMINISTRATION OFFICE OF THE INSPECTOR GENERAL.	Office of the Inspector General	Deputy Counsel to the Inspector General.
		Assistant Inspector General for Compliance and Enforcement Operations.
		Assistant Inspector General for Investigations.
		Deputy Inspector General for Investigations.
		Assistant Inspector General for Investigations (3 positions).
		Chief Counsel.
		Associate Inspector General for Mission Support.
		Principal Deputy Inspector General.
		Deputy Inspector General for Inspections and Evaluations.
		Deputy Assistant Inspector General for Investigations.
		Assistant Inspector General for Audit.
		Chief Information Officer.
		Assistant Inspector General for Management, Planning and Workforce Development.
		Chief Information Officer.
		Deputy Inspector General for Audit.

Agency	Organization	Title
		Assistant Inspector General for Management and Exempt Organizations.
		Assistant Inspector General for Returns Processing and Accounting Services.
		Assistant Inspector General for Management Planning and Workforce Development.
		Deputy Assistant Inspector General for Investigations.
UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.	Office of the Inspector General	Deputy Assistant Inspector General for Audit.
		Supervisory Criminal Investigator.
		Deputy Inspector General.
		Assistant Inspector General for Management.
		Counselor to the Inspector General.
		Assistant Inspector General for Millennium Challenge Corporation.
	Office of Security	Director, Office of Security.
	Office of Small and Disadvantaged Business Utilization.	Director, Office of Small and Disadvantaged Business Utilization.
	Office of Civil Rights and Diversity	Equal Opportunity Officer.
	Bureau for Democracy, Conflict, and Humanitarian Assistance.	Deputy Director, OMA.
		Deputy Assistant Administrator.
		Deputy Director, Office of Foreign Disaster Assistance.
	Bureau for Global Health	Deputy Assistant Administrator for Bureau of Global Health.
		Deputy Assistant Administrator.
	Bureau for Africa	Deputy Assistant Administrator, Bureau for Africa.
	Bureau for Management	Deputy Chief Financial Officer.
		Deputy Chief Financial Officer.
		Deputy Controller.
		Director, Office of Management, Policy, Budget and Performance.
		Deputy Director for OAA Policy, Support, and Evaluation.
		Deputy Director, OAA Operations.
		Director, Office of Administrative Services.
		Chief Information Officer.
		Deputy Assistant Administrator.
		Deputy Director, Office of Management, Policy, Budget and Performance.
	Bureau for Foreign Assistance	Senior Coordinator.
UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF THE INSPECTOR GENERAL.	Office of the Inspector General	Deputy Inspector General.
UNITED STATES INTERNATIONAL TRADE COMMISSION.	Office of External Relations	Director, Office of External Relations.
	Office of Industries	Director, Office of Industries.
	Office of Investigations	Director, Office of Investigations.
DEPARTMENT OF VETERANS AFFAIRS	Office of the Secretary and Deputy	Director, Office of Employment Discrimination Complaint Adjudication.
		Executive Director.
	Office of Acquisitions, Logistics and Construction.	Executive Director.
		Executive Director, Strategic Acquisition Center.
		Director, Facilities, Programs and Plans.
		Director, Facilities Acquisition Support.
		Director, Facilities Engineering Operations and Support.
		Associate Chief Facilities Management Officer for Service Delivery.
		Director, Construction and Facilities Management.
		Associate Chief Facilities Management Officer for Strategic Management.
		Associate Chief Facilities Management Officer for Resource Management.
	Office of Acquisition and Materiel Management.	Associate Deputy Assistant Secretary for Acquisition Program Support.
		Deputy Assistant Secretary for Acquisition and Materiel Management.
		Executive Director, Center for Acquisition Innovation.

Agency	Organization	Title
		Executive Director and Chief Operating Officer.
	Board of Veterans' Appeals	Director, Management, Planning and Analysis.
		Principal Deputy Vice Chairman.
		Vice Chairman.
	Office of the General Counsel	Regional Counsel (22 positions).
	Office of the Assistant Secretary for Management.	Program Manager (Financial Systems).
		Deputy Program Manager, Financial Systems.
		Principal Deputy Assistant Secretary for Management.
	Office of Finance	Associate Deputy Assistant Secretary for Finance.
		Associate Deputy Assistant Secretary for Financial Business Operations.
		Director, Debt Management Center.
		Director, Financial Services Center.
	Office of Acquisition and Materiel Management.	Associate Deputy Assistant Secretary for Acquisitions.
	Office of Asset Enterprise Management	Deputy Director, Asset Enterprise Management.
	Office of Business Oversight	Director, Office of Business Oversight.
	Office of Human Resources Management	Associate Deputy Assistant Secretary for Human Resources Policy and Planning.
	Office of the Assistant Secretary for Information and Technology.	Associate Deputy Assistant Secretary for Privacy and Records Management.
		Associate Deputy Assistant Secretary for Policy, Portfolio Oversight and Execution.
		Executive Director, Budget and Finance.
		Executive Director for Business Operations.
		Executive Director.
		Associate Deputy Assistant Secretary for Information Technology Operations.
		Deputy Assistant Secretary for Information Technology Resource Management.
		Executive Director for Quality and Performance.
		Associate Deputy Assistant Secretary for Human Resources Career Development.
		Associate Deputy Assistant Secretary for Cyber Security.
	National Cemetery Administration	Director, Office of Finance and Planning.
	Veterans Benefits Administration	Chief Financial Officer.
		Deputy Chief Financial Officer.
		Deputy Director for Policy and Procedures.
		Deputy Director for Operations.
	Veterans Health Administration	Deputy Chief Procurement Officer.
		Chief Financial Officer.
		Director, Veterans Canteen Service.
		Director, Service Area Office.
		Director, Service Area Office.
		Associate Chief Financial Officer.
		Associate Chief Financial Officer for Core financial and Logistics System and Decision Support Systems.
		Associate Chief Information Officer Implementation and Training Services.
		Chief Procurement and Logistics Officer.
		Financial Manager.
		Chief Operating Officer.
		Deputy Chief Financial Officer.
		Chief Compliance and Business Integrity Officer.
	Office of Emergency Management	Deputy Assistant Secretary for Emergency Management.
	Office of Operations, Security and Preparedness.	Director for Security and Law Enforcement.
DEPARTMENT OF VETERANS AFFAIRS OFFICE OF THE INSPECTOR GENERAL.	Office of the Inspector General	Counselor to the Inspector General.
		Deputy Inspector General.
	Office of the Assistant Inspector General for Investigations.	Assistant Inspector General for Investigations.
		Deputy Inspector General for Investigations, Field Operations.

Agency	Organization	Title
		Deputy Assistant Inspector General for Investigations, Headquarters Operations.
	Office of the Assistant Inspector General for Audits and Evaluations.	Assistant Inspector General for Audits and Evaluations.
		Deputy Assistant Inspector General for Auditing.
		Deputy Assistant Inspector General for Audits and Evaluations, Headquarters Management and Inspections.
	Office of the Assistant Inspector General for Management and Administration.	Deputy Assistant Inspector General for Management and Administration.
		Assistant Inspector General for Management and Administration.
	Office of the Assistant Inspector General for Healthcare Inspections.	Assistant Inspector General for Healthcare Inspections.
		Medical Officer, Deputy Director of Medical Consultation and Review.
		Medical Officer, Director of Medical Consultation and Review.
		Deputy Assistant Inspector General for Healthcare Inspections

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Office of Personnel Management.

John Berry,

Director.

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H.R. 4155/P.L. 112–147

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