AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

FEDERAL REGISTER

Vol. 77 Monday,
No. 185 September 24, 2012

Pages 58739–58924

OFFICE OF THE FEDERAL REGISTER

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

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.ofr.gov.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge at *www.fdsys.gov*, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6:00 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 59, 1 (January 2, 1994) forward. For more information, contact the GPO Customer Contact Center, U.S. Government Printing Office. Phone 202-512-1800 or 866-512-1800 (toll free). E-mail, *gpo@custhelp.com.*

The annual subscription price for the **Federal Register** paper edition is $749 plus postage, or $808, plus postage, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Printing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 77 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Printing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**

General online information **202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	**202–741–6005**
Assistance with Federal agency subscriptions	**202–741–6005**

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WHEN: Tuesday, October 23, 2012
9 a.m.–12:30 p.m.

WHERE: Office of the Federal Register
Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC 20002

RESERVATIONS: (202) 741–6008

Printed on recycled paper.

Contents

Federal Register

Vol. 77, No. 185

Monday, September 24, 2012

Agricultural Research Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Forms Pertaining to Peer Review of Agricultural Research Service Research Projects, 58802–58804

Agriculture Department
See Agricultural Research Service
See Food Safety and Inspection Service
See Forest Service
See Rural Housing Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 58802

Alcohol, Tobacco, Firearms, and Explosives Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Application to Transport Interstate or Temporarily Export Certain National Firearms Act Firearms, 58869

Antitrust Division
NOTICES
National Cooperative Research and Production Act:
Connected Media Experience, Inc., 58870
DVD Copy Control Association, 58870
Electrical Apparatus Service Association, Inc., 58869–58870

Antitrust
See Antitrust Division

Bureau of Safety and Environmental Enforcement
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Subpart B, Plans and Information, 58858–58860

Centers for Disease Control and Prevention
NOTICES
Advisory Committee on Immunization Practices, 58843
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 58843–58847
Meetings:
Advisory Committee to the Director, 58847
Board of Scientific Counselors, National Center for Injury Prevention and Control, 58847

Centers for Medicare & Medicaid Services
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 58847–58848

Coast Guard
RULES
Drawbridge Operations:
James River, Newport News, VA, 58773–58774
Pequonnock River, Bridgeport, CT, Maintenance, 58773

Commerce Department
See Economic Development Administration
See International Trade Administration
See National Oceanic and Atmospheric Administration

Commodity Futures Trading Commission
NOTICES
Privacy Act; Systems of Records, 58814–58816

Defense Acquisition Regulations System
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Defense Federal Acquisition Regulation Supplement; Contract Financing, 58817

Defense Department
See Defense Acquisition Regulations System
NOTICES
Privacy Act; Systems of Records, 58816–58817

Drug Enforcement Administration
RULES
Definitions Relating to Electronic Orders and Prescriptions for Controlled Substances; CFR Correction, 58767–58769

Economic Development Administration
NOTICES
Determinations of Eligibility to Apply for Trade Adjustment Assistance:
Petitions by Firms, 58808–58809

Education Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Federal Student Aid; Federal Family Educational Loan Program – Servicemembers Civil Relief Act, 58817–58818
Federal Student Aid; Student Assistance General Provisions – Readmission for Servicemembers, 58819–58820
Federal Student Aid; William D. Ford Federal Direct Loan Program – Servicemembers Civil Relief Act, 58818–58819
Federal Student Aid; William D. Ford Federal Direct Loan Program General Forbearance Request, 58819

Energy Department
See Federal Energy Regulatory Commission

Environmental Protection Agency
NOTICES
Adequacy Status:
Portion of York County, South Carolina, etc., Maintenance Plan Motor Vehicle Emissions Budget for Transportation Conformity Purposes, 58829–58830
State Program Requirements:
Oklahoma; Application to Administer Partial National Pollutant Discharge Elimination Program, 58830–58832

Executive Office of the President
See Presidential Documents

Federal Aviation Administration
RULES
Airworthiness Directives:
Empresa Brasileira de Aeronautica S.A. (EMBRAER) Airplanes, 58761–58762
Fokker Services B.V. Airplanes, 58765–58767
Rolls–Royce plc Turbofan Engines, 58762–58765
PROPOSED RULES
Airworthiness Directives:
Airbus Airplanes, 58785–58787, 58789–58791
Bell Helicopter Textron, Inc., 58794–58796
Bombardier, Inc. Airplanes, 58787–58789
The Boeing Company Airplanes, 58791–58794

Federal Bureau of Investigation
NOTICES
Meetings:
CJIS Advisory Policy Board, 58870–58871

Federal Communications Commission
PROPOSED RULES
Radio Broadcasting Services:
Knox City, TX, 58800–58801
Roaring Springs, TX, 58799–58800
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 58832–58834

Federal Election Commission
NOTICES
Meetings; Sunshine Act, 58834

Federal Energy Regulatory Commission
NOTICES
Applications:
Alcoa Power Generating Inc., 58821–58822
Alliant Techsystems Operations LLC, 58822–58823
Grand River Dam Authority, 58820–58821
Public Utility District No. 1 of Chelan County, 58821
Complaints:
Interstate Power and Light Co. v. ITC Midwest, LLC, 58823–58824
J. P. Morgan Ventures Energy Corp. v. California Independent System Operator Corp., 58824
Environmental Assessments; Availability, etc.:
Cheniere Creole Trail Pipeline, LP, Creole Trail Expansion Project, 58826–58827
Gulf Shore Energy Partners, LP, Proposed Markham Booster Station Project, 58824–58826
Establishing Deadlines for Comments:
High Point Gas Transmission, LLC, 58827
Initial Market-Based Rate Filings Including Requests for Blanket Section 204 Authorizations:
Catalina Solar, LLC, 58827
Eligo Energy, LLC, 58828
Petitions for Declaratory Orders:
Northern Indiana Public Service Co., 58828
Proposed Studies and Revised Study Plans:
Alaska Energy Authority; Extension of Time to File Comments, 58828–58829
Staff Attendances:
Entergy/Cleco Teleconference on Order No. 1000, 58829

Federal Highway Administration
NOTICES
Final Federal Agency Actions on Proposed Highway in Minnesota, 58906–58907

Federal Railroad Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 58907–58909

Federal Reserve System
NOTICES
Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 58834

Federal Trade Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 58834–58837
Proposed Consent Agreements:
CarePatrol, Inc., 58837–58838
Proposed Consent Orders:
ABCSP, Inc., 58838–58840
Workshops:
Pet Medications Issues, 58840–58842

Food and Drug Administration
NOTICES
Meetings:
Prescription Drug User Fee Act Patient-Focused Drug Development, 58849–58851
Request for Notification of Patient Stakeholder Intention to Participate; Prescription Drug User Fee Act V Patient-Focused Drug Development, 58848–58849

Food Safety and Inspection Service
NOTICES
Changes in Procedures for Testing of Product Samples for Listeria monocytogenes, 58804–58807

Foreign Assets Control Office
NOTICES
Blocked Persons and Property:
Individuals Who Threaten to Disrupt Middle East Peace Process, 58911–58912
Persons Who Commit, Threaten to Commit, or Support Terrorism, 58910–58911
Blocking Government Property and Prohibiting Certain Transactions with Respect to Syria, 58912
Foreign Narcotics Kingpin Designation Act; Additional Designations, 58912–58913

Forest Service
NOTICES
Environmental Impact Statements; Availability, etc.:
Huron–Manistee National Forests, Michigan, USA and State South Branch 1–8 Well, 58807–58808

Health and Human Services Department
See Centers for Disease Control and Prevention
See Centers for Medicare & Medicaid Services
See Food and Drug Administration
See National Institutes of Health

Homeland Security Department
See Coast Guard
See U.S. Customs and Border Protection

Housing and Urban Development Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Maintenance Wage Rate Recommendation, Maintenance Wage Rate Survey; Report of Additional Classification and Wage Rate, 58856–58857
Opinion of Counsel to Mortgagor, 58857–58858

Indian Affairs Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Tribal Colleges and Universities Annual Report Form, 58861–58862
Tribal Colleges and Universities Grant Application Form, 58860
Tribal Reassumption of Jurisdiction Over Child Custody Proceedings, 58860–58861

Interior Department
See Bureau of Safety and Environmental Enforcement
See Indian Affairs Bureau
See Land Management Bureau
See National Indian Gaming Commission
See National Park Service

Internal Revenue Service
PROPOSED RULES
Reliance Standards for Making Good Faith Determinations, 58796–58799

International Trade Administration
NOTICES
Export Trade Certificates of Review:
Colombia Rice Export Quota, Inc., 58809–58811
Meetings:
Advisory Committee on Supply Chain Competitiveness, 58811–58812

Justice Department
See Alcohol, Tobacco, Firearms, and Explosives Bureau
See Antitrust Division
See Drug Enforcement Administration
See Federal Bureau of Investigation

Land Management Bureau
RULES
Oil Shale Management—General; CFR Correction, 58775
NOTICES
Filings of Plats of Surveys:
Arizona, 58862–58863
Colorado, 58862
Meetings:
Pinedale Anticline Working Group, 58863
Wild Horse and Burro Advisory Board, 58863–58864
Public Land Orders:
No. 7798; Partial Modification of Power Site Classification No. 126; Washington, 58868
No. 7799; Withdrawal of Public Land for Rock Springs Administrative Site Addition; Wyoming, 58867–58868
No. 7800; Extension of Public Land Order No. 6947; Oregon, 58864
No. 7801; Withdrawal of Public Lands for Protection of Proposed Expansion of Twentynine Palms, CA, 58864–58867
No. 7977; Partial Revocation, Power Site Reserve No. 78; Colorado, 58867

National Indian Gaming Commission
RULES
Facility License Notifications and Submissions, 58769–58773

National Institutes of Health
NOTICES
Meetings:
Center for Scientific Review, 58852–58853
Eunice Kennedy Shriver National Institute of Child Health and Human Development, 58854–58856
National Cancer Institute, 58851–58853
National Institute of Allergy and Infectious Diseases, 58851
National Institute on Aging, 58854
National Institute on Drug Abuse, 58855
Office of the Director, National Institutes of Health, 58854–58855

National Oceanic and Atmospheric Administration
RULES
Second Fishing Capacity Reduction Program:
Longline Catcher Processor Subsector of Bering Sea and Aleutian Islands Non-pollock Groundfish Fishery, 58775–58781
NOTICES
Permits:
Endangered Species; File No. 16733, 58812–58813
Endangered Species; File No. 17316, 58812
Western Pacific Fisheries:
Approval of Marine Conservation Plan for American Samoa, 58813–58814

National Park Service
NOTICES
Meetings:
Alaska Region's Subsistence Resource Commission Program, 58868–58869

National Science Foundation
NOTICES
Meetings:
Advisory Committee for Cyberinfrastructure, 58871
Proposal Review Panel for Materials Research, 58871

Nuclear Regulatory Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 58871–58873

Postal Service
RULES
New Pallet Preparation Standards for Periodicals, 58774–58775

Presidential Documents
ADMINISTRATIVE ORDERS
Narcotics and Drugs; Major Illicit Transit or Producing Countries (Presidential Determination)
No. 2012–15 of September 14, 2012, 58915–58919
Trafficking in Persons; Foreign Governments' Efforts Regarding (Presidential Determination)
No. 2012–16 of September 14, 2012, 58921–58923

Rural Housing Service
NOTICES
Funding Availabilities:
Farm Labor Housing Loans and Farm Labor Housing Grants for Off-Farm Housing for Fiscal Year 2012; Correction, 58808

Securities and Exchange Commission
NOTICES
Applications:
Financial Investors Trust, et al., 58873–58877
Neuberger Berman Alternative Funds, et al., 58877–58880
Meetings; Sunshine Act, 58880
Self-Regulatory Organizations; Proposed Rule Changes:
Chicago Board Options Exchange, Inc., 58897–58899
Chicago Mercantile Exchange Inc., 58899–58900
Financial Industry Regulatory Authority, Inc., 58880–58881
NYSE Arca, Inc., 58881–58897

Small Business Administration
RULES
Small Business Size Standards:
Educational Services, 58739–58747
Health Care and Social Assistance, 58755–58761
Real Estate and Rental and Leasing, 58747–58755
NOTICES
Disaster Declarations:
California, 58901
Mississippi, 58900–58901
Economic Injury Disaster Loans:
California, 58901–58902
Major Disaster Declarations:
Louisiana, 58902–58903
Louisiana; Amendment 5, 58903
Louisiana; Amendment 6, 58903
Louisiana; Amendment 7, 58902
Mississippi; Amendment 1, 58903
Mississippi; Amendment 2, 58902

Social Security Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 58903–58906

Surface Transportation Board
NOTICES
Abandonments and Discontinuance of Service Exemptions:
Norfolk Southern Railway Co., Lake County, IN., and Cook County, IL, 58909–58910
Quarterly Rail Cost Adjustment Factor, 58910

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration
See Federal Railroad Administration
See Surface Transportation Board

Treasury Department
See Foreign Assets Control Office
See Internal Revenue Service

U.S. Customs and Border Protection
PROPOSED RULES
Closing of the Jamieson Line, New York Border Crossing, 58782–58785

Veterans Affairs Department
NOTICES
Meetings:
Genomic Medicine Program Advisory Committee, 58913
Veterans' Rural Health Advisory Committee, 58913

Separate Parts In This Issue

Part II
Presidential Documents, 58915–58919, 58921–58923

Reader Aids

Consult the Reader Aids section at the end of this page for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Administrative Orders:

Presidential Determinations:

No. 2012–15 of September 19, 2012 58917

No. 2012–16 of September 19, 2012 58921

8 CFR

Proposed Rules:

100.....58782

13 CFR

121 (3 documents) 58739, 58747, 58755

14 CFR

39 (3 documents) 58761, 58762, 58765

Proposed Rules:

39 (5 documents) 58785, 58787, 58789, 58791, 58794

19 CFR

Proposed Rules:

101.....58782

21 CFR

1300.....58767

25 CFR

502.....58769

559.....58769

26 CFR

Proposed Rules:

53.....58796

33 CFR

117 (2 documents) 58773

39 CFR

111.....58774

43 CFR

3900.....58775

3910.....58775

3920.....58775

3930.....58775

4100.....58775

47 CFR

Proposed Rules:

73 (2 documents) 58799, 58800

50 CFR

600.....58775

Rules and Regulations

Federal Register
Vol. 77, No. 185
Monday, September 24, 2012

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.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

RIN 3245–AG29

Small Business Size Standards: Educational Services

AGENCY: U.S. Small Business Administration.

ACTION: Final rule.

SUMMARY: The United States Small Business Administration (SBA) is increasing the small business size standards for nine industries in North American Industry Classification System (NAICS) Sector 61, Educational Services, and retaining the current size standards for the remaining eight industries and one sub-industry (''exception'') in this Sector. As part of its ongoing comprehensive review of all size standards, SBA evaluated every industry in NAICS Sector 61 to determine whether the existing size standards should be retained or revised.

DATES: This rule is effective October 24, 2012.

FOR FURTHER INFORMATION CONTACT: Jorge Laboy-Bruno, Economist, Size Standards Division, by phone at (202) 205–6618 or by email at *sizestandards@sba.gov.*

SUPPLEMENTARY INFORMATION: To determine eligibility for Federal small business assistance programs, SBA establishes small business size definitions (referred to as size standards) for private sector industries in the United States. SBA's existing size standards use two primary measures of business size—average annual receipts and number of employees. Financial assets, electric output and refining capacity are also used as size measures for a few specialized industries. In addition, SBA's Small Business Investment Company (SBIC), 7(a), and Certified Development Company (CDC or 504) Loan Programs determine small business eligibility using either the industry based size standards or alternative net worth and net income size based standards. At the start of the current comprehensive small business size standards review, there were 41 different size levels, covering 1,141 NAICS industries and 18 sub-industry activities (*i.e.,* ''exceptions'' in SBA's table of size standards). Of these, 31 were based on average annual receipts, seven based on number of employees, and three based on other measures.

Over the years, SBA has received comments that its size standards have not kept up with changes in the economy, in particular the changes in the Federal contracting marketplace and industry structure. SBA last conducted a comprehensive review of size standards during the late 1970s and early 1980s. Since then, most reviews of size standards were limited to a few specific industries in response to requests from the public and Federal agencies. SBA also makes periodic inflation adjustments to its monetary based size standards. The latest inflation adjustment to size standards was published in the **Federal Register** on July 18, 2008 (73 FR 41237).

SBA recognizes that changes in industry structure and the Federal marketplace since the last overall review have rendered existing size standards for some industries no longer supportable by current data. Accordingly, in 2007, SBA began a comprehensive review of its size standards to determine whether existing size standards have supportable bases relative to the current data, and to revise them, where necessary.

In addition, on September 27, 2010, the President of the United States signed the Small Business Jobs Act of 2010 (Jobs Act). The Jobs Act directs SBA to conduct a detailed review of all size standards and to make appropriate adjustments to reflect market conditions. Specifically, the Jobs Act requires SBA to conduct a detailed review of at least one-third of all size standards during every 18-month period from the date of its enactment and review all size standards not less frequently than once every 5 years thereafter. Reviewing existing small business size standards and making appropriate adjustments based on current data is also consistent with Executive Order 13563 on improving regulation and regulatory review.

Rather than review all size standards at one time, SBA is reviewing a group of related industries on a Sector by Sector basis.

As part of SBA's comprehensive review of size standards, the Agency evaluated every industry in NAICS Sector 61, Educational Services, to determine whether the existing size standards should be retained or revised. On November 15, 2011, SBA published a proposed rule in the **Federal Register** seeking public comment on its proposal to increase the size standards for nine industries in NAICS Sector 61. The proposed rule was one of the rules that will examine industries grouped by a NAICS Sector.

SBA has recently developed a ''Size Standards Methodology'' for establishing, reviewing and modifying size standards, where necessary. SBA has published the document on its Web site at *www.sba.gov/size* for public review and comment and also included it as a supporting document in the electronic docket of the November 15, 2011 proposed rule at *www.regulations.gov*.

In evaluating an industry's size standard, SBA examines its characteristics (such as average firm size, startup costs, industry competition, and distribution of firms by size) and the level and small business share of Federal contract dollars in that industry. SBA also examines the potential impact a size standard revision might have on its financial assistance programs and whether a business concern under a revised size standard would be dominant in its industry. SBA analyzed the characteristics of each industry in NAICS Sector 61, mostly using a special tabulation obtained from the U.S. Bureau of the Census from its 2007 Economic Census (the latest available). SBA also evaluated the level and small business share of Federal contract dollars in each of those industries using the data from the Federal Procurement Data System—Next Generation (FPDS–NG) for fiscal years 2008 to 2010. To evaluate the impact of changes to size standards on its loan programs, SBA analyzed internal data on its guaranteed loan programs for fiscal years 2008 to 2010.

SBA's ''Size Standards Methodology'' provides a detailed description of its

analyses of various industry and program factors and data sources, and how the Agency uses the results to derive size standards. In the proposed rule, SBA detailed how it applied its ''Size Standards Methodology'' to review, and modify, where necessary, the existing standards for industries in NAICS Sector 61. SBA sought comments from the public on a number of issues about its ''Size Standards Methodology,'' such as whether there are alternative methodologies that SBA should consider; whether there are alternative or additional factors or data sources that SBA should evaluate; whether SBA's approach to establishing small business size standards makes sense in the current economic environment; whether SBA's application of anchor size standards is appropriate in the current economy; whether there are gaps in SBA's methodology because of the lack of comprehensive data; and whether there are other facts or issues that SBA should consider.

SBA also sought comments on its proposal to increase the size standards for nine industries and retain the existing size standard for the remaining eight industries and one sub-industry (''exception'') in NAICS Sector 61. Specifically, SBA requested comments on whether the size standards should be revised as proposed and whether the proposed revisions are appropriate. SBA also invited comments on whether its proposed eight fixed size standard levels are appropriate and whether it should adopt common size standards for some industries in NAICS Sector 61.

SBA's analyses supported lowering existing size standards for six industries and one sub-industry (''exception'' to NAICS 611519, Job Corps Centers). However, as SBA explained in the proposed rule, lowering size standards would reduce the number of firms eligible to participate in Federal small business assistance programs and would run counter to what the Federal government and SBA are doing to help small businesses and create jobs. Therefore, SBA proposed to retain the current size standards for those industries and requested comments on whether the Agency should lower size standards for those six industries and one sub-industry for which its analyses might support lowering them.

Summary of Comments

There were four comments from individuals and businesses on SBA's proposed size standards changes for NAICS Sector 61. Two of the comments were on its proposal to retain the current size standard for NAICS 611512, Flight Training, while another was on the proposal to retain the current size standard for Job Corps Centers, which is an exception to NAICS 611519, Other Technical and Trade Schools. One was a general comment supporting the SBA's methodology and proposed size standards for NAICS Sector 61. These comments are summarized below.

NAICS 611512, Flight Training

Two commenters opposed SBA's proposal to maintain the current $25.5 million receipts based size standard for NAICS 611512, Flight Training, and recommended a higher size standard. One recommended $33 million, while the other recommended at least $35.5 million, preferably $50 million. The second commenter also proposed an alternative employee based size standard of 1,000 employees. Except for information on a few recent solicitations and a general description of types of services to be performed for Federal contracts within this NAICS code, the commenters offered no alternative industry data or analyses to support their recommendations.

To support the argument for a higher size standard, the first commenter argued that large flight training contracts, previously reserved for full and open competition, are being set aside for small businesses. This has caused, according to the commenter, small incumbent firms to exceed the current size standard with a few contract awards. The commenter added that, with revenues from two small business set aside contracts the commenter's firm is currently performing and one new set aside contract it has recently competed, the firm will exceed the current size standard, thereby making it ineligible to compete as a small business for future set aside contracts in NAICS 611512, unless the size standard is increased. The commenter maintained that this will also cause significant turmoil for the Federal government because the incumbent small businesses will never be able to compete on subsequent bidding opportunities. The commenter stated that the current size standard for NAICS 611512 is counter to the idea of promoting small businesses through set aside contracts. The commenter concluded that given the increased size and scope of small business set aside contracts in NAICS 611512 the current size standard should be increased, not decreased, as shown by SBA's analysis.

In response to the above comment, SBA evaluated the FPDS–NG and Central Contractors Registration (CCR) data for fiscal years 2008 to 2010. The data showed that 60 percent of firms receiving new Federal contracts annually within NAICS 611512 were small businesses. Similarly, about 37 percent of all new contracts and 21 percent of total contract dollars in NAICS 611512 were awarded to small businesses. These statistics demonstrate substantial small business participation in the Federal market under the current size standard. The data also suggest that there already exists a sufficient pool of small businesses from which the Federal government can draw for new set aside contracts, even if some small incumbent businesses outgrow the size standard. Moreover, it should be noted that more than 97 percent of all firms in NAICS 611512 are small under the current $25.5 million size standard. Based on these data and SBA's evaluation of industry and Federal procurement factors as discussed in the proposed rule, the Agency believes that the current $25.5 million is an appropriate size standard for NAICS 611512. In fact, SBA's analyses of the latest industry and Federal procurement data available would have supported a lower $19 million size standard for NAICS 611512. However, in light of current economic conditions as explained in the proposed rule, SBA proposed to retain it at the current level. If the size standard were increased to $33 million from the current $25.5 million, as recommended by the commenter, the 2007 Economic Census data for NAICS 611512 show that only a few relatively large firms would benefit, likely at the expense of many smaller and startup businesses that need the Federal assistance the most. This result was also confirmed using the data on firms that were awarded Federal contracts within this industry during fiscal years 2008 to 2010. Thus, SBA is not adopting the commenter's recommendation for a $33 million size standard for NAICS 611512.

The second commenter supported the size standards review for NAICS Sector 61, but similarly disagreed with SBA's proposal not to increase the size standard for NAICS 611512. The commenter stated that SBA's proposal not to increase the size standard for this industry is at odds with economic characteristics of the military training services, mission crew training, aircrew training, and courseware development industries. The commenter contended that the traditional definition of NAICS 611512 does not reflect several activities typically required for flight training contracts, including simulator based training, instructional training, simulator maintenance, courseware development and application, enhanced

learning through Learning Management Systems (LMS), and information technology (IT) and facilities support. The commenter claimed that these contracts may also include modification to the aircraft platforms and simulators. The commenter argued that the size standard for NAICS 611512 is complex and it, therefore, requires additional review to provide a more favorable competitive environment for small businesses to grow and win Federal contracts within this industry. Besides referring to several solicitations assigned NAICS 611512 and NAICS 336413, the commenter did not offer alternative industry data or analyses to support his arguments. The commenter recommended that SBA revise its proposal to address the complexity and economic characteristics of this industry through one or more of the following:

1. Convert the NAICS 611512 size standard from annual receipts to at least 1,000 employees; or
2. Increase the existing size threshold from $25.5 million to $35.5 million, which is the highest proposed level for NAICS Sector 61; or
3. Create a new NAICS code ''Aircrew Training and Support'' in NAICS Sector 61 with a size threshold of at least $50 million in average annual receipts; or
4. Create a new NAICS code ''Aircrew Training and Support'' in NAICS Sector 61 with a size standard of at least 1,000 employees; or
5. Create an exception ''Aircrew Training and Support'' within NAICS 611512 for Federal procurement with a size standard of at least $35.5 million in annual receipts or 1,000 employees.

The commenter provided several reasons for his recommendations. First, the commenter contended that NAICS 611512, Flight Training, is similar to NAICS 336413, Other Aircraft Part and Auxiliary Equipment Manufacturing and should have the same 1,000-employee size standard as that for NAICS 336413. To support the argument, the commenter added that due to a low size standard for NAICS 611512, many contracting officers have used NAICS 336413 and its 1,000-employee size standard for Federal contracts involving aircrew training and related logistic and support services. Second, the commenter maintained that the value of Federal contracts has created unintended ceilings for competition. Third, the commenter purported that SBA's methodology does not consider relevant Federal contracting factors. Fourth, the commenter argued that SBA has not considered the complexity of multiple services required by the military to support a ''Flight Training'' contract.

SBA addresses each of the commenter's recommendations above, as follows:

1. Providing Flight Training Services is a service function, not manufacturing, and SBA does not apply employee based size standards to NAICS codes that represent services industries. SBA's experience and analyses generally support receipts based size standards for services industries. *See* SBA's Methodology, cited elsewhere in this rule.

2. SBA's analysis of this industry does not support a size standard over $25.5 million, as detailed in the proposed rule (*see* 76 FR 70667 (November 15, 2011)). Additional information that the commenter supplied did not support anything higher than that either.

3. & 4. SBA does not establish NAICS codes. Rather, only the U.S. Office of Management and Budget together with the U.S. Bureau of the Census defines what is and what is not included within any NAICS Industry. Recommendations regarding NAICS industry definitions should be directed to the Office of Management and Budget, which is responsible for establishing, modifying, or updating an NAICS code.

5. As stated above, the data do not support increasing the size standard for this industry beyond the current $25.5 million, and an employee based size standard is not appropriate. SBA has in the past established exceptions for a limited number of NAICS codes. However, that is not applicable to this industry because SBA believes the current size standard is already appropriate.

SBA disagrees with the commenter's contention that NAICS 611512 is similar to NAICS 336413. NAICS 611512 includes establishments primarily engaged in offering aviation and flight training, while NAICS 336413 comprises establishments primarily engaged in (1) manufacturing aircraft parts or auxiliary equipment (except engines and aircraft fluid power subassemblies), and/or (2) developing and making prototypes of aircraft parts and auxiliary equipment (such as crop dusting apparatus, armament racks, inflight refueling equipment, and external fuel tanks) (*see www.census.gov/naics*). Accordingly, the activities that are required for flight training contracts, including, according to the commenter, simulator based training, instructional training, courseware development and application, enhanced learning through LMS, and IT and facilities support fall under NAICS 611512, not NAICS 336413. The industry data also demonstrates that these two industries are significantly different. For example, based on the 2007 Economic Census, firms in NAICS 336413 average about $39 million in receipts and 145 employees, as compared to $2.6 million and 18 employees for NAICS 611512.

The Small Business Size Regulations require Federal agencies to designate the proper NAICS code and size standard in a solicitation, selecting the NAICS code which best describes the principal purpose of the product or service being acquired. Primary consideration is given to the industry descriptions in the NAICS United States Manual, the product or service description in the solicitation and any attachments to it, the relative value and importance of the components of the procurement making up the end item being procured, and the function of the goods or services being purchased. A procurement is usually classified according to the component which accounts for the greatest percentage of contract value. *See* 13 CFR 121.402(b). Therefore, if the principal purpose of the procurement is ''flight training,'' then NAICS 611512 is the code that the contracting officer must apply. Similarly, if a solicitation involves the acquisition of aircraft parts, auxiliary, or other equipment, the contracting officer must apply an appropriate manufacturing NAICS code and the corresponding size standard. SBA's regulations also provide that any interested party adversely affected by a NAICS code designation for a specific Federal procurement may appeal the designation to SBA's Office of Hearings and Appeals. *See* 13 CFR 121.1102–1103.

The commenter argued that contract values have created unintended ceilings for small business participation in the Federal market for flight training services. On the contrary, size standards are intended to provide ceilings; they determine the maximum size of a business that can compete as a small business, but do not affect the size of the contracts themselves. The commenter added that increased complexity and scope of services required for flight training contracts have rendered many small businesses unable to compete under the current size standard. To accurately reflect increased complexity and scope of multiple services required for flight training contracts, the commenter recommended a new ''Aircrew Training and Support'' NAICS code and a separate size standard. SBA believes most of the services required for flight training contracts, as cited above by the commenter, are not necessarily new activities warranting a new NAICS code or an exception under NAICS 611512; rather they are new

tools and methods for delivering flight training services as defined under NAICS 611512.

In response to the commenter's argument that small businesses under the current $25.5 million are not able to compete for Federal contracts in NAICS 611512, SBA evaluated recent data from FPDS–NG and CCR. The data showed that small business account for 60 percent of all firms winning Federal contracts, 37 percent of all new contracts, and 21 percent of total contract dollars in NAICS 611512. Thus, small businesses have been quite successful in receiving Federal contracts under the current size standard. The commenter's firm itself appeared to be very successful in getting several small business set aside contracts under the current size standard.

SBA disagrees with the commenter's allegation that the methodology it used to evaluate size standards for NAICS Sector 61 does not consider relevant Federal contracting factors. As explained in the proposed rule as well as in SBA's ''Size Standards Methodology'' White Paper, Federal contracting is one of the five primary factors SBA evaluates when reviewing a size standard. Specifically, for each of the industries averaging $100 million or more in Federal contracts annually, SBA compares the small business share of total Federal contracts with the small business share of total industry receipts. If the difference between the former and latter is between 10 percent and 30 percent, SBA designates a size standard one fixed level higher than the current one. If that difference is more than 30 percent, SBA designates a size standard two levels above the current size standard. Accordingly, the Federal contracting factor supported a higher $30 million size standard for NAICS 611512, as compared to the current $25.5 million. Based on all factors combined, the calculated size standard was $19 million. However, in light of current economic conditions, SBA proposed to retain the current size standard.

The commenter argued that SBA did not consider the complexity of multiple services required to support ''Flight Training'' contracts. SBA disagrees. As noted above, most of activities that are required for flight training contracts, including, according to the commenter, simulator based training, instructional training, courseware development and application, and enhanced learning through LMS are part of NAICS 611512. SBA believes the industry data from the Economic Census and procurement data from FPDS–NG that it evaluated to examine this industry already reflect those activities. Moreover, the current size standard, which is one of the highest in NAICS Sector 61, also reflects the characteristics of the flight training industry.

SBA recognizes that, as in most other industries, small businesses in NAICS 611512 face challenges in the Federal marketplace when they outgrow the size standard. As stated above, more than 97 percent of firms already qualify as small under the current $25.5 million size standard. SBA is concerned that ''smaller'' small and startup companies would not be able to compete effectively with ''larger'' small businesses for Federal small business contracts if the size standards were too high, such as $35.5 million or $50 million in average annual receipts, or 1,000 employees, as recommended by the commenter. At these levels, only a few larger firms are likely to benefit, mostly at the expense of many smaller businesses. For example, based on the 2007 Economic Census tabulation, only three firms would benefit if SBA increased the size standard to $35.5 million and three more firms would benefit if it increased to $50 million. At 1,000 employees, the 2007 Economic Census data show that all but 12 of the largest firms, possibly including some of the dominant firms with annual receipts of several hundred million dollars, would qualify as small. The data on firms receiving Federal contracts within NAICS 611512 during the fiscal years 2008 to 2010 also confirmed that only a few large firms would benefit if the size standard were increased to those levels. The commenter argued that those higher size standards would help small businesses to compete for Federal contracts for several years and allow them to grow and develop necessary expertise. However, given that 97 percent of firms in NAICS 611512 have less than $25.5 million in receipts and fewer than 100 employees, SBA believes that such high size standards would adversely affect the ability of many small businesses to compete for Federal opportunities in that industry.

This commenter also recommended that SBA impose a temporary moratorium on calculation of average annual receipts based on 2008, 2009, and 2010. In other words, the commenter recommended excluding year 2011 from the calculation, although he did not justify why. SBA does not adopt this recommendation. For SBA's size standards, annual receipts of a concern means the average annual receipts over its most recently completed three fiscal years (*see* 13 CFR 121.104(c)). Accordingly, average annual receipts for 2012 must be an average over 2011, 2010, and 2009. Selectively excluding the most recent year or any other year from the calculation for one or few industries, as suggested by the commenter, will cause widespread inconsistency in how businesses calculate their average annual receipts to determine if they are small. In addition, this would more likely benefit successful small businesses that have exceeded the size standard by allowing them to prolong their small business eligibility, thereby reducing opportunities for other small and startup businesses.

For the above reasons, SBA is not adopting any of the alternatives recommended by the commenter. Instead the Agency is adopting $25.5 million as proposed. SBA has also retained the current method of calculating average annual receipts based on the firm's most recently completed three fiscal years.

Job Corps Centers

SBA received one comment on its proposal to retain the current size standard for Job Corps Centers, which is an exception to NAICS 611519, Other Technical and Trade Schools. Citing its success in getting Federal contracts as a small business prime contractor over the years, the commenter argued that the commenter's firm will exceed the current $35.5 million size standard for Job Corps Centers within the next 2–3 year period, making it no longer eligible to recompete for any of the four Job Corps Centers it now operates. The commenter added that there is no ''graduation plan or process'' in place allowing small businesses to compete as an incumbent contractors for Centers they operate when they exceed the current size standard. The commenter recommended that the size standard should be increased to $50 million. However, the commenter offered no alternative data on or analyses of the Job Crops Centers industry segment supporting his recommendation. While SBA recognizes the challenges small businesses face when they exceed the size standard for their industries, the agency is not adopting the commenter's recommendation for two reasons. First, only one firm would benefit if the size standard were increased from $35.5 million to $50 million. Second, this will also cause adverse competitive impact on firms operating Job Corps Centers as small business under the current size standard. SBA's regulation has no ''graduation plan'' for any industry for Government contracting purposes, when a firm exceeds the size standard. Thus, SBA is adopting $35.5 million, as proposed.

The fourth commenter fully supported the SBA's size standards methodology used to derive the proposed size standards for NAICS Sector 61. The commenter also fully endorsed the adoption of all size standards, as proposed. The commenter recommended October 1, 2012 as the effective date, so that the Federal Government and industry will have enough time to prepare for the change. SBA will publish the final rule as soon as the necessary review and clearance as required under the rulemaking process is complete. The revised size standards will become effective after 30 days from the date of publication.

All comments to the proposed rule are available for public review at *http://www.regulations.gov*, using RIN 3245–AG29 or docket number SBA–2011–0021.

Conclusion

Based on the analyses of relevant industry and program data and public comments it received on the proposed rule, SBA has decided to increase the small business size standards for the nine industries in NAICS Sectors 61 to the levels it proposed. Those industries and their revised size standards are shown in Table 1, Summary of Revised Size Standards in NAICS Sector 61, below.

TABLE 1—SUMMARY OF REVISED SIZE STANDARDS IN NAICS SECTOR 61

NAICS Code	NAICS Industry title	Current size standard ($ million)	Revised size standard ($ million)
611110	Elementary and Secondary Schools	7.0	10.0
611210	Junior Colleges	7.0	19.0
611310	Colleges, Universities and Professional Schools	7.0	25.5
611420	Computer Training	7.0	10.0
611430	Professional and Management Development Training	7.0	10.0
611519	Other Technical and Trade Schools	7.0	14.0
611630	Language Schools	7.0	10.0
611699	All Other Miscellaneous Schools and Instruction	7.0	10.0
611710	Educational Support Services	7.0	14.0

For the reasons as stated above in this rule and in the proposed rule, SBA has decided to retain the current size standards for six industries and one sub-industry for which analytical results suggested lower size standards. Not lowering size standards in NAICS Sector 61 is consistent with SBA's recent final rules on NAICS Sector 44–45, Retail Trade (75 FR 61597 (October 6, 2010)), NAICS Sector 72, Accommodation and Food Services (75 FR 61604 (October 6, 2010)), NAICS Sector 81, Other Services (75 FR 61591 (October 6, 2010)), NAICS Sector 54, Professional, Scientific and Technical Services (77 FR 7490 (February 10, 2012)), and NAICS Sector 48–49, Transportation and Warehousing (77 FR 10943 (February 24, 2012)). In each of those final rules, SBA adopted its proposal not to reduce small business size standards for the same reasons. SBA is also retaining the existing size standards for two industries for which the results supported them at their current levels.

Compliance With Executive Orders 12866, 13563, 12988, and 13132, the Paperwork Reduction Act (44 U.S.C., Ch. 35), and the Regulatory Flexibility Act (5 U.S.C. 601–612)

Executive Order 12866

The Office of Management and Budget (OMB) has determined that this final rule is not a ''significant regulatory action'' for purposes of Executive Order 12866. In order to help explain the need for this rule and the rule's potential benefits and costs, SBA is providing a Cost Benefit Analysis in this section of the rule. This is also not a ''major rule'' under the Congressional Review Act (5 U.S.C. 800).

Cost Benefit Analysis

1. Is there a need for the regulatory action?

SBA believes that the revised changes to small business size standards for nine industries in NAICS Sector 61, Educational Services, reflect changes in economic characteristics of small businesses in those industries and the Federal procurement market. SBA's mission is to aid and assist small businesses through a variety of financial, procurement, business development, and advocacy programs. To assist the intended beneficiaries of these programs effectively, SBA establishes distinct definitions to determine which businesses are deemed small. The Small Business Act delegated to SBA's Administrator the responsibility for establishing small businesses definitions (15 U.S.C. 632(a)). The Act also requires that small business definitions vary to reflect industry differences. The Jobs Act requires the Administrator to review at least one-third of all size standards within each 18-month period from the date of its enactment, and review all size standards at least every five years thereafter. The supplementary information sections of the November 15, 2011 proposed rule and this final rule explained in detail SBA's methodology for analyzing a size standard for a particular industry.

2. What are the potential benefits and costs of this regulatory action?

The most significant benefit to businesses obtaining small business status as a result of this final rule is gaining eligibility for Federal small business assistance programs, including SBA's financial assistance programs and Federal procurement opportunities reserved for small businesses. Federal small business programs provide targeted opportunities for small businesses under various SBA's business development programs, such as the 8(a) Business Development program and programs benefitting small businesses located in Historically Underutilized Business Zones (HUBZone), women owned small businesses (WOSB), and service disabled veteran owned small businesses (SDVOSB). Other Federal agencies also may use SBA size standards for a variety of regulatory and program purposes. These programs help small businesses become more knowledgeable, stable and competitive. In the nine industries in NAICS Sector 61 for which SBA has decided to increase size standards, SBA estimates that about 1,500 firms exceeding the current size standards will gain small business status and become eligible for these programs. That number is 2.1 percent of the total number of firms that

are currently classified as small in all industries in NAICS Sector 61. SBA estimates that this would increase the small business share of total industry receipts in those industries from about 18 percent under the current size standards to 23 percent.

The benefits of increasing size standards to a more appropriate level will accrue to three groups in the following ways: (1) Some businesses that are above the current size standards will gain small business status under the higher size standards, thereby enabling them to participate in Federal small business assistance programs; (2) growing small businesses that are close to exceeding the current size standards will be able to retain their small business status under the higher size standards, thereby enabling them to continue their participation in the programs; and (3) Federal agencies will have a larger pool of small businesses from which to draw for their small business procurement programs.

For the November 15, 2011 proposed rule, SBA analyzed FPDS–NG data for fiscal years 2007 to 2009 and found that 88 percent of Federal contracting dollars in Sector 61 were accounted for by those nine industries for which SBA has increased size standards. This also held true in SBA's updated analysis using the FY 2008–2010 FPDS–NG data. SBA estimates that additional firms gaining small business status in those industries under the revised size standards could potentially obtain Federal contracts totaling between $20 million and $25 million annually through the 8(a), HUBZone, WOSB and SDVOSB programs, and other unrestricted procurements. The added competition for many of these procurements may also result in lower prices to the Government for procurements reserved for small businesses, although SBA cannot quantify this benefit.

Under SBA's 7(a) and 504 Loan Programs, based on the data for fiscal years 2008 to 2010, SBA estimates that around 16 to 20 additional loans totaling between $3 million and $4 million in new Federal loan guarantees will be made for newly defined small businesses under the revised size standards. Under the Jobs Act, SBA can now guarantee substantially larger loans than in the past. In addition, the Jobs Act established an alternative size standard for SBA's 7(a) and 504 Loan Programs for those applicants that do not meet the size standards for their industries. That is, under the Jobs Act, if a firm applies for a SBA's 7(a) or 504 loan but does not meet the size standard for its industry, it might still qualify if, including its affiliates, it has a tangible net worth that does not exceed $15 million and also has average net income after Federal income taxes (excluding any carry-over losses) for its preceding two completed fiscal years that do not exceed $5 million. Thus, increasing the size standards will likely result in an increase in small business guaranteed loans to small businesses in these industries, but it is impractical to try to estimate the extent of their number and the total amount loaned.

The newly defined small businesses will also benefit from SBA's Economic Injury Disaster Loan (EIDL) Program. Since this program is contingent on the occurrence and severity of disasters, SBA cannot make a meaningful estimate of future EIDL benefits.

To the extent that all 1,500 newly defined small firms under the revised size standards could become active in Federal procurement programs, this may entail some additional administrative costs to the Federal Government associated with additional bidders for Federal small business procurement opportunities, additional firms seeking SBA guaranteed lending programs, additional firms eligible for enrollment in the Central Contractor Registration's Dynamic Small Business Search database and additional firms seeking certification as 8(a) or HUBZone firms or those qualifying for small business, WOSB, SDVOSB, and SDB status. Among businesses in this group seeking SBA's assistance, there could be some additional costs associated with compliance and verification of small business status and protests of small business status. These added costs are likely to be minimal because mechanisms are already in place to handle these administrative requirements.

The costs to the Federal Government may be higher on some Federal contracts under the higher revised size standards. With a greater number of businesses defined as small, Federal agencies may choose to set aside more contracts for competition among small businesses rather than using full and open competition. The movement from unrestricted to set-aside contracting will likely result in competition among fewer total bidders, although there will be more small businesses eligible to submit offers. In addition, higher costs may result when additional full and open contracts are awarded to HUBZone businesses because of a price evaluation preference. The additional costs associated with fewer bidders, however, will likely be minor since, as a matter of law, procurements may be set aside for small businesses or reserved for the small business, 8(a), HUBZone, WOSB, or SDVOSB Programs only if awards are expected to be made at fair and reasonable prices.

The revised size standards may have some distributional effects among large and small businesses. Although SBA cannot estimate with certainty the actual outcome of gains and losses among small and large businesses, there are several likely impacts. There may be a transfer of some Federal contracts from large businesses to small businesses. Large businesses may have fewer Federal contract opportunities as Federal agencies decide to set aside more Federal contracts for small businesses. In addition, some agencies may award more Federal contracts to HUBZone concerns instead of large businesses since HUBZone concerns may be eligible for price evaluation adjustments when they compete on full and open bidding opportunities. Similarly, currently defined small businesses may obtain fewer Federal contracts due to the increased competition from more businesses defined as small under the revised size standards. This transfer may be offset by more Federal procurements set aside for all small businesses. The number of newly defined and expanding small businesses that are willing and able to sell to the Federal Government will limit the potential transfer of contracts away from large and small businesses under the existing size standards. The SBA cannot estimate with precision the potential distributional impacts of these transfers.

The revisions to the existing size standards for Sector 61, Educational Services, are consistent with SBA's statutory mandate to assist small business. This regulatory action promotes the Administration's objectives. One of SBA's goals in support of the Administration's objectives is to help individual small businesses succeed through fair and equitable access to capital and credit, Government contracts, and management and technical assistance. Reviewing and modifying size standards, when appropriate, ensures that intended beneficiaries have access to small business programs designed to assist them.

Executive Order 13563

A description of the need for this regulatory action and benefits and costs associated with this action including possible distributions impacts that relate to Executive Order 13563 is included above in the Cost Benefit Analysis.

In an effort to engage interested parties in this action, SBA has presented

its methodology (discussed under Supplementary Information in the proposed rule and this final rule) to various industry associations and trade groups. SBA also met with various industry groups to obtain their feedback on its methodology and other size standards issues. SBA also presented its size standards methodology to businesses in 13 cities in the U.S. and sought their input as part of the Jobs Act tours. The presentations also included information on the latest status of the comprehensive size standards review and how interested parties can provide SBA with input and feedback on the size standards review.

Additionally, SBA sent letters to the Directors of the Offices of Small and Disadvantaged Business Utilization (OSDBU) at several Federal agencies with considerable procurement responsibilities requesting their feedback on how the agencies use SBA size standards and whether current standards meet their programmatic needs (both procurement and non-procurement). SBA gave appropriate consideration to all input, suggestions, recommendations, and relevant information obtained from industry groups, individual businesses, and Federal agencies in preparing the proposed rule and this final rule for Sector 61.

Furthermore, when SBA issued the proposed rule, it provided notice of its publication to individuals and companies that had in recent years exhibited an interest by letter, email, or phone, in size standards for NAICS Sector 61 so they could comment.

The review of size standards in NAICS Sector 61, Educational Services, is consistent with Section 6 of Executive Order 13563 calling for retrospective analyses of existing rules. The last overall review of size standards occurred during the late 1970s and early 1980s. Since then, except for periodic adjustments for monetary based size standards, most reviews of size standards were limited to a few specific industries in response to requests from the public and Federal agencies. SBA recognizes that changes in industry structure and the Federal marketplace over time have rendered existing size standards for some industries no longer supportable by current data. Accordingly, in 2007, SBA began a comprehensive review of all size standards to ensure that existing size standards have supportable bases and to revise them when necessary. In addition, the Jobs Act directs SBA to conduct a detailed review of all size standards and to make appropriate adjustments to reflect market conditions. Specifically, the Jobs Act requires SBA to conduct a detailed review of at least one-third of all size standards during every 18-month period from the date of its enactment and do a complete review of all size standards not less frequently than once every 5 years thereafter.

Executive Order 12988

This action meets applicable standards set forth in Sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. The action does not have retroactive or preemptive effect.

Executive Order 13132

For purposes of Executive Order 13132, SBA has determined that this final rule will 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. Therefore, SBA has determined that this final rule has no Federalism implications warranting preparation of a Federalism assessment.

Paperwork Reduction Act

For the purpose of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA has determined that this final rule would not impose any new reporting or record keeping requirements.

Final Regulatory Flexibility Analysis

Under the Regulatory Flexibility Act (RFA), this final rule may have a significant impact on a substantial number of small entities in NAICS Sector 61, Educational Services. As described above, this final rule may affect small entities seeking Federal contracts, SBA's 7(a), 504 and economic injury disaster loans, and various small business benefits under other Federal programs.

Immediately below, SBA sets forth a final regulatory flexibility analysis of this final rule addressing the following questions: (1) What are the need for and objective of the rule? (2) What are SBA's description and estimate of the number of small entities to which the rule will apply? (3) What are the projected reporting, record keeping, and other compliance requirements of the rule? (4) What are the relevant Federal rules which may duplicate, overlap or conflict with the rule? and (5) What alternatives will allow the Agency to accomplish its regulatory objectives while minimizing the impact on small entities?

(1) What are the need for and objective of the rule?

Most of SBA's size standards in NAICS Sector 61, Educational Services, had not been reviewed since the 1980s. Technological changes, productivity growth, international competition, mergers and acquisitions and updated industry definitions may have changed the structure of many industries in that Sector. Such changes can be sufficient to support a revision to size standards for some industries. Based on the analysis of the latest industry and program data available, SBA believes that the revised standards in this rule more appropriately reflect the size of businesses in those industries that need Federal assistance. Additionally, the Jobs Act requires SBA to review all size standards and make appropriate adjustments to reflect current data and market conditions.

(2) What are SBA's description and estimate of the number of small entities to which the rule will apply?

SBA estimates that approximately 1,500 additional firms will become small because of increases in size standards in nine industries in NAICS Sector 61. That number is 2.1 percent of the total number of firms that are currently classified as small in all industries in NAICS Sector 61. This will result in an increase in the small business share of total industry receipts in those industries from about 18 percent under the current size standards to 23 percent under the revised size standards. SBA does not anticipate a significant competitive impact on smaller businesses in these industries. The revised size standards will enable more small businesses to retain their small business status for a longer period. Under current size standards, many small businesses may have lost their eligibility or found it difficult to compete with companies that are significantly larger than they are, and this final rule attempts to correct that impact. SBA believes these changes will have a positive impact for existing small businesses and for those that have either exceeded or are about to exceed current size standards.

(3) What are the projected reporting, record keeping, and other compliance requirements of the rule?

Revising size standards does not impose any additional reporting or record keeping requirements on small entities. However, qualifying for Federal procurement and a number of other Federal programs requires that entities register in the Central Contractor

Registration (CCR) database and certify at least annually that they are small in the Online Representations and Certifications Application (ORCA). Therefore, businesses opting to participate in those programs must comply with CCR and ORCA requirements. There are no costs associated with either CCR registration or ORCA certification. Revising size standards alters the access to Federal programs that are designed to assist small businesses, but does not impose a regulatory burden as they neither regulate nor control business behavior.

(4) What are the relevant Federal rules which may duplicate, overlap or conflict with the rule?

Under section 3(a)(2)(C) of the Small Business Act, 15 U.S.C. 632(a)(2)(c), Federal agencies must use SBA's size standards to define a small business, unless specifically authorized by statute. In 1995, SBA published in the **Federal Register** a list of statutory and regulatory size standards that identified the application of SBA's size standards as well as other size standards used by Federal agencies (60 FR 57988, November 24, 1995). SBA is not aware of any Federal rule that would duplicate or conflict with establishing or revising size standards.

However, the Small Business Act and SBA's regulations allow Federal agencies to develop different size standards if they believe that SBA's size standards are not appropriate for their programs, with the approval of SBA's Administrator (13 CFR 121.903). The Regulatory Flexibility Act authorizes an agency to establish an alternative small business definition after consultation with the Office of Advocacy of the U.S. Small Business Administration (5 U.S.C. 601(3)).

(5) What alternatives will allow the Agency to accomplish its regulatory objectives while minimizing the impact on small entities?

By law, SBA is required to develop numerical size standards for establishing eligibility for Federal small business assistance programs. Other than varying size standards by industry and changing the size measures, no practical alternative exists to the existing system of numerical size standards. The possible alternative size standards considered for the individual industries within NAICS Sector 61 are discussed in the supplementary information to the proposed rule and this final rule.

List of Subjects in 13 CFR Part 121

Administrative practice and procedure, Government procurement, Government property, Grant programs—business, Individuals with disabilities, Loan programs—business, Reporting and recordkeeping requirements, Small businesses.

For reasons set forth in the preamble, SBA amends 13 CFR part 121 as follows:

PART 121—SMALL BUSINESS SIZE REGULATIONS

■ 1. The authority citation for Part 121 continues to read as follows:

Authority: 15 U.S.C. 632, 634(b)(6), 636(b), 662, 694a(9).

■ 2. In § 121.201, in the table, revise the entries for ''611110,'' ''611210,'' ''611310,'' ''611420,'' ''611430,'' ''611519,'' ''611630,'' ''611699,'' and ''611710,'' to read as follows:

§ 121.201 What size standards has SBA identified by North American Industry Classification System codes?

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY

NAICS Codes	NAICS U.S. Industry title	Size standards in millions of dollars	Size standards in number of employees
*	* * * * *	*	*
611110	Elementary and Secondary Schools	10.0	
611210	Junior Colleges	19.0	
611310	Colleges, Universities and Professional Schools	25.5	
*	* * * * *	*	*
611420	Computer Training	10.0	
611430	Professional and Management Development Training	10.0	
*	* * * * *	*	*
611519	Other Technical and Trade Schools	14.0	
*	* * * * *	*	*
611630	Language Schools	10.0	
*	* * * * *	*	*
611699	All Other Miscellaneous Schools and Instruction	10.0	
611710	Educational Support Services	14.0	
*	* * * * *	*	*

Dated: June 22, 2012.

Karen G. Mills,

Administrator.

[FR Doc. 2012–23373 Filed 9–21–12; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

RIN 3245–AG28

Small Business Size Standards: Real Estate and Rental and Leasing

AGENCY: U.S. Small Business Administration.

ACTION: Final rule.

SUMMARY: The United States Small Business Administration (SBA) is increasing the small business size standards for 21 industries and one sub-industry in North American Industry Classification System (NAICS) Sector 53, Real Estate and Rental and Leasing, and retaining the current standards for the remaining four industries in that Sector. As part of its ongoing comprehensive review of all size standards, SBA evaluated all size standards for industries in NAICS Sector 53 to determine whether they should be retained or revised.

DATES: This rule is effective October 24, 2012.

FOR FURTHER INFORMATION CONTACT: Jon Haitsuka, Program Analyst, Size Standards Division, (202) 205–6618 or *sizestandards@sba.gov.*

SUPPLEMENTARY INFORMATION: To determine eligibility for Federal small business assistance programs, SBA establishes small business size definitions (referred to as size standards) for private sector industries in the United States. The SBA's existing size standards use two primary measures of business size, average annual receipts and number of employees. Financial assets, electric output and refining capacity are used as size measures for a few specialized industries. In addition, SBA's Small Business Investment Company (SBIC), 7(a), and Certified Development Company (CDC or 504) Loan Programs determine small business eligibility using either the industry based size standards or alternative net worth and net income size based standards. At the start of the current comprehensive review of SBA's small business size standards, there were 41 different size standards levels, covering 1,141 NAICS industries and 18 sub-industry activities. Of these, 31 were based on average annual receipts, seven based on number of employees, and three based on other measures.

Over the years, SBA has received comments that its size standards have not kept up with changes in the economy, and in particular, that they do not reflect changes in the Federal contracting marketplace and industry structure. The last comprehensive review of size standards was during the late 1970s and early 1980s. Since then, most reviews of size standards were limited to a few specific industries in response to requests from the public and Federal agencies. SBA also makes periodic inflation adjustments to its monetary based size standards. The latest inflation adjustment to size standards was published in the **Federal Register** on July 18, 2008 (73 FR 41237).

SBA recognizes that changes in industry structure and the Federal marketplace since the last overall review have rendered existing size standards for some industries no longer supportable by current data. Accordingly, in 2007, SBA began a comprehensive review of its size standards to determine whether existing size standards have supportable bases relative to the current data, and to revise them, where necessary.

In addition, on September 27, 2010, the President of the United States signed the Small Business Jobs Act of 2010 (Jobs Act). The Jobs Act directs SBA to conduct a detailed review of all size standards and to make appropriate adjustments to reflect market conditions. Specifically, the Jobs Act requires SBA to conduct a detailed review of at least one-third of all size standards during every18-month period from the date of its enactment and review of all size standards not less frequently than once every 5 years thereafter. Reviewing existing small business size standards and making appropriate adjustments based on current data are also consistent with Executive Order 13563 on improving regulation and regulatory review.

SBA has chosen not to review all size standards at one time. Rather, it is reviewing groups of related industries on a Sector by Sector basis.

As part of SBA's comprehensive review of size standards, the Agency reviewed all size standards in NAICS Sector 53, Real Estate and Rental and Leasing, to determine whether the existing size standards should be retained or revised. After its review, SBA published a proposed rule for public comment in the November 15, 2011 issue of the **Federal Register** (76 FR 70680) on its proposal to increase the size standards for 20 industries and one sub-industry in NAICS Sector 53. The rule was one of a series of proposed rules that examines industries grouped by NAICS Sector.

SBA recently developed a ''Size Standards Methodology'' for developing, reviewing, and modifying size standards, when necessary. SBA published the document on its Web site at *www.sba.gov/size* for public review and comments, and also included it as a supporting document in the electronic docket of the proposed rule at *www.regulations.gov*.

In evaluating an industry's size standard, SBA examines its characteristics (such as average firm size, startup costs, industry competition and distribution of firms by size) and the level and small business share of Federal contract dollars in that industry. SBA also examines the potential impact a size standard revision might have on its financial assistance programs, and whether a business concern under a revised size standard would be dominant in its industry. SBA analyzed the characteristics of each industry in NAICS Sector 53, mostly using a special tabulation obtained from the U.S. Bureau of the Census from its 2007 Economic Census (the latest available). SBA also evaluated the level and small business share of Federal contracts in each of those industries using the data from the Federal Procurement Data System—Next Generation (FPDS–NG) for fiscal years 2008–2010. To evaluate the impact of changes to size standards on its loan programs, SBA analyzed internal data on its guaranteed loan programs for fiscal years 2008–2010.

SBA's ''Size Standards Methodology'' provides a detailed description of its analyses of various industry and program factors and data sources, and how the Agency uses the results to establish and revise size standards. In the proposed rule itself, SBA detailed how it applied its ''Size Standards Methodology'' to review and modify where necessary, the existing size standards for industries in NAICS Sector 53. SBA sought comments from the public on a number of issues about its ''Size Standards Methodology,'' such as whether there are alternative methodologies that SBA should consider; whether there are alternative or additional factors or data sources that SBA should evaluate; whether SBA's approach to establishing small business size standards makes sense in the current economic environment; whether SBA's application of anchor size standards is appropriate in the current economy; whether there are gaps in SBA's methodology because of the lack of comprehensive data; and whether

there are other facts or issues that SBA should consider.

SBA sought comments on its proposal to increase size standards for 20 industries and one sub-industry in NAICS Sector 53 (Real Estate and Rental and Leasing) and retain the existing size standards for the remaining four industries in that Sector. Specifically, SBA requested comments on whether the size standards should be revised as proposed and whether the proposed revisions are appropriate. SBA also invited comments on whether its proposed eight fixed size standard levels are appropriate and whether it should adopt common size standards for several Industry Groups in NAICS Sector 53.

The SBA's analyses supported lowering existing receipts based standards for one industry. However, as SBA pointed out in the proposed rule, lowering size standards will reduce the number of firms eligible to participate in Federal small business assistance programs and this is counter to what the Federal government and SBA are doing to help small businesses. Therefore, SBA proposed to retain the current size standards for that industry and requested comments on whether the Agency should lower size standards for which its analyses might support lowering them.

Summary of Comments

SBA received eight comments on the proposed rule. These comments are summarized below.

Two commenters addressed SBA's proposed size standard for NAICS 532291, Home Health Equipment Rental. SBA had proposed to increase the size standard for that NAICS code from $7 million in average annual receipts to $30 million. Both commenters generally supported the SBA's proposed increase. One of the commenters stated the $7 million size standard has not kept up with changes in industry structure and the Federal marketplace and that more small businesses will become eligible for Federal government programs under the proposed, higher size standard, thereby helping both small businesses and the Federal government. However, both suggested that SBA adopt a 500-employee standard instead of the proposed $30 million receipts based size standard. Both argued that services provided under NAICS 532291 are similar to those under NAICS 339112 (Air and Gas Compressor Manufacturing), which has a 500-employee size standard. However, they did not provide any industry data and analyses supporting the similarities between the two industries. To support the recommendation for a 500-employee size standard for NAICS 532291, one of the commenters highlighted two Veterans Administration solicitations for the same service and product (oxygen supplies) for which the Agency used NAICS 532291 at one location and NAICS 339112 at another. The commenters argued such inconsistent practice would not occur if SBA adopted the 500-employee size standard for NAICS 532291. They added that the 500-employee size standard applies to all manufacturing industries as well as to SBA's non-manufacturer's rule. They also argued that employment is a more suitable and stable measure of business size as it is not influenced by inflation and changes in economic conditions.

SBA disagrees with the commenters' arguments that companies involved in NAICS 532291 are similar to those in NAICS 339112. NAICS 532291 comprises establishments primarily engaged in renting home-type health equipment, such as wheel chairs, hospital beds, oxygen tanks, walkers, and crutches, while NAICS 339112 comprises establishments primarily engaged in manufacturing medical, surgical, ophthalmic, and veterinary instruments and apparatus (except electrotherapeutic, electro-medical and irradiation apparatus), such as syringes, hypodermic needles, anesthesia apparatus, blood transfusion equipment, catheters, surgical clamps, and medical thermometers (*see www.census.gov/naics*). Two other related codes are NAICS 325120 (Industrial Gas Manufacturing) and NAICS 332420 (Metal Tank (Heavy Gauge) Manufacturing). NAICS 325120 includes manufacturing oxygen and NAICS 332420 includes manufacturing oxygen tanks. The Small Business Size Regulations require Federal agencies to designate the proper NAICS code and size standard in a solicitation, selecting the NAICS code which best describes the principal purpose of the product or service being acquired. *See* 13 CFR 121.402(b). Accordingly, if a solicitation is for renting health equipment (such as oxygen tanks), Federal agencies should apply NAICS 532291 and its corresponding size standard. Similarly, if a solicitation involves purchasing health equipment and supplies (such as oxygen tanks and oxygen), the contracting officers should apply an appropriate manufacturing NAICS code and its corresponding size standard. In a rental situation, the Federal government is procuring a service. On the other hand, if the Federal government is purchasing the products themselves, then the manufacturing NAICS codes and accompanying size standards apply. An entity that qualifies under the nonmanufacturer rule (13 CFR 121.406(b)) may also supply products it did not produce. However, it is important to note that the nonmanufacturer rule does not apply to service contracts. The regulations also provide that any interested party adversely affected by a NAICS code designation for a specific Federal procurement may appeal the designation to the Office of Hearings and Appeals. *See* 13 CFR 121.1102–121.1103.

For the reasons explained in its ''Size Standards Methodology,'' SBA uses employment as the measure of size for manufacturing industries and average annual receipts for most service industries, including all industries in NAICS Sector 53. SBA recognizes that employment is less influenced by inflationary factors than receipts, but it is not immune to changes in economic conditions. For example, businesses shed millions of employees during and after the recent economic recession. Because receipts are sensitive to inflation, SBA defines annual receipts as the average over a firm's three most recently completed fiscal years. *See* 13 CFR 121.104. In addition, SBA adjusts its monetary based size standards for inflation at least once every five years.

For the above reasons, SBA is not adopting the commenter's recommendation to adopt a 500-employee size standard for NAICS 532291. Instead, it is adopting the $30 million receipts based size standard, as proposed.

SBA received one comment concerning the proposed size standard for NAICS 531311, Residential Property Management. SBA had proposed to increase the size standard for this NAICS code from $2 million to $7 million in average annual receipts. Opposing the SBA's proposed $7 million size standard, the commenter suggested a much higher $15 million size standard for NAICS 531313. He argued that services offered by small businesses in this NAICS code are quite diverse and involve services from several industries within NAICS Subsectors 541 and 561, including NAICS 541310, 561622, 561710, 561720, 561730, and 561790. The commenter contended that most of these industries have size standards higher than $7 million. However, except for NAICS 561720, all of them have a $7 million size standard currently. Furthermore, except for NAICS 561710, current industry and Federal contracting data for those industries do not support

a size standard higher than $7 million (*see* 77 FR 7490 (February 10, 2012) and 76 FR 63510 (October 12, 2011)). The commenter maintained that a higher size standard would enable his business to remain eligible for SBA's 8(a) Program; however, the commenter did not provide other information to support why $15 million is a more appropriate size standard for NAICS 531311 than the proposed $7 million. For the above reasons, SBA is adopting the proposed $7 million size standard for NAICS 531311, as proposed.

SBA received one comment on the proposed size standard for NAICS 531320, Offices of Real Estate Appraisers. The commenter supported SBA's proposed increase from the current $2 million to $7 million in average annual receipts. The commenter contended that the current size standard has both prevented small businesses from participating in government contracts and kept Federal agencies from receiving quality services to meet their needs. The commenter stated that both small businesses and the Federal government will benefit under the higher $7 million size standard. SBA is adopting the $7 million size standard, as proposed.

SBA received one comment concerning the proposed size standards for NAICS 532111, Passenger Car Rental, and NAICS 532112, Passenger Car Leasing. For both industries, SBA had proposed to increase the size standard from $25.5 million to $35.5 million, which is the highest level of receipts based size standards. Arguing that SBA's proposed increase to $35.5 million is inadequate and that it would not create a level playing field for small businesses, the commenter suggested increasing it to $150 million. He contended that his business and others with fewer than 500 employees are not dominant and should be able to qualify as small. He argued that SBA's current $25.5 million or proposed $35.5 million size standard for the rental car industry makes it difficult for small businesses to grow and develop and increase their market share. To support his argument, the commenter provided copies of testimony he presented at SBA's June 2005 Public Hearings on Size Standards and previous correspondence with SBA. His comment also included data on the rental car industry from 2000 to 2011, showing the increasing market dominance of the industry by the largest companies and high degree of industry concentration. In addition, the commenter argued that national networks operated by large companies make competition more limited and restrictive for his company and other local competitors.

SBA recognizes that although the proposed $35.5 million size standard would include 98 percent of firms in NAICS 532111 and 93 percent of firms in NAICS 532112, it includes a small percentage of total industry receipts. However, to be consistent with SBA's size standards methodology and with proposed and final rules for other NAICS Sectors that SBA has issued to date, $35.5 million is the highest receipts based size standards that SBA will propose or adopt. Thus, SBA is adopting the $35.5 million size standard for NAICS 532111, Passenger Car Rental and NAICS 532112, Passenger Car Leasing, as proposed.

SBA received a comment from an association representing the U.S. equipment rental industry. The association's comments concerned the proposed size standards for three NAICS codes: NAICS 532310 (General Rental Centers), NAICS 532412 (Construction, Mining and Forestry Machinery and Equipment Rental and Leasing), and NAICS 532490 (Other Commercial and Industrial Machinery and Equipment Rental and Leasing). The association fully supported SBA's proposal to increase the size standard for NAICS 532412 and NAICS 532490 from the current $7 million to $30 million. It also fully supported the SBA's proposal to establish a common $30 million size standard for all industries within NAICS Industry Group 5324, Commercial and Industrial Machinery and Equipment Rental and Leasing. However, the association opposed the SBA's proposal to retain the current $7 million size standard for NAICS 532310 and recommended the same $30 million size standard as proposed for the other two codes. To support its suggestion, the association argued that many rental companies maintain a wide variety of rental goods in their inventories to meet the needs of their customers and that they should be treated equally for SBA's size standards.

The association provided several reasons supporting the proposed increase to the size standard for NAICS 532412 and NAICS 532490. First, as it stated, the equipment rental industry has undergone significant structural changes, thereby warranting a significant increase to the current size standard. Second, as the association pointed out, the equipment rental industry has larger capital requirements and higher barriers to entry than the construction industry, and yet the size standard for most equipment rental industries is only $7 million as compared to $33.5 million for most construction related industries. Third, it added that since equipment rental companies derive a significant portion of their revenue from the construction equipment rental sector, the size standards for the equipment rental industries should be in line with those for construction industries. Fourth, the association noted that small businesses at the current $7 million size standard lack resources and equipment to compete with their larger counterparts and that they will be able to more effectively compete with large companies under the proposed, higher size standard.

SBA recognizes that many companies operating under NAICS 532310 may also be engaging in activities within one or more of the other equipment rental NAICS codes, including NAICS 532412 and NAICS 532490. However, based on the industry and Federal procurement data, there exist significant differences between the companies that are primarily engaged in NAICS 532310, General Rental Centers, and those that are primarily engaged in one of the industries within NAICS Industry Group 5324. For example, companies primarily engaged in industries within NAICS Industry Group 5324 have four times the average revenues and six times the average assets (proxy for start-up costs entry barriers) than companies primarily engaged in NAICS 532310. In addition, during fiscal years 2008 to 2010, Federal contracting dollars averaged less than $5 million for NAICS 532310 as compared to $675 million for industries within NAICS Industry Group 5324.

The association generally supported the five factors SBA evaluates in reviewing a size standard, but suggested giving more weight to average assets size and Federal procurement factor for the equipment rental industry. However, it did not provide any specific values.

For the above reasons, SBA is adopting the proposed $30 million common size standard for all industries within NAICS Industry Group 5324 (including NAICS 532412 and 532490) and the proposed $7 million size standard for NAICS 532310.

A national association representing recreational vehicle rental companies commented on the proposed size standard for NAICS 532120, Truck, Utility Trailer and RV (Recreational Vehicle) Rental and Leasing. SBA had proposed to increase the size standard for NAICS 532120 from $25.5 million to $35.5 million. The association fully supported the proposed increase and noted that this increase is consistent with the $30 million size standard that

SBA adopted for NAICS 441210, Recreational Vehicle Dealers, in 2010. It stated that changes in industry structure since SBA first established a size standard for the RV industry in the 1980s warranted an increase to the current size standard. The association argued that a higher size standard would create opportunity for businesses that have either exceeded or may be about to exceed the current size standard for Federal small business loans and contracts. Accordingly, SBA is adopting the proposed $35.5 million size standard for NAICS 532120.

SBA received two comments on its proposal to increase the size standard for NAICS 531210, Offices of Real Estate Agents and Brokers, from $2 million to $7 million. Both commenters generally supported the SBA's proposed increase to the size standard for NAICS 531210 as it would help small businesses better compete with large businesses, but they recommended a higher increase. Specifically, one commenter recommended at least $19 million, while the other suggested $10 million.

One commenter argued that there is a gap between the current $2 million, or proposed $7 million size standard, and revenues of large real estate brokerage firms receiving Federal contracts, thereby hurting small businesses with revenues above the size standard but way below the size of large firms. The commenter pointed out that the General Services Administration (GSA) recently awarded four prime contracts to large firms with revenues ranging from $225 million to $4 billion, but provided no information on whether those contracts could have been awarded to small businesses if the size standard were much higher than the current $2 million or proposed $7 million. He added that because of the low size standard, many otherwise small businesses must compete with large firms as a large business. As a result, the commenter stated, large brokerage firms continue to increase their Federal market share at the expense of qualified small businesses. The commenter contended that currently GSA does not have small business set aside contracts for real estate brokerage services, because of its perception that companies below the current $2 million size standard are too small to be sufficiently qualified to complete the work. He argued that raising the size standard to $19 million would increase the pool of eligible of small businesses for Federal contracting opportunities and encourage Federal agencies to set aside more contracts for small businesses. The commenter, who suggested a higher $10 million size standard for NAICS 531210, added that small firms must grow much larger to compete with largest firms in the industry, some of which exceed $1 billion in sales.

SBA recognizes that many mid-sized companies face challenges in the Federal market for brokerage and real estate services when they outgrow the size standard. Under the $7 million size standard, more than 98 percent of firms will qualify as small. SBA did not propose a higher standard because it is very concerned that ''smaller'' small firms cannot compete effectively with ''larger'' small businesses for Federal small business contracts when the size standards are too large, such as $19 million or $10 million as suggested by the commenters. SBA is also very aware that the small business share of Federal contracts in NAICS 531210 is very low under the current $2 million size standard. However, SBA estimates that about 5,700 more businesses above the current $2 million threshold will now qualify as small under the $7 million size standard. This will not only provide more opportunities for small businesses and increase small business share in the Federal market, but it will also encourage Federal agencies to set aside more contracts for small businesses because there will be a much larger pool of more qualified small businesses. Small businesses will also be able to grow and still maintain their small business status under the higher $7 million size standard.

One of the commenters argued that raising the size standard for NAICS 531210 to $19 million would make small businesses providing real estate services to the Federal government at par with other professional and property/facility related services, such as Architectural Services (NAICS 541310), Landscape Architectural Services (NAICS 541320), Engineering Services (NAICS 541330), Building Inspection Services (NAICS 541350), Marketing Consulting Services (NAICS 541613), and Advertising Services (NAICS 541810). However, the commenter did not provide any reasons or supporting information on why NAICS 531210 should have the same size standard as these industries. In fact, in the recently published Final Rule, Small Business Size Standards: Professional, Technical, and Scientific Services, SBA adopted the $7 million size standard for NAICS 541310, 541320 and 541350 (*see* 77 FR 7490 (February 10, 2012)).

One commenter suggested continuing the SBA's exclusion of funds received in trust for an unaffiliated third party from the calculation of annual receipts for NAICS 531210. SBA did not propose to discontinue the exclusion of funds received in trust for unaffiliated third parties, and is continuing the exclusion under this rule. In addition, the commenter proposed to add to the exclusion commissions paid to third party brokers, independent contractors, or third party firms. SBA is not adopting this recommendation for two reasons. First, commissions shared with third party brokers, independent contractors, or third party firms are not the same as the funds received in trust for an unaffiliated third party. When brokers or independent contractors work for or with a brokerage firm, the firm earns income by sharing a certain percentage of their commissions. SBA treats commissions paid out to brokers and independent contractors as costs of doing business, similar to subcontractor costs (such as fees paid to a third-party or independent agent), employee based costs (such as wages and payroll taxes), and material costs. For SBA's size standards, receipts means ''total income'' plus ''costs of goods sold.'' The definition of receipts (*see* 13 CFR 121.104) provides a number of exclusions, but ''cost of doing business'' is not one of them. Second, SBA is concerned that very large brokerage firms with hundreds of brokers and contractors may qualify as small if the firms are allowed to exclude commissions paid out to brokers and contractors, thereby causing competitive disadvantage to small firms with fewer brokers and contractors. Thus, SBA is not adopting the commenter's proposal.

For the above reasons, SBA is adopting the $7 million size standard for NAICS 531210, as proposed, and retaining the current definition of receipts without modification.

SBA received no comments on the SBA's proposal to revise size standards for other industries in NAICS Sector 53. SBA also received no comments on its proposal to retain the current size standards where analyses suggested lowering them.

All comments to the proposed rule are available for public review at *http://www.regulations.gov,* using RIN–3245–AG28 or docket number SBA–2011–0020.

Conclusion

Based on the analyses of relevant industry and program data and evaluation of public comments it received on the proposed rule, SBA has decided to increase the small business size standards for the 20 industries and one sub-industry in NAICS Sector 53 to the levels it proposed. Those industries and their revised size standards are

shown in Table 1, Summary of Size Standards Revisions, below.

TABLE 1—SUMMARY OF SIZE STANDARDS REVISIONS

NAICS Codes	NAICS Industry title	Current size standard ($ million)	Revised size standard ($ million)
531110	Lessors of Residential Buildings and Dwellings	$7.0	$25.5
531120	Lessors of Nonresidential Buildings (except Miniwarehouses)	7.0	25.5
531190	Lessors of Other Real Estate Property	7.0	25.5
Except,	Leasing of Building Space to Federal Government by Owners	20.5	35.5
531210	Offices of Real Estate Agents and Brokers	2.0	7.0
531311	Residential Property Managers	2.0	7.0
531312	Nonresidential Property Managers	2.0	7.0
531320	Offices of Real Estate Appraisers	2.0	7.0
531390	Other Activities Related to Real Estate	2.0	7.0
532111	Passenger Car Rental	25.5	35.5
532112	Passenger Car Leasing	25.5	35.5
532120	Truck, Utility Trailer, and RV (Recreational Vehicle) Rental and Leasing	25.5	35.5
532210	Consumer Electronics and Appliances Rental	7.0	35.5
532220	Formal Wear and Costume Rental	7.0	19.0
532230	Video Tape and Disc Rental	7.0	25.5
532291	Home Health Equipment and Rental	7.0	30.0
532411	Commercial, Air, Rail, and Water, Transportation Equipment and Rental	7.0	30.0
532412	Construction, Mining and Forestry Machinery and Equipment Rental and Leasing	12.5	30.0
532420	Office Machinery and Equipment Rental and Leasing	25.5	30.0
532490	Other Commercial, and Industrial Machinery and Equipment Rental and Leasing	7.0	30.0
533110	Lessors of Nonfinancial Intangible Assets (except Copyrighted Works)	7.0	35.5

For the reasons as stated above in this rule and in the proposed rule, SBA has decided to retain the current receipts based size standards for one industry for which analytical results suggested lower size standards. Not lowering size standards in NAICS Sector 53 is consistent with SBA's recent final rules on NAICS Sector 44–45, Retail Trade (75 FR 61597 (October 6, 2010)), NAICS Sector 72, Accommodation and Food Services (75 FR 61604 (October 6, 2010)), NAICS Sector 81, Other Services (75 FR 61591 (October 6, 2010)), NAICS Sector 54, Professional, Scientific and Technical Services (77 FR 7490 (February 10, 2012)), and NAICS Sector 48–49, Transportation and Warehousing (77 FR 10943 (February 24, 2012)). In each of those final rules, SBA adopted its proposal not to reduce small business size standards for the same reasons. SBA is also retaining the existing receipts based size standards for three industries for which the results supported them at their current levels.

Compliance With Executive Orders 12866, 13563, 12988, and 13132, the Paperwork Reduction Act (44 U.S.C., Ch. 35) and the Regulatory Flexibility Act (5 U.S.C. 601–612)

Executive Order 12866

The Office of Management and Budget (OMB) has determined that this final rule is not a ''significant regulatory action'' for purposes of Executive Order 12866. In order to help explain the need for this rule and the rule's potential benefits and costs, SBA is providing a Cost Benefit Analysis in this section of the rule. This is also not a ''major rule'' under the Congressional Review Act, 5 U.S.C. 800.

Cost Benefit Analysis

1. Is there a need for the regulatory action?

SBA believes that the revised changes to small business size standards for 20 industries and one sub-industry in NAICS Sector 53, Real Estate and Rental and Leasing, reflect changes in economic characteristics of small businesses in those industries and the Federal procurement market. SBA's mission is to aid and assist small businesses through a variety of financial, procurement, business development, and advocacy programs. To assist the intended beneficiaries of these programs effectively, SBA establishes distinct definitions to determine which businesses are deemed small businesses. The Small Business Act (15 U.S.C. 632(a)) delegated to the SBA's Administrator the responsibility for establishing definitions for small business. The Act also requires that small business definitions vary to reflect industry differences. The Jobs Act requires the Administrator to review at least one-third of all size standards within each 18-month period from the date of its enactment, and review all size standards at least every five years thereafter. The **SUPPLEMENTARY INFORMATION** section of the May 13, 2011 proposed rule and this rule explained in detail SBA's methodology for analyzing a size standard for a particular industry.

2. What are the potential benefits and costs of this regulatory action?

The most significant benefit to businesses obtaining small business status as a result of this rule is gaining eligibility for Federal small business assistance programs, including SBA's financial assistance programs, economic injury disaster loans, and Federal procurement opportunities intended for small businesses. Federal small business programs provide targeted opportunities for small businesses under SBA's various business development and contracting programs. These include the 8(a), small disadvantaged businesses (SDB), small businesses located in Historically Underutilized Business Zones (HUBZone), women owned small businesses (WOSB), and the service disabled veteran owned small business (SDVOSB) Programs. Other Federal agencies also may use SBA's size standards for a variety of regulatory and program purposes. These programs help small businesses become more knowledgeable, stable, and competitive. In the 20 industries and one sub-industry in NAICS Sector 53 for which SBA has decided to increase size standards, SBA estimates that about 13,000 additional firms will gain small business status and become eligible for

these programs. That number is 5 percent of the total number of firms in industries in NAICS Sector 53 that have receipts based size standards. SBA estimates that this would increase the small business share of total industry receipts in those industries from 27 percent under the current size standards to 39 percent.

The benefits of increasing size standards to a more appropriate level will accrue to three groups: (1) Some businesses that are above the current size standards will gain small business status under the higher size standards, thereby enabling them to participate in Federal small business assistance programs; (2) growing small businesses that are close to exceeding the current size standards will be able to retain their small business status under the higher size standards, thereby enabling them to continue their participation in the programs; and (3) Federal agencies will have a larger pool of small businesses from which to draw for their small business procurement programs.

Based on the data for fiscal years 2008–2010, more than 99 percent of total Federal contracting dollars spent in industries reviewed in this proposed rule were accounted for by the 20 industries and one sub-industry for which SBA is increasing size standards. The SBA estimates that additional firms gaining small business status in those industries under the revised size standards could potentially obtain Federal contracts totaling up to $75 million to $80 million per year under the small business, 8(a), SDB, HUBZone, WOSB, and SDVOSB Programs and other unrestricted procurements. The added competition for many of these procurements may also result in lower prices to the Government for procurements reserved for small businesses, although SBA cannot quantify this benefit.

Under SBA's 7(a) Business Loan and 504 Programs, based on the 2008–2010 data, SBA estimates that approximately 50 to 60 additional loans totaling $15 million to $20 million in new Federal loan guarantees could be made to the newly defined small businesses under the revised size standards. Under the Jobs Act, SBA can now guarantee substantially larger loans than in the past. In addition, the Jobs Act established an alternative size standard for SBA's 7(a) and 504 Loan Programs for those applicants that do not meet the size standards for their industries. That is, under the Jobs Act, if a firm applies for a 7(a) or 504 loan but does not meet the size standard for its industry, it might still qualify if, including its affiliates, it has a tangible net worth that does not exceed $15 million and also has average net income after Federal income taxes (excluding any carry-over losses) for its preceding two completed fiscal years that do not exceed $5 million. Thus, increasing the size standards may result in an increase in small business guaranteed loans to small businesses in these industries, but it would be impractical to try to estimate the extent of their number and the total amount loaned.

Newly defined small businesses will also benefit from SBA's Economic Injury Disaster Loan Program. Since this program is contingent on the occurrence and severity of a disaster, SBA cannot make a meaningful estimate of benefits for future disasters.

To the extent that all 13,000 newly defined small firms under the revised size standards could become active in Federal procurement programs, this may entail some additional administrative costs to the Federal Government associated with additional bidders for Federal small business procurement opportunities, additional firms seeking SBA guaranteed lending programs, additional firms eligible for enrollment in the Central Contractor Registration's Dynamic Small Business Search database and additional firms seeking certification as 8(a) or HUBZone firms or those qualifying for small business, WOSB, SDVOSB, and SDB status. Among businesses in this group seeking SBA assistance, there could be some additional costs associated with compliance and verification of small business status and protests of small business status. These added costs are likely to be minimal because mechanisms are already in place to handle these administrative requirements.

The costs to the Federal Government may be higher on some Federal contracts under the higher revised size standards. With a greater number of businesses defined as small, Federal agencies may choose to set aside more contracts for competition among small businesses rather than using full and open competition. The movement from unrestricted to set-aside contracting will likely result in competition among fewer total bidders, although there will be more small businesses eligible to submit offers. In addition, higher costs may result when additional full and open contracts are awarded to HUBZone businesses because of a price evaluation preference. The additional costs associated with fewer bidders, however, will likely be minor since, as a matter of law, procurements may be set aside for small businesses or reserved for the small business, 8(a), HUBZone, WOSB, or SDVOSB Programs only if awards are expected to be made at fair and reasonable prices.

The revised size standards may have some distributional effects among large and small businesses. Although SBA cannot estimate with certainty the actual outcome of gains and losses among small and large businesses, there are several likely impacts. There may be a transfer of some Federal contracts from large businesses to small businesses. Large businesses may have fewer Federal contract opportunities as Federal agencies decide to set aside more Federal contracts for small businesses. In addition, some agencies may award more Federal contracts to HUBZone concerns instead of large businesses since HUBZone concerns may be eligible for price evaluation adjustments when they compete on full and open bidding opportunities. Similarly, currently defined small businesses may obtain fewer Federal contracts due to the increased competition from more businesses defined as small under the revised size standards. This transfer may be offset by more Federal procurements set aside for all small businesses. The number of newly defined and expanding small businesses that are willing and able to sell to the Federal Government will limit the potential transfer of contracts away from large and small businesses under the existing size standards. The SBA cannot estimate with precision the potential distributional impacts of these transfers.

The revisions to the existing size standards for Sector 53, Real Estate and Rental and Leasing, are consistent with SBA's statutory mandate to assist small business. This regulatory action promotes the Administration's objectives. One of SBA's goals in support of the Administration's objectives is to help individual small businesses succeed through fair and equitable access to capital and credit, Government contracts, and management and technical assistance. Reviewing and modifying size standards, when appropriate, ensures that intended beneficiaries have access to small business programs designed to assist them.

Executive Order 13563

A description of the need for this regulatory action and benefits and costs associated with this action including possible distributions impacts that relate to Executive Order 13563 is included above in the Cost Benefit Analysis.

In an effort to engage interested parties in this action, SBA has presented

its methodology (discussed under **SUPPLEMENTARY INFORMATION** in the proposed rule and this rule) to various industry associations and trade groups. The SBA also met with various industry groups to obtain their feedback on its methodology and other size standards issues. The SBA also presented its size standards methodology to businesses in 13 cities in the U.S. and sought their input as part of the Jobs Act tours. The presentations also included information on the latest status of the comprehensive size standards review and how interested parties can provide SBA with input and feedback on the size standards review.

Additionally, SBA sent letters to the Directors of the Offices of Small and Disadvantaged Business Utilization (OSDBU) at several Federal agencies with considerable procurement responsibilities requesting their feedback on how the agencies use SBA size standards and whether current standards meet their programmatic needs (both procurement and non-procurement). The SBA gave appropriate consideration to all input, suggestions, recommendations, and relevant information obtained from industry groups, individual businesses, and Federal agencies in preparing the proposed rule for Sector 53.

Furthermore, when SBA issued the proposed rule, it provided notice of its publication to individuals and companies that had in recent years exhibited an interest by letter, email, or phone, in size standards for NAICS Sector 53 so they could comment.

The review of size standards in NAICS Sector 53, Real Estate and Rental and Leasing, is consistent with Section 6 of Executive Order 13563 calling for retrospective analyses of existing rules. The last overall review of size standards occurred during the late 1970s and early 1980s. Since then, except for periodic adjustments for monetary based size standards, most reviews of size standards were limited to a few specific industries in response to requests from the public and Federal agencies. The SBA recognizes that changes in industry structure and the Federal marketplace over time have rendered existing size standards for some industries no longer supportable by current data. Accordingly, in 2007, SBA began a comprehensive review of all size standards to ensure that existing size standards have supportable bases and to revise them when necessary. In addition, the Jobs Act directs SBA to conduct a detailed review of all size standards and to make appropriate adjustments to reflect market conditions. Specifically, the Jobs Act requires SBA to conduct a detailed review of at least one-third of all size standards during every 18 month period from the date of its enactment and do a complete review of all size standards not less frequently than once every 5 years thereafter.

Executive Order 12988

This action meets applicable standards set forth in Sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. The action does not have retroactive or preemptive effect.

Executive Order 13132

For purposes of Executive Order 13132, SBA has determined that this final rule will 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. Therefore, SBA has determined that this final rule has no Federalism implications warranting preparation of a Federalism assessment.

Paperwork Reduction Act

For the purpose of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA has determined that this final rule would not impose any new reporting or record keeping requirements.

Final Regulatory Flexibility Analysis

Under the Regulatory Flexibility Act (RFA), this rule may have a significant impact on a substantial number of small entities in NAICS Sector 53, Real Estate and Rental and Leasing. As described above, this rule may affect small entities seeking Federal contracts, SBA's 7(a) and 504 Guaranteed Loans, SBA's Economic Injury Disaster Loans, and various small business benefits under other Federal programs.

Immediately below, SBA sets forth a final regulatory flexibility analysis of this final rule addressing the following questions: (1) What are the need for and objective of the rule? (2) What are SBA's description and estimate of the number of small entities to which the rule will apply? (3) What are the projected reporting, record keeping, and other compliance requirements of the rule? (4) What are the relevant Federal rules which may duplicate, overlap or conflict with the rule? and (5) What alternatives will allow the Agency to accomplish its regulatory objectives while minimizing the impact on small entities?

(1) What are the need for and objective of the rule?

Most of SBA's size standards for the Real Estate and Rental and Leasing industries had not been reviewed since the 1980s. Technological changes, productivity growth, international competition, mergers and acquisitions and updated industry definitions may have changed the structure of many industries in that Sector. Such changes can be sufficient to support a revision to size standards for some industries. Based on the analysis of the latest industry and program data available, SBA believes that the revised standards in this rule more appropriately reflect the size of businesses in those industries that need Federal assistance. Additionally, the Jobs Act requires SBA to review all size standards and make appropriate adjustments to reflect current data and market conditions.

(2) What are SBA's description and estimate of the number of small entities to which the rule will apply?

The SBA estimates that approximately 13,000 additional firms will become small because of increases in size standards in 20 industries and one sub-industry in NAICS Sector 53. That represents 5 percent of total firms in industries in that Sector that have receipts based size standards. This will result in an increase in the small business share of total industry receipts in those industries from about 27 percent under the current size standards to nearly 39 percent under the revised size standards. The SBA does not anticipate a significant competitive impact on smaller businesses in these industries. The revised size standards will enable more small businesses to retain their small business status for a longer period. Under current size standards, many small businesses may have lost their eligibility or found it difficult to compete with companies that are significantly larger than they are and this final rule attempts to correct that impact. The SBA believes these changes will have a positive impact for existing small businesses and for those that have either exceeded or are about to exceed current size standards.

(3) What are the projected reporting, record keeping, and other compliance requirements of the rule and an estimate of the classes of small entities which will be subject to the requirements?

Revising size standards does not impose any additional reporting or record keeping requirements on small entities. However, qualifying for Federal procurement and a number of other

Federal programs requires that entities register in the Central Contractor Registration (CCR) database and certify at least annually that they are small in the Online Representations and Certifications Application (ORCA). Therefore, businesses opting to participate in those programs must comply with CCR and ORCA requirements. There are no costs associated with either CCR registration or ORCA certification. Revising size standards alters the access to SBA programs that are designed to assist small businesses, but does not impose a regulatory burden as they neither regulate nor control business behavior.

(4) What are the relevant Federal rules which may duplicate, overlap, or conflict with the rule?

Under section 3(a)(2)(C) of the Small Business Act, 15 U.S.C. 632(a)(2)(c), Federal agencies must use SBA's size standards to define a small business, unless specifically authorized by statute. In 1995, SBA published in the **Federal Register** a list of statutory and regulatory size standards that identified the application of SBA's size standards as well as other size standards used by Federal agencies (60 FR 57988 (November 24, 1995)). SBA is not aware of any Federal rule that would duplicate or conflict with establishing or revising size standards.

However, the Small Business Act and SBA's regulations allow Federal agencies to develop different size standards if they believe that SBA's size standards are not appropriate for their programs, with the approval of SBA's Administrator (*see* 13 CFR 121.903). The Regulatory Flexibility Act authorizes an agency to establish an alternative small business definition after consultation with the Office of Advocacy of the U.S. Small Business Administration (5 U.S.C. 601(3)).

(5) What alternatives will allow the Agency to accomplish its regulatory objectives while minimizing the impact on small entities?

By law, SBA is required to develop numerical size standards for establishing eligibility for Federal small business assistance programs. Other than varying size standards by industry and changing the size measures, no practical alternative exists to the existing system of numerical size standards.

List of Subjects in 13 CFR Part 121

Administrative practice and procedure, Government procurement, Government property, Grant programs—business, Individuals with disabilities, Loan programs—business, Reporting and recordkeeping requirements, Small businesses.

For reasons set forth in the preamble, SBA amends 13 CFR part 121 as follows:

PART 121—SMALL BUSINESS SIZE REGULATIONS

■ 1. The authority citation for Part 121 continues to read as follows:

Authority: 15 U.S.C. 632, 634(b)(6), 662, and 694a(9).

■ 2. In § 121.201, amend the table ''Small Business Size Standards by NAICS Industry'' as follows:

■ a. Under the heading Sector 53 Real Estate and Rental and Leasing, revise the entries for ''531110'', ''531120'', ''531190'', ''Except'', ''531210'', ''531311'', ''531312'', ''531320'', ''531390'', ''532111'', ''532112'', ''532120'', ''532210'', ''532220'', ''532230'', ''532291'', ''532411'', ''532412'', ''532420'', ''532490'', and ''533110'' to read as follows:

■ b. Revise footnote 9 as shown below after the table.

§ 121.201. What size standards has SBA identified by North American Industry Classification System codes?

* * * * *

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY

NAICS Codes	NAICS U.S. Industry title	Size standards in millions of dollars	Size standards in number of employees
*	* * * * *	*	*
531110	Lessors of Residential Buildings and Dwellings	$25.5	
531120	Lessors of Nonresidential Buildings (except Miniwarehouses)	25.5	
*	* * * * *	*	*
531190	Lessors of Other Real Estate Property	25.5	
Except,	Leasing of Building Space to Federal Government by Owners [9]	[9] 35.5	
531210	Offices of Real Estate Agents and Brokers[10]	[10] 7.0	
531311	Residential Property Managers	7.0	
531312	Nonresidential Property Managers	7.0	
531320	Offices of Real Estate Appraisers	7.0	
531390	Other Activities Related to Real Estate	7.0	
*	* * * * *	*	*
532111	Passenger Car Rental	35.5	
532112	Passenger Car Leasing	35.5	
532120	Truck, Utility Trailer, and RV (Recreational Vehicle) Rental and Leasing	35.5	
532210	Consumer Electronics and Appliances Rental	35.5	
532220	Formal Wear and Costume Rental	19.0	
532230	Video Tape and Disc Rental	25.5	
532291	Home Health Equipment Rental	30.0	
*	* * * * *	*	*
532411	Commercial Air, Rail, and Water Transportation Equipment Rental and Leasing	30.0	
532412	Construction, Mining and Forestry Machinery and Equipment Rental and Leasing	30.0	
532420	Office Machinery and Equipment Rental and Leasing	30.0	
532490	Other Commercial and Industrial Machinery and Equipment Rental and Leasing	30.0	

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS Codes	NAICS U.S. Industry title	Size standards in millions of dollars	Size standards in number of employees
*	* * * * *		*
533110	Lessors of Nonfinancial Intangible Assets (except Copyrighted Works)	35.5	
*	* * * * *		*

* * * * *

Footnotes

* * * * *

9. NAICS code 531190—Leasing of building space to Federal Government by Owners: For Government procurement, a size standard of $35.5 million in gross receipts applies to the owners of building space leased to the Federal Government. The standard does not apply to an agent.

* * * * *

Dated: June 22, 2012.

Karen G. Mills,

Administrator.

[FR Doc. 2012–23389 Filed 9–21–12; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

RIN 3245–AG30

Small Business Size Standards: Health Care and Social Assistance

AGENCY: U.S. Small Business Administration.

ACTION: Final rule.

SUMMARY: The United States Small Business Administration (SBA) is increasing the small business size standards for 28 industries in North American Industry Classification System (NAICS) Sector 62, Health Care and Social Assistance, and retaining the current standards for the remaining 11 industries in that Sector. As part of its ongoing comprehensive review of all size standards, SBA evaluated every industry in NAICS Sector 62 to determine whether the existing size standards should be retained or revised.

DATES: This rule is effective October 24, 2012.

FOR FURTHER INFORMATION CONTACT: Jorge Laboy-Bruno, Economist, Size Standards Division, by phone at (202) 205–6618 or by email at *sizestandards@sba.gov.*

SUPPLEMENTARY INFORMATION:

Introduction

To determine eligibility for Federal small business assistance programs, SBA establishes small business size definitions (referred to as size standards) for private sector industries in the United States. SBA's existing size standards use two primary measures of business size—average annual receipts and number of employees. Financial assets, electric output and refining capacity are used as size measures for a few specialized industries. In addition, SBA's Small Business Investment Company (SBIC), 7(a), and the Certified Development Company (CDC or 504) Loan Programs determine small business eligibility using either the industry based size standards or alternative net worth and net income based size standards. At the start of the current comprehensive SBA's size standards review, there were 41 different size levels, covering 1,141 NAICS industries and 18 sub-industry activities (*i.e.,* ''exceptions'' in SBA's table of size standards). Of these, 31 were based on average annual receipts, seven based on number of employees, and three based on other measures.

Over the years, SBA has received comments that its size standards have not kept up with changes in the economy, in particular the changes in the Federal contracting marketplace and industry structure. The last comprehensive review of size standards occurred during the late 1970s and early 1980s. Since then, most reviews of size standards were limited to a few specific industries in response to requests from the public and Federal agencies. SBA also makes periodic inflation adjustments to its monetary based size standards. The latest inflation adjustment to size standards was published in the **Federal Register** on July 18, 2008 (73 FR 41237).

SBA recognizes that changes in industry structure and the Federal marketplace since the last overall review have rendered existing size standards for some industries no longer supportable by current data. Accordingly, in 2007, SBA began a comprehensive review of its size standards to determine whether existing size standards have supportable bases relative to the current data, and to revise them, where necessary.

In addition, on September 27, 2010, the President of the United States signed the Small Business Jobs Act of 2010 (Jobs Act). The Jobs Act directs SBA to conduct a detailed review of all size standards and to make appropriate adjustments to reflect market conditions. Specifically, the Jobs Act requires SBA to conduct a detailed review of at least one-third of all size standards during every 18-month period from the date of its enactment and review all size standards not less frequently than once every 5 years thereafter. Reviewing existing small business size standards and making appropriate adjustments based on current data is also consistent with Executive Order 13563 on improving regulation and regulatory review.

Rather than review all size standards at one time, SBA is reviewing a group of related industries on a Sector by Sector basis.

As part of SBA's comprehensive review of size standards, the Agency evaluated every industry in NAICS Sector 62, Health Care and Social Assistance, to determine whether the existing size standards should be retained or revised. On February 24, 2012, SBA published a proposed rule in the **Federal Register** (77 FR 11001) seeking public comment on its proposal to increase the size standards for 28 industries in that Sector. The comment period ended on April 24, 2012.

SBA has recently developed a ''Size Standards Methodology'' for establishing, reviewing and modifying size standards, where necessary. SBA has published the document on its Web site at *www.sba.gov/size* for public review and comment and also included it as a supporting document in the electronic docket of the February 24, 2012 proposed rule at *www.regulations.gov.*

In evaluating an industry's size standard, SBA examines its characteristics (such as average firm size, startup costs, industry competition, and distribution of firms by size) and the level and small business share of

Federal contract dollars in that industry. SBA also examines the potential impact a size standard revision might have on its financial assistance programs and whether a business concern under a revised size standard would be dominant in its industry. SBA analyzed the characteristics of each industry in NAICS Sector 62, mostly using a special tabulation obtained from the U.S. Bureau of the Census from its 2007 Economic Census (the latest available). SBA also evaluated the level and small business share of Federal contract dollars in each of those industries using the data from the Federal Procurement Data System—Next Generation (FPDS–NG) for fiscal years 2008 to 2010. To evaluate the impact of changes to size standards on its loan programs, SBA analyzed internal data on its guaranteed loan programs for fiscal years 2008 to 2010.

SBA's ''Size Standards Methodology'' provides a detailed description of analyses of various industry and program factors and data sources, and how the Agency uses the results to derive size standards. In the proposed rule, SBA detailed how it applied its ''Size Standards Methodology'' to review, and modify, where necessary, the existing standards for industries in NAICS Sector 62. SBA sought comments from the public on a number of issues about its ''Size Standards Methodology,'' such as whether there are alternative methodologies that SBA should consider; whether there are alternative or additional factors or data sources that SBA should evaluate; whether SBA's approach to establishing small business size standards makes sense in the current economic environment; whether SBA's application of anchor size standards is appropriate in the current economy; whether there are gaps in SBA's methodology because of the lack of comprehensive data; and whether there are other facts or issues that SBA should consider.

In the proposed rule, SBA sought comments on its proposal to increase the size standards for 28 industries and retain the existing size standards for the remaining 11 industries in Sector 62. Specifically, SBA requested comments on whether the size standards should be revised as proposed and whether the proposed revisions are appropriate. SBA also invited comments on whether its proposed eight fixed size standard levels are appropriate and whether it should adopt common size standards for certain Industry Groups and Subsectors in NAICS Sector 62.

SBA's analyses could allow lowering existing size standards for two industries in NAICS Sector 62, should the Agency choose to do so. However, as SBA explained in the proposed rule, lowering size standards would reduce the number of firms eligible to participate in Federal small business assistance programs and would be counter to what the Federal government and SBA are doing to help small businesses and create jobs. Therefore, SBA proposed to retain the current size standards for those industries and requested comments on whether the Agency should lower size standards for those two industries for which its analyses might support lowering them.

Summary of Comments

SBA received only one response to the proposed rule. The respondent asked what the fine is for a firm that performs sterilization procedures and does not use an autoclave to sterilize. The question does not address or relate to the size standards changes that SBA proposed for NAICS Sector 62, Health Care and Social Assistance. The regulations or guidelines governing sterilization procedures are beyond the purview of SBA and hence this proposed rule. Thus, SBA is not making any adjustment to proposed size standards based on this comment.

The comment to the proposed rule is available for public review at *http://www.regulations.gov, using RIN 3245–AG30 or docket number SBA–2012–0003.*

Conclusion

Based on the analyses of relevant industry and program data and no public comments against the proposed rule, SBA has decided to increase the small business size standards for the 28 industries in NAICS Sectors 62, as proposed. The revised size standards are shown in Table 1, Summary of Revised Size Standards in NAICS Sector 62, below.

TABLE 1—SUMMARY OF REVISED SIZE STANDARDS IN NAICS SECTOR 62

NAICS Codes	NAICS Industry title	Current size standard ($ million)	Revised size standard ($ million)
621420	Outpatient Mental Health and Substance Abuse Centers	$10.0	$14.0
621491	HMO Medical Centers	10.0	30.0
621492	Kidney Dialysis Centers	34.5	35.5
621493	Freestanding Ambulatory Surgical and Emergency Centers	10.0	14.0
621498	All Other Outpatient Care Centers	10.0	19.0
621511	Medical Laboratories	13.5	30.0
621512	Diagnostic Imaging Centers	13.5	14.0
621610	Home Health Care Services	13.5	14.0
621910	Ambulance Services	7.0	14.0
621991	Blood and Organ Banks	10.0	30.0
621999	All Other Miscellaneous Ambulatory Health Care Services	10.0	14.0
622110	General Medical and Surgical Hospitals	34.5	35.5
622210	Psychiatric and Substance Abuse Hospitals	34.5	35.5
622310	Specialty (except Psychiatric and Substance Abuse) Hospitals	34.5	35.5
623110	Nursing Care Facilities (Skilled Nursing Facilities)	13.5	25.5
623210	Residential Intellectual and Developmental Disability Facilities	10.0	14.0
623220	Residential Mental Health and Substance Abuse Facilities	7.0	14.0
623311	Continuing Care Retirement Communities	13.5	25.5
623312	Assisted Living Facilities for the Elderly	7.0	10.0
623990	Other Residential Care Facilities	7.0	10.0
624110	Child and Youth Services	7.0	10.0
624120	Services for the Elderly and Persons with Disabilities	7.0	10.0
624190	Other Individual and Family Services	7.0	10.0
624210	Community Food Services	7.0	10.0
624221	Temporary Shelters	7.0	10.0

TABLE 1—SUMMARY OF REVISED SIZE STANDARDS IN NAICS SECTOR 62—Continued

NAICS Codes	NAICS Industry title	Current size standard ($ million)	Revised size standard ($ million)
624229	Other Community Housing Services	7.0	14.0
624230	Emergency and Other Relief Services	7.0	30.0
624310	Vocational Rehabilitation Services	7.0	10.0

For the reasons as stated above in this rule and in the proposed rule, SBA is retaining the current size standards for the two industries for which analytical results suggested the Agency could lower. This is consistent with SBA's recent final rules on NAICS Sector 44–45, Retail Trade (75 FR 61597 (October 6, 2010)), NAICS Sector 72, Accommodation and Food Services (75 FR 61604 (October 6, 2010)), NAICS Sector 81, Other Services (75 FR 61591 (October 6, 2010)), NAICS Sector 54, Professional, Scientific and Technical Services (77 FR 7490 (February 10, 2012)), and NAICS Sector 48–49, Transportation and Warehousing (77 FR 10943 (February 24, 2012)). In each of those final rules, SBA retained the existing size standards for those that it could have reduced. SBA is also retaining the existing size standards for the nine industries in NAICS Sector 62 for which the results supported their current levels.

Compliance With Executive Orders 12866, 13563, 12988, and 13132, the Paperwork Reduction Act (44 U.S.C. Ch. 35), and the Regulatory Flexibility Act (5 U.S.C. 601–612)

Executive Order 12866

The Office of Management and Budget (OMB) has determined that this final rule is not a ''significant regulatory action for purposes of Executive Order 12866. In order to help explain the need for this rule and the rule's potential benefits and costs, SBA is providing a Cost Benefit Analysis in this section of the rule. This is also not a ''major rule'' under the Congressional Review Act (5 U.S.C. 801)

Cost Benefit Analysis

1. Is there a need for the regulatory action?

SBA believes that the revised changes to small business size standards for 28 industries in NAICS Sector 62, Health Care and Social Assistance, reflect the changes in economic characteristics of small businesses and the Federal procurement market. SBA's mission is to aid and assist small businesses through a variety of financial, procurement, business development, and advocacy programs. To assist the intended beneficiaries of these programs, SBA establishes distinct definitions to determine which businesses are deemed small. The Small Business Act delegates to SBA's Administrator the responsibility for establishing small business size definitions (15 U.S.C. 632(a)). The Act also requires that small business size definitions vary to reflect industry differences. The Jobs Act requires the Administrator to review at least one-third of all size standards within each 18-month period from the date of its enactment, and review all size standards at least every five years thereafter. The supplementary information sections of the February 24, 2012 proposed rule and this final rule explained in detail SBA's methodology for analyzing a size standard for a particular industry.

2. What are the potential benefits and costs of this regulatory action?

The most significant benefit to businesses obtaining small business status because of this rule is gaining eligibility for Federal small business assistance programs. These include SBA's financial assistance programs and Federal procurement programs reserved for small businesses. Federal small business programs provide targeted opportunities for small businesses under SBA's business development programs, such as 8(a), Small Disadvantaged Businesses (SDB), small businesses located in Historically Underutilized Business Zones (HUBZone), women-owned small businesses (WOSB), and service-disabled veteran-owned small businesses (SDVOSB). Other Federal agencies may also use SBA's size standards for a variety of regulatory and program purposes. These programs assist small businesses to become more knowledgeable, stable, and competitive. In the 28 industries in NAICS Sector 62 for which SBA has increased size standards, SBA estimates that more than 4,100 additional firms will obtain small business status and become eligible for these programs. That is about 0.7 percent of the total number of firms that are classified as small under the current standards in all industries within NAICS Sector 62. SBA estimates this will increase the small business share of total industry receipts in all industries within NAICS Sector 62 from about 30 percent under the current size standards to nearly 32 percent.

Three groups will benefit from the revised size standards in NAICS Sector 62 in the following ways: (1) Some businesses that are above the current size standards may gain small business status under the higher size standards, thereby enabling them to participate in Federal small business assistance programs; (2) growing small businesses that are close to exceeding the current size standards will be able to retain their small business status under the higher size standards, thereby enabling them to continue their participation in the programs; and (3) Federal agencies will have a larger pool of small businesses from which to draw for their small business procurement programs.

During fiscal years 2008 to 2010, about 66 percent of Federal contracting dollars spent in industries in NAICS Sector 62 were accounted for by the 28 industries for which SBA has increased size standards. SBA estimates that additional firms gaining small business status in those industries under the revised size standards could potentially obtain Federal contracts totaling up to $25 million to $30 million annually under SBA's small business, 8(a), SDB, HUBZone, WOSB, and SDVOSB Programs, and other unrestricted procurements. The added competition for many of these procurements can also result in lower prices to the Government for procurements reserved for small businesses, although SBA cannot quantify this benefit.

Under SBA's 7(a) and 504 Loan Programs, based on the data for fiscal years 2008 to 2010 data, SBA estimates about 35 to 45 additional loans totaling about $11 million to $15 million in Federal loan guarantees could be made to these newly defined small businesses under the proposed standards. Under the Jobs Act, SBA can now guarantee substantially larger loans than in the past. In addition, as described above, the Jobs Act established an alternative size standard ($15 million in tangible net worth and $5 million in net income

after income taxes) for business concerns that do not meet the size standards for their industry. Thus, increasing the size standards will likely result in more small business guaranteed loans to businesses in these industries, but it would be impractical to try to estimate the extent of their number and the total amount loaned.

Newly defined small businesses will also benefit from SBA's Economic Injury Disaster Loan (EIDL) Program. Since this program is contingent on the occurrence and severity of one or more disasters, SBA cannot make a meaningful estimate of future EIDL benefits.

To the extent that all 4,100 newly defined additional small firms under the revised size standards become active in Federal procurement programs, there may be some additional administrative costs to the Federal Government associated with additional bidders for Federal small business procurement opportunities. In addition, there will be new firms seeking SBA's guaranteed loans, more firms eligible for enrollment in the Central Contractor Registration's Dynamic Small Business Search database, and more firms seeking certification as 8(a) or HUBZone forms or those qualifying for small business, WOSB, SDVOSB, and SDB status. Among businesses seeking SBA's assistance, there could be some additional costs associated with compliance and verification of small business status and protests of small business status. These added costs are likely to be minimal because mechanisms are already in place to handle these administrative requirements.

The costs to the Federal Government may be higher on some Federal contracts under the higher revised size standards. With a greater number of businesses defined as small, Federal agencies may choose to set aside more contracts for competition among small businesses rather than using full and open competition. The movement from unrestricted to set-aside contracting might result in competition among fewer total bidders, although there will be more small businesses eligible to submit offers. In addition, higher costs may result when more full and open contracts are awarded to HUBZone businesses because of a price evaluation preference. The additional costs associated with fewer bidders, however, will likely be minor since, as a matter of law, procurements may be set aside for small businesses or reserved for the small business, 8(a), HUBZone, WOSB, or SDVOSB Programs only if awards are expected to be made at fair and reasonable prices.

The revised size standards may have some distributional effects among large and small businesses. Although SBA cannot estimate with certainty the actual outcome of the gains and losses among small and large businesses, there are several likely impacts. There may be a transfer of some Federal contracts to small businesses from large businesses. Large businesses may have fewer Federal contract opportunities as Federal agencies decide to set aside more Federal contracts for small businesses. In addition, some Federal agencies may award more Federal contracts to HUBZone concerns instead of large businesses since HUBZone concerns may be eligible for price evaluation adjustments when they compete on full and open bidding opportunities. Similarly, currently defined small businesses may obtain fewer Federal contracts due to the increased competition from more businesses defined as small under the revised size standards. This transfer may be offset by more Federal procurements set aside for all small businesses. The number of newly defined and expanding small businesses that are willing and able to sell to the Federal Government will limit the potential transfer of contracts away from large and small businesses under the existing size standards. SBA cannot estimate with precision the potential distributional impacts of these transfers.

The revisions to the existing size standards in NAICS Sector 62, Health Care and Social Assistance, are consistent with SBA's statutory mandate to assist small business. This regulatory action promotes the Administration's objectives. One of SBA's goals in support of the Administration's objectives is to help individual small businesses succeed through fair and equitable access to capital and credit, Government contracts, and management and technical assistance. Reviewing and modifying size standards, when appropriate, ensures that intended beneficiaries have access to small business programs designed to assist them.

Executive Order 13563

A description of the need for this regulatory action and benefits and costs associated with this action including possible distributional impacts that relate to Executive Order 13563 are included above in the Cost Benefit Analysis.

In an effort to engage interested parties in this action, SBA has presented its methodology (discussed above under Supplementary Information) to various industry associations and trade groups. SBA also met with various industry groups to get their feedback on its methodology and other size standards issues. In addition, SBA presented its size standards methodology to businesses in 13 cities in the U.S. and sought their input as part of the Jobs Act tours. The presentation also included information on the latest status of the comprehensive size standards review and how interested parties can provide SBA with input and feedback on the size standards review.

Furthermore, when SBA issued the proposed rule, it provided notice of its publication to individuals and companies that had in recent years exhibited an interest by letter, email, or phone, in size standards for NAICS Sector 62 so they could comment.

Additionally, SBA sent letters to the Directors of the Offices of Small and Disadvantaged Business Utilization (OSDBU) at several Federal agencies with considerable procurement responsibilities requesting their feedback on how the agencies use SBA size standards and whether current standards meet their programmatic needs (both procurement and non-procurement). SBA gave appropriate consideration to all input, suggestions, recommendations, and relevant information obtained from industry groups, individual businesses, and Federal agencies in preparing the proposed rule and this final rule for NAICS Sector 62.

The review of size standards in NAICS Sector 62, Health Care and Social Assistance, is consistent with Executive Order 13563, Section 6, calling for retrospective analyses of existing rules. The last overall review of size standards occurred during the late 1970s and early 1980s. Since then, except for periodic adjustments for monetary based size standards, most reviews of size standards were limited to a few specific industries in response to requests from the public and Federal agencies. SBA recognizes that changes in industry structure and the Federal marketplace since the last overall review have rendered existing size standards for some industries no longer supportable by current data. Accordingly, in 2007, SBA began a comprehensive review of all size standards to ensure that existing size standards have supportable bases and to revise them, where necessary. In addition, the Jobs Act requires SBA to conduct a detailed review of all size standards and to make appropriate adjustments to reflect market conditions. Specifically, the Jobs Act requires SBA to conduct a detailed review of at least one-third of all size

standards during every 18-month period from the date of its enactment and review all size standards not less frequently than once every 5 years thereafter.

Executive Order 12988

This action meets applicable standards set forth in Sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. The action does not have retroactive or preemptive effect.

Executive Order 13132

For the purposes of Executive Order 13132, SBA has determined that this final rule will 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. Therefore, SBA has determined that this final rule has no Federalism implications warranting preparation of a Federalism assessment.

Paperwork Reduction Act

For the purposes of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA has determined that this final rule will not impose any new reporting or record keeping requirements.

Final Regulatory Flexibility Analysis

Under the Regulatory Flexibility Act (RFA), this final rule may have a significant impact on a substantial number of small entities in NAICS Sector 62, Health Care and Social Assistance. As described above, this rule may affect small entities seeking Federal contracts, SBA's 7(a), 504 and economic injury disaster loans, and various small business benefits under other programs.

Immediately below, SBA sets forth a final regulatory flexibility analysis (RFA) of this final rule addressing the following questions: (1) What are the need for and objective of the rule? (2) What are SBA's description and estimate of the number of small businesses to which the rule will apply? (3) What are the projected reporting, record keeping, and other compliance requirements of the rule? (4) What are the relevant Federal rules that may duplicate, overlap, or conflict with the rule? and (5) What alternatives will allow the Agency to accomplish its regulatory objectives while minimizing the impact on small entities?

1. What are the need for and objective of the rule?

Although size standards for three Subsectors of NAICS 62 (NAICS Subsector 621, Ambulatory Health Care Services; NAICS Subsector 622, Hospitals; and NAICS Subsector 623, Nursing and Residential Care Facilities) were reviewed during 1999–2000, size standards for NAICS Subsector 624, Social Assistance, which includes nine industries, have not been reviewed since the early 1980s. Changes in industry structure, technological changes, productivity growth, mergers and acquisitions, and updated industry definitions may have changed the structure of many industries within NAICS Sector 62. Such changes can be sufficient to support revisions to current size standards for some industries. Based on the analysis of the latest data available, SBA believes that the revised size standards in this final rule more appropriately reflect the size of businesses in those industries that need Federal assistance. Additionally, the Jobs Act requires SBA to review all size standards and make appropriate adjustments to reflect current data and market conditions.

2. What are SBA's description and estimate of the number of small entities to which the rule will apply?

SBA estimates that more than 4,100 additional firms will become small because of increases in size standards in 28 industries in NAICS Sector 62. That represents 0.7 percent of total firms that are small under current size standards in all industries within that Sector. This will result in an increase in the small business share of total industry receipts for the Sector from about 30 percent under the current size standard to nearly 32 percent under the proposed standards. The revised size standards will enable more small businesses to retain their small business status for a longer period. Many have lost their eligibility and find it difficult to compete at current size standards with companies that are significantly larger than they are. SBA believes the competitive impact will be positive for existing small businesses and for those that exceed the size standards but are on the very low end of those that are not small. They might otherwise be called or referred to as mid-sized businesses, although SBA only defines what is small; other entities are other than small.

3. What are the projected reporting, record keeping and other compliance requirements of the rule?

Revising size standards does not impose any additional reporting or record keeping requirements on small entities. However, qualifying for Federal procurement and a number of other programs requires that entities register in the Central Contractor Registration (CCR) database and certify at least once annually that they are small in the Online Representations and Certifications Application (ORCA). Therefore, businesses opting to participate in those programs must comply with CCR and ORCA requirements. There are no costs associated with either CCR registration or ORCA certification. Revising size standards alters the access to Federal programs that assist small businesses, but does not impose a regulatory burden as they neither regulate nor control business behavior.

4. What are the relevant Federal rules which may duplicate, overlap, or conflict with the rule?

Under § 3(a)(2)(C) of the Small Business Act, 15 U.S.C. 632(a)(2)(c), Federal agencies must use SBA's size standards to define a small business, unless specifically authorized by statute to do otherwise. In 1995, SBA published in the **Federal Register** a list of statutory and regulatory size standards that identified the application of SBA's size standards as well as other size standards used by Federal agencies (60 FR 57988 (November 24, 1995)). SBA is not aware of any Federal rule that would duplicate or conflict with establishing size standards.

However, the Small Business Act and SBA's regulations allow Federal agencies to develop different size standards if they believe that SBA's size standards are not appropriate for their programs, with the approval of SBA's Administrator (13 CFR 121.903). The Regulatory Flexibility Act authorizes an Agency to establish an alternative small business definition, after consultation with the Office of Advocacy of the U.S. Small Business Administration (5 U.S.C. 601(3)).

5. What alternatives will allow the Agency to accomplish its regulatory objectives while minimizing the impact on small entities?

By law, SBA is required to develop numerical size standards for establishing eligibility for Federal small business assistance programs. Other than varying size standards by industry and changing the size measures, no

practical alternative exists to the existing system of numerical size standards. The possible alternative size standards considered for the individual industries within NAICS Sector 62 are discussed in the supplementary information to the proposed rule and this final rule.

List of Subjects in 13 CFR Part 121

Administrative practice and procedure, Government procurement, Government property, Grant programs—business, Individuals with disabilities, Loan programs—business, Reporting and recordkeeping requirements, Small businesses.

For the reasons set forth in the preamble, SBA amends 13 CFR Part 121 as follows:

PART 121—SMALL BUSINESS SIZE REGULATIONS

■ 1. The authority citation for Part 121 continues to read as follows:

Authority: 15 U.S.C. 632, 634(b)(6), 636(b), 662, and 694a(9).

■ 2. In § 121.201, in the table, revise the entries for ''621420'', ''621491'', ''621492'', ''621493'', ''621498'', ''621511'', ''621512'', ''621610'', ''621910'', ''621991'', ''621999'', ''622110'', ''622210'', ''622310'', ''623110'', ''623210'', ''623220'', ''623311'', ''623312'', ''623990'', ''624110'', ''624120'', ''624190'', ''624210'', ''624221'', ''624229'', ''624230'', and ''624310'' to read as follows:

§ 121.201 What size standards has SBA identified by North American Industry Classification System codes?

* * * * *

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY

NAICS Codes	NAICS U.S. Industry title	Size standards in millions of dollars	Size standards in number of employees
*	* * * * *	*	*
621420	Outpatient Mental Health and Substance Abuse Centers	$14.0	
621491	HMO Medical Centers	30.0	
621492	Kidney Dialysis Centers	35.5	
621493	Freestanding Ambulatory Surgical and Emergency Centers	14.0	
621498	All Other Outpatient Care Centers	19.0	
621511	Medical Laboratories	30.0	
621512	Diagnostic Imaging Centers	14.0	
621610	Home Health Care Services	14.0	
621910	Ambulance Services	14.0	
621991	Blood and Organ Banks	30.0	
621999	All Other Miscellaneous Ambulatory Health Care Services	14.0	
*	* * * * *	*	*
622110	General Medical and Surgical Hospitals	35.5	
622210	Psychiatric and Substance Abuse Hospitals	35.5	
622310	Specialty (except Psychiatric and Substance Abuse) Hospitals	35.5	
*	* * * * *	*	*
623110	Nursing Care Facilities (Skilled Nursing Facilities)	25.5	
623210	Residential Intellectual and Developmental Disability Facilities	14.0	
623220	Residential Mental Health and Substance Abuse Facilities	14.0	
623311	Continuing Care Retirement Communities	25.5	
623312	Assisted Living Facilities for the Elderly	10.0	
623990	Other Residential Care Facilities	10.0	
*	* * * * *	*	*
624110	Child and Youth Services	10.0	
624120	Services for the Elderly and Persons with Disabilities	10.0	
624190	Other Individual and Family Services	10.0	
624210	Community Food Services	10.0	
624221	Temporary Shelters	10.0	
624229	Other Community Housing Services	14.0	
624230	Emergency and Other Relief Services	30.0	
624310	Vocational Rehabilitation Services	10.0	
*	* * * * *	*	*

Dated: September 14, 2012.

Karen G. Mills,

Administrator.

[FR Doc. 2012–23394 Filed 9–21–12; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0638; Directorate Identifier 2011–NM–266–AD; Amendment 39–17201; AD 2012–19–06]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) all Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135 airplanes, and Model EMB–145, –145ER, –145MR, –145LR, –145MP, and –145EP airplanes. This AD was prompted by a report of a lightning strike hitting an airplane tail boom causing certain rear bulkhead parts to jam an elevator control rod. This AD requires installing or reworking, as applicable, metallic diverters and aluminum sheets; modifying the light assembly on the tail boom rear movable fairing; and replacing the hood assembly with a new hood assembly and rerouting its electrical harness. We are issuing this AD to prevent lightning strikes from causing certain parts to contact the airplane pitch control system, which could reduce airplane controllability.

DATES: This AD becomes effective October 29, 2012.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of October 29, 2012.

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

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–1175; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on June 18, 2012 (77 FR 36224). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> [A] lightning strike event hitting the airplane tail boom [caused certain rear bulkhead parts to jam an elevator control rod] * * *. The lack of the appropriate protection against lightning strike effects [could cause certain parts to contact the airplane pitch control system, which could reduce airplane controllability.]
>
> * * * * *

The required actions include installing or reworking, as applicable, metallic diverters and aluminum sheets; modifying the light assembly on the tail boom rear movable fairing; and replacing the hood assembly with a new hood assembly and rerouting its electrical harness. You may obtain further information by examining the MCAI in the AD docket.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (77 FR 36224, June 18, 2012) or on the determination of the cost to the public.

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed.

Costs of Compliance

Based on the service information, we estimate that this AD will affect about 668 products of U.S. registry. We also estimate that it will take about 12 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $2,507 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the AD on U.S. operators to be $2,356,036, or $3,527 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM (77 FR 36224, June 18, 2012), the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2012–19–06 Empresa Brasileira de Aeronautica S.A. (EMBRAER): Amendment 39–17201. Docket No. FAA–2012–0638; Directorate Identifier 2011–NM–266–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective October 29, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–145, –145ER, –145MR, –145LR, –145MP, and –145EP airplanes; and Model EMB–135BJ, –135ER, –135KE, –135KL, and –135LR airplanes; certificated in any category; all serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 55, Stabilizers.

(e) Reason

This AD was prompted by a report of a lightning strike hitting an airplane tail boom causing certain rear bulkhead parts to jam an elevator control rod. We are issuing this AD to prevent lightning strikes from causing certain parts to contact the airplane pitch control system, which could reduce airplane controllability.

(f) Compliance

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

(g) Actions

Within 5,000 flight hours or 48 months after the effective date of this AD, whichever occurs first: Install or rework, as applicable, metallic diverters and aluminum sheets; modify the light assembly on the tail boom rear movable fairing; and replace the hood assembly with a new hood assembly having part number (P/N) 145–23046–403 and reroute its electrical harness. Do all the actions in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 145LEG–55–0013, dated September 8, 2011 (for Model EMB–135BJ airplanes); or EMBRAER Service Bulletin 145–55–0030, Revision 05, dated July 29, 2011 (for Model EMB–145 and EMB–135, except –135BJ, airplanes).

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–1175; fax (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(i) Related Information

Refer to MCAI Brazilian Airworthiness Directive 2011–11–01, dated November 30, 2011, and the following service information, for related information.

(1) EMBRAER Service Bulletin 145LEG–55–0013, dated September 8, 2011.

(2) EMBRAER Service Bulletin 145–55–0030, Revision 05, dated July 29, 2011.

(j) 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) EMBRAER Service Bulletin 145LEG–55–0013, dated September 8, 2011.

(ii) EMBRAER Service Bulletin 145–55–0030, Revision 05, dated July 29, 2011.

(3) For service information identified in this AD, contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), Technical Publications Section (PC 060), Av. Brigadeiro Faria Lima, 2170—Putim—12227–901 São Jose dos Campos—SP—BRASIL; telephone +55 12 3927–5852 or +55 12 3309–0732; fax +55 12 3927–7546; email *distrib@embraer.com.br;* Internet *http://www.flyembraer.com.*

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

Issued in Renton, Washington, on September 6, 2012.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–23277 Filed 9–21–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0821; Directorate Identifier 2010–NE–30–AD; Amendment 39–17183; AD 2012–18–07]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding an existing airworthiness directive (AD) for all Rolls-Royce plc (RR) RB211-Trent 875–17, RB211-Trent 877–17, RB211-Trent 884–17, RB211-Trent 884B–17, RB211-Trent 892–17, RB211-Trent 892B–17, and RB211-Trent 895–17 turbofan engines. That AD currently requires initial and repetitive ultrasonic inspections (UIs) of certain low-pressure (LP) compressor blades identified by serial number (S/N). This new AD requires the same actions but expands the population of blades. This AD was prompted by the need to add the inspections of the LP compressor blades listed by S/N in Appendices 3H through 3L of RR plc Alert Service Bulletin (ASB) No. RB.211–72–AG244, Revision 4, dated December 22, 2011. We are issuing this AD to prevent multiple LP compressor blades from failing due to blade root cracks, which could lead to uncontained engine failure and damage to the airplane.

DATES: This AD is effective October 29, 2012.

The Director of the Federal Register approved the incorporation by reference

of a certain publication listed in the AD as of October 29, 2012.

ADDRESSES: For service information identified in this AD, contact Rolls-Royce plc, Corporate Communications, P.O. Box 31, Derby, England, DE248BJ, phone: 011–44–1332–242424; fax: 011–44–1332–245418, or email: *http://www.rolls-royce.com/contact/civil_team.jsp.* You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Alan Strom, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7143; fax: 781–238–7199; email: *alan.strom@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2012–06–23 (77 FR 20508, April 5, 2012). That AD applies to the specified products. The NPRM published in the **Federal Register** on May 3, 2012 (77 FR 26216). That NPRM proposed to continue to require initial and repetitive UIs of certain LP compressor blades identified by S/N. This AD requires the same actions but expands the population of blades.

Comments

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

Request To Modify Initial Inspection Thresholds

Commenters RR and The Boeing Company (Boeing) requested that the initial inspection thresholds listed in Table 1 of the proposed AD be the same as those in RR ASB RB.211–72–AG244. Alternatively, RR and Boeing asked that we adjust the calendar months after the effective date of the AD to make them equivalent to the calendar dates in the ASB. RR claims that allowing parts to remain on wing longer than the times specified in the ASB will increase the risk of a fan blade failure before a crack is detected.

We do not agree. The number of months for compliance after the effective date of this AD is the same as in the EASA AD 2012–0025, dated February 8, 2012. Also, shortening the initial inspection thresholds now would require renotice and therefore delay implementation of the AD. We did not change the AD.

Request To Revise Unsafe Condition Statement

RR asked that we change the unsafe condition statement in the AD to indicate that the AD is being issued to prevent multiple blades from the same engine from failing. RR indicated that this change is needed because a single blade failure from the root is, by design, a contained event.

We agree because multiple blades in an engine may develop cracks and fail if not inspected. We changed the AD by revising the unsafe condition statement in paragraph (d) of the AD from: ''We are issuing this AD to prevent LP compressor blades from failing due to blade root cracks, which could lead to uncontained engine failure and damage to the airplane'' to ''We are issuing this AD to prevent multiple LP compressor blades from failing due to blade root cracks, which could lead to uncontained engine failure and damage to the airplane.''

Request To Revise Compliance Paragraph (e)(3)

Commenter American Airlines (American) requested that we change paragraph (e)(3) from ''* * * and paragraphs 1. through 3.B. of Appendix 1 of that ASB, or paragraphs 3.B.(1) through 3.B.(3) of Accomplishment Instructions of RR ASB No. RB.211–72–AG244 * * *,'' to ''* * * and paragraphs 1. through 3.B. of Appendix 1 of that ASB, or paragraph 3.B.(3) of Accomplishment Instructions of RR ASB No. RB.211–72–AG244 * * *.''. American argued that paragraphs 3.B.(1) and 3.B.(2), which require removal of the air intake fairing/spinner and spinner extension and annulus fillers, are not needed to resolve the unsafe condition noted in the AD.

We agree in part. We agree to remove the references to paragraphs 3.B.(1) and 3.B.(2) from the AD because it is not necessary to mandate the procedures used to remove the air intake fairing/spinner and spinner extension and annulus fillers. We disagree that removal of these parts does not need to be mentioned in the AD because these parts need to be removed before performing the UI. We therefore revised paragraph (e)(3) in the AD from: ''Use paragraph 3.A.(2) of Accomplishment Instructions of RR ASB No. RB.211–72–AG244, Revision 4, dated December 22, 2011, and paragraphs 1. through 3.B. of Appendix 1 of that ASB, or paragraphs 3.B.(1) through 3.B.(3) of Accomplishment Instructions of RR ASB No. RB.211–72–AG244, Revision 4, dated December 22, 2011, and paragraphs 1. through 3.C. of Appendix 2 of that ASB, to perform the UIs.'' to ''Use paragraph 3.A.(2) of Accomplishment Instructions of RR ASB No. RB.211–72–AG244, Revision 4, dated December 22, 2011, and paragraphs 1. through 3.B. of Appendix 1 of that ASB, or paragraphs 3.B.(3) of Accomplishment Instructions of RR ASB No. RB.211–72–AG244, Revision 4, dated December 22, 2011, and paragraphs 1. through 3.C. of Appendix 2 of that ASB, to perform the UIs. Prior to inspecting the blades per paragraph 3.B.(3) of the Accomplishment Instructions remove the air intake fairing/spinner and spinner extension and annulus fillers.''

Request To Revise Compliance Paragraph (e)(6)

American requested that paragraph (e)(6) of the AD be revised to read: ''After the effective date of this AD, do not install any affected LP compressor blade that has reached the initial inspection threshold in Table 1, unless it has passed the UI required by this AD.'' American indicated that the wording of the proposed AD implied that if a blade fails a visual inspection, it may not be reinstalled even if it passes a subsequent UI.

We agree. We revised the paragraph to read: ''After the effective date of this AD, do not install any affected LP compressor blade that has reached the initial inspection threshold in Table 1 to paragraph (e), unless it has passed the UI required by this AD.'' We also moved this paragraph to a separate Installation Prohibition paragraph (f).

Request To Revise Previous Credit Paragraph

American asked that the AD allow compressor blades inspected ultrasonically before the effective date

of this AD using RR SB RB.211–72–E175, Revision 7, dated April 11, 2011, to be installed without further inspection. American indicated that the UI instructions in SB RB.211–E175, Revision 7, are identical to the UI instructions in ASB RB.211–72–AG244.

We agree. We changed the Credit for Previous Actions paragraph in the AD from, ''You may take credit for the initial inspection that is required by paragraph (e)(1) of this AD if you performed the initial inspection before the effective date of this AD using RR ASB No. RB.211–72–AG244, dated August 7, 2009; ASB No. RB.211–72–AG244, Revision 1, dated January 26, 2010; ASB No. RB.211–72–AG244, Revision 2, dated August 18, 2011; or ASB No. RB.211–72–AG244, Revision 3, dated December 13, 2011,'' to ''You may take credit for the initial inspection that is required by paragraph (e)(1) of this AD if you performed the initial inspection before the effective date of this AD using RR ASB No. RB.211–72–AG244, dated August 7, 2009; ASB No. RB.211–72–AG244, Revision 1, dated January 26, 2010; ASB No. RB.211–72–AG244, Revision 2, dated August 18, 2011, ASB No. RB.211–72–AG244, Revision 3, dated December 13, 2011 or RB.211–72–E175, Revision 7, dated April 11, 2011.''

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We also determined that these changes will not increase the economic burden on any operator nor increase the scope of the AD.

Costs of Compliance

Based on the service information, we estimate that this AD affects about 158 engines installed on airplanes of U.S. registry. We also estimate that it will take about 3 hours per engine inspection and six inspections will be needed per year. The average labor rate is $85 per work-hour. We estimate that one LP compressor blade per year will need replacement at a cost of about $82,000. Based on these figures, we estimate the annual cost of the AD on U.S. operators to be $323,740. Our cost estimate is exclusive of possible warranty coverage.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2012–06–23, Amendment 39–17004 (77 FR 20508, April 5, 2012), and adding the following new AD:

2012–18–07 Rolls-Royce plc: Amendment 39–17183; Docket No. FAA–2010–0821; Directorate Identifier 2010–NE–30–AD.

(a) Effective Date

This airworthiness directive (AD) is effective October 29, 2012.

(b) Affected ADs

This AD supersedes AD 2012–06–23 (77 FR 20508, April 5, 2012).

(c) Applicability

This AD applies to Rolls-Royce plc (RR) RB211-Trent 875–17, RB211-Trent 877–17, RB211-Trent 884–17, RB211-Trent 884B–17, RB211-Trent 892–17, RB211-Trent 892B–17, and RB211-Trent 895–17 turbofan engines.

(d) Unsafe Condition

This AD was prompted by the need to add the inspections of the low-pressure (LP) compressor blades listed by serial number (S/N) in Appendices 3H through 3L of Rolls-Royce plc Alert Service Bulletin (ASB) No. RB.211–72–AG244, Revision 4, dated December 22, 2011. We are issuing this AD to prevent multiple LP compressor blades from failing due to blade root cracks, which could lead to uncontained engine failure and damage to the airplane.

(e) Compliance

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

(1) Perform an initial ultrasonic inspection (UI) of the affected LP compressor blades identified by S/N in Appendices 3A through 3L of RR ASB No. RB.211–72–AG244, Revision 4, dated December 22, 2011. Use Table 1 to paragraph (e) of this AD to determine your initial inspection threshold.

TABLE 1 TO PARAGRAPH (e)—INITIAL INSPECTION THRESHOLDS

Appendix number of RR ASB Number RB.211–72–AG244, Revision 4, that identifies affected LP compressor blades by S/N	Initial inspection threshold
3A and 3B	Within 70 flight cycles after the effective date of this AD.
3C	Within 10 months after the effective date of this AD.
3D	Within 22 months after the effective date of this AD.
3E	Within 34 months after the effective date of this AD.
3F	Within 46 months after the effective date of this AD.

TABLE 1 TO PARAGRAPH (e)—INITIAL INSPECTION THRESHOLDS—Continued

Appendix number of RR ASB Number RB.211–72–AG244, Revision 4, that identifies affected LP compressor blades by S/N	Initial inspection threshold
3G	Within 58 months after the effective date of this AD.
3H	Within 70 months after the effective date of this AD.
3I	Within 82 months after the effective date of this AD.
3J	Within 94 months after the effective date of this AD.
3K	Within 106 months after the effective date of this AD.
3L	Within 118 months after the effective date of this AD.

(2) Thereafter, perform repetitive UIs of the affected LP compressor blades within every 100 flight cycles.

(3) Use paragraph 3.A.(2) of Accomplishment Instructions of RR ASB No. RB.211–72–AG244, Revision 4, dated December 22, 2011, and paragraphs 1. through 3.B. of Appendix 1 of that ASB, or paragraphs 3.B.(3) of Accomplishment Instructions of RR ASB No. RB.211–72–AG244, Revision 4, dated December 22, 2011, and paragraphs 1. through 3.C. of Appendix 2 of that ASB, to perform the UIs. Prior to inspecting the blades per paragraph 3.B.(3) of the Accomplishment Instructions remove the air intake fairing/spinner and spinner extension and annulus fillers.

(4) Do not return to service any engine with blades that failed the inspection required by this AD.

(5) For blades that are removed from the engine and pass inspection, re-apply dry film lubricant before re-installing the blades.

(f) Installation Prohibition

After the effective date of this AD, do not install any affected LP compressor blade that has reached the initial inspection threshold in Table 1 to paragraph (e) of this AD, unless it has passed the UI required by this AD.

(g) Credit for Previous Actions

You may take credit for the initial inspection that is required by paragraph (e)(1) of this AD if you performed the initial inspection before the effective date of this AD using RR ASB No. RB.211–72–AG244, dated August 7, 2009; RR ASB No. RB.211–72–AG244, Revision 1, dated January 26, 2010; RR ASB No. RB.211–72–AG244, Revision 2, dated August 18, 2011; RR ASB No. RB.211–72–AG244, Revision 3, dated December 13, 2011; or RR RB.211–72–E175, Revision 7, dated April 11, 2011.

(h) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, FAA, may approve AMOCs for this AD. Use the procedures found in 14 CFR 39.19 to make your request.

(i) Related Information

(1) For more information about this AD, contact Alan Strom, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7143; fax: 781–238–7199; email: *alan.strom@faa.gov.*

(2) Refer to European Aviation Safety Agency AD 2012–0025, dated February 8, 2012, for related information.

(j) 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) Rolls-Royce plc Alert Service Bulletin No. RB.211–72–AG244, Revision 4, including appendices 1, 2, and 3A through 3L, dated December 22, 2011.

(ii) Reserved.

(3) For service information identified in this AD, contact Rolls-Royce plc, Corporate Communications, P.O. Box 31, Derby, England, DE248BJ, phone: 011–44–1332–242424; fax: 011–44–1332–245418; email: *http://www.rolls-royce.com/contact/civil_team.jsp.*

(4) You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

(5) You may view this service information at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr_locations.html.*

Issued in Burlington, Massachusetts, on August 29, 2012.

Colleen M. D'Alessandro,

Assistant Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2012–23442 Filed 9–21–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0593; Directorate Identifier 2011–NM–238–AD; Amendment 39–17200; AD 2012–19–05]

RIN 2120–AA64

Airworthiness Directives; Fokker Services B.V. Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Fokker Services B.V. Model F.28 Mark 0070 and 0100 airplanes. This AD was prompted by reports of burned contacts in a certain production break plug and its corresponding receptacle. This AD requires modifying galley power supply wiring by disconnecting it from the affected plug/receptacle and reconnecting the power supply wiring through splices. We are issuing this AD to prevent a high electrical load, which might lead to overheating of the galley power supply wiring and/or the electrical connector and consequent smoke or fire in the galley area, which could result in damage to the airplane and injury to occupants.

DATES: This AD becomes effective October 29, 2012.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 29, 2012.

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

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on June 12, 2012 (77 FR 34872). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

Reports have been received about burned contacts in production break plug P 4259B and corresponding receptacle J 4259A. After investigation, it was concluded that the high

electrical load on the contacts M, L and X, in combination with the electrical loads on the adjacent connections, may have resulted in these occurrences.

This condition, if not detected and corrected, can lead to overheating of the galley power supply wiring and/or the electrical connector and consequent smoke or fire in the galley area, possibly resulting in damage to the aeroplane and injury to occupants.

For the reasons described above, this [European Aviation Safety Agency] AD requires modification of the galley power supply wiring by disconnecting it from the affected plug/receptacle and reconnecting the power supply wiring through splices.

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

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (77 FR 34872, June 12, 2012) or on the determination of the cost to the public.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (77 FR 34872, June 12, 2012) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (77 FR 34872, June 12, 2012).

Costs of Compliance

We estimate that this AD will affect 4 products of U.S. registry. We also estimate that it will take about 4 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $210 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $2,200, or $550 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM (77 FR 34872, June 12, 2012), the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2012–19–05 Fokker Services B.V.: Amendment 39–17200. Docket No. FAA–2012–0593; Directorate Identifier 2011–NM–238–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective October 29, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Fokker Services B.V. Model F.28 Mark 0070 and 0100 airplanes, certificated in any category; serial numbers (S/N) 11340 through 11343 inclusive, 11347, 11348, 11350 through 11356 inclusive, 11359, 11360, 11361, 11367 through 11371 inclusive, 11374 through 11378 inclusive, 11382 through 11385 inclusive, 11387 through 11390 inclusive, 11394 through 11397 inclusive, 11400 through 11423 inclusive, 11425 through 11432 inclusive, 11434 through 11439 inclusive, 11441 through 11453 inclusive, and 11456 through 11585 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 24, Electrical Power.

(e) Reason

This AD was prompted by reports of burned contacts in a certain production break plug and its corresponding receptacle. We are issuing this AD to prevent a high electrical load, which might lead to overheating of the galley power supply wiring and/or the electrical connector and consequent smoke or fire in the galley area, which could result in damage to the airplane and injury to occupants.

(f) Compliance

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

(g) Modification

Within 24 months after the effective date of this AD: Modify the galley power supply wiring, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100–24–044, dated July 14, 2011, including Fokker Manual Change Notification—Maintenance Documentation MCNM–F100–148, dated July 14, 2011.

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(i) Related Information

Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2011–0183, dated September 23, 2011; and Fokker Service Bulletin SBF100–24–044, dated July 14, 2011, including Fokker Manual Change Notification—Maintenance Documentation MCNM–F100–148, dated July 14, 2011; for related information.

(j) 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) Fokker Service Bulletin SBF100–24–044, dated July 14, 2011, including Fokker Manual Change Notification—Maintenance Documentation MCNM–F100–148, dated July 14, 2011.

(ii) Reserved.

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

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

Issued in Renton, Washington, on September 11, 2012.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–23055 Filed 9–21–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1300

Definitions Relating to Electronic Orders and Prescriptions for Controlled Substances

CFR Correction

In Title 21 of the Code of Federal Regulations, Part 1300 to End, revised as of April 1, 2012, on page 14, § 1300.03 is reinstated to read as follows:

§ 1300.03 Definitions relating to electronic orders for controlled substances and electronic prescriptions for controlled substances.

For the purposes of this chapter, the following terms shall have the meanings specified:

Application service provider means an entity that sells electronic prescription or pharmacy applications as a hosted service, where the entity controls access to the application and maintains the software and records on its servers.

Audit trail means a record showing who has accessed an information technology application and what operations the user performed during a given period.

Authentication means verifying the identity of the user as a prerequisite to allowing access to the information application.

Authentication protocol means a well specified message exchange process that verifies possession of a token to remotely authenticate a person to an application.

Biometric authentication means authentication based on measurement of the individual's physical features or repeatable actions where those features or actions are both distinctive to the individual and measurable.

Biometric subsystem means the hardware and software used to capture, store, and compare biometric data. The biometric subsystem may be part of a larger application. The biometric subsystem is an automated system capable of:

(1) Capturing a biometric sample from an end user.

(2) Extracting and processing the biometric data from that sample.

(3) Storing the extracted information in a database.

(4) Comparing the biometric data with data contained in one or more reference databases.

(5) Determining how well the stored data matches the newly captured data and indicating whether an identification or verification of identity has been achieved.

Cache means to download and store information on a local server or hard drive.

Certificate policy means a named set of rules that sets forth the applicability of the specific digital certificate to a particular community or class of application with common security requirements.

Certificate revocation list (CRL) means a list of revoked, but unexpired certificates issued by a certification authority.

Certification authority (CA) means an organization that is responsible for verifying the identity of applicants, authorizing and issuing a digital certificate, maintaining a directory of public keys, and maintaining a Certificate Revocation List.

Certified information systems auditor (CISA) means an individual who has been certified by the Information Systems Audit and Control Association as qualified to audit information systems and who performs compliance audits as a regular ongoing business activity.

Credential means an object or data structure that authoritatively binds an identity (and optionally, additional attributes) to a token possessed and controlled by a person.

Credential service provider (CSP) means a trusted entity that issues or registers tokens and issues electronic credentials to individuals. The CSP may be an independent third party or may issue credentials for its own use.

CSOS means controlled substance ordering system.

Digital certificate means a data record that, at a minimum—

(1) Identifies the certification authority issuing it;

(2) Names or otherwise identifies the certificate holder;

(3) Contains a public key that corresponds to a private key under the sole control of the certificate holder;

(4) Identifies the operational period; and

(5) Contains a serial number and is digitally signed by the certification authority issuing it.

Digital signature means a record created when a file is algorithmically transformed into a fixed length digest that is then encrypted using an asymmetric cryptographic private key associated with a digital certificate. The combination of the encryption and algorithm transformation ensure that the signer's identity and the integrity of the file can be confirmed.

Digitally sign means to affix a digital signature to a data file.

Electronic prescription means a prescription that is generated on an electronic application and transmitted as an electronic data file.

Electronic prescription application provider means an entity that develops or markets electronic prescription software either as a stand-alone application or as a module in an electronic health record application.

Electronic signature means a method of signing an electronic message that identifies a particular person as the source of the message and indicates the person's approval of the information contained in the message.

False match rate means the rate at which an impostor's biometric is falsely accepted as being that of an authorized user. It is one of the statistics used to measure biometric performance when operating in the verification or authentication task. The false match rate is similar to the false accept (or acceptance) rate.

False non-match rate means the rate at which a genuine user's biometric is falsely rejected when the user's biometric data fail to match the enrolled data for the user. It is one of the statistics used to measure biometric performance when operating in the verification or authentication task. The false match rate is similar to the false reject (or rejection) rate, except that it does not include the rate at which a biometric system fails to acquire a biometric sample from a genuine user.

FIPS means Federal Information Processing Standards. These Federal standards, as incorporated by reference in § 1311.08 of this chapter, prescribe specific performance requirements, practices, formats, communications protocols, etc., for hardware, software, data, etc.

FIPS 140–2, as incorporated by reference in § 1311.08 of this chapter, means the National Institute of Standards and Technology publication entitled ''Security Requirements for Cryptographic Modules,'' a Federal standard for security requirements for cryptographic modules.

FIPS 180–2, as incorporated by reference in § 1311.08 of this chapter, means the National Institute of Standards and Technology publication entitled ''Secure Hash Standard,'' a Federal secure hash standard.

FIPS 180–3, as incorporated by reference in § 1311.08 of this chapter, means the National Institute of Standards and Technology publication entitled ''Secure Hash Standard (SHS),'' a Federal secure hash standard.

FIPS 186–2, as incorporated by reference in § 1311.08 of this chapter, means the National Institute of Standards and Technology publication entitled ''Digital Signature Standard,'' a Federal standard for applications used to generate and rely upon digital signatures.

FIPS 186–3, as incorporated by reference in § 1311.08 of this chapter, means the National Institute of Standards and Technology publication entitled ''Digital Signature Standard (DSS),'' a Federal standard for applications used to generate and rely upon digital signatures.

Hard token means a cryptographic key stored on a special hardware device (e.g., a PDA, cell phone, smart card, USB drive, one-time password device) rather than on a general purpose computer.

Identity proofing means the process by which a credential service provider or certification authority validates sufficient information to uniquely identify a person.

Installed electronic prescription application means software that is used to create electronic prescriptions and that is installed on a practitioner's computers and servers, where access and records are controlled by the practitioner.

Installed pharmacy application means software that is used to process prescription information and that is installed on a pharmacy's computers or servers and is controlled by the pharmacy.

Intermediary means any technology system that receives and transmits an electronic prescription between the practitioner and pharmacy.

Key pair means two mathematically related keys having the properties that:

(1) One key can be used to encrypt a message that can only be decrypted using the other key; and

(2) Even knowing one key, it is computationally infeasible to discover the other key.

NIST means the National Institute of Standards and Technology.

NIST SP 800–63–1, as incorporated by reference in § 1311.08 of this chapter, means the National Institute of Standards and Technology publication entitled ''Electronic Authentication Guideline,'' a Federal standard for electronic authentication.

NIST SP 800–76–1, as incorporated by reference in § 1311.08 of this chapter, means the National Institute of Standards and Technology publication entitled ''Biometric Data Specification for Personal Identity Verification,'' a Federal standard for biometric data specifications for personal identity verification.

Operating point means a point chosen on a receiver operating characteristic (ROC) curve for a specific algorithm at which the biometric system is set to function. It is defined by its corresponding coordinates—a false match rate and a false non-match rate. An ROC curve shows graphically the trade-off between the principal two types of errors (false match rate and false non-match rate) of a biometric system by plotting the performance of a specific algorithm on a specific set of data.

Paper prescription means a prescription created on paper or computer generated to be printed or transmitted via facsimile that meets the requirements of part 1306 of this chapter including a manual signature.

Password means a secret, typically a character string (letters, numbers, and other symbols), that a person memorizes and uses to authenticate his identity.

PDA means a Personal Digital Assistant, a handheld computer used to manage contacts, appointments, and tasks.

Pharmacy application provider means an entity that develops or markets software that manages the receipt and processing of electronic prescriptions.

Private key means the key of a key pair that is used to create a digital signature.

Public key means the key of a key pair that is used to verify a digital signature. The public key is made available to anyone who will receive digitally signed messages from the holder of the key pair.

Public Key Infrastructure (PKI) means a structure under which a certification authority verifies the identity of applicants; issues, renews, and revokes digital certificates; maintains a registry of public keys; and maintains an up-to-date certificate revocation list.

Readily retrievable means that certain records are kept by automatic data processing applications or other electronic or mechanized recordkeeping systems in such a manner that they can be separated out from all other records in a reasonable time and/or records are kept on which certain items are asterisked, redlined, or in some other

manner visually identifiable apart from other items appearing on the records.

SAS 70 Audit means a third-party audit of a technology provider that meets the American Institute of Certified Public Accountants (AICPA) Statement of Auditing Standards (SAS) 70 criteria.

Signing function means any keystroke or other action used to indicate that the practitioner has authorized for transmission and dispensing a controlled substance prescription. The signing function may occur simultaneously with or after the completion of the two-factor authentication protocol that meets the requirements of part 1311 of this chapter. The signing function may have different names (e.g., approve, sign, transmit), but it serves as the practitioner's final authorization that he intends to issue the prescription for a legitimate medical reason in the normal course of his professional practice.

SysTrust means a professional service performed by a qualified certified public accountant to evaluate one or more aspects of electronic systems.

Third-party audit means an independent review and examination of records and activities to assess the adequacy of system controls, to ensure compliance with established policies and operational procedures, and to recommend necessary changes in controls, policies, or procedures.

Token means something a person possesses and controls (typically a key or password) used to authenticate the person's identity.

Trusted agent means an entity authorized to act as a representative of a certification authority or credential service provider in confirming practitioner identification during the enrollment process.

Valid prescription means a prescription that is issued for a legitimate medical purpose by an individual practitioner licensed by law to administer and prescribe the drugs concerned and acting in the usual course of the practitioner's professional practice.

WebTrust means a professional service performed by a qualified certified public accountant to evaluate one or more aspects of Web sites.

[75 FR 16304, Mar. 31, 2010]

[FR Doc. 2012–23529 Filed 9–21–12; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR Parts 502 and 559

RIN 3141–AA48

Facility License Notifications and Submissions

AGENCY: National Indian Gaming Commission.

ACTION: Final rule.

SUMMARY: The National Indian Gaming Commission (NIGC or Commission) is amending its facility license regulations. The final rule amends the current regulations: To provide for an expedited review to confirm a tribe's submittal of facility license information; to require notice to the NIGC when a tribe issues, renews, or terminates a facility license; to streamline the submittal of certain information relating to the construction, maintenance, and operation of a gaming facility; and to provide that a tribe need not submit a notification of seasonal or temporary closures of less than 180 days.

DATES: The effective date of these regulations is October 24, 2012.

FOR FURTHER INFORMATION CONTACT: Armando Acosta, National Indian Gaming Commission, 1441 L Street NW., Suite 9100, Washington, DC 20005. Email: *armando_acosta@nigc.gov;* telephone: 202–632–7003.

SUPPLEMENTARY INFORMATION:

I. Background

The Indian Gaming Regulatory Act (IGRA or Act), Public Law 100–497, 25 U.S.C. 2701, *et seq.,* was signed into law on October 17, 1988. The Act established the Commission and set out a comprehensive framework for the regulation of gaming on Indian lands.

The Act provides for tribal gaming on Indian lands within such tribe's jurisdiction. 25 U.S.C. 2710. The Act requires ''a separate license issued by the Indian tribe * * * for each place, facility, or location on Indian lands at which Class II (and Class III) gaming is conducted.'' 25 U.S.C. 2710(b)(1) and (d)(1)(A)(iii). The Act also requires that tribal ordinances provide that ''the construction and maintenance of the gaming facilities, and the operation of that gaming is conducted in a manner which adequately protects the environment and public health and safety.'' 25 U.S.C. 2710(b)(2)(E).

Part 559 of the NIGC's regulations serves three purposes. The first is for the Commission to receive information from tribes regarding the Indian lands status of each gaming facility. The second is for the Commission to obtain information from tribal governments regarding the construction, maintenance, and operation of the gaming facilities. Finally, part 559 serves to inform the Commission of those places, facilities, or locations at which Indian gaming is presently being conducted.

II. Previous Rulemaking Activity

On November 18, 2010, the Commission issued a Notice of Inquiry and Notice of Consultation advising the public that the NIGC was conducting a comprehensive review of its regulations and requesting public comment on which of its regulations were most in need of revision, in what order the Commission should review its regulations, and the process that the Commission should utilize to make revisions. 75 FR 70680, Nov. 18, 2010. On April 4, 2011, after holding eight consultations and reviewing all comments, the Commission published a Notice of Regulatory Review Schedule (NRRS) setting forth a consultation schedule and process for review. 76 FR 18457, April 4, 2011. Part 559 was included in the first regulatory group reviewed pursuant to the NRRS.

The Commission conducted multiple tribal consultations as part of its review of part 559. Tribal consultations were held in every region of the country and attended by tribal leaders or their representatives. In addition to tribal consultations, on June 11, 2011, the Commission requested public comment on a preliminary draft of amendments to part 559. After considering all public comments, the Commission published a Notice of Proposed Rulemaking. 77 FR 4731, Jan. 31, 2012.

III. Review of Public Comments

In response to its Notice of Proposed Rulemaking, published January 31, 2012, the Commission received the following comments:

559.1 What is the scope and purpose of this part?

Comment: Commenters stated generally that the prior versions of the facility license rules are troublesome and that the proposed amendments to the rules alleviate much of that concern.

Response: The Commission agrees.

559.2 When must a tribe notify the chair that it is considering issuing a new facility license?

Comment: A few commenters questioned the need for a 120-day notification period prior to the opening

of a new gaming facility, considering that a tribe is not legally required to receive an Indian lands determination before gaming on the land. Two commenters stated that, while the Commission has clarified that gaming tribes could open a facility prior to the expiration of the 120-day period, many tribes view this as a de facto required waiting period. Thus, the commenters stated that the 120-day period seems unreasonably long, and that a shorter notification period is more reasonable and appropriate. Two commenters stated further that even a 60-day expedited review period seems altogether unnecessary for such a limited review. Thus, one commenter suggested a notice period of 30 days, another commenter suggested a notice period of 15–30 days, and the third commenter suggested an unspecified shorter notice period. If the Commission does not amend the rule to a shorter notice period, one commenter suggested that the Commission grant waivers of the 120-day period for reasonable cause shown.

Response: The Commission does not believe that providing a shorter notification period is appropriate. Commenters are correct that there is no legal requirement that the Commission issue a formal determination (also known as an Indian lands determination) prior to a tribe gaming on a specific site. However, the rule does require a tribe to wait 120 days after notification before opening a new facility, unless the tribe has requested an expedited review, pursuant to which the Chair may grant a waiver of the 120-day notification period. The Commission notes that the notification requirement does not involve an approval or disapproval action by the Chair or the Commission. If a tribe opens a facility on lands not eligible for gaming, it does so at the risk of violating IGRA and other applicable laws.

Lastly, the Office of Inspector General, U.S. Department of the Interior, recommended in a September 2005 report that the Commission establish a process by which tribes that have taken land into trust since October 1988 certify the land's status, and that the Commission establish and maintain a database containing eligibility information for all Indian gaming operations. Therefore, although the Commission does not issue an Indian lands determination for every facility, the Commission reviews Indian lands information to ensure compliance with IGRA.

Comment: A few commenters noted that, although the Commission has stated that an Indian lands determination is not required prior to opening a new gaming facility, tribes that wish to have a lands determination need to be assured that the submission of the facility license notification will trigger the Commission to act, as these tribes will likely amend their gaming ordinances to be site-specific that would then require the Chair to approve or disapprove the ordinance amendment within 90 days. Therefore, the commenters suggested that the rule be modified to permit the tribes to request an Indian lands determination, or at the very least, to amend the notification period from 120 days to 90 days.

Response: The Commission declines to make the requested changes, because the notification requirement does not involve an approval or disapproval action by the Chair or the Commission. Although it is true that an ordinance amendment must be approved or disapproved within 90 days of submission, in practice, tribes often withdraw and then re-submit the site-specific ordinance to provide for a longer period of review. In addition, under the final rule, tribes can now request an expedited 60-day review of a facility license notification.

Comment: A commenter requested clarification regarding whether a tribe can begin construction of a new facility more quickly if the tribe requests an expedited review.

Response: The notification requirement does not provide for approval or disapproval by the Chair. The notification does not grant or deny permission to a tribe to begin construction on a new gaming facility.

Comment: In order for tribes to feel more comfortable with moving ahead with construction of a new gaming facility, one commenter suggested that the Commission automatically send tribes a standard letter stating that the Commission has received and reviewed the facility license notification and the Indian lands information and that the Commission has no objections to the information submitted.

Response: The Commission chose not to incorporate the commenter's suggested amendment. The preliminary discussion draft issued for comment on June 11, 2011 originally provided for the Commission to quickly review the status of the Indian lands where Class II or Class III gaming was to occur and to notify the tribes once the Commission had completed these reviews. However, many commenters objected, stating that the draft created a new process committing the Chair to act while tribes waited for the Chair's action. In objecting to this change, the tribes noted that there is no legal requirement for an Indian lands determination prior to gaming on that land, and that the notification process does not require the Commission to verify the Indian lands status within the 120-day timeframe.

559.3 When must a tribe submit a copy of a newly issued or renewed facility license to the chair?

Comment: One commenter was very supportive of the removal of the three-year facility license renewal requirement, as it recognizes the role of tribes as the primary regulators of their gaming facilities.

Response: The Commission agrees and has retained this provision in the final rule.

559.4 What must a tribe submit to the chair with the copy of each facility license that has been issued or renewed?

Comment: Several commenters stated that they are pleased and strongly support the rule changes to § 559.4, which eliminate duplicative and burdensome environmental and public health and safety (EPHS) reporting requirements (previously found in 25 CFR 502.22) in favor of an attestation by the tribe. Two commenters stated specifically that they support the incorporation of § 502.22 into § 559.4, thereby removing § 502.22. One commenter noted that the NIGC, as a federal regulatory body, is primarily responsible for the regulatory oversight of Indian gaming, while other Federal agencies are responsible for EPHS issues.

Response: The Commission agrees and has retained these provisions in the final rule.

Comment: One commenter requested clarification regarding whether the EPHS attestation should come from the tribe or from its counsel.

Response: The Commission expects that the attestation will come from a designated official or regulatory body authorized by the tribal government to attest to the EPHS determinations.

Comment: A commenter requested clarification regarding whether a tribe must submit an EPHS attestation with every license renewal, even if there has been no new construction at the specific gaming facility.

Response: An EPHS attestation must be submitted with every license renewal, as the rule requires a tribe to not only attest that the construction of the gaming facility is conducted in a manner which adequately protects the environment and public health and safety, but also that the ongoing maintenance and operation of the gaming facility is conducted in a manner which adequately protects the

environment and public health and safety.

Comment: One commenter requested clarification regarding whether tribes must still have a list of the environmental, public health, and safety laws and regulations to be available to the Commission upon request, even though tribes no longer have to automatically submit the list with the EPHS certification.

Response: Tribes should have such documentation available to be provided to the Commission upon request.

559.5 Does a tribe need to notify the chair if a facility license is terminated or expires or if a gaming place, facility, or location closes or reopens?

Comment: Some commenters stated that they are pleased with the proposed notice exemption for temporary or seasonal closures not exceeding 180 days, as it will help reduce administrative burdens for tribal governments.

Response: The Commission agrees and has retained this provision in the final rule.

Comment: Some commenters suggested that the rule should be amended further to allow for an exemption from the notification requirement for temporary gaming facilities that are opened for estimated periods of less than 12 months. The commenters stated that such an exemption is necessary following a natural disaster or other unforeseeable event that leads to a forced closure of a permanent gaming facility, because the opening of a temporary facility may be necessary to secure critical revenues and guarantee continued funding of governmental programs and services until the permanent facility is fully rehabilitated for opening.

Response: The Commission declines to amend the rule as suggested by the commenters. Notifications to the Commission of new gaming facility openings, whether permanent or temporary, are necessary so that the Commission has accurate, up-to-date records of the Indian gaming facilities operating on Indian lands in order for the Commission to be able to perform its statutory responsibilities.

Comment: A few commenters recommended that the NIGC include an exemption for temporary gaming facility openings that is similar to the exemption for temporary closures.

Response: The Commission declines to adopt the suggested changes. Notifications to the Commission of new gaming facility openings, whether permanent or temporary, are necessary so that the Commission has accurate, up-to-date records of the Indian gaming facilities operating on Indian lands in order for the Commission to perform its statutory responsibilities.

Comment: A few commenters suggested that the rule should be amended to exempt tribal gaming regulatory authorities that issue temporary facility licenses from the Commission's notification requirements, stating that such an amendment would be consistent with tribal sovereignty and self-governance. The commenters further stated that, in light of the time-sensitive nature of opening and operating a temporary gaming facility, such an amendment would minimize disruptions and revenue losses as a result of a forced closure. Otherwise, tribes will be required to wait 30 days for temporary facility openings (as the rule suggests that the opening must be delayed pending the end of the notice period).

Response: The Commission declines to amend the rule as suggested by the commenters. Notifications to the Commission of new gaming facility openings, whether permanent or temporary, are necessary so that the Commission has accurate, up-to-date records of Indian gaming facilities operating on Indian lands in order for the Commission to be able to perform its statutory responsibilities. The notice period is 120 days for both new and temporary facilities.

559.6 May the chair require a tribe to submit applicable and available indian lands or environmental and public health and safety documentation regarding any gaming place, facility, or location where gaming will occur?

Comment: Some commenters suggested that minimum reasonableness standards are needed to govern agency discretion and to minimize the risk of arbitrary and capricious decision-making. One commenter noted that, although the Commission has explained that it decided against an amendment to this proposed rule because ''it is not possible to identify every possible scenario under which the Chair would exercise'' his or her discretion to request additional Indian lands or EPHS documentation from a tribe, minimum standards would provide greater predictability and consistency with respect to Commission actions and other benefits.

Response: The Commission disagrees, because it is not possible to identify every possible scenario under which the Chair would exercise this discretion.

Regulatory Matters

Regulatory Flexibility Act

The rule will not have a significant impact on a substantial number of small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* Moreover, Indian tribes are not considered to be small entities for the purposes of the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act

The rule is not a major rule under the Small Business Regulatory Enforcement Fairness Act, 5 U.S.C. 804(2). This rule does not have an annual effect on the economy of $100 million or more. This rule will not cause a major increase in costs or prices for consumers, individual industries, federal, state or local government agencies or geographic regions and does not have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandate Reform Act

The Commission, as an independent regulatory agency, is exempt from compliance with the Unfunded Mandates Reform Act. 2 U.S.C. 1502(1); 2 U.S.C. 658(1).

Takings

In accordance with Executive Order 12630, the Commission has determined that the rule does not have significant takings implications. A takings implication assessment is not required.

Civil Justice Reform

In accordance with Executive Order 12988, the Commission has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Executive Order.

National Environmental Policy Act

The Commission has determined that the rule does not constitute a major federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4321, *et seq.*

Paperwork Reduction Act

The information collection requirements contained in this rule were previously approved by the Office of Management and Budget (OMB) as required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*) and

assigned OMB Control Number 3141–0012, which expired on January 31, 2011. The Commission is in the process of reinstating that Control Number. The rule will reduce the burden hours of the information collection under the Paperwork Reduction Act of 1995 by eliminating: (i) The Commission-imposed 3-year facility license renewal requirement, although tribes will still have to submit a copy of each renewed facility license should they choose to institute their own facility license renewal periods; (ii) the requirement that tribes submit a document listing all non-federal environmental and/or public health and safety laws, resolutions, codes, policies, standards, or procedures, and must now only submit an attestation certifying that by issuing the facility license, the tribe has determined that the construction, maintenance, and operation of the gaming facility is being conducted in a manner that adequately protects the environment and the public health and safety; and (iii) the requirement that tribes provide notifications of seasonal closures or temporary closures with a duration of less than 180 days.

List of Subjects

25 CFR Part 502

Gambling, Indians—lands.

25 CFR Part 559

Gambling, Indians—lands, Indians—tribal government, Notification and submission requirements—facility licenses.

For the reasons set forth in the preamble, the Commission amends its regulations at 25 CFR parts 502 and 559 to read as follows:

PART 502—DEFINITIONS OF THIS CHAPTER

■ 1. The authority citation for part 502 is revised to read as follows:

Authority: 25 U.S.C. 2701 *et seq.*

§ 502.22 [Removed]

■ 2. Section 502.22 is removed.

■ 3. Part 559 is revised to read as follows:

PART 559—FACILITY LICENSE NOTIFICATIONS AND SUBMISSIONS

Sec.

559.1 What is the scope and purpose of this part?
559.2 When must a tribe notify the Chair that it is considering issuing a new facility license?
559.3 When must a tribe submit a copy of a newly issued or renewed facility license to the Chair?
559.4 What must a tribe submit to the Chair with the copy of each facility license that has been issued or renewed?
559.5 Does a tribe need to notify the Chair if a facility license is terminated or expires or if a gaming place, facility, or location closes or reopens?
559.6 May the Chair require a tribe to submit applicable and available Indian lands or environmental and public health and safety documentation regarding any gaming place, facility, or location where gaming will occur?
559.7 May a tribe submit documents required by this part electronically?

Authority: 25 U.S.C. 2701, 2702(3), 2703(4), 2705, 2706(b)(10), 2710, 2719.

§ 559.1 What is the scope and purpose of this part?

(a) The purpose of this part is to ensure that each place, facility, or location where class II or III gaming will occur is located on Indian lands eligible for gaming and obtain an attestation certifying that the construction and maintenance of the gaming facility, and the operation of that gaming, is conducted in a manner that adequately protects the environment and the public health and safety, pursuant to the Indian Gaming Regulatory Act.

(b) Each gaming place, facility, or location conducting class II or III gaming pursuant to the Indian Gaming Regulatory Act or on which a tribe intends to conduct class II or III gaming pursuant to the Indian Gaming Regulatory Act is subject to the requirements of this part.

§ 559.2 When must a tribe notify the Chair that it is considering issuing a new facility license?

(a) A tribe shall submit to the Chair a notice that a facility license is under consideration for issuance at least 120 days before opening any new place, facility, or location on Indian lands where class II or III gaming will occur.

(1) A tribe may request an expedited review of 60 days and the Chair shall respond to the tribe's request, either granting or denying the expedited review, within 30 days.

(2) Although not necessary, a tribe may request written confirmation from the Chair.

(b) The notice shall contain the following:

(1) The name and address of the property;

(2) A legal description of the property;

(3) The tract number for the property as assigned by the Bureau of Indian Affairs, Land Title and Records Offices, if any;

(4) If not maintained by the Bureau of Indian Affairs, Department of the Interior, a copy of the trust or other deed(s) to the property or an explanation as to why such documentation does not exist; and

(5) If not maintained by the Bureau of Indian Affairs, Department of the Interior, documentation of the property's ownership.

(c) A tribe does not need to submit to the Chair a notice that a facility license is under consideration for issuance for occasional charitable events lasting not more than one week.

§ 559.3 When must a tribe submit a copy of a newly issued or renewed facility license to the Chair?

A tribe must submit to the Chair a copy of each newly issued or renewed facility license within 30 days of issuance.

§ 559.4 What must a tribe submit to the Chair with the copy of each facility license that has been issued or renewed?

A tribe shall submit to the Chair with each facility license an attestation certifying that by issuing the facility license, the tribe has determined that the construction and maintenance of the gaming facility, and the operation of that gaming, is conducted in a manner which adequately protects the environment and the public health and safety. This means that a tribe has identified and enforces laws, resolutions, codes, policies, standards or procedures applicable to each gaming place, facility, or location that protect the environment and the public health and safety, including standards under a tribal-state compact or Secretarial procedures.

§ 559.5 Does a tribe need to notify the Chair if a facility license is terminated or expires or if a gaming place, facility, or location closes or reopens?

A tribe must notify the Chair within 30 days if a facility license is terminated or expires or if a gaming place, facility, or location closes or reopens. A tribe need not provide a notification of seasonal closures or temporary closures with a duration of less than 180 days.

§ 559.6 May the Chair require a tribe to submit applicable and available Indian lands or environmental and public health and safety documentation regarding any gaming place, facility, or location where gaming will occur?

A tribe shall provide applicable and available Indian lands or environmental and public health and safety documentation requested by the Chair.

§ 559.7 May a tribe submit documents required by this part electronically?

Yes. Tribes wishing to submit documents electronically should contact the Commission for guidance on

acceptable document formats and means of transmission.

Dated: September 14, 2012, Washington, DC.

Tracie L. Stevens,

Chairwoman.

Steffani A. Cochran,

Vice-Chairwoman.

Daniel J. Little,

Associate Commissioner.

[FR Doc. 2012–23156 Filed 9–21–12; 8:45 am]

BILLING CODE 7565–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2012–0853]

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

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

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

DATES: This deviation is effective from October 1, 2012 through October 31, 2012.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2012–0853 and are available online at *www.regulations.gov,* inserting USCG–2012–0853 in the ''Keyword'' and then clicking ''Search''. They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Ms. Judy Leung-Yee, Project Officer, First Coast Guard District, telephone (212) 668–7165, email *judy.k.leung-yee@uscg.mil.* If you have questions on viewing the docket, call Renne V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Metro North (Peck) Bridge, across the Pequonnock River, mile 0.3, at Bridgeport, Connecticut, has a vertical clearance in the closed position of 26 feet at mean high water and 32 feet at mean low water. The drawbridge operation regulations are listed at 33 CFR 117.219(b).

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

The operator of the bridge, Metro North Railroad, requested a temporary deviation from the regulations to facilitate scheduled bridge maintenance, miter rail repair, at the bridge. The Coast Guard previously granted a temporary deviation (77 FR 40266) to Metro North in effect from July 9, 2012 through September 30, 2012 to facilitate bridge repairs; however, the bridge repair work will not be completed by the end of September as planned due to various scheduling issues.

As a result of the above information, a second temporary deviation was requested by Metro North to facilitate completion of the repairs at the bridge.

Under this temporary deviation the Metro North (Peck) Bridge may remain in the closed position from October 1, 2012 through October 31, 2012.

There are no alternate routes available to marine traffic. Vessels that can pass under the bridge in the closed position may do so at all times. The bridge can be opened in the event of an emergency.

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

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

Dated: September 12, 2012.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. 2012–23435 Filed 9–21–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2012–0864]

Drawbridge Operation Regulations; James River, Newport News, VA

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 US 17/258 Bridge across the James River, mile 5.0, at Newport News, VA. The deviation is necessary to facilitate the structural repairs of the bridge. This deviation allows the bridge to remain closed on weekends during the repairs and requires two-hour advanced notice for bridge openings.

DATES: This deviation is effective from 9 p.m. on September 14, 2012 until 5 a.m. on December 10, 2012.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2012–0864 and are available online by going to *http://www.regulations.gov,* inserting USCG–2012–0864 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 Mr. Bill H. Brazier, Bridge Management Specialist, Fifth Coast Guard District, telephone (757) 398–6422, email *Bill.H.Brazier@uscg.mil.* If you have questions on reviewing the docket, call Renne V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION: Curtis Contracting, Inc., on behalf of the Virginia Department of Transportation who owns and operates this vertical-lift type drawbridge, has requested a temporary deviation from the current operating regulations to facilitate grid deck replacement on the structure.

Under the regular operating schedule, the US 17/258 Bridge over the James River, mile 5.0, at Newport News, VA opens on signal as required by 33 CFR 117.5 and has vertical clearances in the

full open and closed positions of 145 feet and 60 feet above mean high water, respectively.

Under this temporary deviation, the drawbridge will be closed to navigation on weekends only beginning Fridays, at 9 p.m. through 5 a.m., on Mondays, from September 14, 2012 through December 10, 2012 and vessel openings will be provided with a two-hour advance notice to the bridge tender. During the temporary deviation period, the drawbridge will be unable to open in the event of an emergency. Vessels that can pass under the bridge without a bridge opening may do so at all times. There are no alternate routes for vessels transiting this section of the James River.

The James River caters to a variety of vessels from freighters to tug and barge traffic to recreational vessels. The Coast Guard has carefully coordinated the restrictions with commercial and recreational waterway users. Additionally, the Coast Guard will inform unexpected users of the waterway through our Local and Broadcast Notice to Mariners of the closure periods for the bridge so that vessels can arrange their transits to minimize any impacts caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the draw must return to its original 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: September 11, 2012.

Waverly W. Gregory, Jr.,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2012–23436 Filed 9–21–12; 8:45 am]

BILLING CODE 9110–04–P

POSTAL SERVICE

39 CFR Part 111

New Pallet Preparation Standards for Periodicals

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The Postal Service will revise *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM®) 705.8.10.2 to align pallet preparation standards for Periodicals with those currently required for Periodicals prepared in sacks and similar containers. The Postal Service will also align the preparation standards for merged pallets of Periodicals in DMM 705.10, 705.12 and 705.13 with other DMM sections by allowing mailers using these programs to place Periodicals bundles directly on mixed area distribution center (ADC) pallets.

DATES: *Effective date:* January 27, 2013.

FOR FURTHER INFORMATION CONTACT: Craig Vance at 202–268–7595, or Kevin Gunther at 202–268–7208.

SUPPLEMENTARY INFORMATION: The separation of mail destinating within the origin mixed ADC (OMX) surface reach of the mailer's plant (or entry point) from the remaining mixed ADC mail is crucial for maintaining acceptable service performance, for the benefit of both Periodicals customers and USPS® processing operations. To assure that these separations are being made, effective January 27, 2013, the Postal Service will revise DMM 705.8.10.2 to provide the option for mailers to prepare both the OMX and mixed ADC pallets at no minimum volume threshold, and to require the preparation of both pallets at volumes of 100 pounds or more. Mailers will be required to sack the bundles if they choose not to prepare either pallet level below the 100-pound threshold. The Postal Service also will require that mailers prepare the mixed ADC pallet in accordance with labeling list L009 instead of the currently required L004.

In response to inquiries from the mailing industry, the Postal Service also will provide an option for mailers of merged pallets of Periodicals, prepared under DMM 705.10, 705.12 and 705.13, to place Periodicals bundles directly on OMX and mixed ADC pallets.

These changes will be effective January 27, 2013. However, to provide for the most expeditious processing of OMX and mixed ADC Periodicals mailpieces in USPS networks, the Postal Service strongly encourages mailers to begin using these new standards immediately.

Background

Prior to January 22, 2012, mailers were required to prepare bundles of flat-size Periodicals in mixed ADC sacks (or similar containers), labeled according to labeling list L009; and in OMX sacks (or similar containers), labeled according to labeling list L201. These standards assured that the OMX and the mixed ADC separations were always made, so the sacks that were prepared could then be presented directly for acceptance or placed on pallets in accordance with DMM 705.8.10.2.

On January 22, 2012, the Postal Service revised DMM 705.8.10.2 to allow mailers to place bundles of flat-size Periodicals directly onto mixed ADC and OMX pallets, but retained the existing language describing these pallet levels as optional. The long-standing language that required the mixed ADC pallet to be labeled in accordance with labeling list L004 was also retained. As a result of this change, some mailers have discontinued the practice of making the mixed ADC and OMX separations when placing bundles of flat-size Periodicals directly on pallets. It was not the intent of the January 22, 2012 revision to eliminate the requirement to perform the OMX and mixed ADC separations. As a result, on June 29, 2012, the Postal Service published a proposed rule, **Federal Register** notice (77 FR 38759–38760), signaling its intent to change DMM standards to clarify that the mixed ADC and OMX separations must always be made.

Comments

The Postal Service received only one comment in response to the June 29, 2012 proposed rule, relating to the optional programs for mailers to merge bundles of flats from different price categories on pallets. This commenter requested that the Postal Service consider providing an option for mailers, creating merged pallets under DMM 705.10, 705.12 and 705.13, to place bundles directly on mixed ADC and OMX pallets, instead of requiring these bundles to be sacked. The Postal Service believes that the operational impact will be minimal if it extends the option for mailers using these optional programs. As a result, it will revise the DMM to extend this option to mailers using these advanced preparation programs.

The Postal Service hereby adopts the following changes to *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), incorporated by reference in the *Code of Federal Regulations.* See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Accordingly, 39 CFR part 111 is amended as follows:

PART 111—[AMENDED]

■ 1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633 and 5001.

■ 2. Revise the following sections of *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM) as follows:

Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)

* * * * *

700 Special Standards

* * * * *

705 Advanced Preparation and Special Postage Payment Systems

* * * * *

8.0 Preparing Pallets

* * * * *

8.10 Pallet Presort and Labeling

* * * * *

8.10.2 Periodicals—Bundles, Sacks, or Trays

* * * * *

[Revise the introductory paragraph of 8.10.2j as follows:]

j. Origin Mixed ADC (OMX), optional for sacks and trays; allowed with no minimum and required at 100 pounds of mail for bundles of flats. Bundles of flats totaling less than 100 pounds in weight must be sacked if not palletized. Pallet may contain carrier route, automation price, and presorted price mail. Labeling:

* * * * *

[Revise the introductory paragraph and line 1 of 8.10.2k as follows:]

k. *Mixed ADC, optional for sacks and trays;* allowed with no minimum and required at 100 pounds of mail for bundles of flats. Bundles of flats totaling less than 100 pounds in weight must be sacked if not palletized. Pallet may contain carrier route, automation price, or presorted price mail. Pallets must not contain sacks, trays or bundles that should be properly placed on the origin mixed ADC (OMX) pallet. Labeling:

1. Line 1: ''MXD'' followed by the city, state, and ZIP Code information for facility serving 3-digit ZIP Code prefix of entry Post Office as shown in L009, Column A.

* * * * *

10.0 Merging Bundles of Flats in Sacks and Pallets Using the City State Product

10.1 Periodicals

* * * * *

10.1.5 Pallet Preparation and Labeling

* * * Mailers must label pallets according to the Line 1 and Line 2 information listed below and under 8.6, Pallet Placards.

* * * * *

[Delete 10.1.5g and 10.1.5h in their entirety and add a new 10.1.5g as follows:]

g. *SCF through mixed ADC,* use 8.10.2h through 8.10.2k, as applicable, to prepare and label SCF, ADC, Origin Mixed ADC (OMX) and mixed ADC pallet levels.

* * * * *

12.0 Merging Bundles of Flats on Pallets Using a 5% Threshold

12.1 Periodicals

* * * * *

12.1.5 Pallet Preparation and Labeling

* * * If a mailing contains no barcoded price pieces and the carrier route mailing and the nonbarcoded price mailing are irregular parcels, use ''IRREG'' for the processing category on the contents line of the pallet label.

* * * * *

[Delete 12.1.5h and 12.1.5i in their entirety and add a new 12.1.5h as follows:]

h. *SCF through mixed ADC,* use 8.10.2h through 8.10.2k, as applicable, to prepare and label SCF, ADC, Origin Mixed ADC (OMX) and mixed ADC pallet levels.

* * * * *

13.0 Merging Bundles of Flats on Pallets Using the City State Product and a 5% Threshold

13.1 Periodicals

* * * * *

13.1.5 Pallet Preparation and Labeling

* * * If a mailing contains no barcoded price pieces and the carrier route mailing and the nonbarcoded price mailing are irregular parcels, use ''IRREG'' for the processing category on the contents line of the pallet label.

* * * * *

[Delete 13.1.5h and 13.1.5i in their entirety and add a new 13.1.5h as follows:]

h. *SCF through mixed ADC,* use 8.10.2h through 8.10.2k, as applicable, to prepare and label SCF, ADC, Origin Mixed ADC (OMX) and mixed ADC pallet levels.

* * * * *

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes.

Stanley F. Mires,

Attorney, Legal Policy and Legislative Advice.

[FR Doc. 2012–23417 Filed 9–21–12; 8:45 am]

BILLING CODE 7710–12–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3900, 3910, 3920, 3930, and 4100

Oil Shale Management—General

CFR Correction

In Title 43 of the Code of Federal Regulations, Part 1000 to End, revised as of October 1, 2011, on page 857, the Subchapter D heading and the Group 4100 heading and note are removed and are inserted on page 889 before the Part 4100 heading.

[FR Doc. 2012–23523 Filed 9–21–12; 8:45 am]

BILLING CODE 1505–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[Docket No. 110819517–2456–02]

RIN 0648–BB06

Second Fishing Capacity Reduction Program for the Longline Catcher Processor Subsector of the Bering Sea and Aleutian Islands Non-Pollock Groundfish Fishery

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

ACTION: Final rule.

SUMMARY: NMFS hereby establishes regulations to implement a second fishing capacity reduction program (also commonly known as ''buyback'') and an industry fee system to repay a $2.7 million loan for a single latent permit within the Longline Catcher Processor Subsector of the Bering Sea and Aleutian Islands (BSAI) non-pollock groundfish fishery (Reduction Fishery). The purpose of this action is to permanently reduce the greatest amount of fishing capacity at the least cost. This should result in increased harvesting productivity for the permit holders remaining in the fishery. The loan for this program will be added to the previous program loan of $35,700,000 authorized by the FY 2005 Appropriations Act (the Appropriations Act). For purposes of this regulation, the terms license and permit are used interchangeably.

DATES: Effective October 24, 2012.

ADDRESSES: Copies of the Environmental Assessment/Regulatory

Impact Review/Final Regulatory Flexibility Analysis (EA/RIR/FRFA) prepared for this action may be obtained from Paul Marx, Chief, Financial Services Division, NMFS, Attn: SE Alaska Purse Seine Salmon Rulemaking, 1315 East-West Highway, Silver Spring, MD 20910 or by calling Michael A. Sturtevant (see **FOR FURTHER INFORMATION CONTACT**).

Send comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule to Michael A. Sturtevant at the address specified above and also to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer) or email to *OIRA_Submission@omb.eop.gov,* or fax to (202) 395–7825.

FOR FURTHER INFORMATION CONTACT: Michael A. Sturtevant at (301) 427–8799, fax (301) 713–1306, or *michael.a.sturtevant@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Statutory and Regulatory Background

In 1996, in response to the finding that many U.S. fisheries have excess fishing capacity, Congress provided for fishing capacity reduction programs. The intent of a program is to decrease the number of harvesters in the fishery, increase the economic efficiency of harvesting, and facilitate the conservation and management of fishery resources in each fishery in which NMFS conducts a reduction program. Typically, permit holders are paid to voluntarily surrender their fishing permits including relevant fishing histories for that fishery, or surrender all of their fishing permits and cancel their fishing vessels' fishing endorsements by permanently withdrawing the vessels from all fisheries. The cost of the program is paid either by the remaining harvesters through a loan or by taxpayers through a direct appropriation from Congress. Section 312(b)–(e) (16 U.S.C. 1861a(b)–(e)) was added to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) to authorize such programs. Congress also amended Title XI of the Merchant Marine Act, 1936 (Title XI), adding new sections 1111 and 1112 to finance capacity reduction costs. The Title XI provisions involving fishing capacity reduction loans have been codified at 46 U.S.C. 53735.

To implement capacity reduction programs, NMFS promulgated regulations published as subpart L to 50 CFR part 600, which contain a framework rule for buyback programs generally. For each individual program, NMFS promulgates regulations at subpart M to 50 CFR part 600 to implement the specific terms of that particular buyback. NMFS publishes these regulations in order to undertake this second round of capacity reduction for the BSAI Longline Catcher Processor Subsector.

Initial Reduction Program

The measures contained in this final rule to establish the capacity reduction program are authorized by the Appropriations Act. The Appropriations Act authorizes the establishment of fishing capacity reduction programs for catcher processor subsectors within the Alaska groundfish fisheries (i.e., the longline catcher processor subsector, the American Fisheries Act (AFA) trawl catcher processor subsector, the non-AFA trawl catcher processor subsector, and the pot catcher processor subsector) based on capacity reduction plans and contracts developed by industry and approved by NMFS. Additionally, Public Law 108–199 provided the initial $500,000 subsidy cost to fund a $50 million loan, and Public Law 108–447 provided an additional $250,000 subsidy cost to fund $25 million more (in addition to providing for the buyback program itself). Under the Authorization Act, each subsector was allocated a specific amount of the total loan authority.

In 2007, NMFS approved and implemented a $35.7 million fishing capacity reduction loan program for the Longline Catcher Processor Subsector, which represented the full amount authorized for that subsector. The initial program removed three fishing vessels and 12 fishing licenses and permits for a loan amount of $35 million. All long-line catcher processors harvesting non-pollock groundfish were required to pay and forward a fee to NMFS to repay the loan. The original fee assessment was $0.02 per pound caught with payment and collection beginning on October 24, 2007. That rate has since been reduced to $0.0145 per pound.

None of the other subsectors have expressed an interest in implementing a capacity reduction program for their subsector. A provision in the Appropriations Act permits the Secretary of Commerce to make available any of the unused loan amounts, originally allocated for each subsector, for capacity reduction programs in any of the subsectors after January 1, 2009.

Program Summary

Members of the BSAI Longline Catcher Processor Subsector informed NMFS that they wished to access the remaining loan amounts to undertake a second buyback. To implement this next buyback, the Freezer Longline Conservation Cooperative (FLCC) on behalf of the Reduction Fishery was required by the Appropriations Act to draft and submit to NMFS a Reduction Plan. On August 27, 2010, the FLCC submitted a Reduction Plan to access $2.7 million of the remaining funds. A Reduction Agreement, Reduction Contract, and application of the statutes and regulations referred to above are the basis for the Reduction Plan. The FLCC's Reduction Plan involves just one permit.

The Reduction Agreement and the Reduction Contract are the two key components of the Reduction Plan and this final rule. Substantive provisions of the Reduction Agreement and the Reduction Contract would be codified at 50 CFR 600.1108.

Summary of Comments

NMFS received two comments in response to the proposed rule. One was from an individual and the other from the FLCC. The individual generally expressed opposition to NMFS management of fisheries. The comment did not reference any issues specific issues with respect to the proposed rule. Therefore, no response is necessary. The FLCC expressed its support of the proposed rule noting that removing this last inactive permit removes future uncertainty in a cost effective manner and provides the ability to fish in a voluntary cooperative. NMFS made two minor corrections to the proposed rule.

Reduction Program—Overview

All permit holders in the Longline Subsector who wished to relinquish their fishing permits were welcome to participate in the Reduction Program. The Program was divided into four phases: (1) Enrollment; (2) offer selection; (3) plan submission; and (4) implementation, after approval by referendum. The first three phases have been completed. Thus, this rule concerns itself only with the implementation phase of the program.

Reduction Program: The Capacity Reduction Agreement

Reduction Agreement Terms and Definitions

Capitalized terms used in the Reduction Agreement are defined in Schedule A to the Reduction Agreement; other terms are defined

within the text of the Reduction Agreement. Reduction Agreement terms that are essential to understanding the regulatory provisions are set forth in § 600.1108(b).

Reduction Agreement: Major Sections

There are three major sections of the Reduction Agreement: Qualification and Enrollment of Subsector Members; Selection of Offers to Remove Fishing Capacity by the Reduction Plan; and Submission of the Reduction Plan, including the repayment requirements. Identical provisions previously codified in 50 CFR 600.1105 are incorporated into this section by reference. This rule includes a fee collection system similar to the one codified at § 600.1106.

Qualification and Enrollment

The FLCC received four offers from the Subsector Members. Each of the four offerors executed a Reduction Agreement and submitted specified supporting documents evidencing an applicant's status as a Subsector Member. The FLCC Auditor reviewed all documents for strict compliance with the regulatory provisions in § 600.1105.

Selection of Offers To Remove Fishing Capacity by the Reduction Plan

The selection process was consistent with the buyback previously codified at § 600.1105(d) except that the funding source for the loan comes from the residual funds outlined above. In accordance with the previously developed procedures, the FLCC completed the selection process to rank the offers. Following completion of the selection process, the FLCC accepted only one latent permit to be bought out for $2,700,000.

Plan Submission

After the Selection Process was completed, the FLCC developed the Reduction Plan. The Reduction Plan was submitted to NMFS for its approval on behalf of the Secretary of Commerce. As required by the Appropriations Act, the FLCC has notified the North Pacific Fishery Management Council. Only one License Limitation Program (LLP) license and its fishing history are being submitted for removal from the Reduction Fishery. This latent LLP license is not associated with a vessel. Therefore, no vessel is being removed from the fishery under this Reduction Program. Fees to repay the loan will be collected as set forth in § 600.1108.

Approval of the Reduction Plan

The criteria for NMFS, on behalf of the Secretary, to approve any Reduction Plan are specified in § 600.1108(k). Among other things, the Assistant Administrator of NMFS must find that the Reduction Plan is consistent with the Appropriations and the Magnuson-Stevens Acts, and that it will result in the maximum sustained reduction in fishing capacity at the least cost and in the minimum amount of time.

The Reduction Plan includes the LLP license selected through the offer process as the asset to be purchased in the Reduction Program. The Reduction Plan also includes the FLCC's supporting documents and rationale for establishing that the current offer represents the expenditure of the least money for the greatest capacity reduction. Acceptance of the offer is at the sole discretion of NMFS.

The FLCC may be required to revise and resubmit the Reduction Plan to conform to the provisions of this final rule.

The Referendum

NMFS will conduct a referendum to determine the industry's willingness to repay a fishing capacity reduction loan to purchase the license and fishing rights identified in the Reduction Plan. A successful referendum by a majority of all members of the Reduction Fishery would bind all parties and complete the reduction process.

The current Fishing Capacity Reduction Framework regulatory provisions at § 600.1010 stipulate the procedural and other requirements by which NMFS shall conduct referenda on fishing capacity reduction programs. Section 600.1108(l) makes those framework referendum requirements applicable to this Reduction Program. Only after approval of the Reduction Program via a referendum will the Reduction Program be implemented.

Loan Repayment

Upon completion of a successful referendum to approve a fishing capacity reduction loan, the repayment plan, amortized over a 30-year term, will be implemented. Once the Reduction Program is implemented, repayment of the loan by monthly collection of fees from the remaining Subsector Members operating in the Reduction Fishery will be initiated.

In accordance with § 600.1013, the fees for each individual program should not exceed 5 percent of the average ex-vessel production value of the Reduction Fishery. Thus, the total possible fee from the two programs will not exceed 10 percent of the average ex-vessel pacific cod revenues for one year. In the event that the total principal and interest due for this program exceeds this level, an additional fee for the season will be assessed. This temporary fee assessment will be $0.01 per pound round weight for pollock, arrowtooth flounder, Greenland turbot, skate, yellowfin sole and rock sole.

The fee will be calculated on an annual basis as: The principal and interest payment amount necessary to amortize the loan over a 30-year term, divided by the Reduction Fishery portion of the BSAI Pacific cod initial total allowable catch (ITAC) allocation in metric tons (converted to pounds). NMFS estimates that the actual fees for this program will be $0.001 per pound, based upon the estimated fishery revenue from 2010 amortized over a 30-year loan. This program, coupled with the previously codified program in § 600.1105, will bring total fish catch fees to approximately $0.016 per pound.

For more specific information on submission of the Reduction Plan, including fees to repay the Reduction Loan, see § 600.1108(e). For specific information on the fee payment and collection system, see § 600.1108(k).

The Reduction Program: Other Matters Relating to the Reduction Agreement and Reduction Plan Review/Disputes

The Reduction Agreement provided for an expedited process to review any decision by the Auditor and for settlement of disputes utilizing an expedited review process by pre-selected legal counsel and, if necessary, binding arbitration. However, this provision was not activated as no disputes occurred during the selection process of this proposed buyback.

Other Provisions of the Reduction Agreement

Proposed regulatory provisions mirroring the Reduction Agreement's provisions for Specific Performance, Miscellaneous, Amendment, and Warranties are specified at § 600.1108(g), (h), (i), and (j), respectively.

The Fee Payment and Collection System

The payment and collection system will remain the same for the loan the subsector previously approved in 2007. Under this rule, § 600.1108(k) outlines the requirements for repayment of this loan. This provision mirrors the fee system codified in § 600.1106 for the 2007 loan, except in total amount. The amount of the loan in this rule is $2,700,000.

The Contract

An appendix to § 600.1108 sets forth the Contract component of the Reduction Program for the Longline Subsector. The appendix, or Contract,

was previously codified as an appendix to the regulatory text of § 600.1105. This rule references the appendix without reprinting it.

Classification

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

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

In compliance with the National Environmental Policy Act, NMFS prepared an environmental assessment for this rule. The assessment discusses the impact of this final rule on the natural and human environment and integrates a Regulatory Impact Review (RIR) and a Final Regulatory Flexibility Analysis (IRFA). NMFS will send the assessment, the review, and the analysis to anyone who requests a copy (see **ADDRESSES**).

NMFS prepared a FRFA, as required by section 604 of the Regulatory Flexibility Act (RFA), to describe the economic impacts that this rule, if adopted, would have on small entities. NMFS intends the analysis to aid us in considering regulatory alternatives that could minimize the economic impact on affected small entities. The rule does not duplicate or conflict with other Federal regulations.

Summary of FRFA

The Small Business Administration (SBA) has defined small entities as all fish harvesting businesses that are independently owned and operated, are not dominant in their field of operation, and have annual receipts of $4 million or less. In addition, processors with 500 or fewer employees for related industries involved in canned or cured fish and seafood, or preparing fresh fish and seafood, are also considered small entities. Small entities within the scope of this rule include individual U.S. vessel owners and fish dealers. There are no disproportionate impacts between large and small entities.

Description of the Number of Small Entities

The FRFA uses the most recent year of data available to conduct the analysis (2009–2010). The vessel owners that might be considered large entities were either affiliated with owners of multiple vessels or were catcher processors. In the Reduction Fishery, 17 of the 36 vessel owners meet the threshold for small entities based on gross revenue. However, these vessels are not considered small entities for purposes of the RFA because of their affiliations with the larger fishing entities through the FLCC. All vessels in the Longline Subsector would benefit from a permit buyback because there will be less potential competition for the harvest. Because the potential action would not result in changes to allocation percentages and participation is voluntary, net effects are expected to be minimal relative to the status quo.

Implementation of the buyback program will not change the overall reporting structure and recordkeeping requirements of the vessels in the BSAI Pacific cod fisheries. However, this program will impose collection of information requirements totaling 16 hours 10 minutes.

The final rule's impact would be positive for both the selected Offeror and for the post-reduction catcher processors whose landing fees repay the reduction loan because the Offeror and a majority of the remaining catcher processors will have voluntarily assumed the impact:

1. The Offeror voluntarily made an offer of $2,700,000. Presumably, no Offeror would volunteer to make an offer with an amount that is inconsistent with the Offeror's interest; and

2. Reduction loan repayment landing fees would be instituted, and NMFS will complete the Reduction Program, only if a majority of all Subsector Members vote in favor of the Reduction Plan in a referendum. Presumably, Subsector Members will not vote in favor of the Reduction Plan unless they conclude that the Reduction Program's prospective capacity reduction will be sufficient to enable them to increase their revenues enough to justify the fee.

Those participants who remain in the fishery after the buyback will incur additional fees of up to 5 percent of the ex-vessel production value of post-reduction landings. However, the additional costs would likely be mitigated by increased harvest opportunities for those remaining in the fishery.

NMFS believes that this rule would not affect authorized BSAI Pacific cod ITAC or other non-pollock groundfish harvest levels nor harvesting practices.

NMFS rejected the no action alternative considered in the EA because if adopted NMFS would not be in compliance with the mandate of section 219 of the Appropriations Act to establish a buyback program. In addition, the Longline Catcher Processor Subsector of the non-pollock groundfish fishery would remain overcapitalized. Although too many vessels compete to catch the current subsector's total allowable catch (TAC) allocation, fishermen remain in the fishery because they have no other means to recover their significant capital investment. Overcapitalization reduces the potential net value that could be derived from the non-pollock groundfish resource by dissipating rents, driving variable operating costs up, and imposing economic externalities. At the same time, excess capacity and effort diminish the effectiveness of current management measures (e.g. landing limits and seasons, bycatch reduction measures). Overcapitalization has diminished the economic viability of members of the fleet and increased the economic and social burden on fishery-dependent communities.

This final rule contains information collection requirements subject to the Paperwork Reduction Act (PRA). The Office of Management and Budget (OMB) previously approved this information collection under OMB Control Number 0648–0376 with requirements for 878 respondents with a total response time of 38,653 hours.

NMFS estimates that Sector Members would require an average of four hours to vote in a referendum. Persons affected by this rule would also be subject to other collection-of-information requirements referred to in the rule and also approved under OMB Control Number 0648–0376. These requirements and their associated response times are: Completing and filing a fish ticket (10 minutes), submitting monthly fish buyer reports (2 hours), submitting annual fish buyer reports (4 hours), and tendering fish buyer/fish seller reports when a person fails either to pay or to collect the loan repayment fee (2 hours).

These response estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information collection. Public comment is sought regarding: Whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Interested persons may send comments regarding this burden estimate or any other aspect of this data collection requirement, including suggestions for

reducing the burden, to both NMFS and OMB (see **ADDRESSES**).

Notwithstanding any other provision of law, no person is required to respond to, and no person is subject to a penalty for failure to comply with, an information collection subject to the PRA requirements unless that information collection displays a currently valid OMB control number.

This action would not result in any adverse effects on endangered species or marine mammals.

List of Subjects in 50 CFR Part 600

Fisheries, Fishing capacity reduction, Fishing permits, Fishing vessels, Intergovernmental relations, Loan programs, business, Reporting and recordkeeping requirements.

Dated: September 18, 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, NMFS amends 50 CFR part 600 to read as follows:

PART 600—MAGNUSON-STEVENS ACT PROVISIONS

Subpart M—Specific Fishery or Program Fishing Capacity Reduction Regulations

■ 1. The authority citation for 50 CFR part 600, subpart M, is revised to read as follows:

Authority: 5 U.S.C. 561, 16 U.S.C. 1801 *et seq.,* 16 U.S.C. 1861a(b) through (e), 46 App. U.S.C. 53735, section 144(d) of Division B of Pub. L. 106–554, section 2201 of Pub. L. 107–20, and section 205 of Pub. L. 107–117, Pub. L. 107–206, Pub. L. 108–7, Pub. L. 108–199, and Pub. L. 108–447.

■ 2. Section 600.1108 is added to subpart M to read as follows:

§ 600.1108 Longline catcher processor subsector of the Bering Sea and Aleutian Islands (BSAI) non-pollock groundfish fishery program.

(a) *Purpose.* This section implements the capacity reduction program that Title II, section 219(e) of Public Law 108–447 established for the longline catcher processor subsector of the Bering Sea and Aleutian Islands (BSAI) non-pollock groundfish fishery.

(b) *Definitions.* Unless otherwise defined in this section, the terms defined in § 600.1000 of subpart L and § 600.1105 of subpart M of this part expressly apply to this section. The following terms have the following meanings for the purpose of this section:

Reduction fishery means the Hook & Line, Catcher Processor (Longline Subsector); sometimes referred to as the ''H&LCP Subsector) portion of the BSAI Pacific cod ITAC (in metric tons) set by the North Pacific Fishery Management Council (NPFMC) in December of each year multiplied by 2,205 (i.e., the rounded number of pounds in a metric ton)or the Longline Subsector of the BSAI non-pollock groundfish fishery that § 679.2 of this chapter defined as groundfish area/species endorsement.

(c) *Capacity Reduction Program.* As a result of the completion of the Selection Process, written notification from the FLCC to NMFS identifying the selected offeror, and submission of the reduction plan, the capacity reduction program is implemented as follows:

(1) *Loan repayment*—(i) *Term.* As authorized by section 219(B)(2) of the Appropriations Act, the capacity reduction loan (the Reduction Loan) shall be amortized over a thirty (30) year term. The Reduction Loan's original principal amount may not exceed the amount approved by the subsector. The subsector has currently approved a loan of two million seven hundred thousand dollars ($2,700,000). Subsector Members acknowledge that in the event payments made under the Reduction Plan are insufficient to repay the actual loan, the term of repayment shall be extended by NMFS until the loan is paid in full. Repayment calculations and records will be kept separately for each program.

(ii) *Interest.* The Reduction Loan's interest rate will be the U.S. Treasury's cost of borrowing equivalent maturity funds plus 2 percent. NMFS will determine the Reduction Loan's initial interest rate when NMFS borrows from the U.S. Treasury the funds with which to disburse reduction payments. The initial interest rate will change to a final interest rate at the end of the Federal fiscal year in which NMFS borrows the funds from the U.S. Treasury. The final interest rate will be 2 percent plus a weighted average, throughout that fiscal year, of the U.S. Treasury's cost of borrowing equivalent maturity funds. The final interest rate will be fixed, and will not vary over the remainder of the reduction loan's 30-year term. The Reduction loan will be subject to a level debt amortization. There is no prepayment penalty.

(iii) *Fees.* The Reduction Loan shall be repaid by fees collected from the Longline Subsector. The fee amount will be based upon: The principal and interest due over the next twelve months divided by the product of the Longline Subsector. In the event that the Longline Subsector portion for the ensuing year is not available, the Longline Subsector portion forecast from the preceding year will be used to calculate the fee.

(A) The fee will be expressed in cents per pound rounded up to the next one-tenth of a cent. For example: If the principal and interest due equal $2,900,000 and the Longline Subsector portion equals 100,000 metric tons, then the fee per round weight pound of Pacific cod will equal 1.4 cents per pound. [2,900,000/(100,000 × 2,205) = .01315]. The fee will be assessed and collected on Pacific cod to the extent possible and if not, will be assessed and collected as provided for in paragraph (c)(1)(iii)(B) of this section.

(B) Fees must be assessed and collected on Pacific cod used for bait or discarded. Although the fee could be up to 5 percent of the ex-vessel production value of all post-reduction Longline Subsector landings, the fee will be less than 5 percent if NMFS projects that a lesser rate can amortize the fishery's reduction loan over the reduction loan's 30-year term. In the event that the total principal and interest due exceeds 5 percent of the ex-vessel Pacific cod revenues, a standardized additional fee will be assessed. The additional fee shall be one cent per pound round weight, which is calculated based on the latest available revenue records and NMFS conversion factors for pollock, arrowtooth flounder, Greenland turbot, skate, yellowfin sole and rock sole.

(C) To verify that the fees collected do not exceed 5 percent of the fishery revenues, the annual total of principal and interest due will be compared to the latest available annual Longline Subsector revenues. In the event that any of the components necessary to calculate the next year's fee are not available, or for any other reason NMFS believes the calculation must be postponed, the fee will remain at the previous year's amount until such a time that new calculations are made and communicated to the post-reduction fishery participants.

(D) It is possible that the fishery may not open during some years and no Longline Subsector portion of the ITAC is granted. Consequently, the fishery will not produce fee revenue with which to service the reduction loan during those years. However, interest will continue to accrue on the principal balance. When this happens, if the fee rate is not already at the maximum 5 percent, NMFS will increase the fishery's fee rate to the maximum 5 percent of revenue for Pacific cod, apply all subsequent fee revenue first to the payment of accrued interest, and continue the maximum fee rates until

all principal and interest payments become current. Once all principal and interest payments are current, NMFS will make a determination about adjusting the fee rate.

(iv) *Reduction loan.* NMFS has promulgated framework regulations generally applicable to all fishing capacity reduction programs in subpart L of this part. The reduction loan shall be subject to the provisions of § 600.1012, except that: the subsector members' obligation to repay the reduction loan shall be discharged by the owner of the Longline Subsector license regardless of which vessel catches fish under this license and regardless of who processes the fish in the reduction fishery in accordance with § 600.1013. Longline Subsector license owners in the reduction fishery shall be obligated to collect the fee in accordance with § 600.1013.

(v) *Collection.* The LLP License holders of vessels harvesting in the post-capacity reduction plan Longline Subsector shall be responsible for self-collecting the repayment fees owed by the LLP License holder. Fees shall be submitted to NMFS monthly and shall be due no later than fifteen (15) calendar days following the end of each calendar month.

(vi) *Recordkeeping and reporting.* The holder of the LLP Licenses on which vessels harvesting in the post-capacity reduction plan Longline Subsector is designated shall be responsible for compliance with the applicable recordkeeping and reporting requirements.

(2) *Agreement with Secretary.* The Selected Offeror shall complete and deliver to the FLCC for inclusion in the Reduction Plan submitted to NMFS, designee for the Secretary, a completed and fully executed Reduction Contract. The LLP License set forth on the Selected Offer shall be included as Reduction Fishing Interests in such Reduction Contract.

(d) *Decisions of the Auditor and the FLCC.* Time was of the essence in developing and implementing a Reduction Plan and, accordingly, the Offeror is limited to, and bound by, the decisions of the Auditor and the FLCC.

(1) The Auditor's examination of submitted applications, Offers, Prequalification Offers and Rankings was solely ministerial in nature. That is, the Auditor verified whether the documents submitted by Subsector Members were, on their face, consistent with each other and the Database, in compliance with the requirements set forth in the Reduction Agreement, and signed by an Authorized Party. The Auditor presumed the validity of all signatures on documents submitted. The Auditor made no substantive decisions as to compliance (e.g., whether an interim LLP License satisfies the requirements of the Act, or whether a discrepancy in the name appearing on LLP Licenses and other documents was material).

(2) [Reserved]

(e) *Specific performance.* The parties to the Reduction Agreement have agreed that the opportunity to develop and submit a capacity reduction program for the Longline Subsector under the terms of the Appropriations Act is both unique and finite and that failure of the Selected Offeror to perform the obligations provided by the Reduction Agreement will result in irreparable damage to the FLCC and the Subsector Members. Accordingly, the parties to the Reduction Agreement expressly acknowledge that money damages are an inadequate means of redress and agree that upon the failure of the Selected Offeror to fulfill their obligations under the Reduction Agreement that specific performance of those obligations may be obtained by suit in equity brought by the FLCC in any court of competent jurisdiction without obligation to arbitrate such action.

(f) *Miscellaneous*— (1) *Termination.* The Reduction Agreement may be terminated at any time prior to approval of the Reduction Plan by NMFS, on behalf of the Secretary, by written notice from 50 percent of Subsector Members.

(2) *Choice of law/venue.* The Reduction Agreement shall be construed and enforced in accordance with the laws of the State of Washington without regard to its choice of law provisions. The parties submit to the exclusive personal jurisdiction of the United States District Court located in Seattle, Washington, with respect to any litigation arising out of or relating to the Reduction Agreement or out of the performance of services hereunder.

(3) *Incorporation.* All executed counterparts of the Reduction Agreement, Application Forms and Offers constitute the agreement between the parties with respect to the subject matter of the Reduction Agreement and are incorporated into the Reduction Agreement as if fully written.

(4) *Counterparts.* The Reduction Agreement may be executed in multiple counterparts and will be effective as to signatories on the Effective Date. The Reduction Agreement may be executed in duplicate originals, each of which shall be deemed to be an original instrument. All such counterparts and duplicate originals together shall constitute the same agreement, whether or not all parties execute each counterpart.

(i) The facsimile signature of any party to the Reduction Agreement shall constitute the duly authorized, irrevocable execution and delivery of the Reduction Agreement as fully as if the Reduction Agreement contained the original ink signatures of the party or parties supplying a facsimile signature.

(ii) [Reserved]

(g) *Amendment.* All Subsector Members acknowledge that the Reduction Agreement, the Reduction Contract, and the Reduction Plan may be subject to amendment to conform to the requirements for approval of the Reduction Plan by NMFS on behalf of the Secretary. The Auditor shall distribute to each Subsector Member in electronic format the amended form of the Reduction Agreement, the Reduction Contract, and the Reduction Plan, which amended documents in the form distributed by the Auditor and identified by the Auditor by date and version, the version of each such document then in effect at the time of any dispute arising or action taken shall be deemed binding upon the parties with respect to such dispute and/or action.

(h) *Warranties.* The Offeror must expressly warrant and represent in the Reduction Agreement that:

(1) The Offeror has had an opportunity to consult with an attorney or other advisors with respect to the Reduction Agreement, the Reduction Contract, and the Act and the ramifications of the ratification of the Reduction Plan contemplated therein;

(2) The Offeror has full understanding and appreciation of the ramifications of executing and delivering the Reduction Agreement and, free from coercion of any kind by the FLCC or any of its members, officers, agents and/or employees, executes and delivers the Reduction Agreement as the free and voluntary act of the Offeror;

(3) The execution and delivery of the Reduction Agreement, does not and will not conflict with any provisions of the governing documents of the Offeror;

(4) The person executing the Reduction Agreement has been duly authorized by the Offeror to execute and deliver the Reduction Agreement and to undertake and perform the actions contemplated herein; and

(5) The Offeror has taken all actions necessary for the Reduction Agreement to constitute a valid and binding obligation, enforceable in accordance with its terms.

(i) *Approval of the Reduction Plan.* Acceptance of the Offer is at the sole discretion of NMFS on behalf of the

Secretary of Commerce. To be approved by NMFS, on behalf of the Secretary, any Reduction Plan developed and submitted in accordance with this section and subpart M of this part must be found by the Assistant Administrator of NMFS, to:

(1) Be consistent with the requirements of section 219(e) of the FY 2005 Appropriations Act (Pub. L. 108–447);

(2) Be consistent with the requirements of section 312(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861(a)) except for the requirement that a Council or Governor of a State request such a program (as set out in section 312(b)(1)) and for the requirements of section 312(b)(4);

(3) Contain provisions for a fee system that provides for full and timely repayment of the capacity reduction loan by the Longline Subsector and that it provide for the assessment of such fees;

(4) Not require a bidding or auction process;

(5) Result in the maximum sustained reduction in fishing capacity at the least cost and in the minimum amount of time; and

(6) Permit vessels in the Longline Subsector to be upgraded to achieve efficiencies in fishing operations provided that such upgrades do not result in the vessel exceeding the applicable length, tonnage, or horsepower limitations set out in Federal law or regulation.

(j) *Referendum.* The following provisions apply to the Reduction Plan of this section to the extent that they do not conflict with subpart L of this part including §§ 600.1009, 600.1010, 600.1013, and 600.1014 or 16 U.S.C. 1861a; except where the referendum is successful if a majority of all permit holders within the fishery vote in favor of the Reduction Program is accordance with 18 U.S.C. 1861a(d)(1)(B).

(k)(1) *Fee payment and collection system.* Upon successful completion of the Referendum discussed above as authorized by Public Law 108–447 and in accordance with 16 U.S.C. 1861a and § 600.1012 this fee collection system establishes:

(i) The subsector members' obligation to repay the reduction loan, and

(ii) The loan's principal amount, interest rate, and repayment term; and

(iii) In accordance with §§ 600.1013 through 600.1016, implements an industry fee system for the reduction fishery.

(2) *Reduction loan amount.* The reduction loan's original principal amount is $2,700,000.

(3) *Interest accrual from inception.* Interest begins accruing on the reduction loan from the date which NMFS disburses such loan.

(4) *Interest rate.* The reduction loan's interest rate shall be the applicable rate which the U.S. Treasury determines at the end of fiscal year in which loan is disbursed plus 2 percent.

(5) *Repayment terms.* For the purpose of determining fee rates, the reduction loan's repayment term is 30 years from the date NMFS disburses the loan. However, fee collections shall continue indefinitely until the loan is fully repaid.

(6) *Reduction loan repayment.* The subsector members shall repay the reduction loan in accordance with § 600.1012. Both fish buyers and fish sellers are considered subsector members for purposes of fee collection, deposit, disbursement, and accounting in accordance with § 600.1013.

(i) Subsector members in the reduction fishery shall collect and pay the fee amount in accordance with § 600.1105;

(ii) Subsector members in the reduction fishery shall deposit and disburse, as well as keep records for and submit reports about, the applicable fees in accordance with § 600.1014, except the requirements under paragraphs (c) and (e) of this section. All collected fee revenue a fish buyer collects to repay the loan identified in paragraph (c) of this section shall be made to NMFS no later than fifteen (15) calendar days following the end of each calendar month. The annual reports identified in paragraph (e) of this section shall be submitted to NMFS by February 1 of each calendar year.

(iii) The reduction loan is, in all other respects, subject to the provisions of §§ 600.1012 through 600.1017.

(l) *Enforcement for failure to pay fees.* The provisions and requirements of § 600.1016 (Enforcement) shall also apply to fish sellers and fish buyers subject to this fishery.

[FR Doc. 2012–23494 Filed 9–21–12; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 77, No. 185
Monday, September 24, 2012

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

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

8 CFR Part 100

19 CFR Part 101

[Docket No. USCBP–2012–0037]

Closing of the Jamieson Line, NY Border Crossing

AGENCY: U.S. Customs and Border Protection; DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: U.S. Customs and Border Protection (CBP) is proposing to close the Jamieson Line, New York border crossing. The proposed change is part of CBP's continuing program to more efficiently utilize its personnel, facilities, and resources, and to provide better service to carriers, importers, and the general public.

DATES: Comments must be received on or before November 23, 2012.

ADDRESSES: You may submit comments, identified by docket number USCBP–2012–0037, by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Border Security Regulations Branch, Regulations and Rulings, Office of International Trade, Customs and Border Protection, 799 9th Street NW., 5th Floor, Washington, DC 20229–1179.

Instructions: All submissions received must include the agency name and docket title for this rulemaking, and must reference docket number USCBP–2012–0037. All comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of the document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov*. Submitted comments may also be inspected during regular business days between the hours of 9 a.m. and 4:30 p.m. at the Office of International Trade, Customs and Border Protection, 799 9th Street NW., 5th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325–0118.

FOR FURTHER INFORMATION CONTACT: Mr. Roger Kaplan, Director, Office of Field Operations, Programs and Policy, (202) 325–4543 (not a toll-free number) or by email at *Roger.Kaplan@dhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the proposed rule. U.S. Customs and Border Protection (CBP) also invites comments that relate to the economic, environmental, or federalism effects that might result from this proposed rule. Comments that will provide the most assistance will reference a specific portion of the proposed rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change.

II. Background

CBP ports of entry are locations where CBP officers and employees are assigned to accept entries of merchandise, clear passengers, collect duties, and enforce the various provisions of customs, immigration, agriculture and related U.S. laws at the border. The term ''port of entry'' is used in the Code of Federal Regulations (CFR) in title 8 for immigration purposes and in title 19 for customs purposes.[1] A ''Customs station'' is any place, other than a port of entry, at which CBP officers or employees are stationed to enter and clear vessels, accept entries of merchandise, collect duties, and enforce the various provisions of the customs and navigation laws of the United States. Jamieson Line, New York (referred to in § 101.4(c) of title 19 (19 CFR 101.4(c)) as ''Jamieson's Line'') is designated as a Customs station with Trout River, New York as its supervisory port of entry.

For immigration purposes, CBP regulations list ports of entry for aliens arriving by vessel and land transportation in § 100.4(a) of title 8 (8 CFR 100.4(a)). These ports are listed according to location by districts and are designated as Class A, B, or C. Jamieson Line, New York (referred to in 8 CFR 100.4(a) as ''Jamison's Line'') is included in this list, in District No. 7, as a Class B port of entry. For ease of reference, in this document, we will refer to the crossing at Jamieson Line, New York as a border crossing.

On August 23, 2010, the Canada Border Services Agency (CBSA) notified CBP of its intent to close the Jamieson's Line port of entry in Quebec, Canada. The corresponding U.S. border crossing is the Jamieson Line crossing in New York located approximately 150 feet to the south. CBSA closed the Jamieson's Line port in Quebec, Canada on April 1, 2011. This decision created a situation where travelers from Canada may continue to enter the United States at the Jamieson Line border crossing in New York but travelers leaving the United States for Canada must do so at a port other than at Jamieson's Line port in Quebec.

The Jamieson Line border crossing in New York is one of CBP's least trafficked border crossings. The crossing has processed an average of less than six privately owned vehicles per day and had the eighth lowest traffic volume of all CBP land border crossings in 2010. The volume of traffic at the border crossing has dropped by 20.8% from 2008 to 2011. The facility currently has five full time staff, with only two CBP officers assigned per shift. Redirecting the nominal traffic volume to alternative crossings will have minimal impact on the town closest to the crossing, the town of Burke, with a population of 1,359.

The facility was built in 1945 and has not undergone renovation since 1962. The facility has one primary lane, no secondary lane, and commercial vehicle inspections must occur in the roadway. We have determined that the facility does not have the infrastructure to meet modern operational, safety, and technological demands for border

[1] For customs purposes, CBP regulations list designated CBP ports of entry in § 101.3(b)(1) of title 19 (19 CFR 101.3(b)(1)).

crossings and that major renovations would be required if the Jamieson Line border crossing were to continue operations. The costs of such renovations are discussed in Section IV of this document.

The two ports of entry closest to Jamieson Line are the ports of Trout River, New York and Chateaugay, New York. Trout River is located about 9 road miles west of Jamieson Line and Chateaugay, about 6 road miles east of Jamieson Line. If the border crossing at Jamieson Line is closed, the traffic normally seen at that crossing will be processed at these two ports.

In view of the closure of the adjacent Canadian port of Jamieson's Line, the limited usage of the border crossing of Jamieson Line, New York, the location of the alternative ports, and the analysis of the net benefit of the border crossing closure discussed in Section IV of this document (including the cost of necessary renovations were the crossing to remain open), CBP is proposing to close the Jamieson Line, New York border crossing. This action would further CBP's ongoing goal of more efficiently utilizing its personnel, facilities, and resources.

III. Congressional Notification

On May 31, 2011, the Commissioner of CBP notified Congress of CBP's intention to close the border crossing at Jamieson Line, fulfilling the congressional notification requirements of 19 U.S.C. 2075(g)(2) and section 417 of the Homeland Security Act (6 U.S.C. 217).

IV. Regulatory Requirements

A. Signing Authority

The signing authority for this document falls under 19 CFR 0.2(a). Accordingly, this notice of proposed rulemaking is signed by the Secretary of Homeland Security.

B. Executive Order 12866: Regulatory Planning and Review

Executive Orders 13563 and 12866 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule is not a ''significant regulatory action,'' under section 3(f) of Executive Order 12866. Accordingly, the Office of Management and Budget has not reviewed this regulation.

1. Baseline Conditions

The Jamieson Line crossing averaged 2,202 cars and 63 trucks a year from 2008 through 2011. CBP assigns five full time staff to the crossing, costing about $559,000 per year, including benefits. In addition, CBP spends about $28,000 a year on operating expenses such as utilities and maintenance. The total annual cost of operating the crossing is about $587,000. DHS has determined that the Jamieson Line crossing requires significant renovation and expansion, requiring an estimated $6.5 million to build facilities that meet all current safety and security standards. Since this construction is the only alternative to closing the crossing, CBP would need to spend $7,087,000 the first year (construction plus operating costs) and $587,000 each subsequent year if the crossing were to remain open.

Option 1: Keep crossing open	First year	Subsequent years
Staffing Expenses	$559,000	$559,000
Operating Expenses	28,000	28,000
Crossing Facility Renovation Costs	6,500,000	.....
Total Cost to Keep Crossing Open	7,087,000	587,000

2. Costs of Closing the Crossing

The costs of the proposed closure fall into three categories—the cost to CBP to physically close the crossing, the cost to U.S. travelers to drive to the next nearest crossing, and the cost to the economy of lost revenue resulting from potential decreased Canadian travel. CBP estimates that it will cost approximately $205,000 to physically close the crossing, which involves building road barricades, stabilizing the building, and fencing.

In addition to the cost to the government of closing the crossing, we must examine the impact of this proposed closure on U.S. travelers (per guidance provided in OMB Circular A–4, this analysis is focused on costs and benefits to U.S. entities). Approximately 2,250 vehicles and 3,200 passengers cross from Canada into the United States each year at Jamieson Line. If the crossing is closed, these travelers would need to travel to an alternate port, which could cost them both time and money.

As noted, the two ports closest to Jamieson Line are Chateaugay, which is about 6 miles east, and Trout River, which is about 9 miles west. The alternate port travelers choose to use will depend on their point of origin and their destination. In general, the closer the point of origin or destination is to Jamieson Line, the more the traveler will be affected by the closure. Because CBP does not collect data on either of these points, for the purposes of this analysis we will assume the worst case scenario—that all crossers begin their trip on the Canadian side of the border at a point just across from Jamieson Line and have to travel through an alternate port of entry to arrive at their ultimate destination at a point adjacent to Jamieson Line on the U.S. side of the border. We estimate that such a detour would add 40 minutes and 20 miles to the crossers' trips each way. Since it is unlikely that all crossings at Jamieson Line originate and end immediately at the border, this methodology likely overstates the cost to travelers.

In 2007, Industrial Economics, Inc. (IEc) conducted a study for CBP to develop ''an approach for estimating the monetary value of changes in time use for application in [CBP's] analyses of the benefits and costs of major regulations''.[2] We follow the three-step approach detailed in IEc's 2007 analysis to monetize the increase in travel time resulting from the closure of Jamieson Line: (1) Determine the local wage rate, (2) determine the purpose of the trip, and (3) determine the value of the travel delay as a result of this rule. We start

[2] Robinson, Lisa A. 2007. ''Value of Time.''Submitted to US Customs and Border Protection on February 15, 2007. The paper is contained in its entirely as Appendix D in the Regulatory Assessment for the April 2008 final rule for the Western Hemisphere Travel Initiative requirements in the land environment (73 FR 18384; April 3, 2008). See *www.regulations.gov* document numbers USCBP–2007–0061–0615 and USCBP–2007–0061–0616.

by using the median hourly wage rate for Northern New York of $14.88 per hour, as the effects of the rule are local.[3] We next determine the purpose of the trip. For the purposes of this analysis, we assume this travel will be personal travel and will be local travel. We identify the value of time multiplier recommended by the U.S. Department of Transportation (DOT) for personal, local travel, as 0.5.[4] Finally, we account for the value of the travel delay. Since the added time spent traveling is considered more inconvenient than the baseline travel, we account for this using a factor that weighs time inconvenienced more heavily than baseline travel time. This factor, 1.47, is multiplied by the average wage rate and the DOT value of time multiplier for personal, local travel for a travel time value of $10.94 per traveler ($14.88 × 0.5 × 1.47).[5]

We next multiply the estimated number of travelers entering the U.S. through Jamieson Line in a year (3,200) by the average delay (40 minutes) to arrive at the number of additional hours travelers would be delayed as a result of this rule—2,133 hours. We multiply this by the value of wait time ($10.94) to arrive at the value of the additional driving time for travelers arriving in the United States once Jamieson Line is closed. Finally, we double this to account for round trip costs to reach a total time cost of $46,670.

Besides the cost of additional travel time, we must consider the vehicle costs of a longer trip. We must first estimate the number of miles the closure of Jamieson Line would add to travelers' trips. The annual traffic arriving at Jamieson Line is 2,250 vehicles. Since we assume that the closure will add 20 miles to each crossing, the closure will add a total of 45,000 miles to travelers' trips each year. We next monetize the delay by applying the IRS's standard mileage rate for business travel of $0.555 [6] to these vehicles, which includes fuel costs, wear-and-tear, and depreciation of the vehicle. Because this is an estimate for business travel, it may slightly overstate costs for leisure travelers using their vehicles on leisure activities. Finally, we double the costs to account for the return trip. We estimate that a closure of Jamieson Line will cost U.S. citizens of $50,000 in additional vehicular costs.

The final cost we must consider is the cost to the economy of lost revenue resulting from potential decreased Canadian travel. Because of the lack of data on the nature of travel through Jamieson Line and its effect on the local economy, we are unable to monetize or quantify these costs. We therefore discuss this qualitatively.

Since both U.S. and foreign travelers will be inconvenienced by the closure of the crossing of Jamieson Line, it is possible that fewer foreign travelers will choose to cross the border into the United States. To the extent that these visitors were spending money in the United States, local businesses would lose revenue. Since fewer than seven vehicles a day entered the United States at Jamieson Line, this effect is likely to be very small. Also, it could be mitigated by those U.S. citizens who would now choose to remain in the United States. We believe that the total impacts on the economy due to decreased travel to the United States are negligible.

In summary, the closure of the crossing of Jamieson would cost CBP $205,000 in direct closure costs in the first year, and U.S. travelers $46,670 in time costs and $50,000 in vehicle costs annually. Total quantifiable costs to close the crossing are thus approximately $302,000 in the first year and $97,000 each following year.

Option 2: Close crossing	First year	Subsequent years
U.S. Traveler Time Costs	$46,670	$46,670
U.S. Traveler Vehicle Costs	50,000	50,000
Crossing Facility Closure Cost	205,000	.....
Total Cost to Close Crossing	301,670	96,670

3. Net Effect of Closure

The costs to CBP of leaving the crossing of Jamieson Line open are $7,087,000 the first year and $587,000 each following year. The cost of closing the crossing are $301,670 the first year and $96,670 each following year. Thus, the net benefit of the crossing closure is $6,785,330 the first year and $490,330 each year after that.

C. Regulatory Flexibility Act

This section examines the impact of the rule on small entities as required by the Regulatory Flexibility Act (5 U.S.C. 603), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996. A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act); a small not-for-profit organization; or a small governmental jurisdiction (locality with fewer than 50,000 people). Individuals are not defined as small entities under the Regulatory Flexibility Act.

Because CBP does not collect data on the number of small businesses that use the crossing of Jamieson Line, we cannot estimate how many would be affected by this rule. However, an average of fewer than seven vehicles cross into the United States at Jamieson Line each day, and the total cost of the rule to U.S. travelers is only about $97,000 a year, even assuming the longest possible detour for all traffic. DHS does not believe that this cost rises to the level of a significant economic impact. DHS thus believes that this rule will not have a significant economic impact on a substantial number of small entities. DHS welcomes any comments regarding this assessment. If it does not receive any comments contradicting this finding, DHS will certify that this rule will not have a significant economic impact on a substantial number of small entities at the final rule stage.

D. Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the

[3] Bureau of Labor Statistics, May 2010. Occupational Employment Statistics Query System. Capital/Northern New York nonmetropolitan area. *http://data.bls.gov/oes/datatype.do.*

[4] U.S. Department of Transportation (DOT), *The Value of Time Savings: Departmental Guidance for Conducting Economic Evaluations Revision 2,* (Memorandum from Polly Trottenberg), September 28, 2011, Tables 1. *http://ostpxweb.dot.gov/policy/reports/vot_guidance_092811c.pdf.*

[5] Wardman, M., ''A Review of British Evidence on Time and Service Quality Valuations,'' *Transportation Research Part E,* Vol. 37, 2001, pp. 107–128.

[6] Internal Revenue Service, July 1, 2011. IRS Standard Mileage Rates. *http://www.irs.gov/taxpros/article/0,,id=156624,00.html.*

private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

E. Executive Order 13132

The rule will 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. Therefore, in accordance with section 6 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

V. Authority

This change is proposed under the authority of 5 U.S.C. 301, 6 U.S.C. 112, 203 and 211, 8 U.S.C. 1103 and 19 U.S.C. 2, 66 and 1624.

VI. Proposed Amendment to Regulations

If the proposed closure of the border crossing of Jamieson Line, New York is adopted, CBP will amend the lists of CBP Customs stations at 19 CFR 101.4(c) and the CBP ports of entry at 8 CFR 100.4(a) to reflect this change.

Dated: September 19, 2012.

Janet Napolitano,

Secretary.

[FR Doc. 2012–23498 Filed 9–21–12; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1000; Directorate Identifier 2012–NM–065–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Airbus Model A300 B4–601, B4–603, B4–620, B4–605R, and B4–622R airplanes. This proposed AD was prompted by a report that the door frame shells of passenger doors 2 and 4 may not have sufficient structural strength to enable the airplane to operate safely. This proposed AD would require reinforcing of the door frame shells of passenger doors 2 and 4 on both sides of the fuselage. We are proposing this AD to prevent structural failure of the door frame shells, which could result in in-flight decompression of the airplane and consequent injury to passengers.

DATES: We must receive comments on this proposed AD by November 8, 2012.

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

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

For service information identified in this proposed AD, contact Airbus SAS—EAW (Airworthiness Office), 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com*; Internet *http://www.airbus.com*. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–2125; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2012–1000; Directorate Identifier 2012–NM–065–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2012–0044, dated March 23, 2012 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> As a result of the Extended Service Goal 2 exercise (ESG2) it was shown that the door frame shells of passenger doors 2 and 4 (both sides of the aeroplane) may not have sufficient structural strength to enable the aeroplane to operate safety beyond ESG1 (Extended Service Goal 1 equal to 42,500 Flight Cycles—FC or 89,000 Flight Hours—FH) and up to ESG2 (Extended Service Goal 2 equal to 51,000 FC or 89,000 FH) limits.
>
> This condition, if not corrected, could lead to structural failure of the affected door shells, possibly resulting in in-flight decompression of the aeroplane and consequent injury to occupants.
>
> For the reasons stated above, this [EASA] AD requires the reinforcement at door frame shells of passenger doors 2 and 4.

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

Relevant Service Information

Airbus has issued Service Bulletin A300–53–6170, dated May 16, 2011. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified

of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 124 products of U.S. registry. We also estimate that it would take about 400 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $10,000 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $5,456,000, or $44,000 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket No. FAA–2012–1000; Directorate Identifier 2012–NM–065–AD.

(a) Comments Due Date

We must receive comments by November 8, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Model A300 B4–601, B4–603, B4–620, B4–605R, and B4–622R airplanes; certificated in any category; all serial numbers.

(d) Subject

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

(e) Reason

This AD was prompted by a report that the door frame shells of passenger doors 2 and 4 may not have sufficient structural strength to enable the airplane to operate safely. We are issuing this AD to prevent structural failure of the door frame shells, which could result in in-flight decompression of the airplane and consequent injury to passengers.

(f) Compliance

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

(g) Reinforcement

Before the accumulation of 42,500 total flight cycles or within 2,000 flight cycles after the effective date of this AD, whichever occurs later: Do the actions specified in paragraph (g)(1) or (g)(2) of this AD, as applicable.

(1) For Model A300 B4–622R airplanes: Reinforce the door frame shells of passenger doors 2 and 4 on both sides of the fuselage, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–53–6170, dated May 16, 2011.

(2) For Model A300 B4–601, B4–603, B4–620, and B4–605R airplanes: Reinforce the door frame shells of passenger doors 2 and 4 on both sides of the fuselage, using a method approved by either the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA) (or its delegated agent).

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(i) Related Information

(1) Refer to MCAI EASA Airworthiness Directive 2012–0044, dated March 23, 2012; and Airbus Service Bulletin A300–53–6170, dated May 16, 2011; for related information.

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

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

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–23431 Filed 9–21–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0997; Directorate Identifier 2012–NM–060–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede an existing airworthiness directive (AD) that applies to certain Bombardier, Inc. Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes, Model CL–600–2D15 (Regional Jet Series 705) airplanes, and Model CL–600–2D24 (Regional Jet Series 900) airplanes. The existing AD currently requires repetitive inspections of the rudder travel limiter (RTL) return springs and primary actuator, and corrective actions if necessary. Since we issued that AD, terminating action has been developed which eliminates the need for the repetitive inspections. This proposed AD would require replacing certain RTL return springs, including doing related investigative and corrective actions, if necessary; and would also revise the applicability. We are proposing this AD to prevent failure of the RTL, which would permit an increase of rudder authority beyond normal structural limits and consequently affect the controllability of the airplane.

DATES: We must receive comments on this proposed AD by November 8, 2012.

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

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

For service information identified in this proposed AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com*; Internet *http://www.bombardier.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Cesar Gomez, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7318; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2012–0997; Directorate Identifier 2012–NM–060–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

On January 25, 2011, we issued AD 2011–03–13, Amendment 39–16597 (76 FR 6539, February 7, 2011). That AD required actions intended to address an unsafe condition on the products listed above.

Since we issued AD 2011–03–13, Amendment 39–16597 (76 FR 6539, February 7, 2011), Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, has issued Canadian Airworthiness Directive CF–2010–18R1, dated March 19, 2012 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> Rudder Travel Limiter (RTL) return spring, part number (P/N) E0650–069–2750S, failed prior to completion of the required endurance test. In addition, the replacement RTL return spring, P/N 670–93465–1 (see Note) was found to be susceptible to chafing on the primary actuator, which could also result in eventual dormant spring failure. There are two return springs in the RTL and if both springs failed, a subsequent mechanical disconnect of the RTL components would result in an unannunciated failure of the RTL. This, in turn, would permit an increase of rudder authority beyond normal structural limits and, in the event of a strong rudder input, the controllability of the aeroplane could be affected.
>
> Note: RTL return springs, P/N 670–93465–1, were installed in production aeroplanes serial number 10266 (CL–600–2C10) and 15182 (CL–600–2D24) respectively and were introduced in-service by [Bombardier] Service Bulletin (SB) 670BA–27–047. [Bombardier] SB 670BA–27–047 has since been superseded by [Bombardier] SB 670BA–27–055.
>
> This [TCCA] AD mandates repetitive [detailed] visual inspection of the RTL [for broken] return springs and [damage through the casing or chafing of the casing of the] primary actuator, [and] replacement of parts as necessary.
>
> This revision mandates the installation of the RTL return spring, P/N BA670–93468–1, as a terminating action to this [TCCA] AD.

This proposed AD would expand the applicability by adding Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplane, serial number 10002. This proposed AD would also reduce the applicability by removing Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes serial numbers 10334 and subsequent; and also removes Model CL–600–2D15, serial numbers 15289 and subsequent. The installation consists of replacing certain RTL return springs with new springs and doing related investigative and corrective actions, if necessary. The related investigative action is a detailed inspection of the casing of the primary actuator for signs of chafing or missing paint. Corrective actions include replacing any broken return spring with

a new spring, repairing any chafing of the primary actuator on its casing, and replacing any primary actuator that has damage through its casing with a new actuator. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Bombardier, Inc. has issued Service Bulletin 670BA–27–059, Revision A, dated March 8, 2012. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

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

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 366 products of U.S. registry.

The actions that are required by AD 2011–03–13, Amendment 39–16597 (76 FR 6539, February 7, 2011), and retained in this proposed AD take about 2 work-hours per product, at an average labor rate of $85 per work hour. Based on these figures, the estimated cost of the currently required actions is $170 per product.

We estimate that it would take about 8 work-hours per product to comply with the new basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $1,291 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $721,386, or $1,971 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2011–03–13, Amendment 39–16597 (76 FR 6539, February 7, 2011), and adding the following new AD:

Bombardier, Inc.: Docket No. FAA–2012–0997; Directorate Identifier 2012–NM–060–AD.

(a) Comments Due Date

We must receive comments by November 8, 2012.

(b) Affected ADs

This AD supersedes AD 2011–03–13, Amendment 39–16597 (76 FR 6539, February 7, 2011).

(c) Applicability

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

(1) Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes, serial numbers 10002 through 10333 inclusive.

(2) Model CL–600–2D15 (Regional Jet Series 705) airplanes; and Model CL–600–2D24 (Regional Jet Series 900) airplanes, serial numbers 15001 through 15288 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight controls.

(e) Reason

This AD was prompted by reports of failure of the rudder travel limiter (RTL) return spring. We are issuing this AD to prevent failure of the RTL, which would permit an increase of rudder authority beyond normal structural limits and consequently affect the controllability of the airplane.

(f) Compliance

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

(g) Retained Initial Inspections and Replacement/Repair for Certain Airplanes

This paragraph restates the requirements of paragraph (g) of AD 2011–03–13, Amendment 39–16597 (76 FR 6539, February 7, 2011). Except for Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplane, serial number 10002, for airplanes that have accumulated 4,000 or less total flight hours as of March 14, 2011 (the effective date of AD 2011–03–13): Before the accumulation of 6,000 total flight hours, do a detailed inspection of the RTL for broken return springs and damage through the casing, or chafing of the casing of the primary actuator, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 670BA–27–055, Revision A, dated August 6, 2010. Before further flight, replace any broken return springs with new springs, and repair or replace with a new actuator any chafed or damaged primary actuator, as applicable, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 670BA–27–055, Revision A,

dated August 6, 2010. Repeat the inspection thereafter at intervals not to exceed 6,000 flight hours. Accomplishment of the actions required by paragraph (j) of this AD terminates the requirements of this paragraph.

(h) Retained Initial Inspections and Replacement/Repair for Certain Higher Flight Time Airplanes

This paragraph restates the requirements of paragraph (h) of AD 2011–03–13, Amendment 39–16597 (76 FR 6539, February 7, 2011). Except for Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplane, serial number 10002, for airplanes that have accumulated more than 4,000 total flight hours as of March 14, 2011 (the effective date of AD 2011–03–13): Within 2,000 flight hours after March 14, 2011 (the effective date of AD 2011–03–13), do a detailed inspection of the RTL for broken return springs and damage through the casing, or chafing of the casing of the primary actuator, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 670BA–27–055, Revision A, dated August 6, 2010. Before further flight, replace any broken return springs with new springs, and repair or replace any chafed or damaged primary actuator with a new actuator, as applicable, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 670BA–27–055, Revision A, dated August 6, 2010. Repeat the inspection thereafter at intervals not to exceed 6,000 flight hours. Accomplishment of the actions required by paragraph (j) of this AD terminates the requirements of this paragraph.

(i) New RTL Spring Inspection and Replacement for a Certain Airplane

For Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplane, serial number 10002, at the applicable time specified in paragraph (i)(1) or (i)(2) of this AD: Do a detailed inspection of the RTL for broken return springs and damage through the casing, or chafing of the casing of the primary actuator, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 670BA–27–055, Revision A, dated August 6, 2010. Before further flight, replace any broken return springs with new springs, and repair or replace with a new actuator any chafed or damaged primary actuator, as applicable, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 670BA–27–055, Revision A, dated August 6, 2010. Repeat the inspection thereafter at intervals not to exceed 6,000 flight hours. Accomplishment of the applicable actions required by paragraph (j) of this AD terminates the requirements of this paragraph.

(1) If the airplane has accumulated 4,000 or less total flight hours as of the effective date of this AD: Before the accumulation of 6,000 total flight hours.

(2) If the airplane has accumulated more than 4,000 total flight hours as of the effective date of this AD: Within 2,000 flight hours after the effective date of this AD.

(j) New RTL Spring Replacement

At the applicable time specified in paragraph (j)(1) or (j)(2) of this AD: Replace the RTL return springs with new springs, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 670BA–27–059, Revision A, dated March 8, 2012. Do all applicable related investigative and corrective actions before further flight. Accomplishment of the applicable actions required by this paragraph terminates the requirements of paragraphs (g), (h), and (i) of this AD.

(1) For airplanes with RTL return springs having part number (P/N) 670–93465–1: Within 6,000 flight cycles after the effective date of this AD.

(2) For airplanes with RTL return springs having P/N E0650–069–2750S: At the applicable time specified in paragraph (j)(2)(i), (j)(2)(ii), or (j)(2)(iii) of this AD.

(i) For airplanes with 15,400 total flight cycles or more as of the effective date of this AD: Within 2,000 flight cycles after the effective date of this AD.

(ii) For airplanes with 5,200 total flight cycles or more, but less than 15,400 total flight cycles as of the effective date of this AD: Within 5,000 flight cycles after the effective date of this AD, but not to exceed 17,400 total flight cycles.

(iii) For airplanes with less than 5,200 total flight cycles as of the effective date of this AD: Before accumulating 10,200 total flight cycles.

(k) Credit for Previous Actions

(1) This paragraph provides credit for the actions required by paragraphs (g) and (h) of this AD, if those actions were performed before March 14, 2011 (the effective date of AD 2011–03–13, Amendment 39–16597 (76 FR 6539, February 7, 2011)), using Bombardier Service Bulletin 670BA–27–055, dated May 11, 2010, which is not incorporated by reference in this AD.

(2) This paragraph provides credit for the actions required by paragraph (j) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 670BA–27–059, dated October 12, 2011, which is not incorporated by reference in this AD.

(l) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD. AMOCs approved previously in accordance with AD 2011–03–13, Amendment 39–16597 (76 FR 6539, February 7, 2011), are approved as AMOCs for this AD.

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

(m) Related Information

(1) Refer to MCAI Canadian Airworthiness Directive CF–2010–18R1, dated March 19, 2012, and the following service information, for related information.

(i) Bombardier Service Bulletin 670BA–27–059, Revision A, dated March 8, 2012.

(ii) Bombardier Service Bulletin 670BA–27–055, Revision A, dated August 6, 2010.

(2) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on September 11, 2012.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–23432 Filed 9–21–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0999; Directorate Identifier 2012–NM–049–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Airbus Model A330–200 Freighter series airplanes, Model A330–200 series airplanes, Model A330–300 series airplanes, Model A340–200 series airplanes, and Model A340–300 series airplanes. This proposed AD was prompted by a report of an in-flight turn back after the nose landing gear (NLG) did not retract after take-off. This proposed AD would require repetitive overhaul of the NLG retraction actuator. We are proposing this AD to prevent failure of the retraction actuator, which could cause collapse of the NLG after

touchdown and possible injury to flightcrew and passengers.

DATES: We must receive comments on this proposed AD by November 8, 2012.

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

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

For service information identified in this proposed AD, contact Airbus SAS—Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com;* Internet *http://www.airbus.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: (425) 227–1138; fax: (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2012–0999; Directorate Identifier 2012–NM–049–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2012–0034, dated February 29, 2012 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> An A330 aeroplane experienced an in-flight turn back due to inability to retract the NLG [nose landing gear] after take-off.
>
> The subsequent technical investigations revealed that the NLG retraction actuator eye-end fitting was detached from the retraction actuation rod, that both the eye-end male threads and piston rod female threads were almost completely stripped, and that there was evidence of significant corrosion on these parts. Further investigations have shown that corrosion caused the retraction actuator eye failure.
>
> This condition, if not corrected, could lead to NLG collapse after touchdown, potentially resulting in damage to the aeroplane and injury to its occupants.
>
> For the reasons described above, this [EASA] AD requires accomplishment of an overhaul of the NLG retraction actuator. This [EASA] AD also defines the Time Between Overhaul (TBO) for the NLG retraction actuator to be 10 years.

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

Relevant Service Information

Airbus has issued Mandatory Service Bulletins A330–32–3255 and A340–32–4291, both including Appendices 01 and 02, both dated October 13, 2011. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

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

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 65 products of U.S. registry. We also estimate that it would take about 16 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $88,400, or $1,360 per product.

Should an operator elect to accomplish an optional replacement instead, we estimate that any optional replacement action would take about 16 work-hours and require parts costing $94,000 for a cost of $95,360 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket No. FAA–2012–0999; Directorate Identifier 2012–NM–049–AD.

(a) Comments Due Date

We must receive comments by November 8, 2012.

(b) Affected ADs

None.

(c) Applicability

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

(1) Airbus A330–201, A330–202, A330–203, A330–223, A330–223F, A330–243, A330–243F, A330–301, A330–302, A330–303, A330–321, A330–322, A330–323, A330–341, A330–342, and A330–343 series airplanes, all manufacturer serial numbers (MSN).

(2) Airbus A340–211, A340–212, A340–213, A340–311, A340–312, and A340–313 airplanes, all MSN.

(d) Subject

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

(e) Reason

This AD was prompted by a report of an in-flight turn-back after the nose landing gear (NLG) did not retract after take-off. We are issuing this AD to prevent failure of the retraction actuator, which could cause collapse of the NLG after touchdown and possible injury to flightcrew and passengers.

(f) Compliance

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

(g) Actions

At the applicable compliance time specified in paragraph (g)(1) or (g)(2) of this AD, whichever occurs later, do an overhaul of the NLG retraction actuator, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A330–32–3255, excluding Appendices 01 and 02, dated October 13, 2011 (for Model A330 airplanes); or Airbus Mandatory Service Bulletin A340–32–4291, excluding Appendices 01 and 02, dated October 13, 2011 (for Model A340 airplanes). Repeat the overhaul thereafter at intervals not to exceed 10 years.

(1) Prior to the accumulation of 10 years since the NLG retraction actuator's first flight on an airplane or from its first flight following its last overhaul.

(2) At the applicable time specified in paragraphs (g)(2)(i) and (g)(2)(ii) of this AD.

(i) If, on the effective date of this AD, the NLG retraction actuator has accumulated more than 8 years, and less than 14 years, from its first flight on an airplane: Within 24 months after the effective date of this AD or prior to the accumulation of 15 years since the NLG retraction actuator's first flight on an airplane, whichever occurs first.

(ii) If, on the effective date of this AD, the NLG retraction actuator has accumulated 14 years or more since its first flight on an airplane: Within 12 months after the effective date of this AD.

(h) Parts Installation Limitation

As of the effective date of this AD, do not install on an airplane any NLG retraction actuator, unless in compliance with the requirements of this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: (425) 227–1138; fax: (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(j) Related Information

(1) Refer to MCAI European Aviation Safety Agency (EASA) Airworthiness Directive 2012–0034, dated February 29, 2012, and the service information identified in paragraphs (j)(1)(i) and (j)(1)(ii) of this AD, for related information.

(i) Airbus Mandatory Service Bulletin A330–32–3255, excluding Appendices 01 and 02, dated October 13, 2011.

(ii) Airbus Mandatory Service Bulletin A340–32–4291, excluding Appendices 01 and 02, dated October 13, 2011.

(2) For service information identified in this AD, contact Airbus SAS—Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com;* Internet *http://www.airbus.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

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

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–23433 Filed 9–21–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0998; Directorate Identifier 2011–NM–249–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 737–600, –700, –700C, –800, -900, and –900ER series airplanes. This proposed AD was prompted by a new revision to the airworthiness limitations of the maintenance planning data document. This proposed AD would require revising the maintenance program to update inspection requirements to

detect fatigue cracking of principal structural elements (PSEs). We are proposing this AD to detect and correct fatigue cracking of various PSEs, which could adversely affect the structural integrity of these airplanes.

DATES: We must receive comments on this proposed AD by November 8, 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 proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com*. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Nancy Marsh, Aerospace Engineer, Airframe Branch, ANM–120S, Seattle Aircraft Certification Office, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6440; fax: 425–917–6590; email: *nancy.marsh@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2012–0998; Directorate Identifier 2011–NM–249–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

In accordance with airworthiness standards requiring ''damage-tolerance assessments'' (Part 25 of the Federal Aviation Regulations, Section 1529), all products certificated to comply with that section must have Instructions for Continued Airworthiness that include an Airworthiness Limitations Section (AWLs). The AWLs set forth:

- Mandatory replacement times for structural components,
- Structural inspection intervals, and
- Related approved structural inspection procedures necessary to show compliance with the damage-tolerance requirements.

Compliance with the terms specified in the AWLs is required by 14 CFR 43.16 (for persons maintaining products) and 14 CFR 91.403 (for operators).

As airplanes gain service experience, or as the result of post-certification testing and evaluation, it might become necessary to add additional life limits or structural inspections in order to ensure the continued structural integrity of the airplane. The manufacturer might revise the AWLs to include new or more restrictive life limits and inspections. However, in order to require compliance with those revised life limits and/or inspection intervals, the FAA must engage in rulemaking. Because loss of structural integrity would result in an unsafe condition, it is appropriate to impose these requirements through the airworthiness directive (AD) process.

Boeing has completed additional analyses of fatigue cracking of PSEs on certain Model 737 airplanes, which included:

- Crack growth analysis,
- Service experience analysis,
- Crack growth testing,
- Fatigue testing, and
- Analysis of the effectiveness of applicable non-destructive inspection techniques to detect cracking and other anomalies.

The results of the analyses demonstrated the need to incorporate updated inspection requirements to detect fatigue cracking of PSEs. We are proposing this AD to detect and correct fatigue cracking of various PSEs, which could adversely affect the structural integrity of these airplanes.

Relevant Service Information

We reviewed Subsection B, AWLs—Structural Inspections, of Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of Boeing 737–600, –700, –700C, –800, –900, and –900ER Maintenance Planning Data (MPD) Document, D626A001–CMR, Revision July 2011. The service information describes procedures for revising the airworthiness limitations of the maintenance planning document. Subsection B of this document contains updated inspection requirements to detect fatigue cracking of PSEs.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

We estimate that this proposed AD affects 1,200 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Document Revision	1 work-hour × $85 per hour = $85	$0	$85	$102,000

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2012–0998; Directorate Identifier 2011–NM–249–AD.

(a) Comments Due Date

We must receive comments by November 8, 2012.

(b) Affected ADs

None.

(c) Applicability

(1) This AD applies to The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes, certificated in any category, with an original airworthiness certificate or original export certificate of airworthiness issued before April 3, 2012.

(2) This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (j) of this AD. The request should include a description of changes to the required inspections that will ensure the continued damage tolerance of the affected structure. The FAA has provided guidance for this determination in FAA Advisory Circular (AC) 25.1529–1A, dated November 20, 2007 (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgAdvisoryCircular.nsf/list/AC%2025.1529-1A/$FILE/AC%2025.1529-1A.pdf*).

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 52, Doors; 53, Fuselage; 54, Nacelles/Pylons; 55, Stabilizers; and 57, Wings.

(e) Unsafe Condition

This AD was prompted by a new revision to the airworthiness limitations of the maintenance planning data document. We are issuing this AD to detect and correct fatigue cracking of various principal structural elements (PSEs), which could adversely affect the structural integrity of these airplanes.

(f) Compliance

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

(g) Maintenance Program Revision

(1) Within 12 months after the effective date of this AD, revise the maintenance program by incorporating the information in Subsection B, AWLs—Structural Inspections, of Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of Boeing 737–600, –700, –700C, –800, –900, and –900ER Maintenance Planning Data (MPD) Document, D626A001–CMR, Revision July 2011, except as provided by paragraph (h) of this AD.

(2) The initial compliance time for the inspections is within the applicable times specified in Subsection B, AWLs—Structural Inspections, of Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of Boeing 737–600, –700, –700C, –800, –900, and –900ER Maintenance Planning Data (MPD) Document, D626A001–CMR, Revision July 2011, or within 18 months after the effective date of this AD, whichever occurs later; or within the applicable time specified in Subsection B, AWLs—Structural Inspections, of Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of Boeing 737–600, –700, –700C, –800, –900, and –900ER Maintenance Planning Data (MPD) Document, D626A001–CMR, Revision July 2011, from the time of installation for new parts.

(3) Reports specified in Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of Boeing 737–600, –700, –700C, –800, –900, and –900ER Maintenance Planning Data (MPD) Document, D626A001–CMR, Revision July 2011, may be submitted within 10 days after the airplane is returned to service, instead of 10 days after each individual finding as specified in Section 9.

(h) No Alternative Inspections and Inspection Intervals

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

(i) Paperwork Reduction Act Burden Statement

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

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), ANM–120S, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD. Information may be emailed to: *9–ANM–Seattle–ACO–AMOC–Requests@faa.gov.*

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

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

(k) Related Information

(1) For more information about this AD, contact Nancy Marsh, Aerospace Engineer, Airframe Branch, ANM–120S, Seattle Aircraft Certification Office, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6440; fax: 425–917–6590; email: *nancy.marsh@faa.gov.*

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

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

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–23434 Filed 9–21–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1016; Directorate Identifier 2010–SW–009–AD]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron, Inc.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for Bell Helicopter Textron, Inc. (Bell), Model 412 and 412EP helicopters. This proposed AD is prompted by reports of cracking in the swashplate outer ring assemblies (outer ring). This AD would establish a lower life limit on certain outer rings, requiring a revision of the retirement life on the components' history card or equivalent record, and a revision of the maintenance manual or Instructions for Continued Airworthiness (ICA). This proposal also would prohibit installing these outer rings on any helicopter. The proposed actions are intended to prevent failure of an outer ring because of cracking, which could lead to the loss of main rotor (M/R) blade pitch control and subsequent loss of helicopter control.

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

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

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

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

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

FOR FURTHER INFORMATION CONTACT: Michael Kohner, Aviation Safety Engineer, Rotorcraft Certification Office, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone (817) 222–5447; email *7-avs-asw-170@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

proposal in light of the comments we receive.

Discussion

This proposal is prompted by a report of fatigue cracking in the outer ring, part number (P/N) 412–010–407–105. The outer ring previously had a life limit of 10,000 hours TIS, but Bell has recommended reducing the outer ring retirement life to 2,500 hours TIS. Cracking in the outer ring can lead to loss of cyclic and collective pitch control of the main rotor blades and loss of helicopter control.

FAA's Determination

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

Related Service Information

We have reviewed Bell Helicopter Alert Service Bulletin No. 412–08–131, Revision B, dated October 29, 2009 (ASB), which describes procedures for establishing a new retirement life for the outer ring and replacing the outer ring at 2,500 hours TIS.

Proposed AD Requirements

This proposed AD would require the following:

- Within 30 days, establish a new retirement life of 2,500 hours TIS for outer ring P/N 412–010–407–105, and record this on the component history card or equivalent record. Within the same time period, make pen-and-ink changes or insert a copy of the AD into the Airworthiness Limitations section of the applicable maintenance manual or ICA.
- Within 300 hours TIS, for any affected outer ring that has 2,200 or more hours TIS on the effective date of the proposed AD, replace the outer ring with an airworthy outer ring.
- Within 12 months, for any affected outer ring, regardless of the number of hours TIS, replace the outer ring with an airworthy outer ring. The installation of outer ring, P/N 412–010–407–105, would be prohibited on any helicopter.

Differences Between this Proposed AD and the Service Information

The ASB sets a calendar date for compliance. This proposed AD does not.

Costs of Compliance

We estimate that this proposed AD would affect 143 helicopters. We estimate that it would take about one work-hour to revise the component history card or equivalent record, as well as the maintenance manual or ICA, at an average labor rate of $85 per work hour, for a total cost of $85 per helicopter and $12,155 for the U.S. operator fleet. Replacing an outer ring would take 26 work-hours and required parts would cost an estimated $25,725. Based on these figures, we calculate the total cost to be $27,935 per helicopter to replace an outer ring.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed, I certify this proposed regulation:

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bell Helicopter Textron, Inc. (BELL): Docket No. FAA–2012–1016; Directorate Identifier 2010–SW–009–AD.

(a) Applicability

This AD applies to Bell Model 412 and 412EP helicopters, with a swashplate outer ring assembly (outer ring), part number (P/N) 412–010–407–105, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as cracking in the outer ring, which could result in the loss of main rotor (M/R) blade pitch control and subsequent loss of helicopter control.

(c) Compliance

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

(d) Required Actions

(1) Within 30 days, establish a retirement life of 2,500 hours time-in-service (TIS) for any affected outer ring on the component history card or equivalent record. Revise the helicopter Airworthiness Limitations section of the applicable maintenance manual or Instructions for Continued Airworthiness (ICA) by establishing the new retirement life by making pen and ink changes or inserting a copy of this AD into the maintenance manual or the ICAs.

(2) For any affected outer ring that, on the effective date of this AD, has 2,200 or more hours TIS, within 300 hours TIS, replace the outer ring with an airworthy outer ring.

(3) Within 12 months, for any affected outer ring, regardless of the number of hours TIS, replace the outer ring with an airworthy outer ring.

(4) Do not install outer ring, P/N 412–010–407–105, on any helicopter.

(e) Special flight permit

No special flight permits will be issued for any helicopter installed with outer ring, P/N 412–010–407–105, if the outer ring has 2,500 hours or more TIS.

(f) Alternative Methods of Compliance (AMOC)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Michael Kohner, Aviation Safety Engineer, Rotorcraft Certification Office, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone (817) 222–5447; email *7-avs-asw-170@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

(1) Removal and installation instructions, as well as M/R assembly track and balance procedures, are contained in Bell manuals BHT–412–MM and BHT–412–CR&O. Bell Helicopter Alert Service Bulletin No. 412–08–131, Revision B, dated October 29, 2009, contains additional information about the subject of this AD. None of these documents is incorporated by reference.

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

(h) Subject

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

Issued in Fort Worth, Texas, on September 14, 2012.

Lance T. Gant,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2012–23457 Filed 9–21–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 53

[REG–134974–12]

RIN 1545–BL23

Reliance Standards for Making Good Faith Determinations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations regarding the standards for making a good faith determination that a foreign organization is a charitable organization, grants to which may be qualifying distributions and not taxable expenditures. The regulations will affect private foundations seeking to make such good faith determinations.

DATES: Comments and requests for a public hearing must be received by December 24, 2012.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–134974–12), room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–134974–12), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at *http://www.regulations.gov/* (IRS REG–134974–12).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Courtney D. Jones at (202) 622–6070; concerning submissions of comments and requests for a public hearing, Oluwafunmilayo Taylor, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

To avoid certain excise taxes under chapter 42, private foundations must make a minimum level of qualifying distributions (as defined in section 4942 of the Internal Revenue Code) each year and must avoid making taxable expenditures (as defined in section 4945). Grants for charitable purposes to certain foreign organizations generally may be treated as qualifying distributions under section 4942 if the private foundation makes a good faith determination that the foreign organization is an organization described in sections 501(c)(3) and 509(a)(1), (a)(2), or (a)(3) (''public charity'') that is not a supporting organization described in section 4942(g)(4)(A)(i) or (g)(4)(A)(ii) (''disqualified supporting organization'') or is an organization described in sections 501(c)(3) and 4942(j)(3) (''private operating foundation''). Similarly, grants for charitable purposes to certain foreign organizations may be treated as other than taxable expenditures under section 4945 if the private foundation makes a good faith determination that the foreign organization is a public charity (other than a disqualified supporting organization) or an organization described in sections 501(c)(3) and 4940(d)(2) (''exempt operating foundation'').

Qualifying Distributions Under Section 4942

Section 4942 generally requires a private foundation (other than a private operating foundation) to make ''qualifying distributions'' equal to or exceeding a minimum ''distributable amount'' for each taxable year. If a private foundation has not distributed the full distributable amount by the end of the succeeding taxable year, section 4942 imposes an excise tax on the undistributed portion. A private foundation's distributable amount for any taxable year generally equals five percent of the aggregate fair market value of its non-exempt-use assets, increased by any repayments of amounts treated as qualifying distributions in prior years, and reduced by any taxes imposed under subtitle A and section 4940. Section 4942(g) generally defines a ''qualifying distribution'' as any expenditure or grant, including program-related investments and certain set-asides of income, paid to accomplish one or more purposes described in section 170(c)(2)(B) (''charitable purposes''). Under section 4942(g)(1)(A), however, grants to organizations controlled, directly or indirectly, by the foundation or one or more of its disqualified persons are not qualifying distributions unless the grant is redistributed for charitable purposes within the period specified in section 4942(g)(3). Similarly, grants to other private foundations (except private operating foundations), are not qualifying distributions. In addition, in 2006, the Pension Protection Act of 2006, Public Law No. 109–208, 120 Stat. 780 (2006) (''PPA''), added section 4942(g)(4), which provides that a qualifying distribution does not include any amount paid to a disqualified supporting organization. Section 53.4942(a)–3(a)(6), however, has not been amended to reflect this statutory change.

For purposes of section 4942, a grant for charitable purposes to a foreign organization that does not have a determination letter from the IRS may be treated as a qualifying distribution if the grantor private foundation makes a ''good faith determination'' that the foreign organization is a private operating foundation or a public charity that is not a disqualified supporting organization, provided that the foreign organization is not controlled by the foundation or its disqualified persons. See § 53.4942(a)–3(a)(6). Under § 53.4942(a)–3(a)(6), a private foundation will ordinarily be considered to have made a ''good faith

determination'' if the determination is based on an affidavit of the grantee or on an opinion of counsel of either the grantor or the grantee. The affidavit or opinion must set forth sufficient facts concerning the operations and support of the grantee for the IRS to determine that the grantee would be likely to qualify as a public charity or a private operating foundation.

Taxable Expenditures Under Section 4945

Section 4945 imposes an excise tax on a private foundation's ''taxable expenditures'' as defined in section 4945(d), including expenditures for other than charitable purposes. Under section 4945(d)(4), a taxable expenditure includes any grant to an organization unless: (1) The grantee is a public charity (other than a disqualified supporting organization) or an exempt operating foundation; or (2) the private foundation exercises expenditure responsibility with respect to the grant in accordance with section 4945(h). The Deficit Reduction Act of 1984, Public Law No. 98–369, 98 Stat. 494 (1984), amended section 4945(d)(4) to provide that expenditure responsibility is not required for a grant to an exempt operating foundation. The PPA amended section 4945(d)(4) to require the exercise of expenditure responsibility with respect to a grant to a disqualified supporting organization. Section 53.4945–5(a)(5), however, has not been amended to reflect these statutory changes.

Section 53.4945–5(a)(5) provides that a grant to a foreign organization that does not have a determination letter from the IRS will be treated as a grant to a public charity (for which the grantor is not required to exercise expenditure responsibility) if the grantor has made a ''good faith determination'' that the grantee is a public charity. Under § 53.4945–5(a)(5), a private foundation will ordinarily be considered to have made a ''good faith determination'' if the determination is based on an affidavit of the grantee or on an opinion of counsel of either the grantor or the grantee. The affidavit or opinion must set forth sufficient facts concerning the operations and support of the grantee for the IRS to determine that the grantee would be likely to qualify as a public charity.

Standards Relating To Written Advice and Taxpayer Reliance

Section 330 of title 31 of the United States Code authorizes the Secretary of the Treasury to regulate practice before the Treasury Department. The Secretary has published regulations governing practice before the IRS in 31 CFR part 10 and reprinted the regulations as Treasury Department Circular No. 230 (''Circular 230''). Circular 230 provides minimum standards of conduct that tax practitioners are required to meet with respect to written advice concerning Federal tax issues. Many of these standards (including, among others, § 10.37 and § 10.51(a)(13)) reflect principles a qualified and competent practitioner uses when considering and rendering any written tax advice.

Section 6664 of the Internal Revenue Code provides a defense to taxpayers for certain penalties imposed on an underpayment of tax if the taxpayer shows that there was reasonable cause for the underpayment and the taxpayer acted in good faith with respect to the underpayment. A taxpayer may demonstrate reasonable cause and good faith with respect to the underpayment by reasonably relying on written advice from a professional tax advisor. Section 1.6664–4(c)(1) provides that all pertinent facts and circumstances must be taken into account in determining whether a taxpayer has reasonably relied in good faith on written advice, including written advice from a professional tax advisor. A taxpayer's education, sophistication, and business experience are factors taken into account in determining whether the taxpayer's reliance on written advice was reasonable and made in good faith. A taxpayer will not be considered to have reasonably relied in good faith on written advice unless the requirements of § 1.6664–4(c)(1) are satisfied. For example, a private foundation's reliance on written advice is not reasonable and in good faith if the private foundation knows, or reasonably should have known, that a professional tax advisor lacks knowledge of the relevant aspects of Federal tax law or that the professional tax advisor is otherwise not qualified or competent to render the written advice. Moreover, a private foundation may not rely on written advice if it knows, or has reason to know, that relevant facts were not disclosed to the professional tax advisor or the written advice is based on a representation or assumption that the private foundation knows, or has reason to know, is unlikely to be true.

Explanation of Provisions

The current regulations under sections 4942 and 4945 state that a determination is ordinarily considered as made in good faith if it is based on an affidavit of the foreign organization or an opinion of counsel of the grantor or the grantee. The proposed regulations modify this rule to identify a broader class of tax practitioners upon whose written advice a private foundation may base a ''good faith determination.'' The proposed regulations also make certain conforming changes consistent with statutory amendments that have been made to sections 4942 and 4945.

Under the proposed regulations, a private foundation's good faith determination ordinarily may be based on written advice given by a ''qualified tax practitioner'' who is subject to the requirements in Circular 230, including the requirements in current §§ 10.37 and 10.51(a)(13) (or successor provisions). A qualified tax practitioner means an attorney, a certified public accountant (''CPA''), or an enrolled agent, as those practitioners are defined in §§ 10.2 and 10.3 of Circular 230. The proposed regulations limit the definition of a qualified tax practitioner to attorneys, CPAs, and enrolled agents because these practitioners generally provide advice to clients with respect to taking positions on tax returns, and these practitioners are generally authorized to represent their clients before the IRS without limitations applicable to other types of practitioners (such as enrolled actuaries). The Treasury Department and the IRS believe that expanding the class of practitioners on whose written advice a private foundation may base a good faith determination will decrease the cost of seeking professional advice regarding these determinations, enabling foundations to engage in international philanthropy in a more cost-effective manner. At the same time, expressly allowing reliance on a broader spectrum of professional tax advisors may encourage more private foundations to obtain written tax advice, thus promoting the quality of the determinations being made.

Although the proposed regulations generally expand the class of practitioners on whose written advice a private foundation may ordinarily base a good faith determination, unlike the current rule, the expanded class would not include foreign counsel unless the foreign counsel is a qualified tax practitioner (as defined in the proposed regulations). The proposed rule is consistent with the general requirements of Circular 230 that an attorney or CPA be licensed in a state, territory, or possession of the United States, and an enrolled agent be enrolled by the IRS, in order to practice before the IRS.

The proposed regulations provide that a private foundation's determination that is based on the written advice of a qualified tax practitioner will be considered as made in good faith if the private foundation's reliance on the

written advice meets the requirements of § 1.6664–4(c)(1), which are the standards that must be taken into account in determining whether a taxpayer has reasonably relied in good faith on advice for purposes of section 6664. Additionally, as is the case under the present regulations under sections 4942 and 4945, the written advice must provide sufficient facts about the operations and financial support of the foreign organization for the IRS to determine that the grantee would be likely to qualify as a public charity (other than a disqualified supporting organization) or as a private operating foundation or an exempt operating foundation, as applicable.

The Treasury Department and the IRS are considering whether it is appropriate to limit the timeframe during which a private foundation will be permitted to rely upon a qualified tax practitioner's written advice solely for purposes of these regulations. For example, the final regulations or future guidance published in the Internal Revenue Bulletin may provide that a private foundation may base a good faith determination on written advice of a qualified tax practitioner for distributions that occur within a particular timeframe (such as 12 months) from the date of the written advice, provided the private foundation does not know nor have reason to know that the facts underlying the written advice have changed. The Treasury Department and the IRS request comments regarding the appropriateness of a time limit and, if appropriate, the length of the time limit.

The Treasury Department and the IRS are also considering whether the current standards in Rev. Proc. 92–94 (1992–2 CB 507) should be modified to take into account changes to the public support test for public charity status under sections 170 and 509 and whether additional guidelines regarding appropriate timeframes for gathering information upon which written advice is based should be provided in final regulations or in guidance published in the Internal Revenue Bulletin. Comments on this issue are requested.

Because the proposed rule is expected to make it easier and less costly to obtain professional tax advice that can be used as a basis to make a good faith determination, the Treasury Department and the IRS also are considering whether it is appropriate to further amend the current regulations to remove the ability of a private foundation to base a good faith determination on an affidavit of a foreign grantee, which may be a less reliable basis for making a good faith determination than advice from a qualified tax practitioner. The Treasury Department and the IRS are concerned, however, that eliminating the ability to base a good faith determination on an affidavit of a foreign grantee may inappropriately discourage foreign grantmaking by smaller private foundations, or inhibit smaller foreign grants generally. While Rev. Proc. 92–94 continues to provide a simplified procedure that private foundations may follow in making good faith determinations based on affidavits, the Treasury Department and the IRS request comments on whether a foundation's ability to base a good faith determination on affidavits should be retained, and if so, whether the use of affidavits should be restricted. For example, future guidance could prohibit the use of affidavits for grants above a certain dollar threshold, or could require supporting factual information that might serve to corroborate the content of affidavits.

Proposed Effective/Applicability Date

The proposed regulations will apply for grants made after the date of publication of the Treasury decision adopting these paragraphs as final regulations in the **Federal Register**. However, a private foundation may rely on these proposed regulations for grants made on or after September 24, 2012.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to this notice of proposed rulemaking, and because this notice of proposed rulemaking does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small businesses.

Comments and Requests for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under the ''Addresses'' heading. The Treasury Department and the IRS request comments on all aspects of the proposed regulations. All comments will be available at *www.regulations.gov* or upon request. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Courtney D. Jones, Office of the Chief Counsel (Tax-Exempt and Government Entities). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 53

Excise taxes, Foundations, Investments, Lobbying, Reporting and recordkeeping requirements, Trusts and trustees.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 53 is proposed to be amended as follows:

PART 53—FOUNDATION AND SIMILAR EXCISE TAXES

Paragraph 1. The authority citation for part 53 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 53.4942(a)–3 is amended by revising paragraph (a)(6) to read as follows:

§ 53.4942(a)–3 Qualifying distributions defined.

(a) * * *

(6) *Certain foreign organizations*—(i) *In general.* A distribution for purposes described in section 170(c)(2)(B) to a foreign organization, which has not received a ruling or determination letter that it is an organization described in section 509(a)(1), (a)(2), or (a)(3) or section 4942(j)(3), will be treated as a distribution made to an organization described in section 509(a)(1), (a)(2), or (a)(3) (other than an organization described in section 4942(g)(4)(A)(i) or (g)(4)(A)(ii)) or section 4942(j)(3) if the distributing foundation has made a good faith determination that the donee organization is an organization described in section 509(a)(1), (a)(2), or (a)(3) (other than an organization described in section 4942(g)(4)(A)(i) or (g)(4)(A)(ii)) or section 4942(j)(3). A ''good faith determination'' ordinarily will be considered as made if the determination is based on an affidavit of the donee organization or written advice

from a qualified tax practitioner that the donee is an organization described in section 509(a)(1), (a)(2), or (a)(3) (other than an organization described in section 4942(g)(4)(A)(i) or (g)(4)(A)(ii)) or section 4942(j)(3). In the case of a determination based on written advice, the determination will be considered as made in good faith if the foundation reasonably relied in good faith on the written advice in accordance with the requirements of § 1.6664–4(c)(1). Furthermore, the affidavit or written advice must set forth sufficient facts concerning the operations and support of the donee organization for the Internal Revenue Service to determine that the donee organization would be likely to qualify as an organization described in section 509(a)(1), (a)(2), or (a)(3) (other than an organization described in section 4942(g)(4)(A)(i) or (g)(4)(A)(ii)) or section 4942(j)(3).

(ii) *Definitions.* For purposes of this paragraph (a)(6)—

(*a*) The term ''foreign organization'' means any organization that is not described in section 170(c)(2)(A).

(*b*) The term ''qualified tax practitioner'' means an attorney, a certified public accountant, or an enrolled agent, within the meaning of 31 CFR 10.2 and 10.3, who is subject to the requirements in 31 CFR part 10.

(iii) *Effective/applicability date.* Paragraph (a)(6) of this section will apply with respect to grants made after the date of publication of the Treasury decision adopting this paragraph as a final regulation in the **Federal Register**. However, a private foundation may rely on these proposed regulations with respect to grants made on or after September 24, 2012.

* * * * *

Par. 3. Section 53.4945–5 is amended by revising paragraph (a)(5) to read as follows:

§ 53.4945–5 Grants to organizations.

(a) * * *

(5) *Certain foreign organizations*—(i) *In general.* If a private foundation makes a grant to a foreign organization, which does not have a ruling or determination letter that it is an organization described in section 509(a)(1), (a)(2), or (a)(3) or section 4940(d)(2), the grant will nonetheless be treated as a grant made to an organization described in section 509(a)(1), (a)(2), or (a)(3) (other than an organization described in section 4942(g)(4)(A)(i) or (g)(4)(A)(ii)) or section 4940(d)(2) if the grantor private foundation has made a good faith determination that the grantee organization is an organization described in section 509(a)(1), (a)(2), or (a)(3) (other than an organization described in section 4942(g)(4)(A)(i) or (g)(4)(A)(ii)) or section 4940(d)(2). A ''good faith determination'' ordinarily will be considered as made if the determination is based on an affidavit of the grantee organization or written advice from a qualified tax practitioner that the grantee is an organization described in section 509(a)(1), (a)(2), or (a)(3) (other than an organization described in section 4942(g)(4)(A)(i) or (g)(4)(A)(ii)) or section 4940(d)(2). In the case of a determination based on written advice, the determination will be considered as made in good faith if the foundation reasonably relied in good faith on the written advice in accordance with the requirements of § 1.6664–4(c)(1). Furthermore, the affidavit or written advice must set forth sufficient facts concerning the operations and support of the grantee organization for the Internal Revenue Service to determine that the grantee organization would be likely to qualify as an organization described in section 509(a)(1), (a)(2), or (a)(3) (other than an organization described in section 4942(g)(4)(A)(i) or (g)(4)(A)(ii)) or section 4940(d)(2). See paragraphs (b)(5) and (b)(6) of this section for additional rules relating to foreign organizations.

(ii) *Definitions.* For purposes of this paragraph (a)(5)—

(*a*) The term ''foreign organization'' means any organization that is not described in section 170(c)(2)(A).

(*b*) The term ''qualified tax practitioner'' means an attorney, a certified public accountant, or an enrolled agent, within the meaning of 31 CFR 10.2 and 10.3, who is subject to the requirements in 31 CFR part 10.

(iii) *Effective/applicability date.* Paragraph (a)(5) of this section will apply with respect to grants made after the date of publication of the Treasury decision adopting this paragraph as a final regulation in the **Federal Register**. However, a private foundation may rely on these proposed regulations with respect to grants made on or after September 24, 2012.

* * * * *

Steven T. Miller,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2012–23553 Filed 9–21–12; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 12–236; RM–11671, DA 12–1397]

Radio Broadcasting Services; Roaring Springs, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the FM Table of Allotments. The Commission requests comment on a petition filed by Jesus B. Salazar, proposing to amend the Table of Allotments by substituting Channel 227A for vacant Channel 249A at Roaring Springs, Texas, and by substituting Channel 249C3 for vacant Channel 276C3, at Roaring Springs, Texas. The proposal is part of a contingently filed ''hybrid'' application and rule making petition. Channel 227A can be allotted at Roaring Springs, Texas, in compliance with the Commission's minimum distance separation requirements with a site restriction of 10.5 km (6.5 miles) north of Roaring Springs, at 33–59–36 North Latitude and 100–52–10 West Longitude. Channel 249C3 can be allotted at Roaring Springs, Texas, in compliance with the Commission's minimum distance separation requirements with a site restriction of 9.4 km (5.8 miles) northeast of Roaring Springs, at 33–57–55 North Latitude and 100–47–36 West Longitude. *See* **SUPPLEMENTARY INFORMATION** *infra.*

DATES: The deadline for filing comments is October 15, 2012. Reply comments must be filed on or before October 30, 2012.

ADDRESSES: You may submit comments, identified by MB Docket No. 12–236, by any of the following methods:

- *Federal Communications Commission's Web Site: http://fjallfoss.fcc.gov/ecfs2/.* Follow the instructions for submitting comments.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

In addition to filing comments with the FCC, interested parties should serve counsel for petitioner as follows: James L. Oyster, Esq., Law Offices of James L. Oyster, 108 Oyster Lane, Castleton, Virginia 22716–9720.

FOR FURTHER INFORMATION CONTACT: Deborah A. Dupont, Media Bureau (202) 418–7072.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making,* MB Docket No. 12–236, adopted August 23, 2012, and released August 24, 2012. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, (800) 378–3160, or via the company's Web site, *www.bcpiweb.com.* This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

The Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

Federal Communications Commission.

Nazifa Sawez,

Assistant Chief, Audio Division, Media Bureau.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336 and 339.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing 276C3 and adding 227A and 249C3 at Roaring Springs.

[FR Doc. 2012–21875 Filed 9–21–12; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 12–235; RM–11670, DA 12–1398]

Radio Broadcasting Services; Knox City, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the FM Table of Allotments. The Commission requests comment on a petition filed by Big Cat Broadcasting, LLC, proposing to amend the Table of Allotments by substituting Channel 277A for vacant Channel 291A, at Knox City, Texas. The proposal is part of a contingently filed ''hybrid'' application and rule making petition. Channel 277A can be allotted at Knox City, Texas, in compliance with the Commission's minimum distance separation requirements at a site with reference coordinates of 33–33–08 North Latitude and 99–49–38 West Longitude. *See* **SUPPLEMENTARY INFORMATION** *infra.*

DATES: The deadline for filing comments is October 15, 2012. Reply comments must be filed on or before October 30, 2012.

ADDRESSES: You may submit comments, identified by MB Docket No. 12–235 by any of the following methods:

- *Federal Communications Commission's Web site: http://fjallfoss.fcc.gov/ecfs2/.* Follow the instructions for submitting comments.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

In addition to filing comments with the FCC, interested parties should serve counsel for petitioner as follows: A. Wray Fitch, III, Esq., Gammon & Grange, P.C., 8280 Greensboro Drive, 7th Floor, McLean, Virginia 22102–3807.

FOR FURTHER INFORMATION CONTACT: Deborah A. Dupont, Media Bureau (202) 418–7072.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making,* MB Docket No. 12–235, adopted August 23, 2012, and released August 24, 2012. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, (800) 378–3160, or via the company's Web site, *www.bcpiweb.com.* This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

The Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

Federal Communications Commission.

Nazifa Sawez,

Assistant Chief, Audio Division, Media Bureau.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336 and 339.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing 291A and adding 277A at Knox City.

[FR Doc. 2012–21859 Filed 9–21–12; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register

Vol. 77, No. 185

Monday, September 24, 2012

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

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

September 18, 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.

Agricultural Research Service

Title: Web Forms for Research Data, Models, Materials, and Publications as well as Study and Event Registration.

OMB Control Number: 0518–0032.

Summary of Collection: OMB Circular 130 Management of Federal Information Resources, establishes that ''agencies will use electronic media and formats * * * in order to make government information more easily accessible and useful to the public''. In order to provide information and services related to its program responsibilities defined at 7 CFR 2.65, the Agricultural Research Service (ARS) needs to obtain certain basic information from the public. Online forms allow the public to request from ARS research data, models, materials, and publications as well as registration for scientific studies and events.

Need and Use of the Information: ARS will use the information to respond to requests for specific services. The information will be collected electronically. If this collection is not conducted, ARS will be hindered from reducing the burden on its customers by providing them the most timely and efficient way to request services.

Description of Respondents: Individuals or households.

Number of Respondents: 15,000.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 750.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2012–23416 Filed 9–21–12; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent To Seek OMB Approval To Collect Information: Forms Pertaining to the Peer Review of ARS Research Projects

AGENCY: Agricultural Research Service (ARS), USDA.

ACTION: Notice and request for comments.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995 and OMB implementing regulations. The Department is soliciting public comments on the subject proposal.

DATES: Written comments on this notice must be received by November 23, 2012.

ADDRESSES: Address all comments concerning this notice to: Michael S. Strauss, Peer Review Program Coordinator, Office of Scientific Quality Review; Agricultural Research Agency, USDA; 5601 Sunnyside Avenue, Beltsville, Maryland 20705; Phone: 301–504–3283; Fax: 301–504–1251.

FOR FURTHER INFORMATION CONTACT: Michael S. Strauss, 301–504–3283.

SUPPLEMENTARY INFORMATION: The Office of Scientific Quality Review will seek approval from OMB to update six existing forms that will allow the ARS to efficiently manage data associated with the peer review of agricultural research. All forms are transferred and received in an electronic storage format that does not include on-line access.

Abstract: The Office of Scientific Quality Review was established in September of 1999 as a result of the Agricultural Research, Extension, and Education Reform Act 1998 (''The Act'') (Pub. L. 105–185). The Act included mandates to perform scientific peer reviews of all research activities conducted by the USDA. The Office manages the ARS peer review system by centrally planning peer panel reviews for ARS research projects on a five-year cycle.

Each set of reviews is assigned a chairperson to govern the review process. Peer reviewers are non-ARS scientists. Peer review panels are convened to provide in-depth discussion and review of the research project plans. Each panel reviewer receives information on between 1 and 20 ARS research projects.

On average, 220 research projects are reviewed annually by an estimated 200 reviewers; whereby approximately 200 are reviewed by panel and approximately 20 are reviewed through an ad hoc (written review) process. The organization and management of this peer review system, particularly panel reviews, is highly dependent on the use of forms.

The Office of Scientific Quality Review will seek OMB approval of the following forms:

1. Confidentiality Agreement Form—USDA uses this form to document that a selected reviewer is responsible for keeping confidential any information learned during the subject peer review process. The Confidentiality Agreement is signed prior to the reviewer's involvement in the peer review process. This form requires an original signature. Electronically transmitted scans of signed forms are also accepted.

2. Panelist Information Form—USDA uses this form to gather up-to-date background information about the reviewer as well as information relevant to the paying of an honorarium and for travel, where appropriate. Reviewers often include sensitive information on this form and, thus it is not retained or recorded in electronic form by the OSQR.

3. Peer Review of an ARS Research Project Form (Peer Review Form)—USDA uses this form to guide the reviewer's comments on the subject project. The form contains the reviewing criteria and space for the reviewer's narrative comments and evaluation.

4. Ad Hoc Review Form—USDA uses this in select cases (for Ad Hoc Reviewers who are not members of a review panel), a check-off listing of action classes at the end of the form allows them to provide an overall rating of the plan.

5. Recommendations for ARS Research Project Form—(Recommendations Form)—USDA uses this form to guide the panel's evaluation and critique of the review process. The form contains the recommendations of the panel for the subject research project.

6. Panel Expense Report Form (Expense Report)—USDA uses this form to document a panel reviewer's expense incurred traveling to and attending a peer review meeting. The Expense Report includes lodging, meals, and transportation expenses. When completed, the form contains sensitive information.

7. Panel Invoice Form (Honorarium Form)—USDA uses this form to document the transfer of an honorarium to a peer reviewer. Reviewers receive honoraria as compensation for serving as peer review panelists. This form requires an original signature. It is used only in special circumstances where reviewers cannot accept a direct bank transfer of the honorarium. In such cases this is used in lieu of the SF–1034 to provide OSQR a written record of the honorarium payment.

(1) USDA's collection of information on the Confidentiality Agreement Form is needed to document that a selected reviewer is responsible for keeping confidential any information learned during the subject peer review process. The Confidentiality Agreement would be signed prior to the reviewer's involvement in the peer review process.

(2) USDA's collection of information on the Panelist Information Form is needed to gather up-to-date background information about the reviewer. It contains sensitive information.

(3) USDA's collection of information on the Peer Review Form is needed to guide the reviewer's comments on the subject project. It contains the reviewing criteria and space to insert comments.

(4) USDA's collection of information on the Ad Hoc Review Form is needed to guide reviewer comments of those not participating in a chaired panel and affords a place to select an overall Action Class rating for the plan.

(5) USDA's collection of information on the Recommendations Form is needed to guide the panel's critique of the review process. It contains the recommendations of the panel for the subject research project.

(6) USDA's collection of information on the Expense Report Form is needed to document a panel reviewer's expenses incurred by attending a peer review meeting. The Expense Report includes lodging, meals, and transportation expenses. It includes sensitive information.

(7) USDA's collection of information on the Honorarium Form is needed to document the transfer of an honorarium to the peer reviewer in those rare cases where an SF–1034 is not completed. The honorarium is given to reviewers as appreciation for their time spent on the panel review process.

Estimate of Burden: The burden associated with this approval process is the minimum required to achieve program objectives. The information collection frequency is the minimum consistent with program objectives. The following estimates of time required to complete the forms are based on OSQR's experience in working with reviewers and accepting their input into our procedures.

1. *Confidentiality Agreement Form:* This form takes up to10 minutes to complete. It only requires a signature and date, but the reviewer must read and consider the terms of the agreement.

2. *Panelist Information Form:* This form takes about 30 minutes to complete. It resembles a typical request for personal information; many reviewers provide the same data as grant reviewers in other peer review programs.

3. Peer Review of an ARS Research Project Form (Peer Review Form) This form takes 5–7 hours to complete. Because this is a review, the page length varies. Reviewers are free to write as much as they wish, but to complete the form they must thoroughly read and evaluate a research project plan that may exceed 60–70 pages in length.

4. Recommendations for ARS Research Project Form (Recommendations Form) This form takes 1–2 hours to complete. Because this is a review, the page length significantly varies. Reviewers are free to write as much as they wish. The form is prepared by one reviewer combining comments from two of the reviewers as found on the Peer Review Form as well as adding further analyses derived from discussion with other reviewers.

5. Panel Expense Report Form (Expense Report) This form takes 30 minutes to complete.

6. *Panel Invoice Form (Honorarium Form):* This form takes 3 minutes to complete. This form has the reviewer's personal information pre-filled and the reviewer only verifies its accuracy and signs.

Respondents and Estimated Number of Respondents: Scientific experts, currently working in the same discipline as the research projects under review, are selected to review research projects. These experts are notable peers within and external to the ARS. Annually, about 150 peer reviewers complete these forms. Ad hoc reviewers are paid a modest honorarium but generally do not travel to meet with other reviewers; and thus they do not complete Expense Report and Invoice Forms. On occasion, ad hoc reviewers may participate in a Web-based panel, thus necessitating completion of an either an SF–1034 or an Honorarium Form. Ad hoc reviewers, retained for special situations, will make up about a 20 percent of all the reviewers retained annually.

FREQUENCY OF RESPONSE

Form	Number of respondents	Annual frequency
Confidentiality Agreement	200	1 per respondent (Total of 200).
Peer Review Forms (Required for all reviewers and they have 2 review assignments on average.).	200	2 per panel respondent (Total of 400).
Expense Report (Only for those reviewers traveling to the review.)	20	1 per respondent (Total of 20).
Honorarium Form (Only for those reviewers paid by check.)	20	1 per respondent (Total of 20).
Panelist Information Forms	200	1 per respondent for each form (Total of 200).
Recommendations Form (For use only for panels not meeting online.)	20	2 per respondent (Total of 40).

ESTIMATED TOTAL ANNUAL BURDEN ON RESPONDENTS

Form (time required to complete)	Number completed annually	Total burden (hours)
Confidentiality Agreement (10 min.)	200	33
Panelist Information Forms (30 min.)	200	100
Peer Review Forms (~6 hrs)	400	2400
Recommendations Form (1 hr)	20	20
Honorarium Form (3 min.)	20	1
Expense Report (30 min.)	20	10

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

Comments: The Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of ARS functions, including whether the information will have practical utility; (2) Evaluate the accuracy of the estimated burden from proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: September 4, 2012.

Caird Rexroad,

Associate Administrator, Research, Management and Operations, Agricultural Research Service, USDA.

[FR Doc. 2012–23474 Filed 9–21–12; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2012–0032]

Testing of Product Samples for Listeria monocytogenes: Changes in Procedures

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing changes in procedures for *Listeria* (*L.*) *monocytogenes* product sampling programs in ready-to-eat (RTE) meat and poultry products. Starting 60 days after issuance of this notice, FSIS will increase the number of product samples it collects under its Routine Risk-based *L. monocytogenes* (RLm) Sampling Program and its Intensified Verification Testing (IVT) protocol from three to five samples per sampling unit. In addition, FSIS laboratories will composite the five 25-g product samples from the RLm sampling program, which will increase the sample size of the analyzed test portion from 25 g to 125 g. The Agency is effecting these changes to make its sampling procedures more consistent with international practices, to conserve its laboratory resources, and to improve public health. FSIS invites comments on these changes to its sampling programs.

DATES: To receive full consideration, comments on this notice should be received by November 23, 2012.

ADDRESSES: FSIS invites interested persons to submit comments on this notice. Comments may be submitted by either of the following methods:

- *Federal eRulemaking Portal:* This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.
- *Mail, including CD–ROMs, etc.:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Office of Policy and Program Development, Risk, Innovations, and Management Division, Patriots Plaza 3, 8–163A, 1400 Independence Avenue SW., Mailstop 3782, Washington, DC 20250–3700.
- *Hand- or courier-delivered submittals:* Deliver to Patriots Plaza 3, 355 E Street SW., Room 8–163A, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2012–0032. Comments received in response to this notice will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

Docket: For access to background documents or comments received, go to the FSIS Docket Room at the address listed above between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Rachel Edelstein, Acting Assistant Administrator, Office of Policy and Program Development, Food Safety and Inspection Service, U.S. Department of Agriculture, telephone (202) 204–0495.

SUPPLEMENTARY INFORMATION: FSIS administers a regulatory program under the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*) that is intended to ensure that meat, meat food, poultry, and poultry products distributed in commerce are wholesome; not adulterated; and properly marked, labeled, and packaged. As part of its inspection program, FSIS collects samples of these products for laboratory analysis (21 U.S.C. 642(a) and 460(b)).

RTE Sampling Programs for *Listeria monocytogenes*

Since the late 1980s, FSIS has been sampling RTE meat and poultry products for the pathogen *L. monocytogenes*. In 2003, FSIS published the interim final rule, ''Control of *L. monocytogenes* in RTE Meat and Poultry Products'' (68 FR 34208; Jun. 6, 2003), which declares that post-lethality exposed RTE products are adulterated if they test positive for *L. monocytogenes* or come into direct contact with a food-contact surface that tests positive for *L. monocytogenes.* Post-lethality exposed RTE meat and poultry products include deli meat and hotdog products. Since the rule's implementation, the Agency has moved to more risk-based testing programs to verify the adequacy of an establishment's food safety system, including the measures that an establishment implements for the control of *L. monocytogenes.*

The RLm sampling program is a risk-based program designed to detect *L. monocytogenes* contamination from three types of samples: Food-contact surfaces (sampling code: RLMCONT), non-food contact environmental surfaces of equipment and facilities (sampling code: RLMENVC), and post-lethality-exposed RTE product (sampling code: RLMPROD). An Enforcement Investigation and Analysis Officer (EIAO) collects samples for RLm testing in conjunction with a routine food safety assessment (FSA) to evaluate the food-safety controls in place at an establishment.

Under another risk-based program, IVT, inspectors (or EIAOs) collect follow-up samples if RTE meat or poultry product samples or food-contact surface samples test positive for *L. monocytogenes* or *Salmonella.* An IVT, similar to a RLm, is designed to analyze three types of samples: food-contact surfaces (sampling code: INTCONT), non-food contact environmental surfaces (sampling code: INTENV), and post-lethality-exposed RTE product (sampling code: INTPROD). As with RLm sampling, IVT sampling is performed along with an FSA, although this FSA is for-cause as opposed to being routine.

Changes to RLMPROD and INTPROD Sampling Procedures

When conducting sampling of post-lethality-exposed RTE product for *L. monocytogenes,* FSIS personnel randomly collect enough finished product to form a 1-lb sample and ship it to the FSIS laboratory listed on the sample request form. They package and seal the sample using plastic bags provided for the purpose; refrigerate or freeze it; complete the sample request form; and send the sample and the form via a package express service to the FSIS Field Service Laboratory or other laboratory designated on the sample request form.

From the 1-lb RLMPROD or INTPROD sample it receives, the laboratory draws a 25-g unit which it analyzes according to procedures in the FSIS Microbiology Laboratory Guidebook (MLG) (*http://www.fsis.usda.gov/Science/Microbiological_Lab_Guidebook/index.asp*). The MLG contains procedures for the detection, isolation, confirmation, and identification of *L. monocytogenes* in meat and poultry samples.

Currently, a sampling unit for both RLm and IVT sampling programs consists of 10 food-contact surface, five non-food-contact environmental surface, and three food product samples. FSIS is not making any changes to its food-contact and non-food contact surface sample testing.

FSIS is planning, however, to change the number of food product samples per sampling unit it collects when sampling for *L. monocytogenes* from three to five food product samples per sampling unit for both the RLm and IVT programs. (The sampling unit for IVT when sampling for *Salmonella* [5 product samples, 8 environmental samples, and 5 food contact samples] will not change.) In addition, its laboratories will composite—physically mix—the five 25-g RLMPROD samples to form a single 125-g analytical unit and then conduct a microbiological analysis on that composited sample (sampling code: RLMPRODC). The Agency will make appropriate changes in the MLG to reflect this new procedure. The laboratories will not composite the five 25-g INTPROD samples because those samples are collected for investigative purposes, and it is necessary for the Agency to know the specific production information related to those individual samples.

To support an increase in the sample size analyzed (from 3×25 g, or 75 g per sampling unit, to 5×25 g, a total of 125 g per sampling unit), FSIS performed a validation study of the current FSIS *L. monocytogenes* detection method (MLG Chapter 8). The study showed that, with slight modifications to the laboratory method, there would be no difference in the sensitivity of the method in detecting *L. monocytogenes* using either 25 g or 125 g of product.

FSIS is initiating these changes to its procedures to make the results of its analyses more comparable with results obtained internationally. Many countries are following the Codex Alimentarius Commission *Guidelines on the Application of General Principles of Food Hygiene to the Control of Listeria Monocytogenes in Ready-to-Eat Foods* (CAC/GL–61 (2007)). Annex II of these guidelines (Microbiological Criteria for *L. monocytogenes* in Ready-to-Eat Foods), recommends national governments use a criteria of five product samples for microbiological analysis, with 25-g test portions analyzed per sample. Under these guidelines, national governments have the discretion to decide whether to composite the samples or analyze each individually.

FSIS is also initiating these changes to its procedures to conserve laboratory resources. While FSIS will be collecting more product samples, FSIS expects that compositing five 25-g RLMPROD samples into a single 125-g test portion will reduce the overall number of analyses performed and thus reduce the associated laboratory costs.

Furthermore, FSIS expects that increasing the number of product samples and test portions per sample will have a positive impact on public health because implementing these changes increases the potential for detecting positive samples. For example, from July 2010 to June 2012, with three samples per sampling unit, FSIS tested around 460 INTPROD samples per year. Of those samples, approximately five samples (about one percent of tested samples) were found to be positive for *L. monocytogenes.* Assuming the current percent positive detection rate do not change, FSIS expects that when testing around 760 samples per year, approximately eight samples (about one percent of 760 samples) will be found to be positive for *L. monocytogenes.*[1] Increased detection of adulterated product will reduce the number of illnesses and deaths caused by *L. monocytogenes* and will also likely improve control for *L. monocytogenes* in RTE meat and poultry products.

[1] Please also see footnote #5 and #6 below.

Cost-Benefit Analysis for Increasing the Sample Numbers of RLm Product Samples (RLMPROD) and IVT Product Samples (INTPROD) and Compositing RLMPROD Samples

Expected Costs

Budgetary Costs to the Agency

If the Agency had increased the number of RLMPROD product samples from three to five per sampling unit but did not decide to composite these samples, there would have been increased costs to FSIS. Agency data shows that the annual number of product samples analyzed is 1,882 for RLMPROD and 432 for INTPROD.[2] The increase in the number of samples will be around 1,550 ((3,138 − 1,882) + (720 − 432)), as given in Table 1. However, compositing the RLMPROD samples will reduce the number of analyses performed in the RLMPROD sampling program to about 630 (3,138/5), and the total number of analyses the Agency labs will perform annually for RLMPROD and INTPROD will decrease by 964 [(1,882 + 432) − (630 + 720)]. This reduction in turn will result in decreased costs to the Agency labs.

Sampling program	Samples per unit	Total number of sample analyses
RLMPROD (current)	3	1882
RLMPRODC (proposed composites)	5	* 630
INTPROD (current) ...	3	432
INTPROD (proposed)	5	720

* FSIS projects that the number of RLMPROD samples collected prior to compositing will increase from 1882 to 3138.

The Agency has estimated the savings to the laboratories by reducing the number of sample analyses performed to be approximately $40,000, which includes savings for expendable supplies such as gloves, plates, etc.[3]

Costs to the Industry

One major cost to the industry will be the likely loss from the additional contaminated RTE products detected by the additional sampling, which the establishments will have to destroy. Even though these adulterated products should be destroyed and not sold to consumers, establishments would have earned revenue selling these products. If additional testing results in more positive samples, more product will need to be discarded and, in turn, yield less revenue for the establishments.

The Agency used the most recent data on the average price of deli meats compiled by FreshLook Marketing Group as a proxy for the price of RTE meat and poultry products, which is $6.98 per pound.[4] Agency data on contaminated products found under RLMPROD and INTPROD averaged about 12.6 million lb per year (2008–2011). An accurate value for the real increase in the percent positive rate will be measured after the Agency starts collecting the number of samples as proposed by this notice. For the current analysis, the Agency assumes the percent positive value will increase in the same proportion as the number of samples increases, which is 67 percent [(5–3)/3.][5] [6] It follows that the contaminated products would increase to about 21 million pounds—an 8.4 million-pound increase. Multiplying 8.4 million pounds by $6.98 per pound gives $58.6 million, which is the possible loss in market value of the additional detected contaminated products.

If establishments that are already testing for *L. monocytogenes* choose to composite samples, they may incur validation costs at about $30,000 to $60,000 each.[7] However, this cost impact will not be significant for the following reasons: (1) Very few establishments are testing for *L. monocytogenes;* (2) the Agency is not mandating compositing, so the methods change will be voluntary, and establishments will only choose to do so if it is beneficial; and (3) in the long run, those establishments that make the changes to testing composited product samples can recover the validation cost because they will have fewer sample analyses to perform.

Expected Benefits

The main benefit from increasing the sample number is the reduction of illnesses and deaths caused by *L. monocytogenes.* A recent risk assessment (2012) conducted jointly by FSIS and FDA indicates that any *L. monocytogenes* on incoming RTE foods, both those that support the growth of *L. monocytogenes* and those that do not, that are sliced, prepared, or packaged in retail grocery stores contributes to retail cross-contamination of other RTE food sliced, prepared, or packaged at retail and, in turn, contributes to increased risk of listeriosis.[8] Prior FSIS risk assessments showed that most listeriosis cases attributed to RTE foods were associated with those exposed to the retail grocery environment (e.g., sliced, prepared, or packaged).[9] Other studies supported these findings.[10] By increasing the number and amount of RTE food product samples being tested for *L. monocytogenes,* contaminated product can be more readily detected and diverted from going to retail. This result reduces the risk of listeriosis both from the contaminated RTE product being diverted and from other RTE foods that could become cross-contaminated by these products during retail slicing, preparation, or packaging operations.

According to the most recent CDC analysis, there are about 1,591 (with a range of 557 to 3,161) domestically-acquired foodborne illnesses caused by *L. monocytogenes* annually. The average annual number of hospitalization, is 1,455 (with a range of 521 to 3,018), and the average number of deaths is 255 (with a range of 0 to 733).[11] Using this information and an ERS (Economic Research Services) model, the Agency has recently updated the cost of illnesses of *L. monocytogenes* to be $1.3 million per case in 2010 dollars. This estimate represents a lower bound for an average cost of *L. monocytogenes* because it only includes medical costs

[2] 2009–2010 average. Data from Data Analysis and Integration Group/Office of Data Integration and Food Protection (DAIG/ODIFP).

[3] Data from the Laboratory Director, Office of Public Health Science (OPHS), FSIS.

[4] (1) Provided by Ed MacKowiak at FreshLook Marketing Group on July 13, 2011 via personal communication.

(2) Total U.S. traditional grocery store scanner data. Deli meats include deli beef/pork/bacon, bologna, frankfurter, ham, loaves, poultry, salami, sausage, specialty meats/pates, and other. Price is 52-week average as of 6/19/2011.

(3) Most contaminated RTE samples are from deli meats and hotdogs. Therefore, this price index is a reasonable proxy.

[5] Note that this is an upper-bound assumption, implying that all the additional positive samples are from lots that previously tested negative lots, and none is from lots that previously tested positive. The number is likely to be lower than 67 percent, but we will not know what it is likely to be until we implement the change.

[6] As mentioned above, compositing five 25 g samples to one 125 g test portion will not impact the sensitivity of the tests, thus will not increase the percent positive rate.

[7] Information from Office of Public Health Science, FSIS.

[8] U.S. Department of Agriculture, Food Safety and Inspection Service and Food and Drug Administration, Center for Food Safety and Applied Nutrition (2012). Interagency Retail *Listeria monocytogenes* Risk Assessment. Washington, DC.

[9] Endrikat S, Gallagher D, Pouillot R, et al. A comparative risk assessment for *Listeria monocytogenes* in prepackaged versus retail-sliced deli meat. J Food Prot 2010;73:612–9.

[10] Pradhan AK, Ivanek R, Gröhn YT, et al. Quantitative risk assessment of listeriosis-associated deaths due to *Listeria monocytogenes* contamination of deli meats originating from manufacture and retail. J Food Prot 2010;73:620–30.

[11] Scallan E, Hoekstra RM, Angulo FJ, Tauxe RV, Widdowson M, Roy SL, Jones JL, and Griffin PM. 2011. Foodborne illness acquired in the United States—major pathogens. *Emerg Infect Dis,* 17(1):7–11.

and loss-of-productivity costs. It does not include pain and suffering costs.

The Agency's analysis suggests that the new sampling will reduce the number of illnesses by an average of 90 cases per year (with a range of 3 to 134).[12] This number does not include the reduced illnesses from reduced cross-contamination at retail, so the number could be higher. Multiplying the average number of reduced illnesses by the average cost per case results in reduced illness benefits of about $117 million annually.

The Agency also expects that with the increased sampling, the establishments will strengthen their own *L. monocytogenes* control measures, which will further reduce the number of illnesses. However, FSIS cannot quantify this impact with any precision.

Net Benefits

As explained in the Expected Costs and Expected Benefits Sections, there are uncertainties in the Agency's cost and benefit estimates. Consequently, it is very difficult to arrive at a concrete estimate of net benefits. The biggest uncertainty is that FSIS cannot accurately predict the amount of adulterated product that will be detected as a result of increasing the sampling numbers. The Agency can only estimate the amount with some strong assumptions. The Agency believes that it can have a reasonable net benefit estimate by adding the estimated benefits from reduced illnesses ($117 million), then subtracting the cost to the industry ($58.6 million). The result is a net benefit of about $58.33 million annually.

The changes in FSIS's sampling procedures do not impose a testing requirement on official establishments. Therefore, these changes will not have a negative effect on small or very small establishments.[13]

USDA Nondiscrimination Statement

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.)

Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's Target Center at 202–720–2600 (voice and TTY).

To file a written complaint of discrimination, write USDA, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW., Washington, DC 20250–9410 or call 202–720–5964 (voice and TTY). USDA is an equal opportunity provider and employer.

Additional Public Notification

FSIS will announce this notice on-line through the FSIS Web page located at *http://www.fsis.usda.gov/regulations_&_policies/Federal_Register_Notices/index.asp.*

FSIS also will make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to constituents and stakeholders. The Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals and other individuals who have asked to be included. The Update is available on the FSIS Web page. Through the Listserv and the Web page, FSIS is able to provide information to a much broader and more diverse audience.

In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/News_&_Events/Email_Subscription/.* Options range from recalls to export information to regulations, directives and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

Done in Washington, DC, on: September 18, 2012.

Alfred V. Almanza,

Administrator.

[FR Doc. 2012–23462 Filed 9–21–12; 8:45 am]

BILLING CODE P

[12] Analysis results are from the Risk Assessment Division, OPHS.

[13] Based on FSIS's HACCP (Hazard Analysis and Critical Control Points) size definition: Very small establishments have fewer than 10 employees or generate less than $2.5 million in annual sales; and small establishments have 10 or more but fewer than 500 employees and generate more than $2.5 million in annual sales.

DEPARTMENT OF AGRICULTURE

Forest Service

Huron-Manistee National Forests, Michigan, USA and State South Branch 1–8 Well

AGENCY: Forest Service, USDA.

ACTION: Withdrawal of notice of intent to prepare an environmental impact statement.

Authority: 36 CFR 220.5(c)

SUMMARY: The Huron-Manistee National Forests (Forest Service) and the Bureau of Land Management (BLM), as a Cooperating Agency, proposed to prepare an environmental impact statement (EIS) to assess the environmental impacts of an industry proposal to drill one exploratory natural gas well, the USA & State South Branch 1–8 (SB 1–8) well, on National Forest System lands. The leaseholder has withdrawn their application for permit to drill therefore this project has been cancelled. This notice cancels the notice of intent to prepare and environmental impact statement.

DATES: The Notice of Intent to prepare and environmental impact statement for the USA and State South Branch 1–8 Well was published on February 24, 2010 with a corrected notice published on March 12, 2010. A revised Notice of Intent was published on January 11, 2012. The Draft was expected in November 2012 and the Final EIS was expected by June 2013.

FOR FURTHER INFORMATION CONTACT: Ken Arbogast, Huron-Manistee National Forests; telephone: 231–775–2421; fax: 231–775–5551. See address above under Addresses. Copies of documents may be requested at the same address. Another means of obtaining information is to visit the Forest Web page at *www.fs.fed.us/r9/hmnf* then click on ''NEPA Projects and Planning'', then ''Old Project page'', then ''Mio projects'', and then ''USA and State South Branch 1–8''.

Individuals who use telecommunication devices for the deaf (TTY) may call 1–231–775–3183.

SUPPLEMENTARY INFORMATION: The original notice of intent to prepare the environmental impact statement for the USA and State South Branch Well was published on February 24, 2010 (Vol. 75, No. 36, pages 8297–8299) with a corrected notice published on March 12, 2010 (Vol. 75, No. 48, pages 11838–11839). A revised Notice of Intent was published on January 11, 2012 (Vol 77, No. 7, page 1665).

Responsible Official for Lead Agency

Barry Paulson, Forest Supervisor, Huron-Manistee National Forests, 1755 S. Mitchell Street, Cadillac, MI 49601.

Responsible Official for Cooperating Agency

Mark Storzer, Field Manager, Bureau of Land Management, Milwaukee Field Office, 626 E. Wisconsin Ave. Suite 200, Milwaukee, WI 53202–4617.

Dated: September 18, 2012.

Barry Paulson,

Forest Supervisor.

[FR Doc. 2012–23458 Filed 9–21–12; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Funds Availability for Section 514 Farm Labor Housing Loans and Section 516 Farm Labor Housing Grants for Off-Farm Housing for Fiscal Year (FY) 2012

AGENCY: Rural Housing Service, USDA.

ACTION: Notice; correction.

SUMMARY: The Rural Housing Services published a document in the **Federal Register** on July 18, 2012, (77 FR 42258) concerning the availability of funds in the Agency's Farm Labor Housing Program. The document contained a deadline date of September 17, 2012, that the Agency is extending to October 31, 2012, and a funding restriction that is no longer applicable. The document also contained a documentation requirement concerning tax credits that the Agency is loosening and clarifying.

FOR FURTHER INFORMATION CONTACT: Mirna Reyes-Bible, Finance and Loan Analyst, Multi-Family Housing Preservation and Direct Loan Division, STOP 0781 (Room 1263–S), USDA Rural Development, 1400 Independence Avenue SW., Washington, DC 20250–0781, telephone: (202) 720–1753 (this is not a toll free number.), or via email: *Mirna.ReyesBible@wdc.usda.gov.*

Correction

In the Notice, beginning on page 42258 in the issue of July 18, 2012 (77 FR 42258–65), make the following corrections:

In the second column of page 42258, correct the **DATES** section to read:

DATES: The deadline for receipt of all applications in response to this Notice is 5 p.m. local time to the appropriate Rural Development State Office on October 31, 2012. * * *

In the first column on page 42259, delete the following:

Once the Agency has committed 70 percent of the available FY 2012 program funds to new construction applications, no further funding will be available for new construction applications until after August 31, 2012. If funding is available after August 31, 2012, then new construction applications will be considered and compete for funding using this NOFA's scoring criteria without regard to the aforementioned funding limitations.

In the first column on page 42259, correct the two sentences before the first full paragraph to read:

* * * * *

If leveraged funds are in the form of tax credits, the applicant must include in its pre-application written evidence that a tax credit application has been submitted and accepted by the Housing Finance Agency (HFA), if such written evidence is available at the time of the pre-application. All applications that will receive leveraged funding must have firm commitments in place for all of the leveraged funding within 18 months of the issuance of a ''Notice of Preapplication Review Action'' (Handbook Letter 103 (3560)). Applicants without written evidence that a tax credit application has been submitted and accepted by the HFA must certify in writing they will apply for tax credits to the HFA within 18 months of the issuance of a ''Notice of Preapplication Review Action.'' * * *

Dated: September 17, 2012.

Tammye Treviño,

Administrator, Rural Housing Service.

[FR Doc. 2012–23410 Filed 9–21–12; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and Opportunity for Public Comment.

Pursuant to Section 251 of the Trade Act 1974, as amended (19 U.S.C. 2341 *et seq.*), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of these firms contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[09/01/2012 through 09/07/2012]

Firm name	Firm address	Date accepted for investigation	Product(s)
Windo-Therm, LLC	P.O. Box 405, Hoosick Falls, NY 12090.	9/6/2012	Manufactures aluminum frame panels with a clear film for windows and other structures.
Marsh Furniture Company	1001 S. Centennial Street, High Point, NC 27260.	9/4/2012	Manufactures kitchen and bathroom cabinets; primarily manufacturing materials including wood.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 7106, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which

these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Dated: September 7, 2012.

Miriam Kearse,

Eligibility Examiner.

[FR Doc. 2012–23466 Filed 9–21–12; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

International Trade Administration

[Application No. 12–00005]

Export Trade Certificate of Review

ACTION: Notice of issuance of an Export Trade Certificate of Review to Colombia Rice Export Quota, Inc. (''COL–RICE'') (Application #12–00005).

SUMMARY: On August 28, 2012, the U.S. Department of Commerce issued an Export Trade Certificate of Review to Colombia Rice Export Quota, Inc. (''COL–RICE''). This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: Joseph E. Flynn, Director, Office of Competition and Economic Analysis, International Trade Administration, by telephone at (202) 482–5131 (this is not a toll-free number) or email at *etca@trade.gov*.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. Sections 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR Part 325 (2010). The U.S. Department of Commerce, International Trade Administration, Office of Competition and Economic Analysis (''OCEA'') is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Secretary of Commerce to publish a summary of the issuance in the **Federal Register**. Under Section 305(a) of the Export Trading Company Act (15 U.S.C. 4012(b)(1)) and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Members (Within the Meaning of 15 CFR 325.2(l)

COL–RICE's members under this certificate are: the Arkansas Rice Research and Promotion Board, the California Rice Research Board, the Louisiana Rice Research Board, the Mississippi Rice Promotion Board, the Missouri Rice Research and Merchandising Council, the Texas Rice Producers' Board, the USA Rice Merchants' Association, the USA Rice Millers' Association, and, Federación Nacional de Arroceros de Colombia (FEDEARROZ).

Description of Certified Conduct

COL–RICE is certified to engage in the Export Trade Activities and Methods of Operation described below in the following Export Trade and Export Markets.

Export Trade

COL–RICE plans to export rice products as described in the Agricultural Tariff Schedule of the Republic of Colombia, as appended to the United States—Colombia Trade Promotion Agreement (TPA), and including the following Colombian HTS Codes: 1006.1090—rice in hull, except for seed (*arroz con cascara, except para siembra*); 1006.2000—hulled rice, rough rice or brown rice (*arroz descascarillado, arroz cargo o arroz pardo*); 1006.3000—rice semi-milled or milled, whether polished or glazed (*arroz semiblanqueado o blanqueado, incluso pulido o glaseado*); 1006.4000—broken rice (*arroz partido*).

Export Market

The Republic of Colombia.

Export Trade Activities and Methods of Operation

With respect to the conduct of Export Trade in the Export Market, COL–RICE may, subject to the terms and conditions set forth below, engage in the following Export Trade Activities and Methods of Operation:

1. *Purpose:* COL–RICE will manage on an open tender basis the tariff-rate quotas (TRQs) for rice products granted by the Republic of Colombia to the United States under the terms of the TPA or any amended or successor agreement providing for Colombian TRQs for rice from the United States.

Specifically, the TRQs for rice products are set forth at Paragraph 20 of Appendix I of the General Notes of Colombia, Annex 2.3 to the TPA. COL–RICE also will provide for distributions of the proceeds received from the tender process based on exports of rice products to support the operation and administration of COL–RICE and to fund research projects for the benefit of the rice industry of the United States and to fund market development and/or competitiveness projects for the benefit of the rice production sector of the Republic of Colombia, as established by paragraph 6 of Article 5 of Decree No. 0728 of 2012, issued by the Ministry of Agriculture and Rural Development of Colombia.

2. *Administrator.* COL–RICE shall contract with a neutral third party Administrator who shall administer the TRQ System, subject to general supervision and oversight by the Board of Directors of COL–RICE.

3. *Open Tender Process.* COL–RICE shall offer TRQ Certificates for duty-free shipments of rice to the Republic of Colombia solely and exclusively through an open tender process with certificates (''TRQ Certificates'') awarded to the highest bidders. COL–RICE shall hold tenders in accordance with established tranches at least once each year. The award of TRQ Certificates under the open tender process shall be determined solely and independently by the Administrator without any participation by the members of COL–RICE or the COL–RICE Board of Directors.

4. *Persons or Entities Eligible to Bid.* Any person or entity incorporated or with a legal address in the United States of America shall be eligible to bid in the open tender process.

5. *Notice.* The Administrator shall publish notice (''Notice'') of each open tender process to be held to award TRQ Certificates in the *Journal of Commerce* and, at the discretion of the Administrator, in other publications of general circulation within the U.S. rice industry or in the Republic of Colombia. The Notice will invite independent bids and will specify (i) the total amount (in metric tons) that will be allocated pursuant to the applicable tender; (ii) the shipment period for which the TRQ Certificates will be valid; (iii) the date and time by which all bids must be received by the Administrator in order to be considered (the ''Bid Date''); and (iv) a minimum bid amount per ton, as established by the Board of Directors, to ensure the costs of administering the auction are recovered. The Notice normally will be published not later than 30 calendar days prior to the first day of the auction process and will specify the Bid Date. The Notice will specify the format for bid submissions. Bids must be received by the Administrator not later than 5 p.m. EST on the Bid Date.

6. *Contents of Bid.* The bid shall be in a format established by the Administrator and shall state (i) the name, address, telephone and facsimile numbers, and email address of the bidder; (ii) the quantity of rice bid, in an amount stated in metric tons or fractions thereof; (iii) the bid price in U.S. dollars per metric ton; and (iv) the total value of the bid. The bid form shall contain

a provision that must be signed by the bidder, agreeing that (i) any dispute that may arise relating to the bidding process or to the award of TRQ Certificates shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules; and (ii) judgment on any award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

7. *Performance Security.* The bidder shall submit with each bid a performance bond, irrevocable letter of credit drawn on a U.S. bank, cashier's check, wire transfer or equivalent security, in a form approved and for the benefit of an account designated by the Administrator, in the amount of $50,000 or the total value of the bid, whichever is less. The bidder shall forfeit such performance security if the bidder fails to pay for any TRQ Certificates awarded within five (5) business days of being notified of a TRQ award. The bidder may choose to apply the performance security to the price of any successful bid. Promptly after the close of the open tender process, the Administrator shall return any unused or non-forfeited security to the bidder.

8. *Confidentiality of Bids.* The Administrator shall treat all bids and their contents as confidential. The Administrator shall disclose information about bids only to another neutral third party, or authorized government official of the United States or of the Republic of Colombia and only as necessary to ensure the effective operation of the TRQ System or where required by law. However, after the issuance of all TRQ Certificates from an open tender process, the Administrator shall notify all bidders and shall disclose publicly (i) the total tonnage for which TRQ Certificates were awarded, and (ii) the average price and lowest price per metric ton of all successful bids.

9. *Award of TRQ Certificates.* The Administrator shall award TRQ Certificates for the available tonnage to the bidders who have submitted the highest price conforming bids. If two or more bidders have submitted bids with identical prices, the Administrator shall divide the remaining available tonnage in proportion to the quantities of their bids, and offer each TRQ Certificates in the resulting tonnages. If any bidder declines all or part of the tonnage offered, the Administrator shall offer that tonnage first to the other tying bidders, and then to the next highest bidder.

10. *Payment for TRQ Certificates.* Promptly after being notified of a TRQ award and within the time specified in the Notice, the bidder shall pay the full amount of the bid, either by wire transfer or by certified check, to an account designated by the Administrator. If the bidder fails to make payment within five (5) days, the Administrator shall revoke the award and award the tonnage to the next highest bidder(s).

11. *Delivery of TRQ Certificates.* The Administrator shall establish an account for each successful bidder in the amount of tonnage available for TRQ Certificates. Upon request, the Administrator will issue TRQ Certificates in the tonnage designated by the bidder, consistent with the balance in that account. The TRQ Certificate shall state the delivery period for which it is valid.

12. *Transferability.* TRQ Certificates shall be freely transferable except that (i) any TRQ Certificate holder that intends to sell, transfer or assign any rights under that Certificate shall publish such intention on an internet site maintained by the Administrator at least three (3) business days prior to any sale, transfer or assignment; and (ii) any TRQ holder who sells, transfers or assigns its rights under a TRQ Certificate shall provide the Administrator with notice and a copy of the sale, transfer or assignment within three (3) business days.

13. *Deposit of Proceeds:* The Administrator shall cause all proceeds of the open tender process to be deposited in an interest-bearing account in a financial institution approved by the COL–RICE Board of Directors.

14. *Disposition of Proceeds.* The proceeds of the open tender process shall be applied and distributed as follows:

i. The Administrator shall pay from tender proceeds, as they become available, all operating expenses of COL–RICE, including legal, accounting and administrative costs of establishing and operating the TRQ System, as authorized by the Board of Directors.

ii. The legal, accounting, and administrative expenses of the USA Rice Federation, the U.S. Rice Producers Association, and Federación Nacional de Arroceros de Colombia (FEDEARROZ) directly related to establishing COL–RICE shall be reimbursed from the proceeds of COL–RICE as such proceeds become available, subject to review by the COL–RICE Board.

iii. Of the proceeds remaining at the end of each year of operations after all costs described in (i) and (ii) have been paid—

1. In years one (1) through ten (10), fifty percent (50%) shall be distributed to each of the six (6) state chartered rice research boards named as members above on a pro rata basis, that share being each state's pro rata share of the average of the immediately preceding three (3) years U.S. rice production, to fund rice research projects as defined by each of the six (6) state chartered research boards to benefit the United States rice industry. The funds are to be used for direct research projects and not to be used for general administrative purposes.

2. In years eleven (11) through eighteen (18), fifty percent (50%) shall be distributed to each of the six (6) state chartered rice research boards named as members above on a pro rata basis, that share being each state's pro rata share of the average of the immediately preceding three (3) years U.S. rice production, to fund research and promotion projects as defined by each of the six (6) state chartered research boards to benefit the United States rice industry as may be within the purview of each board. These funds are to be used for direct projects and are not to be used for general administrative purposes.

3. Fifty percent (50%) shall be distributed to FEDEARROZ to fund market development and/or competitiveness projects for the benefit of the rice production sector of the Republic of Colombia, as established by paragraph 6 of Article 5 of Decree No. 0728 of 2012, issued by the Ministry of Agriculture and Rural Development of Colombia.

15. *Arbitration of Disputes.* Any dispute, controversy or claim arising out of or relating to the TRQ System or the breach thereof, including inter alia, a Member's qualification for distribution, interpretation of documents, or of the distribution itself, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

16. *Confidential Information.* The Administrator shall maintain as confidential all export documentation or other business sensitive information submitted in connection with application for COL–RICE membership, bidding in the open tender process, or requests for distribution of proceeds, where such documents or information has been marked ''Confidential'' by the person making the submission. The Administrator shall disclose such information only to another neutral third party or authorized government official of the United States or of the

Republic of Colombia and only as necessary to ensure the effective operation of the TRQ System or where required by law (including appropriate disclosure in connection with the arbitration of a dispute).

17. *Annual Reports.* COL–RICE shall publish an annual report including a statement of its operating expenses and data on the distribution of proceeds, as reflected in the audited financial statement of COL–RICE.

Terms and Conditions

In engaging in Export Trade Activities and Methods of Operation,

1. Except as authorized in Paragraph 15 of the Export Trade Activities and Methods of Operation, neither COL–RICE, the Administrator, any Member, nor any neutral third party shall intentionally disclose, directly or indirectly, to any Member (including parent companies, subsidiaries, or other entities related to any Member) any information regarding any other Member's or bidder's costs, production, capacity, inventories, domestic prices, domestic sales, or U.S. business plans, strategies, or methods, unless such information is already generally available to the trade or public.

2. COL–RICE will comply with requests made by the Secretary of Commerce on behalf of the Secretary or the Attorney General for information or documents relevant to conduct under the Certificate. The Secretary of Commerce will request such information or documents when either the Attorney General or the Secretary of Commerce believes that the information or documents are required to determine that the Export Trade, Export Trade Activities and Methods of Operation of a person protected by this Certificate of Review continue to comply with the standards of section 303(a) of the Act.

3. COL–RICE will ensure that the Administrator holds an auction at least once a year. Failure to so hold an auction may result in revocation of the certificate.

Definitions

''Neutral third party'', as used in this Certificate of Review, means a party not otherwise associated with COL–RICE or any Member and who is not engaged in the production, sale, distribution or export of rice products.

Date: September 18, 2012.

Joseph E. Flynn,

Director, Office of Competition and Economic Analysis.

[FR Doc. 2012–23456 Filed 9–21–12; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Advisory Committee on Supply Chain Competitiveness Meeting

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a public meeting of the Advisory Committee on Supply Chain Competitiveness (Committee). The Committee provides advice to the Secretary of Commerce.

DATES: The meeting will be held on October 19, 2012, from 9:30 a.m. to 1:30 p.m., Eastern Daylight Time.

ADDRESSES: The meeting will be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Room 4830, Washington, DC 20230. Public comments may be mailed to Advisory Committee on Supply Chain Competitiveness, Office of Service Industries, International Trade Administration (ITA), 1401 Constitution Avenue NW., Room 11014, Washington, DC 20230, or emailed to *supplychain@trade.gov.*

FOR FURTHER INFORMATION CONTACT: Richard Boll, Designated Federal Officer, at (202) 482–1135 or *richard.boll@trade.gov* or visit the Advisory Committee on Supply Chain Competitiveness' Web site at *http://ita.doc.gov/td/sif/DSCT/ACSCC/,* which is under construction.

SUPPLEMENTARY INFORMATION:

Background: The Committee provides advice to the Secretary of Commerce on the necessary elements of a comprehensive, holistic national freight infrastructure and a national freight policy designed to support U.S. export growth competitiveness, foster national economic competitiveness, and improve U.S. supply chain competitiveness in the domestic and global economy. (See Charter at *http://ita.doc.gov/td/sif/DSCT/ACSCC/*) This Committee is subject to the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2. The Committee functions solely as an advisory body in compliance with the FACA. For more information about the Committee visit: *http://ita.doc.gov/td/sif/DSCT/ACSCC/.*

Matters to Be Considered: This will be the inaugural meeting of the Committee. The Committee will discuss organizational and administrative issues including ethics and privacy requirements, and select a Chairperson for the Committee. The Committee will consider current issues impacting the U.S. supply chain, which include legislative updates, transportation issues, trade negotiations, and logistics data, and develop its calendar for future work. The Office of Service Industries will post a detailed agenda on its Web site, *http://ita.doc.gov/td/sif/DSCT/ACSCC/,* prior to the meeting. The public may provide written comments on the meeting before or after the meeting.

Time and Date: The meeting will be held on October 19, 2012 from 9:30 a.m. to 1:30 p.m., Eastern Daylight Time. The times and the agenda topics are subject to change. The meeting will be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Room 4830, Washington, DC 20230. The meeting will be open to the public and press on a first-come, first-served basis. Space is limited. The public meeting is physically accessible to people with disabilities. Individuals requiring accommodations, such as sign language interpretation or other ancillary aids, are asked to notify Mr. Richard Boll, at (202) 482–1135 or *richard.boll@trade.gov* five (5) business days before the meeting.

Status: Interested parties are invited to attend and to submit written comments to the Committee at any time before or after the meeting. Parties wishing to submit written comments for consideration by the Committee in advance of this meeting must send them to Office of Services Industries (OSI), 1401 Constitution Ave. NW., Room 11014, Washington, DC 20230, or email to *supplychain@trade.gov* to be received by close of business on October 12, 2012, to provide sufficient time for review. Comments received after October 12, 2012, will be distributed to the Committee, but may not be reviewed prior to the meeting. It would be helpful if paper submissions also include a compact disc (CD) in HTML, ASCII, Word, or WordPerfect format (please specify version). CDs should be labeled with the name and organizational affiliation of the filer, and the name of the word processing program used to create the document. Comments provided via electronic mail also may be submitted in one or more of the formats specified above.

Records: OSI maintains records of all Committee proceedings. Committee records are available for public inspection at OSI's Washington, DC office at the address above. Documents including the Committee's charter, member list, agendas, minutes, and any reports are available on *http://ita.doc.gov/td/sif/DSCT/ACSCC/.*

Dated: September 17, 2012.

David Long,

Director, Office of Service Industries.

[FR Doc. 2012–23445 Filed 9–21–12; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC252

Endangered Species; File No. 17316

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that George Burgess, Ph.D., Florida Museum of Natural History, Dickinson Hall, University of Gainesville, Gainesville, FL, 32611, has applied in due form for a permit to take smalltooth sawfish (*Pristis pectinata*) for purposes of scientific research.

DATES: Written, telefaxed, or email comments must be received on or before October 24, 2012.

ADDRESSES: The application and related documents are available for review by selecting Records Open for Public Comment from the *Features* box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 17316 from the list of available applications.

These documents are also available upon written request or by appointment in the following offices:

Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376; and

Southeast Region, NMFS, 263 13th Avenue South, Saint Petersburg, FL 33701; phone (727) 824–5312; fax (727)824–5309.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division

- By email to *NMFS.Pr1Comments@noaa.gov* (include the File No. in the subject line of the email),
- By facsimile to (301) 713–0376, or
- At the address listed above.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Colette Cairns or Jennifer Skidmore, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

The applicant proposes to gather life history information on smalltooth sawfish (*Pristis pectinata*) populations of Florida, primarily in Florida Bay and the upper Keys area. The purpose of the research is to investigate the movements and habitat use of smalltooth sawfish in Florida waters. Annually, up to 80 sawfish would be captured by gillnet, longline, or angling gear, measured, passive integrated transponder, roto, dart, and external satellite tagged, tissue, muscle, and blood sampled, and released. Dead sawfish acquired through strandings or from law enforcement confiscations would be sampled for scientific purposes. The permit is requested for a duration of 5 years.

Dated: September 18, 2012.

P. Michael Payne,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2012–23491 Filed 9–21–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC253

Endangered Species; File No. 16733

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that NMFS Southeast Fisheries Science Center (SEFSC; Responsible Party: Bonnie Ponwith), 75 Virginia Beach Dr., Miami, FL 33149, has applied in due form for a permit to take loggerhead (*Caretta caretta*), green (*Chelonia mydas*), Kemp's ridley (*Lepidochelys kempii*), hawksbill (*Eretmochelys imbricata*), leatherback (*Dermochelys coriacea*), and olive ridley (*L. olivacea*) sea turtles for purposes of scientific research.

DATES: Written, telefaxed, or email comments must be received on or before October 24, 2012.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the *Features* box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 16733 from the list of available applications.

These documents are also available upon written request or by appointment in the following offices:

Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376;

Northeast Region, NMFS, 55 Great Republic Drive, Gloucester, MA 01930; phone (978) 281–9328; fax (978) 281–9394; and

Southeast Region, NMFS, 263 13th Avenue South, Saint Petersburg, FL 33701; phone (727) 824–5312; fax (727) 824–5309.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division

- By email to *NMFS.Pr1Comments@noaa.gov* (include the File No. in the subject line of the email),
- By facsimile to (301)713–0376, or
- At the address listed above.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Amy Hapeman or Colette Cairns, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

The SEFSC requests a five-year permit to conduct research on leatherback, loggerhead, green, hawksbill, olive ridley, and Kemp's ridley sea turtles in the North Atlantic Ocean, Gulf of Mexico, Caribbean Sea and their embayments to improve stock assessments, fill data gaps, assess the impact of anthropogenic activities, and better manage and, ultimately, recover these species. The SEFSC requests to take 915 loggerheads, 560 greens, 455 Kemp's ridleys, 65 hawksbills, 60 leatherbacks, 10 olive ridleys, and 24 unidentified/hybrid hardshells annually

for measurements, laboratory experiments, biological sampling, temporary marking, tracking, ultrasound, and/or attachment of transmitters before being released back to the wild. Turtles would be directly captured in water by hand or using nets or would be obtained from other legal sources. A minor number of mortalities is requested annually for turtles that could accidentally die during research. In addition, the SEFSC would observe 2,620 loggerheads, 565 greens, 615 Kemp's ridleys, 287 hawksbills, 665 leatherbacks, 37 olive ridleys, and 2,170 unidentified hardshells annually during aerial, vessel, and acoustic surveys.

Dated: September 19, 2012.

P. Michael Payne,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2012–23492 Filed 9–21–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC138

Western Pacific Fisheries; Approval of a Marine Conservation Plan for American Samoa

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

ACTION: Notice of agency decision.

SUMMARY: NMFS announces approval of a marine conservation plan for American Samoa.

DATES: This agency decision is effective from August 11, 2012, through August 10, 2015.

ADDRESSES: Copies of the marine conservation plan, identified by NOAA–NMFS–2012–0155, are available from *www.regulations.gov,* or the Western Pacific Fishery Management Council (Council), 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel 808–522–8220.

FOR FURTHER INFORMATION CONTACT: Jarad Makaiau, Sustainable Fisheries, NMFS Pacific Islands Regional Office, 808–944–2108.

SUPPLEMENTARY INFORMATION: Section 204(e) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) authorizes the Secretary of State, with the concurrence of the Secretary of Commerce (Secretary) and in consultation with the Council, to negotiate and enter into a Pacific Insular Area fishery agreement (PIAFA). A PIAFA would allow foreign fishing within the U.S. Exclusive Economic Zone (EEZ) adjacent to American Samoa, Guam, or the Northern Mariana Islands with the concurrence of, and in consultation with, the Governor of the Pacific Insular Area to which the PIAFA applies. Before entering into a PIAFA, the appropriate Governor, with the concurrence of the Council, must develop a 3-year Marine Conservation Plan (MCP) providing details on uses for any funds collected by the Secretary under the PIAFA.

The Magnuson-Stevens Act requires payments received under a PIAFA to be deposited into the United States Treasury and then covered over to the Treasury of the Pacific Insular Area for which funds were collected. In the case of violations by foreign fishing vessels occurring within the EEZ off any Pacific Insular Area, amounts received by the Secretary attributable to fines and penalties imposed under the Magnuson-Stevens Act, including sums collected from the forfeiture and disposition or sale of property seized subject to its authority, shall be deposited into the Treasury of the Pacific Insular Area adjacent to the EEZ in which the violation occurred, after direct costs of the enforcement action are subtracted. Any funds deposited into the Treasury of the Pacific Insular Area may be used by the jurisdiction for fisheries enforcement and for implementation of an MCP.

An MCP must be consistent with the Council's fishery ecosystem plans, must identify conservation and management objectives (including criteria for determining when such objectives have been met), and must prioritize planned marine conservation projects. Although no foreign fishing is being considered at this time, the Council, at its 154th meeting held June 26–28, 2012, reviewed and approved the American Samoa MCP and recommended its submission to the Secretary for approval. On July 12, 2011, the Lt. Governor of American Samoa submitted the MCP to NMFS, the designee of the Secretary, for review and approval.

The MCP contains seven conservation and management objectives under which 48 planned projects and activities designed to meet the objective are identified and described, as follows:

Objective 1. The people of American Samoa enjoy the highest level of social and economic benefits through sustainable fisheries development of fishery resources. Projects to support this objective include:

1. Development of a new multi-platform fishing vessel design to replace the alia;
2. Boat building and fishing vessel construction training;
3. Fishermen training programs;
4. Fishermen financial lending programs;
5. Manua Islands fishing vessel acquisition project;
6. Construction of new dock and landing space for commercial vessels;
7. Construction of cold storage and fish processing facility;
8. Purchase of ice making equipment;
9. Development of fish marketing plan;
10. Training for fish handling procedures and development of Hazard Analysis Critical Control Point plans;
11. Support the organization of American Samoa fishermen's cooperatives;
12. Technology and safety upgrades for the American Samoa bottomfish fleet;
13. Promoting American Samoa as a premier sport fishing destination by holding annual sport fishing tournaments;
14. Enhancing fishing opportunities by deploying fish aggregation devices (FAD) dedicated to small non-longline pelagic fishing vessels;
15. Deepwater bathymetric surveys to support FAD deployment location in Tutuila and Manua; and
16. Development of brood stocks of giant clam and sea urchins for population restoration and enhancement.

Objective 2. Support quality research and obtain the most complete scientific information available to assess and manage fisheries. Projects to support this objective include:

17. Understanding movement patterns of target species in no-take marine protected areas;
18. Understanding local-scale current patterns around Tutuila;
19. Improving data collection and analysis in Ofu, Olosega, and Tau;
20. Determining genetic connectivity of coral reef ecosystems in the Samoa archipelago;
21. Surveying fish spawning aggregations in American Samoa;
22. Developing size limits to manage fish stocks in American Samoa;
23. Estimating spawning period by conducting juvenile abundance surveys in Pala lagoon;
24. Assessing the health and quality of juvenile reef fish habitat;
25. Assessing the health and quality of mangrove habitat in Nuuuli and Leone; and
26. Enhancing fisheries GIS capacity.

Objective 3. Promote an ecosystem approach in fisheries management, reduce waste in fisheries and minimize interactions between fisheries and protected species. Projects to support this objective include:

27. Assessing bycatch and interactions in local fisheries;
28. Assessing distribution and population abundance of marine mammals;
29. Assessing spatial-temporal patters in abundance, distribution and movement of green and hawksbill turtles;
30. Determining reef carrying capacity through modeling;
31. Determining the extent and quality of deep reef habitat through use of drop cameras;
32. Coral recruitment survey and monitoring;
33. Assessing reef resilience to microalgae phase shift;
34. Removing marine debris from the marine environment;
35. Supporting coastal trash removal through community based groups; and
36. Developing a community-based coral rehabilitation program.

Objective 4. Foster broad and direct public participation in the Council's decision making process. There are no projects to support this objective at this time.

Objective 5. Recognize the importance of island cultures and traditional fishing in managing fishery resources and foster opportunities for participation. Projects to support this objective include:

37. Enhancing enforcement capabilities of village by deputizing community members;
38. Promoting traditional fishing practices; and
39. Review of American Samoa fishing regulations.

Objective 6. Promote education and outreach activities, as well as regional cooperation regarding fishery conservation issues. Projects to support this objective include:

40. High school marine fisheries resource management course;
41. Developing and testing a local marine science integrated curriculum;
42. Developing education tools to educate public on conservation;
43. Enhancing research training capabilities of local staff;
44. Enhancing regional cooperation by collaborative meetings and cross site visits with other South Pacific Territories;
45. Improving scientific awareness of junior biologist; and
46. Monitoring of coral reefs in Independent Samoa.

Objective 7. Encourage development of technologies and methods to achieve the most effective level of enforcement and to ensure safety at sea;

47. Installation of radar to monitor vessel movement within the Territory of American Samoa; and
48. Surveillance and enforcement of marine protected area.

This notice announces that NMFS has determined that the American Samoa MCP satisfies the requirements of the Magnuson-Stevens Act, and has approved the MCP for the 3-year period from August 11, 2012, through August 10, 2015.

Dated: September 19, 2012.

Lindsay Fullenkamp,

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

[FR Doc. 2012–23487 Filed 9–21–12; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Privacy Act of 1974 System of Records Notice

AGENCY: Commodity Futures Trading Commission

ACTION: Notice; publication of character of a revised system of records.

SUMMARY: The Commodity Futures Trading Commission (Commission) is revising a system of records under the Privacy Act of 1974, CFTC–15, Large Trader Report Files (Integrated Surveillance System), and renaming the system ''Enterprise Surveillance, Oversight & Risk Monitoring System'' to be more descriptive of its contents and enhancements.

DATES: Comments must be received on or before October 24, 2012. This action will be effective without further notice on November 5, 2012, unless revised pursuant to comments received.

ADDRESSES: You may submit comments identified by ''Enterprise Surveillance, Oversight & Risk Monitoring System SORN'' by any of the following methods:

- *Agency Web site, via its Comments Online process: http://comments.cftc.gov.* Follow the instructions for submitting comments through the Web site.
- *Federal eRulemaking Portal:* Comments may be submitted at *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.
- *Hand Delivery/Courier:* Same as mail above.

Please submit your comments using only one method.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations, 17 CFR 145.9.

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of a submission from *http://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the notice will be retained in the public comment file and will be considered as required under all applicable laws, and may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: Kathy Harman-Stokes, Chief Privacy Officer, *kharman-stokes@cftc.gov,* 202–418–6629, Office of the Executive Director, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. The Privacy Act

Under the Privacy Act of 1974, 5 U.S.C. 552a, a ''system of records'' is defined as any group of records under the control of a federal government agency from which information about individuals is retrieved by name or other personal identifier. The Privacy Act establishes the means by which government agencies must collect, maintain, and use personally identifiable information associated with an individual in a government system of records.

Each government agency is required to publish a notice in the **Federal Register** of a system of records in which the agency identifies and describes each system of records it maintains, the reasons why the agency uses the personally identifying information therein, the routine uses for which the agency will disclose such information outside the agency, and how individuals may exercise their rights under the Privacy Act to determine if the system contains information about them, among other things.

II. Routine Uses

Information in the systems of records covered by this **Federal Register** notice may be disclosed in accordance with the blanket routine uses numbered 1 through 19 published at 76 FR 5974 (Feb. 2, 2011). These blanket routine uses apply to all CFTC systems of records, except as otherwise provided in a specific system of records notice.

III. Enterprise Surveillance, Oversight & Risk Monitoring System

The Commission proposes to revise a system of records, CFTC–15 ''Large Trader Report Files (Integrated Surveillance System),'' and rename the system as ''Enterprise Surveillance, Oversight & Risk Monitoring System.'' The notice revises the description of the system and enhancements to more broadly cover the Commission's market oversight, and market, risk and financial surveillance activities. The data covered by this expanded system includes records required to monitor the commodity futures and swaps markets, perform various mission-critical commodity futures and swaps market analyses, review activities of registered entities for compliance with the Commodity Exchange Act and Commission rules, and conduct surveillance on both intra and inter-exchange and across side-by-side electronic trading platforms.

Enterprise Surveillance, Oversight & Risk Monitoring System

SYSTEM NUMBER:

CFTC–15.

SYSTEM NAME:

Enterprise Surveillance, Oversight & Risk Monitoring System

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

The electronic systems that comprise the Enterprise Surveillance, Oversight & Risk Monitoring System are located at the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who own, hold, or control a reportable position, volume threshold account, or reportable sub-account, individuals who have reporting, regulatory, or oversight responsibility at firms regulated by the Commission, and individuals requesting exemptions, as defined in 17 CFR parts 17, 18, 19, 20, 39 and 151, including but not limited to individuals who process reportable positions, volume threshold accounts, or reportable sub-accounts and/or submit information related to such positions, accounts, or sub-accounts to the Commission; employees, officers or agents of registered derivatives clearing organizations (DCOs); and individuals whose cleared positions are reported by a DCO pursuant to Commission regulations.

CATEGORIES OF RECORDS IN THE SYSTEM: [1]

1. Reports filed by the individual who owns, holds or controls the reportable position, volume threshold account, or reportable sub-account:

a. Statements of Reporting Trader (CFTC Forms 40 and 40S).

b. Information reported on CFTC Form 40 is described in part 18 of the Commission's rules and regulations.

c. Large trader reporting form (Series 04 Form).

2. Reports to be filed by futures commission merchants, designated contract markets, clearing members and other members of contract markets, originating firms, foreign brokers, swap dealers, and, for large option traders, by contract markets:

a. Identification of ''Special Accounts'' (CFTC Form 102A).

b. Identification of ''Volume Threshold Accounts'' (CFTC Form 102B).

c. Identification of ''Omnibus Volume Threshold Accounts'' and ''Reportable Sub-Accounts'' (CFTC Form 71).

d. Information reported on CFTC Forms 102A, 102B and 71 is described in part 17 of the Commission's rules and regulations.

e. Identification and Reporting of a Swap Counterparty or Customer ''Consolidated Account'' with a Reportable Position (CFTC Form 102S).

f. Information reported on CFTC Form 102S is described in part 20 of the Commission's rules and regulations.

g. Large trader reporting form (Series 01 Form).

3. Computer records prepared from information on the forms described in items (1) and (2) above.

4. Other information submitted to the Commission by the covered individuals via registration channels or gathered by the Commission to review compliance with the Commodity Exchange Act and Commission rules.

5. Correspondence and memoranda of telephone conversations between the Commission and the individual or between the Commission and other agencies dealing with matters of official business concerning the covered individual.

6. Regulatory report filings, regulatory notice filings and correspondence and memoranda with individuals concerning such filings.

7. Records containing contact information on individuals associated with registration applicants or registered firms or other entities, including business, home and cell phone numbers, email addresses and home addresses.

8. Other miscellaneous information, including intra-agency correspondence and memoranda concerning the individual and documents relating to official actions taken by the Commission against the individual.

9. Reports by DCOs of cleared positions of clearing member customers.

10. Information related to hedge exemptions and requests for disaggregation and re-aggregation in accordance with Part 151 of the Commission's rules.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Commodity Exchange Act, 7 U.S.C. 1 *et seq.,* including Sections 4g, 4i, 8, 7 U.S.C. 4t, 6g, 6i, 12, 2(d), 76 FR 43851 Section 20 and the rules and regulations promulgated thereunder.

PURPOSE(S):

The records in this system are used to support market oversight, and market, risk and financial surveillance activities, specifically, monitoring the commodity futures and swaps markets, performing various mission-critical commodity futures, and swaps market analyses, reviewing activities of registered entities for compliance with the Commodity Exchange Act and Commission regulations, and conducting surveillance on both intra and inter-exchange and across side-by-side electronic trading platforms. Records are also used to support firm and registrant oversight, including compliance with the Commission's financial and regulatory requirements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information concerning firms, traders and their activities may be disclosed and made public by the Commission to

[1] On July 26, 2012, the Commission published a Notice of Proposed Rulemaking, which proposes new rules and related forms for public comment that are designed to enhance the Commission's identification of futures and swap market participants. The proposed rules would leverage the Commission's existing position and transaction reporting programs by requiring the electronic submission of trader identification and market participant data on amended Forms 102 and 40, and on new Form 71. See **Federal Register** Vol. 77, No. 144, July 26, 2012, RIN 3038–AD31, Ownership and Control Reports, Forms 102/102S, 40/40S, and 71.

the extent permitted by law when deemed appropriate to further the practices and policies of the Commodity Exchange Act. When not otherwise prohibited by law, information in this system may also be disclosed in accordance with the blanket routine uses numbered 1 through 19 that appear at the beginning of the Commission's compilation of its systems of records notices.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESS CONTROLS, SAFEGUARDS, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The data will be collected and maintained electronically and/or in paper files. Paper records are stored in file folders, binders, computer files and computer disks. Electronic records, including computer files and electronically maintained data, are stored on the Commission's network and other electronic media as needed, such as encrypted hard drives.

RETRIEVABILITY:

Files may be retrieved by firm or registrant name, individual name or other identifier (e.g., account number or firm number) related to the individual.

ACCESS CONTROLS, SAFEGUARDS:

Records are protected from unauthorized access and improper use through administrative, technical and physical security measures. Technical security measures within CFTC include restrictions on computer access to authorized individuals, strong passwords that are frequently changed, use of encryption for certain data types and transfers, and regular review of security procedures and best practices to enhance security. Physical measures include restrictions on building access to authorized individuals and maintenance of records in lockable offices and filing cabinets.

RETENTION AND DISPOSAL:

The records will be maintained in accordance with records disposition schedules approved by the National Archives and Records Administration. The schedules are available at *www.cftc.gov*.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Information Officer, Office of Data and Technology, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves or seeking access to records about themselves in this system of records, or contesting the content of records about themselves contained in this system of records should address written inquiry to the Office of General Counsel, Paralegal Specialist, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581. Telephone (202) 418–5011.

RECORD SOURCE CATEGORIES:

Individuals, agencies, firms, Exchanges, DCOs and Designated Self-Regulatory Organizations will provide the information for this system of records, which includes correspondence from individuals, agencies, firms, Exchanges, DCOs and Designated Self-Regulatory Organizations requested to provide information on the individual.

EXEMPTIONS CLAIMED FOR THIS SYSTEM:

None.

Issued in Washington, DC, on this 19th day of September, by the Commission.

Sauntia S. Warfield,

Assistant Secretary of the Commission.

[FR Doc. 2012–23496 Filed 9–21–12; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2012–OS–0094]

Privacy Act of 1974; System of Records

AGENCY: Defense Information Systems Agency, DoD.

ACTION: Notice to delete five Systems of Records.

SUMMARY: The Defense Information Systems Agency is deleting five systems of records notices from its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective on October 25, 2012 unless comments are received which result in a contrary determination. Comments will be accepted on or before October 24, 2012.

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

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

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

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

FOR FURTHER INFORMATION CONTACT: Ms. Jeanette Weathers-Jenkins, DISA Privacy Officer, Defense Information Systems Agency (DISA), Chief Information Office (CIO), 6916 Cooper Ave., Ft. Meade, MD 20755–7901, or by telephone at (301) 225–8158.

SUPPLEMENTARY INFORMATION: The Defense Information Systems Agency systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT**.

The Defense Information Systems Agency proposes to delete five systems of records from its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

The proposed deletions are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: September 18, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DELETIONS:

K240.05, Identification Badge System (February 22, 1993, 58 FR 10562).

REASON:

The identification badge system no longer retrieves by a personal identifier and all records have met their retention period and therefore, this system can be deleted.

KWHC.04, Military Financial File System (February 22, 1993, 58 FR 10562).

REASON:

Records are no longer collected locally, this system of records is now obsolete. The records are now covered by the Defense Finance and Accounting Service system of records notice, T–7340d, Defense Military Pay Office Input and Reporting System (May 19, 2008, 73 FR 28800), therefore the system can be deleted.

K660.01, 303–41–42 Claims Files, Requests for Waiver of Pay and Allowances (February 22, 1993, 58 FR 10562).

REASON:

These records are now covered by the Defense Finance and Accounting Service system of records notice, T–7206, Non-appropriated Funds Central Payroll System (NAFCPS)(June 24, 2008, 73 FR 35669), therefore the system can be deleted.

K700.15, 603–05 Chronological Journal Files (February 22, 1993, 58 FR 10562).

REASON:

The records retained at DISA have met their retention, and the records are now covered by system of records notice OPM/GOVT–1, General Personnel Records. This system can be deleted.

KPAC.04, Time and Attendance Cards and Labor Distribution Cards (February 22, 1993, 58 FR 10562).

REASON:

These records are now covered by the Defense Finance and Accounting system of records notice T7335a, Automated Time Attendance and Production System (ATAAPS) (February 27, 2007, 72 FR 8698). This system can be deleted.

[FR Doc. 2012–23368 Filed 9–21–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[OMB Control Number 0704–0321]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement (DFARS); Contract Financing

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. *DoD invites comments on:* (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection for use through November 30, 2012. DoD proposes that OMB extend its approval for use for three additional years beyond the current expiration date.

DATES: DoD will consider all comments received by November 23, 2012.

ADDRESSES: You may submit comments, identified by OMB Control Number 0704–0321, using any of the following methods:

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

Email: dfars@osd.mil. Include OMB Control Number 0704–0321 in the subject line of the message.

Fax: (571) 372–6096.

Mail: Defense Acquisition Regulations System, Attn: Mr. Mark Gomersall, OUSD (AT&L) DPAP (DARS), Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov*, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Gomersall, at (571) 372–6099. The information collection requirements addressed in this notice are available via the Internet at: *http://www.acq.osd.mil/dpap/dars/dfars/index.htm.* Paper copies are available from Mr. Mark Gomersall, OUSD(AT&L) DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–2060.

SUPPLEMENTARY INFORMATION: *Title, Associated Form, and OMB Number:* Defense Federal Acquisition Regulation Supplement (DFARS) Part 232, Contract Financing, and the clause at 252.232–7002, Progress Payments for Foreign Military Sales Acquisitions; OMB Control Number 0704–0321.

Needs and Uses: Section 22 of the Arms Export Control Act (22 U.S.C. 2762) requires the U.S. Government to use foreign funds, rather than U.S. appropriated funds, to purchase military equipment for foreign governments. To comply with this requirement, the Government needs to know how much to charge each country. The clause at 252.232–7002, Progress Payments for Foreign Military Sales Acquisitions, requires each contractor whose contract includes foreign military sales (FMS) requirements to submit a separate progress payment request for each progress payment rate, and to submit a supporting schedule that clearly distinguishes the contract's FMS requirements from U.S. requirements. The Government uses this information to determine how much of each country's funds to disburse to the contractor.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Annual Burden Hours: 6,858 (includes 2,286 response hours plus 4,572 recordkeeping hours).

Number of Respondents: 381.

Responses per Respondent: Approximately 12.

Annual Responses: 4,572.

Average Burden per Response: 1.5 hours.

Frequency: On occasion.

Summary of Information Collection

This information collection includes requirements relating to DFARS Part 232, Contract Financing, and the related clause at DFARS 252.232–7002, Progress Payments for Foreign Military Sales Acquisitions. DFARS 232.502–4–70(a) prescribes use of the clause at DFARS 252.232–7002 in any contract that provides for progress payments and contains FMS requirements. The clause at 252.232–7002 requires each contractor whose contract includes FMS requirements to submit a separate progress payment request for each progress payment rate and to submit a supporting schedule that distinguishes the contract's FMS requirements from U.S. requirements.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

[FR Doc. 2012–23463 Filed 9–21–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests; Federal Student Aid; Federal Family Educational Loan Program (FFEL)—Servicemembers Civil Relief Act (SCRA)

SUMMARY: Effective August 14, 2008, upon a holder's receipt of a written request from a borrower and a copy of the borrower's military orders, the regulations at 34 CFR 682.202(a)(8) provide that the maximum interest (as defined in 50 U.S.C. 527, App. Section 207(d)) that may be charged on FFEL loans made prior to the borrower

entering active duty status is six percent while the borrower is on active duty status.

DATES: Interested persons are invited to submit comments on or before November 23, 2012.

ADDRESSES: Written comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov* or mailed to U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Washington, DC 20202–4537. Copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 04936. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that Federal agencies provide interested parties an early opportunity to comment on information collection requests. The Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Federal Family Educational Loan Program (FFEL)—Servicemembers Civil Relief Act (SCRA).

OMB Control Number: 1845–0093.

Type of Review: Extension.

Total Estimated Number of Annual Responses: 4,952.

Total Estimated Number of Annual Burden Hours: 817.

Abstract: This is a request for an extension of the approved recordkeeping requirements contained in the regulations related to the administrative requirements of the Federal Family Education Loan (FFEL) program. The information collection requirements in these regulations are necessary to reduce administrative burden for program participants, determine eligibility to receive program benefits and to prevent fraud and abuse of program funds protecting taxpayer's interest.

Dated: September 18, 2012.

Darrin A. King,

Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2012–23484 Filed 9–21–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests; Federal Student Aid; William D. Ford Federal Direct Loan Program Regulations—Servicemembers Civil Relief Act

SUMMARY: Upon a loan holder's receipt of a written request from a borrower and a copy of the borrower's military orders, the regulations at 34 CFR 685.202 provide that the maximum interest rate (as defined in 50 U.S.C. 527, App. Section 207 (d)) that may be charged on Federal Family Education Loan Program loans made prior to the borrower entering active duty status is six percent while the borrower is on active duty status.

DATES: Interested persons are invited to submit comments on or before November 23, 2012.

ADDRESSES: Written comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov* or mailed to U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Washington, DC 20202–4537. Copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 04934. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that Federal agencies provide interested parties an early opportunity to comment on information collection requests. The Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: William D. Ford Federal Direct Loan Program (DL) Regulations—Servicemembers Civil Relief Act (SCRA).

OMB Control Number: 1845–0094.

Type of Review: Extension.

Total Estimated Number of Annual Responses: 2,723.

Total Estimated Number of Annual Burden Hours: 681.

Abstract: This request is for an extension of the approved recordkeeping requirements contained in the regulations related to the administrative requirements of the Direct Loan Program. The information collection requirements in these regulations are necessary to reduce administrative burden for program

participants, determine eligibility to receive program benefits and to prevent fraud and abuse of program funds proteting taxpayer's interest.

Dated: September 18, 2012.

Darrin A. King,

Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2012–23437 Filed 9–21–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Submission for OMB Review; Federal Student Aid; William D. Ford Federal Direct Loan Program General Forbearance Request

SUMMARY: Borrowers who receive loans through the William D. Ford Federal Direct Loan Program will use this form to request forbearance on their loans when they are willing but unable to make their currently scheduled monthly payment because of temporary financial hardship.

DATES: Interested persons are invited to submit comments on or before October 24, 2012.

ADDRESSES: Written comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov* or mailed to U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Washington, DC 20202–4537. Copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 04892. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue SW, LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) requires that Federal agencies provide interested parties an early opportunity to comment on information collection requests. The Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: William D. Ford Federal Direct Loan Program General Forbearance Request.

OMB Control Number: 1845–0031.

Type of Review: Extension.

Total Estimated Number of Annual Responses: 1,308,453.

Total Estimated Number of Annual Burden Hours: 261,691.

Abstract: Section 428(c)(3) of the Higher Education Act of 1965, as amended (the HEA) provides that under certain circumstances, a borrower who receives a loan through the Federal Family Education Loan (FFEL) Program is entitled to a forbearance. Section 455(a)(1) of the HEA provides that unless otherwise specified, loans made under the William D. Ford Federal Direct Loan (Direct Loan) Program are to have the same terms, conditions, and benefits as loans made under the FFEL Program. A forbearance is an arrangement to postpone or reduce the amount of a borrower's monthly loan payment for a limited and specific time period.

Dated: September 18, 2012.

Darrin A. King,

Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2012–23438 Filed 9–21–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests; Federal Student Aid; Student Assistance General Provisions—Readmission for Servicemembers

SUMMARY: The regulations establish the requirements under which an institution must readmit servicemembers with the same academic status they had at the institution when they last attended before being called to uniformed service.

DATES: Interested persons are invited to submit comments on or before November 23, 2012.

ADDRESSES: Written comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov* or mailed to U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Washington, DC 20202–4537. Copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 04933. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) requires that Federal agencies provide interested parties an early opportunity to comment on information collection requests. The Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be

processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Student Assistance General Provisions—Readmission for Servicemembers.

OMB Control Number: 1845–0095.

Type of Review: Extension.

Total Estimated Number of Annual Responses: 4,964.

Total Estimated Number of Annual Burden Hours: 1,664.

Abstract: This is a request for an extension of the current information collection. As provided by the Higher Education Opportunity Act, the regulations state the requirements under which an institution must readmit servicemembers with the same academic status they had at the institution when they last attended (or where they were accepted for attendance). The regulations require institutions to charge readmitted servicemembers, for the first academic year of their return, the same institutional charges they were charged for the academic year during which they left the institution (see section 484C of the Higher Education Act of 1965, as amended).

Dated: September 18, 2012.

Darrin A. King,

Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2012–23507 Filed 9–21–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1494–410]

Grand River Dam Authority; Notice of Application Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

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

a. *Application Type:* Non-Project Use of Project Lands and Waters.

b. *Project No:* 1494–410.

c. *Date Filed:* August 6, 2012.

d. *Applicant:* Grand River Dam Authority.

e. *Name of Project:* Pensacola Hydroelectric Project.

f. *Location:* The proposed changes would be located in Delaware County, Oklahoma, along the shoreline of the Grand Lake O' Cherokees.

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

h. *Applicant Contact:* Ms. Tamara E. Jahnke, Assistant General Counsel, Grand River Dam Authority, P.O. Box 409, Vinita, Oklahoma 74301, (918) 256–5545.

i. *FERC Contact:* Lorance Yates at (678) 245–3084; or email: *lorance.yates@ferc.gov.*

j. *Deadline for filing comments, motions to intervene, and protests:* October 18, 2012.

All documents may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Please include the project number (P–1494–410) on any comments, motions, or recommendations filed.

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

k. *Description of Request:* The Grand River Dam Authority has filed a request for Commission approval to authorize the St. James Club to modify four existing docks by increasing the dock size and adding 7 new boat slips and 24 new PWC slips. No changes are planned for Dock A. Dock B would be expanded from 7 to 9 boat slips and from 7 to 9 PWC slips totaling approximately 7,498 sq. feet. Dock C would be modified from 23 to 29 PWC slips with no change in overall area. Dock D would be expanded from 6 to 9 boat slips and from 4 to 25 PWC slips totaling approximately 3,870 sq. feet. Dock E would be modified from 6 to 8 boat slips and the 5 PWC slips would be eliminated, with no change in area. The request also includes increasing the size of an existing breakwater from 77 feet by 13.3 feet to 172.8 feet by 8.6 feet.

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

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

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

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address,

and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: September 18, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–23509 Filed 9–21–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 637–086]

Public Utility District No. 1 of Chelan County; Notice of Application Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

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

a. *Type of Application:* Non-Capacity Amendment of License.

b. *Project No.:* 637–086.

c. *Date Filed:* August 30, 2012.

d. *Applicant:* Public Utility District No. 1 of Chelan County.

e. *Name of Project:* Lake Chelan Project No. 637 Hydroelectric Project.

f. *Location:* On the Chelan River, near the City of Chelan in Chelan County, Washington.

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

h. *Applicant Contact:* Michelle Smith, Licensing & Compliance Manager, Public Utility District No. 1 of Chelan County, 327 N. Wenatchee Ave., Wenatchee, WA 98801, Telephone No. (509) 663–8121.

i. *FERC Contact:* Mrs. Anumzziatta Purchiaroni, (202) 502–6191, *Anumzziatta.Purchiaroni@ferc.gov.*

j. Deadline for filing comments, motions to intervene, and protests, October 19, 2012. All documents may be filed electronically via the Internet. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov/docs-filing/efiling.asp.* If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and seven copies should be mailed to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments.

Please include the project number (P–637–086) on any comments, motions, or recommendations filed.

k. *Description of proposed amendment:* The licensee submitted the filing to reflect a change on the hydraulic capacity of the project as a result of an upgrade and modernization of the project. The proposed upgrade of the units was authorized by the Commission in an order issued in 2009. The as-built hydraulic capacity of the project is 2,600 cfs, which is 100 cfs higher than the designed (authorized) hydraulic capacity of 2,500 cfs. The licensee is not proposing any changes to the existing project operation.

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

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

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

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

Dated: September 18, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–23512 Filed 9–21–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2197–100]

Alcoa Power Generating Inc.; Notice of Application Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

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

a. *Type of Application:* Temporary License Variance to Drawdown Narrows

Reservoir to 20 feet in November/December 2012 for about 18 days.

b. *Project No.:* 2197–100.

c. *Date Filed:* August 29, 2012.

d. *Applicant:* Alcoa Power Generating Inc.

e. *Name of Project:* Yadkin River Hydroelectric Project.

f. *Location:* The project is located on the Yadkin/Pee Dee River in Montgomery, Stanly, Davidson, Rowan, and Davie Counties, North Carolina.

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

h. *Applicant Contact:* Mark Gross, Vice President, Operations Alcoa Power Generating Inc., Yadkin Division, PO Box 576, Badin, NC 28009–0576, Telephone No. (704) 422–5774, *mark.gross@alcoa.com.*

i. *FERC Contact:* Mrs. Anumzziatta Purchiaroni, (202) 502–6191, *Anumzziatta.Purchiaroni@ferc.gov.*

j. Deadline for filing comments, motions to intervene, and protests, October 3, 2012. All documents may be filed electronically via the Internet. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov/docs-filing/efiling.asp.* If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and seven copies should be mailed to: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments.

Please include the project number (P–2197–100) on any comments, motions, or recommendations filed.

k. *Description of proposed amendment:* Alcoa Power Generating Inc. (APGI) filed a request for a temporary variance from the operating guidelines of their license to allow a one-time drawdown of Narrows Reservoir up to 20 feet. The purpose of the drawdown is to allow APGI to implement a remediation plan, which requires placing a cover system over polychlorinated biphenyl impacted sediments located in the southern portion of Narrows Reservoir. APGI stated that it anticipates that the duration of the remediation project would be for about 7 weeks, starting in early November 2012. APGI indicated that the period includes about 18 days to draw the reservoir down, maintaining a low stage for about 7 to 14 days, and 18 days to refill the reservoir. APGI stated that it would be able to comply with all the operating requirements of its license during the event.

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

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

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

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

Dated: September 17, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–23420 Filed 9–21–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP12–518–000]

Alliant Techsystems Operations LLC; Notice of Application

Take notice that on September 7, 2012, Alliant Techsystems Operations LLC (Alliant), 1300 Wilson Boulevard, Arlington, Virginia 22209 filed an application in the above referenced docket pursuant to section 7(c) of the Natural Gas Act (NGA) to construct and operate new pipeline to transport natural gas from an interconnection with Columbia Gas of Maryland, Inc. (CMD) at the Maryland/West Virginia border to a regulating station on property owned by the U.S. Navy and leased by Alliant in West Virginia. Alliant states that the proposed pipeline will consist of 110 feet of eight-inch diameter pipeline and will have a capacity of three million cubic feet per day. Alliant is also proposing to become a new pipeline company under the NGA in order to comply with Clean Air Act requirements and to reduce fuel expenses. Since Alliant will be the sole end-user of the gas, Alliant requests waivers for: (1) The requirement to provide information to support determination of an initial rate; (2) Exhibits G, H, I, K, L, N, O, P; (3) the open-access transportation requirements under Part 284; (4) certain accounting and reporting requirements; and (5) any other regulations deemed necessary to grant the requested authorization, all as more fully set forth in the application

which is on file with the Commission and open to public inspection. The filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions concerning this application may be directed to Kenneth E. Tawney, Jackson Kelly PLLC, 500 Lee Street, East, Suite 1600, PO Box 553, Charleston, WV 25322 at (304) 340–1000.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and seven copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: October 9, 2012.

Dated: September 18, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–23511 Filed 9–21–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL12–104–000]

Interstate Power and Light Company v. ITC Midwest, LLC, Notice of Complaint

Take notice that on September 14, 2012, pursuant to section 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206 and section 206 of the Federal Power Act, 16 U.S.C. 824(e), Interstate Power and Light Company (Complainant) filed a formal complaint against ITC Midwest, LLC (Respondent) alleging that application of Attachment FF, Section III.A.2.d.4 of the Open Access Transmission, Energy and Operating Reserve Markets Tariff of the Midwest Independent Transmission Operator, Inc. is unjust, unreasonable, and unduly discriminatory to the Complainant and its customers.

The Complainant certifies that copies of the complaint were served on the contacts of the Respondent as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the

''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on October 4, 2012.

Dated: September 17, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–23423 Filed 9–21–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL12–105–000]

J. P. Morgan Ventures Energy Corp. v. *California Independent System Operator Corp.:* Notice of Complaint

Take notice that on September 14, 2012, pursuant to Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206 and section 206 of the Federal Power Act, 16 U.S.C. 824(e), J. P. Morgan Ventures Energy Corp. (Complainant or JPMVEC) filed a formal complaint against California Independent System Operator Corp. (Respondent or CAISO) alleging that the Respondent is violating its tariff by underpaying the JPMVEC for the Respondent's Exceptional Dispatches [1] of energy generating resources controlled through tolling agreements by JPMVEC and its subsidiary BE CA LLC. The Complainant is seeking (1) a determination by the Commission that CAISO's failure to pay JPMVEC its bid prices for Exceptional Dispatches violated section 11.5.6 of the CAISO tariff and (2) an order from the Commission directing CAISO to comply immediately with the tariff provisions governing payment for Exceptional Dispatches and to pay JPMVEC the full amount owed for energy acquired through Exceptional Dispatches, with interest as calculated under 18 CFR 35.19a.

The Complainant certifies that copies of the complaint were served on the contacts for the Respondent as listed in the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on October 4, 2012.

Dated: September 17, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–23424 Filed 9–21–12; 8:45 am]

BILLING CODE 6717–01–P

[1] The CAISO tariff defines ''Exceptional Dispatch'' as ''a Dispatch Instruction issued for the purposes specified in Section 34.9. Energy from Exceptional Dispatches shall not set any Dispatch Interval LMP.'' CAISO tariff, App. A

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP12–520–000]

Gulf Shore Energy Partners, LP; Notice of Intent To Prepare an Environmental Assessment for the Proposed Markham Booster Station Project and Request for Comments on Environmental Issues

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Markham Booster Station Project involving construction and operation of facilities by Gulf Shore Energy Partners, LP (Gulf Shore) in Matagorda County, Texas. The Commission will use this EA in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. Your input will help the Commission staff determine what issues they need to evaluate in the EA. Please note that the scoping period will close on October 17, 2012.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the Commission approves the project, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be determined in accordance with state law.

Gulf Shore provided landowners with a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?''. This fact sheet addresses a number of typically-asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is also

available for viewing on the FERC Web site (*www.ferc.gov*).

Summary of the Proposed Project

Gulf Shore proposes to acquire a 5-foot-long segment of existing 12-inch-diameter pipeline from Dominion South Pipeline Company, LP (Dominion) near Markham, Texas and construct and operate a booster compressor station. The pipeline segment currently interconnects with the systems of Transcontinental Gas Pipe Line Company, LLC (Transco) and Florida Gas Transmission Company, LLC (Florida Gas). The Markham Booster Station Project would be installed on this pipeline segment to facilitate the firm flow of natural gas from Transco to Florida Gas. The booster compressor station would boost the gas pressure by approximately 100 pounds per square inch to allow gas to flow. The station would only be operated on occasion when the pressure differential in the pipelines connected to Gulf Shore is near zero.

The Markham Booster Station Project would consist of the following facilities:

- An 800-horsepower booster compressor station;
- Associated piping; and
- An access road.

The general location of the project facilities is shown in appendix 1.[1]

Land Requirements for Construction

Construction of the proposed facilities would disturb about 0.5 acre of land for the booster compressor station and associated access road. Following construction, Gulf Shore would maintain the 0.5 acre for permanent operation of the project's facilities, including 0.4 acre (180-foot by 100-foot) for the booster compressor station and 0.1 acre for the access road.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us[2] to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EA. We will consider all filed comments during the preparation of the EA.

In the EA we will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils;
- Land use;
- Water resources, fisheries, and wetlands;
- Cultural resources;
- Vegetation and wildlife;
- Air quality and noise;
- Endangered and threatened species; and
- Public safety.

We will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

The EA will present our independent analysis of the issues. The EA will be available in the public record through eLibrary. Depending on the comments received during the scoping process, we may also publish and distribute the EA to the public for an allotted comment period. We will consider all comments on the EA before making our recommendations to the Commission. To ensure we have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section beginning on page 4.

With this notice, we are asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate with us in the preparation of the EA.[3] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with the Texas State Historic Preservation Office (SHPO), and to solicit its views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[4] We will define the project-specific Area of Potential Effects (APE) in consultation with the SHPO as the project develops. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). Our EA for this project will document our findings on the impacts on historic properties and summarize the status of consultations under section 106.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before October 17, 2012.

For your convenience, there are three methods which you can use to submit your comments to the Commission. In all instances please reference the project docket number (CP12–520–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov.*

(1) You can file your comments electronically using the eComment feature on the Commission's Web site (*www.ferc.gov*) under the link to Documents and Filings. This is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You can file your comments electronically using the eFiling feature on the Commission's Web site (*www.ferc.gov*) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by

[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[2] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Commission's Office of Energy Projects.

[3] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

[4] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

clicking on ''eRegister.'' You must select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If we publish and distribute the EA, copies will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (appendix 2).

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an ''intervenor'' which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are in the User's Guide under the ''e-filing'' link on the Commission's Web site.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site at *www.ferc.gov* using the ''eLibrary'' link. Click on the eLibrary link, click on ''General Search'' and enter the docket number, excluding the last three digits in the Docket Number field (i.e., CP12–520). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/esubscribenow.htm.*

Finally, public meetings or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: September 17, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–23428 Filed 9–21–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP12–351–000]

Cheniere Creole Trail Pipeline, L.P.; Notice of Availability of the Environmental Assessment for the Proposed Creole Trail Expansion Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) for the Creole Trail Expansion Project, proposed by Cheniere Creole Trail Pipeline, L.P. (Cheniere) in the above-referenced docket. Cheniere requests authorization to construct a new compressor station and modify existing metering facilities in Beauregard Parish, Louisiana, and to construct miscellaneous facilities at the existing Sabine Pass Liquefied Natural Gas (SPLNG) Terminal in Cameron Parish, Louisiana. The Creole Trail Expansion Project would enable bi-directional gas flow on the Creole Trail Pipeline system and allow for the delivery of gas to the SPLNG Terminal. The Creole Trail Expansion Project would create 1,530,000 dekatherms per day of new firm reverse flow capacity.

The EA assesses the potential environmental effects of the construction and operation of the Creole Trail Expansion Project in accordance with the requirements of the National Environmental Policy Act. The FERC staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major federal action significantly affecting the quality of the human environment.

The proposed Creole Trail Expansion Project includes the following facilities:

- A new 53,125-horsepower compressor station (Gillis Compressor Station);
- Reconfiguration of three existing meter and regulation stations to allow bi-directional flow and increased capacity;
- Approximately 200 feet of 42-inch-diameter pipeline from the existing mainline pipeline into the existing SPLNG Terminal; and
- A pig [1] trap and associated valves at the SPLNG Terminal.

The FERC staff mailed copies of the EA to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners and other interested individuals and groups; newspapers and libraries in the project area; and parties to this proceeding. In addition, the EA is available for public viewing on the FERC's Web site (*www.ferc.gov*) using the eLibrary link. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street NE., Room 2A, Washington, DC 20426, (202) 502–8371.

Any person wishing to comment on the EA may do so. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that the Commission has the opportunity to consider your comments prior to making its decision on this project, it is important that we receive your comments in Washington, DC on or before October 18, 2012.

For your convenience, there are three methods you can use to file your

[1] A ''pig'' is a tool that is inserted into and moves through the pipeline, and is used for cleaning the pipeline, internal inspections, or other purposes.

comments to the Commission. In all instances, please reference the project docket number (CP12–351–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov.*

(1) You can file your comments electronically using the eComment feature on the Commission's Web site (*www.ferc.gov*) under the link to Documents and Filings. This is an easy method for submitting brief, text-only comments on a project;

(2) You can also file your comments electronically using the eFiling feature on the Commission's Web site (*www.ferc.gov*) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You must select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).[2] Only intervenors have the right to seek rehearing of the Commission's decision. The Commission grants affected landowners and others with environmental concerns intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which no other party can adequately represent. Simply filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered.

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search,'' and enter the docket number excluding the last three digits in the Docket Number field (i.e., CP12–351 sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/esubscribenow.htm.*

Dated: September 18, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–23510 Filed 9–21–12; 8:45 am]

BILLING CODE 6717–01–P

[2] See the previous discussion on the methods for filing comments.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP12–945–000, RP12–945–001]

High Point Gas Transmission, LLC; Notice Establishing Deadline for Comments

On September 13, 2012, High Point Gas Transmission, LLC (High Point) filed a response to the Commission's September 6, 2012 Data Request in the captioned proceedings.

Notice is hereby given that participants in the captioned proceedings may file comments to High Point's Data Response on or before 5 p.m. Eastern time on Monday, September 24, 2012.

Dated: September 17, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–23419 Filed 9–21–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–2627–000]

Catalina Solar, LLC; Supplemental Notice that Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of Catalina Solar, LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is October 9, 2012.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: September 17, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–23426 Filed 9–21–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–2619–000]

Eligo Energy, LLC; Supplemental Notice that Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of Eligo Energy, LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is October 9, 2012.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: September 17, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–23425 Filed 9–21–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL12–102–000]

Northern Indiana Public Service Company; Notice of Petition for Declaratory Order

September 17, 2012.

Take notice that on September 12, 2012, Northern Indiana Public Service Company, pursuant to section 207 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure 18 CFR 385.207, Section 219 of the Federal Power Act (FPA) [1] and Order No. 679,[2] filed a petition for declaratory order requesting authorization for transmission rate incentives related to: (1) Its portion of a new 765 kV transmission line from the Reynolds substation to the Greentown substation and (2) substation upgrades at Reynolds substation, including a 765 kV/345kV transformer, a Multi-Value Project approved under the Midwest Independent Transmission System Operator, Inc. Transmission Expansion Plan process.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on October 12, 2012.

Dated: September 17, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–23422 Filed 9–21–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14241–000]

Alaska Energy Authority; Notice of Extension of Time To File Comments on the Proposed Study and Revised Study Plan

On July 16, 2012, Alaska Energy Authority (AEA) filed its proposed study plan for the Susitna-Watana Project No. 14241 as required by the Commission's regulations for implementing the Integrated Licensing Process, making comments on the study plan due October 14, 2012. During the comment period, AEA finalized an agreement among the U.S. Fish and Wildlife Service and the National Marine Fisheries Service to provide supporting resources and specialized expertise necessary to assist the agencies in reviewing AEA's study plans and to actively participate in the remainder of the licensing process. On September 17, 2012, AEA filed a request on behalf of, and supported by, the federal agencies to extend the comment period on the proposed study plan until November 14, 2012. The extension of

---

[1] 16 U.S.C. 824e, 824s(a) (2006). FPA Section 219 was added as part of the Energy Policy Act of 2005, Public Law 109–58, 119Stat. 594, 315 and 1283 (2005).

[2] *Promoting Transmission Investment Through Pricing Reform,* Order No. 679, FERC Stats. & Regs. 31,222 (Order No. 679), order on reh'g, Order No. 679–A, FERC Stats. & Regs. 31,236 (2006) (Order No. 679–A), reh'g denied 119 FERC 61,062 (2007), appeal dismissed sub nom., *Am. Pub. Power Ass'n.* v. *FERC,* No. 07–1050, 2007 U.S.App. LEXIS 11908 (D.C. Cir. May 14, 2007).

time would enable the newly hired consultant team to better assist the federal agencies in reviewing and providing comments on the proposed study plan, collaborate with AEA and other licensing participants on the extensive studies, and meet internal agency document review periods. The revised schedule results in AEA filing its revised study plan by December 14, 2012. AEA also requests that comments on the revised study plan be due on January 18, 2013, rather than on December 28, 2012 to avoid the holiday period, making Commission's study plan determination due on February 1, 2013.

Due to complexity of the issues and the large number of proposed studies, and because the extension of time will not delay processing of the license application, the due date for all participants to file comments on the proposed study plan is extended until November 17, 2012, AEA's revised study plan is now due December 14, 2012, and comments on the revised study plan are due January 18, 2013. These revisions to the schedule are granted pursuant to section 5.29(f)(2) of the Commission's regulations. This extension will facilitate AEA's unique collaborative approach to develop study plans.

Dated: September 17, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–23421 Filed 9–21–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of FERC Staff Attendance at Entergy/Cleco Teleconference on Order No. 1000

The Federal Energy Regulatory Commission (Commission) hereby gives notice that members of its staff may participate in the teleconference noted below. Their participation is part of the Commission's ongoing outreach efforts.

Entergy/Cleco Teleconference on Order No. 1000 Compliance

September 19, 2012 (2–4pm EDT)

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

Docket No. OA07–32, Entergy Services, Inc.

Docket No. EL00–66, *Louisiana Public Service Commission* v. *Entergy Services, Inc.*

Docket No. EL01–88, *Louisiana Public Service Commission* v. *Entergy Services, Inc.*

Docket No. EL07–52, *Louisiana Public Service Commission* v. *Entergy Services, Inc.*

Docket No. EL08–60, *Ameren Services Co.* v. *Entergy Services, Inc.*

Docket No. EL09–43, *Arkansas Public Service Commission* v. *Entergy Services, Inc.*

Docket No. EL09–50, *Louisiana Public Service Commission* v. *Entergy Services, Inc.*

Docket No. EL09–61, *Louisiana Public Service Commission* v. *Entergy Services, Inc.*

Docket No. EL10–55, *Louisiana Public Service Commission* v. *Entergy Services, Inc.*

Docket No. EL10–65, *Louisiana Public Service Commission* v. *Entergy Services, Inc.*

Docket No. EL11–34, *Midwest Independent System Transmission Operator, Inc.*

Docket No. EL11–63, *Louisiana Public Service Commission* v. *Entergy Services, Inc.*

Docket No. ER05–1065, Entergy Services, Inc.

Docket No. ER07–682, Entergy Services, Inc.

Docket No. ER07–956, Entergy Services, Inc.

Docket No. ER08–1056, Entergy Services, Inc.

Docket No. ER09–833, Entergy Services, Inc.

Docket No. ER09–1224, Entergy Services, Inc.

Docket No. ER10–794, Entergy Services, Inc.

Docket No. ER10–1350, Entergy Services, Inc.

Docket No. ER10–1676, Entergy Services, Inc.

Docket No. ER10–2001, Entergy Arkansas, Inc.

Docket No. ER10–3357, Entergy Arkansas, Inc.

Docket No. ER11–2131, Entergy Arkansas, Inc.

Docket No. ER11–2132, Entergy Gulf States, Louisiana, LLC

Docket No. ER11–2133, Entergy Gulf States, Louisiana, LLC

Docket No. ER11–2134, Entergy Mississippi, Inc.

Docket No. ER11–2135, Entergy New Orleans, Inc.

Docket No. ER11–2136, Entergy Texas, Inc.

Docket No. ER11–3156, Entergy Arkansas, Inc.

Docket No. ER11–3657, Entergy Arkansas, Inc.

Docket No. ER12–480, Midwest Independent Transmission System Operator, Inc.

Docket No. ER12–1378–000, Cleco Power LLC

Docket No. ER12–1379–000, Cleco Power LLC

Docket No. ER12–2390, Entergy Services, Inc.

The meeting is open to the public.

For more information, contact Peter Nagler, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (202) 502–6083 or *peter.nagler@ferc.gov.*

Dated: September 17, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–23427 Filed 9–21–12; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R04–OAR–2010–0017; FRL–9732–3]

Adequacy Status: South Carolina: Portion of York County, SC Within Charlotte-Gastonia-Rock Hill, NC-SC 1997 8-Hour Ozone Nonattainment Area; Maintenance Plan Motor Vehicle Emissions Budget for Transportation Conformity Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of adequacy.

SUMMARY: In this notice, EPA is notifying the public of its finding that the volatile organic compounds (VOC) and nitrogen oxides (NO_X) motor vehicle emissions budget (MVEBs) for the portion of York County, South Carolina that is within the Charlotte-Gastonia-Rock Hill, North Carolina-South Carolina Area (hereafter referred to as the ''bi-state Charlotte Area'' or ''Area'') are adequate for transportation conformity purposes. These MVEBs are included in South Carolina's maintenance plan for the 1997 8-hour ozone National Ambient Air Quality Standard (NAAQS), submitted on June 1, 2011, by the South Carolina Department of Health and Environmental Control (SC DHEC). The South Carolina portion of the bi-state Charlotte Area is comprised of a portion of York County, South Carolina. On March 2, 1999, the District of Columbia Circuit Court ruled that submitted state implementation plans (SIPs) cannot be used for transportation conformity determinations until EPA has affirmatively found them adequate. As a result of EPA's finding, the South Carolina portion of the bi-state Charlotte Area must use the VOC and NO_X MVEBs from the submitted maintenance

plan for the Area for future conformity determinations.

DATES: This adequacy finding for VOC and NO_X MVEBs is effective October 9, 2012.

FOR FURTHER INFORMATION CONTACT: Kelly Sheckler, U.S. Environmental Protection Agency, Region 4, Air Planning Branch, Air Quality Modeling and Transportation Section, 61 Forsyth Street SW., Atlanta, Georgia 30303. Ms. Sheckler can also be reached by telephone at (404) 562–9222, or via electronic mail at *sheckler.kelly@epa.gov.* The finding is available at EPA's conformity Web site: *http://www.epa.gov/otaq/stateresources/transconf/adequacy.htm.*

SUPPLEMENTARY INFORMATION: Today's notice is simply an announcement of findings that EPA has already made. EPA Region 4 sent a letter to SC DHEC on September 5, 2012, stating that the 2013 and 2022 VOC and NO_X MVEBs in the 1997 8-hour ozone maintenance plan for the South Carolina portion of the bi-state Charlotte Area (also known as York County), dated June 1, 2011, are adequate. EPA posted the availability of these MVEBs on EPA's Web site on October 28, 2011, as part of the adequacy process, for the purpose of soliciting comments. The comment period ran from October 28, 2011, through November 28, 2011. EPA did not receive any comments in response to the adequacy posting. EPA's findings have also been announced on EPA's conformity Web site: *http://www.epa.gov/otaq/stateresources/index.htm,* (once there, click ''Transportation Conformity'' text icon, then look for ''Adequacy Review of SIP Submissions'').

The VOC and NO_X MVEBs for York County are defined in the following table:

YORK COUNTY VOC AND NO_X MVEBS

[Kilograms per day]

	2013	2022
NO_X MVEBs	11,272	11,368
VOC MVEBs	3,699	3,236

Transportation conformity is required by section 176(c) of the Clean Air Act, as amended in 1990. EPA's conformity rule, 40 CFR part 93, requires that transportation plans, programs and projects conform to state air quality implementation plans and establishes the criteria and procedures for determining whether or not they do. Conformity to a state implementation plan (SIP) means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS.

The criteria by which the EPA determines whether a SIP's MVEB are adequate for transportation conformity purposes are outlined in 40 CFR 93.118(e) (4). EPA has described the process for determining the adequacy of submitted SIP budgets in a May 14, 1999, memorandum entitled ''Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision.'' EPA has followed this guidance in making this adequacy determination. This guidance is incorporated into EPA's July 1, 2004, final rulemaking entitled ''Transportation Conformity Rule Amendments for the New 8-hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas; Transportation Conformity Rule Amendments: Response to Court Decision and Additional Rule Changes.'' *See* 69 FR 40004. Please note that an adequacy review is separate from EPA's completeness review, and it also should not be used to prejudge EPA's ultimate approval of the SIP. Even if EPA finds the MVEBs adequate, the Agency may later disapprove the SIP.

Within 24 months from the effective date of this notice, the transportation partners will need to demonstrate conformity to the new MVEBs if the demonstration has not already been made, pursuant to 40 CFR 93.104(e). *See* 73 FR 4419 (January 24, 2008).

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

Dated: September 11, 2012.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 2012–23493 Filed 9–21–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9731–4]

State Program Requirements; Application To Administer Partial National Pollutant Discharge Elimination Program; Oklahoma

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Oklahoma Department of Agriculture, Food and Forestry (ODAFF) has submitted to the Environmental Protection Agency (EPA) an application for authorization of the Agriculture Pollutant Discharge Elimination System (AgPDES) program pursuant to Section 402(b) of the Clean Water Act (CWA or ''the Act''). ODAFF seeks approval to administer a major category partial National Pollutant Discharge Elimination System (NPDES) permit program under Section 402(n)(3) of the Act for all discharges of pollutants into waters of the United States within its jurisdiction. Today, EPA is providing public notice of ODAFF's request for AgPDES program approval and of both a public hearing and public comment period on the State's program approval submission. EPA will either approve or disapprove authorization of the AgPDES program after considering all comments received.

To View or Obtain Copies of Documents: Copies of ODAFF's program approval submission (referred to throughout this document as ODAFF's application) and all other documents in the official record are available for inspection from 9 a.m. to 4 p.m., Monday through Friday, excluding legal holidays, at EPA Region 6, 1445 Ross Ave., Dallas, Texas 75202.

A copy of ODAFF's application is available online at the EPA Region 6 Web page *http://www.epa.gov/region6/water/npdes/ok-daff/index.html.* A paper copy of part of all of the State's application may be obtained from EPA Region 6 in Dallas for a cost of $0.15 per page.

DATES: The public comment period on the State's application will run from the date of publication until November 8, 2012. Comments may be submitted in paper or electronically and must be received or post-marked no later than midnight on November 8, 2012. Both an informal public meeting and a public hearing will be held in Oklahoma City, Oklahoma on October 25, 2012. The public meeting will include a presentation on the AgPDES program approval request and a question and answer session. Written, but not oral, comments for the official record will be accepted at the public meeting. The public hearing will be conducted in accordance with 40 CFR 124.12 and will provide interested parties with the opportunity to provide written and/or oral comments for the official record. The public meeting will begin at 6 p.m. The public hearing will begin at 7 p.m. Both the public meeting and the public hearing will be held at the Metro Technology Centers, Springlake Campus/Business Conference Center, Auditorium, 1900 Springlake Drive, Oklahoma City, Oklahoma 73111.

ADDRESSES: Comments should be sent to: Ms. Diane Smith (6WQ–NP), U.S. Environmental Protection Agency,

Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Comments may also be submitted via email to the following address: *smith.diane@epa.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Denise Hamilton at the EPA address listed above or by calling (214) 665–2775, FAX (214) 665–2191, email: *Hamilton.Denise@epa.gov.*

SUPPLEMENTARY INFORMATION: Section 402 of the CWA created the NPDES program under which EPA may issue permits for the point source discharge of pollutants to waters of the United States under conditions required by the Act. Section 402(b) requires EPA to authorize a State to administer an equivalent state program upon the Governor's request, provided the State has appropriate legal authority and a program sufficient to meet the Act's requirements. Major category partial permit program approval is provided for under section 402(n)(3) of the CWA. Pursuant to that Section, EPA may approve a partial permit program covering a major category of a State's discharges if the program represents a complete permit program and covers all of the discharges under the jurisdiction of the agency seeking approval, and if EPA determines that the partial program represents a significant and identifiable part of the State program required by Section 402(b) of the Act. However, ODAFF does not have jurisdiction over all discharges within the State of Oklahoma. A large portion of the State's discharges are within the jurisdiction of the Oklahoma Department of Environmental Quality (ODEQ) and other discharges are within the jurisdiction of the Oklahoma Corporation Commission.

The regulatory requirements for state program approval are set forth in 40 CFR part 123. 40 CFR 123.21 lists the basic elements of an approvable application. EPA Region 6 considers the documents submitted by the State of Oklahoma administratively complete at the time of this document. EPA will make a final decision regarding AgPDES program approval after completion of a public hearing and public comment period on the State's application and after consideration of all public comments provided during the public comment period or at the public hearing.

On August 16, 2012, the Governor of Oklahoma requested NPDES major category partial permit program approval and submitted, in accordance with 40 CFR Section 123.21 program description (including funding, personnel requirements and organization, and permit and enforcement procedures), a Statement of Legal Authority, copies of applicable State statutes and regulations, and a Memorandum of Agreement (MOA) to be executed by the Regional Administrator of EPA Region 6 and the Commissioner of Agriculture for ODAFF. ODAFF seeks permitting and enforcement authority for all discharges within its jurisdiction. At the request of EPA, ODAFF made revisions to several of the program submittal documents and the last of these revisions was received by EPA on September 7, 2012. EPA has determined that ODAFF's August 16th application for partial program approval, as amended September 7, 2012, constitutes a complete State program submission under 40 CFR 123.21. A letter of completeness was sent to ODAFF on September 13, 2012. EPA is required to approve ODAFF's application within 90 days of submittal of a complete submission unless the submittal does not meet the requirements of Section 402(b) of the Act and EPA regulations, or EPA and ODAFF jointly agree to extend this deadline. (See 40 CFR 123.21(d)). To obtain such approval, ODAFF must show among other things that it has authority to issue permits that comply with the Act, authority to impose civil and criminal penalties for permit violations, and authority to ensure that the public is given notice and opportunity for a hearing on each proposed permit. After close of the comment period, the Regional Administrator for EPA Region 6 will make a decision to approve or disapprove the AgPDES program for implementation by the State. EPA's final decision to approve or disapprove the AgPDES program will be based on the requirements of Section 402 of the CWA and 40 CFR part 123.

If EPA approves the AgPDES program, the Regional Administrator will so notify the State and will sign the proposed MOA. Notice will be published in the **Federal Register** and, as of the date of program approval, EPA will transfer to ODAFF NPDES permitting authority and primary enforcement responsibility for those discharges subject to the AgPDES program. If EPA's Regional Administrator disapproves the AgPDES program, ODAFF will be notified of the reasons for disapproval and of any revisions or modifications to the program which are necessary to obtain approval.

Public Hearing Procedures

The following procedures will be used at the public hearing:

1. The Presiding Officer will conduct the hearing in a manner which will allow all interested persons wishing to make oral statements an opportunity to do so; however, the Presiding Officer may inform attendees of any time limits during the opening statement of the hearing.
2. Any person may submit written statements or documents for the record.
3. The Presiding Officer may in his discretion exclude oral testimony if such testimony is overly repetitious of previous testimony or is not relevant to the decision to approve or require revision of ODAFF's application.
4. The transcript taken at the hearing, together with copies of all submitted statements and documents, shall become a part of the record submitted to the Regional Administrator.
5. The hearing record will be left open until the deadline for receipt of comments specified at the beginning of this Notice to allow any person time to submit additional written statements or to present views or evidence tending to rebut testimony presented at the public hearing.
6. Hearing statements may be oral or written. Written copies of oral statements are urged for accuracy of the record and for use of the Hearing Panel and other interested persons. Persons wishing to make oral testimony supporting their written comments are encouraged to summarize their points rather than reading lengthy written comments verbatim into the record. All comments received by EPA Region 6 by the deadline for receipt of comments, or presented at the public hearing, will be considered by EPA before taking final action on ODAFF's request for AgPDES program approval.

Scope, Transfer of NPDES Authority, and Summary of the AgPDES Program Documents

A. Scope of the Partial Program

The proposed AgPDES program is a major category partial permit program in conformance with the requirements of Section 402(n)(3) of the CWA. The proposed program is a complete permit program for all discharges under ODAFF's jurisdiction and represents a significant and identifiable part of the state program required by § 402(b) of the CWA. The Oklahoma discharges subject to regulation under the federal NPDES program and the AgPDES program administered by ODAFF are point source discharges associated with concentrated animal feeding operations (''CAFO''), discharges from the application of biological pesticides or chemical pesticides that leave a residue,

discharges from silviculture activities, and discharges of storm water from agricultural activities.

ODAFF has jurisdiction over all matters affecting agriculture that have not been expressly delegated to another state or federal agency, as set out in the Oklahoma Agriculture Code, and is responsible for fully implementing and enforcing the laws and rules within its jurisdictional areas of environmental responsibility. The Oklahoma Environmental Quality Act gives ODAFF environmental jurisdiction over point source discharges from agricultural crop production and agricultural services. It also gives the Agency environmental jurisdiction specific to the application of pesticides. ODAFF does not have jurisdiction over storm water discharges associated with industrial activity (as defined at 40 CFR 122.26(b)(14)) at facilities whose primary industrial activity is storage of grain, feed seed, fertilizer, and agriculture chemicals (e.g., SIC code 4121) and are thus required by federal regulations to have a storm water permit. However, ODAFF's jurisdiction includes all discharges at facilities regulated by ODAFF that only incidentally store grain, feed, seed, fertilizer, and agriculture chemicals to support the primary activity of the facility (e.g., feed storage at a CAFO). ODAFF has the necessary jurisdiction to regulate discharges resulting from agricultural and non-agricultural applications of pesticides; except for discharges from industrial processes, municipal treatment works, and municipal and industrial storm water, for which the Oklahoma Environmental Quality Act has expressly delegated jurisdiction to the Oklahoma Department of Environmental Quality (ODEQ). ODAFF also has jurisdiction to regulate discharges resulting from silvicultural discharges related to tree growing, planting management, log transport and log storage, and other activities, except those related to wood preservation and processing regulated pursuant to 40 CFR part 429 (Timber Products Processing) and part 436 (Mineral Mining and Processing), which are regulated by ODEQ.

Activities that are not within ODAFF's environmental jurisdiction include commercial manufacturers of fertilizers, grain and feed products, and chemicals; manufacturing of food and kindred products, tobacco, paper, lumber, wood, textile mill and other agricultural products; slaughterhouses, except for feedlots at those facilities; and aquaculture and fish hatcheries. These exceptions to the Agency's jurisdiction include, but are not limited to, discharges of pollutants and storm water to waters of the state, surface impoundments and land application of wastes and sludge, and other pollution originating at these facilities.

ODAFF is not seeking authority to regulate discharges to Indian Country, as defined in 18 U.S.C. 1151. EPA retains NPDES permitting authority and primary enforcement responsibility over Indian Country in the State of Oklahoma.

B. Transfer of NPDES Authority and Pending Actions

Upon approval of the AgPDES program, authority for all NPDES permitting activities, as well as primary responsibility for NPDES enforcement activities, within the scope of ODAFF's jurisdiction, would be transferred to the State. EPA would retain on a permanent basis its authority under section 402(d) of the CWA to object to AgPDES permits proposed by ODAFF, and if the objections are not resolved, to issue federal NPDES permits for those discharges. EPA would also retain on a permanent basis its authority under sections 402(I) and 309 of the CWA to file federal enforcement actions in those instances in which EPA determines the State has not taken timely or appropriate enforcement action.

Upon program authorization, ODAFF will take over administration and enforcement of EPA-issued general permits for those discharges under its jurisdiction while EPA will retain administration of the general permits for those discharges remaining under EPA jurisdiction. Dischargers remaining under EPA jurisdiction include those discharges to waters in Indian Country and those discharges under the jurisdiction of the Oklahoma Corporation Commission. The transfer of EPA-issued permits is described in Section IV.B of the MOA. A Table outlining jurisdiction over general permits after program authorization has been prepared and is available on EPA's Web site. This notice also serves as notice that the permits will be modified by EPA and ODAFF as necessary to reflect the transfer of jurisdiction pursuant to 40 CFR 123.1(d)(1) and 123.24(b)(1)(i).

I hereby provide public notice of the application by the State of Oklahoma for approval to administer the AgPDES program for discharges into navigable waters within its jurisdiction in accordance with Section 402(b) of the CWA and 40 CFR part 123.

Dated: September 13, 2012.

Samuel Coleman,

Acting Regional Administrator, EPA Region 6.

[FR Doc. 2012–23489 Filed 9–21–12; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection(s) Being Submitted for Review and Approval to the Office of Management and Budget (OMB)

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3502–3520), the Federal Communications Commission invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s). Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimates; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before October 24, 2012. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Nicholas A. Fraser, Office of Management and Budget (OMB), via fax

at 202–395–5167 or via Internet at *Nicholas_A._Fraser@omb.eop.gov* and to Judith B. Herman, Federal Communications Commission, via the Internet at *Judith-b.herman@fcc.gov.* To submit your PRA comments by email send them to: *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, Office of Managing Director, FCC, at 202–418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0233.

Title: Part 36, Separations.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 1,162 respondents; 1,582 responses.

Estimated Time per Response: 22 hours.

Frequency of Response: On occasion quarterly and annual reporting requirements and third party disclosure requirements.

Obligation To Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. sections 151, 154(i), and (j), 221(c) and 410(c) of the Communications Act of 1934, as amended.

Total Annual Burden: 34,804 hours.

Total Annual Cost: N/A.

Privacy Impact Assessment: N/A.

Nature and Extent of Confidentiality: No assurances of confidentiality have been given regarding the information. However, respondents may request materials or information submitted to the Commission be withheld from public inspection under 47 CFR 0.459 of the Commission's rules

Needs and Uses: The Commission will submit this collection to the OMB for approval of a revision of this information collection.

In order to determine which carriers are entitled to universal service support, all rate-of-return regulated (rate-of-return) incumbent local exchange carriers (LECs) must provide the National Exchange Carrier Association (NECA) with the loop cost and loop count data required by 47 CFR 36.611 for each of its study areas and, if applicable, for each wire center as that term is defined in 47 CFR part 54 of the Commission's rules.

Loops are the telephone lines running from the carrier's switching facilities to the customer. The loop cost and loop count information is to be filed annually with NECA by July 31st of each year, and may be updated quarterly pursuant to section 36.612. Pursuant to section 36.613, the information filed on July 31st of each year will be used to calculate universal service support for each study area and is filed by NECA with the Commission on October 1 of each year. An incumbent LEC is defined as a carrier that meets the definition of ''incumbent local exchange carrier'' in section 51.5 of the Commission's rules.

The Commission requires that non-rural carriers submit quarterly loop counts in order to ensure that universal service fund (USF) support for non-rural carriers is accurately calculated when competitive eligible telecommunications carriers (ETCs) are present in the incumbent LECs' operating areas. Quarterly loop cost and loop count data filings are voluntary for rate-of-return carriers.

The Commission is submitting this collection to the OMB for approval of a revision of this information collection. The revision is due to the elimination of the requirement for price-cap regulated carriers and competitive carriers to file cost or loop count data.

OMB Control Number: 3060–0824.

Title: Service Provider Identification Number and Contact Form.

Form Number: FCC Form 498.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit and not-for-profit institutions.

Number of Respondents: 5,000 respondents; 5,000 responses.

Estimated Time per Response: 1.5 hours.

Frequency of Response: On occasion reporting requirements and third party disclosure requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 151–154 and 254 the Communications Act of 1934, as amended.

Total Annual Burden: 7,500 hours.

Total Annual Cost: N/A.

Privacy Impact Assessment: N/A.

Nature and Extent of Confidentiality: The Commission notes that the Universal Service Administrative Company (USAC) who administers the universal service program must preserve the confidentiality of all data obtained from respondents and contributors to the universal service programs, must not use the data except for purposes of administering the universal service programs, and must not disclose data in company-specific form unless directed to do so by the Commission. With respect to the FCC Form 498, USAC shall publish each participant's name, SPIN, and contact information via USAC's Web site. All other information, including financial institution account numbers or routing information, shall remain confidential.

Needs and Uses: The Commission will submit this collection to the OMB for approval of a revision of this information collection.

One of the functions of the Universal Service Administrative Company (USAC) is to provide a means for the billing, collection and disbursement of funds for the universal service support mechanisms.

On October 1998, the OMB approved FCC Form 498, the ''Service Provider Information Form'' to enable USAC to collect service provider name and address, telephone number, Federal Employer Identification Number (EIN), contact names, contact telephone numbers, and remittance information. FCC Form 498 enables participants to request a Service Provider Identification Number (SPIN) and provides the official record for participation in the universal service support mechanisms. The remittance information provided by participants on FCC Form 498 enables USAC to make payments to participants in the universal service support mechanisms.

The following proposed revisions have been made to the FCC Form 498 for which we seek OMB approval:

- Added an additional field in block 3 for a company's Federal Registration Number (FRN);
- Added a column for the Study Area Code Company Name in block 8;
- Added the ability for a carrier to designate an alternate bank account for the payment of BEAR funds in block 11;
- Added a box in block 1 and a supplemental information sheet to allow respondents to include information about affiliates;
- Updated the Principal Communications Types in block 14 to include additional business types as listed on the FCC Form 499–A; and
- Added a box after every program on the form that will allow service providers to cease participation in the associated program without having to deactivate their entire SPIN.

Corresponding adjustments were made to the instructions to reflect the proposed changes to the FCC Form 498.

The information collected on the FCC Form 498 is used by USAC to disburse federal universal service support consistent with the specifications of eligible participants in the universal service programs. FCC Form 498 submissions also provide USAC with updated contact information so that USAC can contact universal service fund participants when necessary. Without such information, USAC would not be able to distribute support to the

proper entities and this would prevent the Commission from fulfilling its statutory responsibilities under the Act to preserve and advance universal service.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison, Office of the Secretary, Office of Managing Director.

[FR Doc. 2012–23415 Filed 9–21–12; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

DATE & TIME: Thursday, September 27, 2012 and its continuation on Tuesday, October 2, 2012 at 10 a.m.

PLACE: 999 E Street NW., Washington, DC.

STATUS: This Meeting Will Be Closed to the Public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

* * * * *

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Shelley E. Garr,

Deputy Secretary of the Commission.

[FR Doc. 2012–23574 Filed 9–20–12; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 19, 2012.

A. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. *SCBT Financial Corporation,* Columbia, South Carolina, to acquire 100 percent of the voting securities of The Savannah Bancorp, Inc., Savannah, Georgia, and thereby indirectly acquire The Savannah Bank, NA, Savannah, Georgia, and Bryan Bank & Trust, Richmond Hill, Georgia.

In connection with this application, Applicant also has applied to acquire Minis & Co. Inc., Savannah, Georgia, and thereby engage in financial and investment advisory activities, pursuant to section 225.28(b)(6) of Regulation Y.

Board of Governors of the Federal Reserve System, September 19, 2012.

Michael J. Lewandowski,

Assistant Secretary of the Board.

[FR Doc. 2012–23490 Filed 9–21–12; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: The Federal Trade Commission (''FTC'' or ''Commission'') intends to conduct (with parental permission) an online survey of children, ages 8–16 years, who watch movies, listen to music, and/or play game applications (''apps'') on smartphones, Internet-accessible handheld devices, or tablet computers (collectively ''app-capable mobile devices'') that run either the iOS or Android operating systems. Before gathering this information, the FTC is seeking public comments on its proposed consumer research. Comments will be considered before the FTC submits a request for Office of Management and Budget (''OMB'') review under the Paperwork Reduction Act (''PRA'').

DATES: Comments must be received on or before November 23, 2012.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: Keith Fentonmiller, (202) 326–2775, Attorney, Federal Trade Commission, Bureau of Consumer Protection, Division of Advertising Practices, 600 Pennsylvania Ave. NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

Background

In September 2000, the Commission issued a report requested by the President and Congress entitled, *Marketing Violent Entertainment to Children: A Review of Self-Regulation and Industry Practices in the Motion Picture, Music Recording & Electronic Game Industries.*[1] The 2000 Report examined the structure and operation of each industry's self-regulatory program, parental familiarity with and use of those systems, and whether the industries had marketed violent entertainment products in a manner inconsistent with their own parental advisories. The Commission found that industry members routinely targeted children in their advertising and marketing of violent entertainment products and that children under age 17 could purchase these products relatively easily. The Commission called upon the industries to strengthen their self-regulatory programs by: (1) Prohibiting target-marketing to children and imposing sanctions for violations; (2) improving self-regulatory programs at the retail level; and (3) increasing parental awareness of the ratings and labels.

The Commission issued follow-up reports to assess changes in industry practices in April 2001,[2] December

[1] Available at *http://www.ftc.gov/reports/violence/vioreport.pdf* (hereafter ''2000 Report'').

[2] Available at *http://www.ftc.gov/reports/violence/violence010423.pdf.*

2001,[3] June 2002,[4] July 2004,[5] and April 2007.[6] Those reports found less marketing of violent R-rated films [7] and M-rated video games [8] to children, but little change in marketing practices for explicit-content music.[9] The latest report, issued in December 2009,[10] recommended that all three industries tighten restrictions on child-directed online and viral marketing of violent content, and improve their display of rating information in advertising and on packaging. The Commission further recommended that the movie and music industries develop specific and objective criteria to restrict the marketing of violent movies (both R- and PG-13-rated) and explicit-content music to children. Additionally, consumer research sponsored by the Commission showed that the movie industry needs to better inform parents about additional adult content in unrated DVDs based on films that were rated R for theaters. Finally, although there was improvement in retail enforcement of the entertainment ratings, the Commission noted that all three industries could do better.[11]

The 2009 Report also observed that consumers, including children under 17, were increasingly renting or buying movies to view on mobile devices such as Apple's iPod touch and iPhone.[12] At that time, Apple had just updated the parental control features on its iOS mobile platform to allow parents to limit downloadable movies based on the MPAA rating, music labeled as explicit, and apps based on Apple's age-based designations (*e.g.,* ''Rating 4+,'' ''Rated 9+,'' ''Rated 12+,'' ''Rated 17+'').[13] Some mobile carriers also provided—and continue to provide—their own mobile content ratings that parents may use to restrict access to apps, R-rated movies, or explicit-content music.[14] Although noting that these systems should assist parents in monitoring their children's consumption of mobile content, the Commission's 2009 Report expressed some concern about potential consumer confusion over the proliferation of different mobile content rating systems.[15]

In December 2010, the Android Market (now known as Google Play) began requiring developers to rate the content of their mobile apps.[16] As a result, parents now may be able to restrict their children's access to Android-based apps according to four ''maturity levels'': Everyone, Low maturity, Medium maturity, and High maturity.[17] Further, in November 2011, CTIA—The Wireless Association and the ESRB announced a new rating system that six mobile application storefronts (AT&T, Microsoft, Sprint, T-Mobile USA, U.S. Cellular, and Verizon Wireless) agreed to support as part of their application submission (or onboarding) process.[18] Once this system is implemented, developers will submit a short, detailed questionnaire and instantly receive an age-based ESRB rating icon for their app that they will be able to use across participating mobile storefronts.

A recent Commission staff report observed that the market for apps playable on app-capable smartphones, tablet computers, and other Internet-accessible handheld devices (*e.g.,* the iPod Touch) has experienced explosive growth in the three years since the Commission's 2009 Report.[19] As of February 2012, there were more than 500,000 apps in the Apple App store and 380,000 apps in the Google Play marketplace. The report noted that young children and teens are increasingly embracing smartphone technology for entertainment and educational purposes. Further, a recent online survey conducted by the NPD Group showed that children ages 2 to 14 use a tablet, iPod Touch, or smartphone an average of five days a week (nearly an hour a day), and that these devices have an average of twelve apps.[20]

[3] Available at *http://www.ftc.gov/os/2001/12/violencereport1.pdf.*

[4] Available at *http://www.ftc.gov/reports/violence/mvecrpt0206.pdf.*

[5] Available at *http://www.ftc.gov/os/2004/07/040708kidsviolencerpt.pdf.*

[6] Available at *http://www.ftc.gov/reports/violence/070412MarketingViolentEChildren.pdf.*

[7] The motion picture rating system is a joint venture between the Motion Picture Association of America (''MPAA'') and the National Association of Theatre Owners (''NATO''). The MPAA's Classification and Ratings Administration (''CARA'') assigns one of five ratings to a movie: ''G General Audiences,'' ''PG Parental Guidance Suggested,'' ''PG–13 Parents Strongly Cautioned,'' ''R Restricted,'' or ''NC–17 No One Under 17 Admitted.'' *See* NATO, *The Move Ratings System,* available at *http://www.natoonline.org/ratingsabout.htm.* Each film assigned a rating other than G also receives a brief explanation for the film's rating, *e.g.,* ''Rated R for terror, violence and language,'' or ''Rated PG–13 for intense sci-fi violence, some sexuality and brief nudity.''

[8] The Entertainment Software Rating Board (ESRB) assigns computer and video games one of six rating symbols: EC (Early Childhood), E (Everyone), E10+ (Everyone 10 and older), T (Teen), M (Mature), or AO (Adults Only). *See* ESRB, *Game Ratings & Descriptor Guide,* available at *http://www.esrb.org/ratings/ratings_guide.jsp.* Titles rated AO (Adults Only) have content that should only be played by persons 18 years and older. Titles rated M (Mature) have content that may be suitable for persons ages 17 and older. Titles rated T (Teen) have content that may be suitable for ages 13 and older. In addition to the rating symbol, which suggests the age-appropriateness for the game, the ESRB assigns content descriptors that indicate elements in a game that may have triggered a particular rating and/or may be of interest or concern (*e.g.,* ''Intense Violence'' or ''Sexual Themes'').

[9] A record company may assign a Parental Advisory Label (''PAL'') to a recording to alert parents to explicit lyrics, and to provide notice to consumers that these recordings may contain strong language or references to violence, sex, or substance abuse. *See* Recording Industry Association of America, *Parental Advisory,* available at *http://riaa.org/toolsforparents.php?content_selector=parental_advisory.* The PAL indicates only that the recording contains explicit content. It does not inform consumers about the specific type of explicit content that triggered the PAL, although one company (Sony Music Entertainment) uses an enhanced PAL that provides such additional information (e.g., ''Strong Language'' or ''Sexual Content''). The music industry has not defined the PAL to mean that an explicit-content recording is inappropriate for any particular age group. As a result, most retailers do not restrict the sale of explicit-content music to children. *See* 2009 Report, *infra* note 10, at App. A–1.

[10] Available at *http://www.ftc.gov/os/2009/12/P994511violententertainment.pdf* (hereafter ''2009 Report'').

[11] The results of the Commission's undercover shopper survey published in 2011 demonstrated further progress in ratings enforcement. *See* FTC, *FTC Undercover Shopper Survey on Enforcement of Entertainment Ratings Finds Compliance Worst for Retailers of Music CDs and the Highest Among Video Game Sellers* (Apr. 20, 2011), available at *http://www.ftc.gov/opa/2011/04/violentkidsent.shtm.* That survey found that 64% of underage shoppers were able to purchase explicit-content music CDs, down slightly from 2009. Movie theaters demonstrated no statistically significant change in ratings enforcement at the box office, whereas DVD retailers meaningfully improved their ratings enforcement with respect to R-rated DVDs and unrated DVDs based on movies that were rated R for theaters. Finally, 13% of underage shoppers were able to buy M-rated video games, a statistically significant improvement from the 20% purchase rate in 2009.

[12] 2009 Report, *supra* note 10, at 15.

[13] *Id.* at 29.

[14] *Id. Compare http://parentalcontrolcenter.com/#_self* (for Verizon service; parental controls will not work when device is connected through WiFi); *and http://support.sprint.com/support/article/Learn_more_about_setting_Wireless_Web_Access_Parental_Controls/case-wh164052-20091229-155228?INTNAV=SU:SP:MVT* (for Sprint service; permits parents to restrict children's access to material that ''is considered to be appropriate for all ages''); *with http://www.att.net/smartcontrols-WirelessParentalControls#none* (for AT&T service; parental controls will not work with smartphones, tablets, or devices in WiFi mode; content restrictions not age-based).

[15] 2009 Report, *supra* note 10, at 29.

[16] *http://android-developers.blogspot.com/2010/11/content-rating-for-android-market.html* (accessed June 11, 2012).

[17] *http://support.google.com/googleplay/android-developer/bin/answer.py?hl=en&answer=188189* (accessed June 11, 2012); *http://support.google.com/googleplay/bin/answer.py?hl=en&answer=1075738&topic=245026* (accessed June 11, 2012).

[18] CTIA—The Wireless Association, *CTIA—The Wireless Association and ESRB Announce Mobile Application Rating System* (Nov. 29, 2011), available at *http://www.ctia.org/media/press/body.cfm/prid/2147.*

[19] FTC Staff Report, *Mobile Apps for Kids: Current Privacy Disclosures are Disappointing,* at 1 (Feb. 2012), available at *http://www.ftc.gov/os/2012/02/120216mobile_apps_kids.pdf.*

[20] NPD Group, *An Average of 12 Downloaded Apps Are Currently on Mobile Devices Used by Kids*

Continued

Gaming is the most popular type of app, followed by listening to or downloading music. Although most of these apps are free, the top categories of purchased apps are gaming, education, and movies. An earlier NPD Group survey showed that children are spending an increasingly greater share of their money on downloadable content, mostly music and movies.[21]

Although children (like consumers generally) increasingly are purchasing or playing movies, music, and games on app-capable mobile devices, no commercially available data quantify children's consumption of mobile content that is rated or labeled as potentially inappropriate for them; assess whether and to what extent the various content rating systems impact their ability to purchase or play such content; or measure the content restrictions imposed by parents, including through technology-based parental control mechanisms. Accordingly, the Commission proposes to conduct (with parental permission) a survey of children ages 8–16 years who use the most common app-capable mobile devices—those that run the iOS or Android platforms.[22] The Commission expects that the survey results will help inform its policy recommendations in its next report on the marketing of violent entertainment to children.

Applicability of Paperwork Reduction Act

Under the PRA and implementing OMB regulations, federal agencies must obtain approval from OMB for each ''collection of information'' they conduct or sponsor if posed to ten or more entities within any twelve-month period. 44 U.S.C. 3502(3); 5 CFR 1320.3(c). ''Collection of information'' means agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. 44 U.S.C. 3501(3); 5 CFR 1320.3(c).

The staff anticipates conducting an online survey of 900 respondents drawn from a nationally representative pool. Thus, before the Commission can conduct the study, it must obtain OMB clearance. See 44 U.S.C. 3507(a), 3502(3).

Request for Comments

The FTC invites comments on: (1) Whether the proposed collections of information are necessary for the proper performance of the functions of the FTC, including whether the information will have practical utility; (2) the accuracy of the FTC's estimate of the burden of the proposed collections of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of collecting 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. All comments should be filed as prescribed below, and must be received on or before September 24, 2012.

Please also note that because your comment will be made public, you are solely responsible for ensuring that it does not include any sensitive personal information, such as any individual's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. It is also your own responsibility to ensure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. Your comment also should not include any ''[t]rade secret or any commercial or financial information * * * which is privileged or confidential.'' *See* Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). No comment, whether it contains such material or not, will be given confidential treatment unless the comment has been filed with the FTC Secretary; the comment is accompanied by a written confidentiality request that complies fully with FTC Rule 4.9(c), 16 CFR 4.9(c); and the General Counsel, in his or her sole discretion, has determined to grant the request in accordance with applicable law and the public interest.

Because paper mail addressed to the FTC is subject to delay due to heightened security screening, please consider submitting your comment in electronic form. To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the web link: *https://ftcpublic.commentworks.com/ftc/mobileappssurveypra*. If this Notice appears at *http://www.regulations.gov/search/index.jsp,* you may also file an electronic comment through that Web site. The Commission will consider all comments that regulations.gov forwards to it. You may also visit the FTC Web site at *http://www.ftc.gov* to read the Notice.

A comment filed in paper form should include the ''Entertainment Industry Study: FTC File No. P994511'' reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex J), 600 Pennsylvania Avenue NW., Washington, DC 20580. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC Web site, to the extent practicable, at *http://www.ftc.gov/os/publiccomments.shtm*. As a matter of discretion, the Commission makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at *http://www.ftc.gov/ftc/privacy.shtm*.

Description of the Collection of Information and Proposed Use

With the assistance of a consumer research firm (hereafter ''the Contractor''), the FTC will develop a draft questionnaire for use in an online

(May 22, 2012), available at *https://www.npd.com/wps/portal/npd/us/news/pressreleases/pr_120522; see also* Anton Troianovski, Spencer Ante, & Jessica Vascellaro, *Mom, Please Feed My Apps!,* The Wall Street Journal (June 8, 2012), (''About 60% of children 8 to 11 years old interviewed recently by the research firm KidSay said that they used phone apps, up from 40% a year ago.''), available at *http://online.wsj.com/article/SB10001424052702303753904577452341745766920.html?KEYWORDS=feed+my+apps*.

[21] NPD Group, *Downloading Entertainment Content Is on the Rise with Kids* (Oct. 4, 2011), available at *https://www.npd.com/wps/portal/npd/us/news/pressreleases/pr_111004*.

[22] As of April 2012, Google's Android and Apple's iOS mobile platforms were operating on more than 80% of all smartphones, and accounted for nine out of ten new smartphone sales during the fourth quarter of 2011. *See* comScore, *comScore Reports April 2012 U.S. Mobile Subscriber Market Share* (June 1, 2012), available at *http://www.comscore.com/Press_Events/Press_Releases/2012/6/comScore_Reports_April_2012_U.S._Mobile_Subscriber_Market_Share;* NPD Group, *Apple Leads Mobile Handsets in Q4 2011, But Android Attracts More First-Time Smartphone Buyers* (Feb. 6, 2012), available at *https://www.npd.com/wps/portal/npd/us/news/pressreleases/pr_120206*.

survey of children ages 8–16 (with parental permission) drawn from a nationally representative pool. The panel will consist of 100 respondents for each of the nine age groups between ages 8 and 16, inclusive (900 total respondents). The Contractor will screen the potential respondents for those who (a) own or have access to a mobile device (i.e., a smartphone, an Internet-accessible handheld device like an iPod Touch, or a tablet computer) that runs either the iOS or Android operating system and (b) either watch movies, listen to music, and/or play game apps on that device.

The study questionnaire will relate to the movies, music, and game apps that 8–16 year old children play on those devices, as well as the rating or labeling systems applicable to each of those media. The questionnaire will consist of a mixture of open-ended and closed-ended questions, and it is estimated to take 10 minutes to complete. The questions will focus on:

- Awareness of movies, music, and game apps rated or labeled as potentially inappropriate for the user's age;
- Awareness of parental controls on their devices that could prevent access to content rated or labeled as potentially inappropriate for the user's age;
- Consumption of movies, music, and games apps rated or labeled as potentially inappropriate for the user's age;
- Usage of rating or labeling systems when acquiring movie, music, or game app content;
- Ability to bypass or modify parental controls for movies, music, or game app content;
- Estimation of percentage of content on their personal device that is rated or labeled as potentially inappropriate for the user's age;
- Estimation of percentage of time spent on content rated that is or labeled as potentially inappropriate for the user's age, relative to all other content;
- Estimation of dollars spent on content that is rated or labeled as potentially inappropriate for the user's age, relative to all other content; and
- Restrictions, if any, that parents impose on their children's purchase or use of content that is rated or labeled as potentially inappropriate for the user's age

The results of the survey will be published in the FTC's next public report on the marketing of entertainment violence to children.

Estimated Hours Burden: 267 Hours.

The Contractor conducting the consumer research will recruit a stratified sample of 900 children ages 8 to 16 (with parental permission) who watch movies, listen to music, and/or play game apps on mobile devices (*i.e.,* smartphones, Internet-accessible handheld devices like an iPod Touch, or tablet computers) that run either the iOS or Android operating system. The Contractor will use a screening (quota) methodology from an existing Internet panel, or respondents recruited using protocols utilizing probability sampling procedures or other commonly accepted sampling techniques. The FTC staff estimates that the screening questions should take respondents no more than 60 seconds to complete. The screening questions will be asked of approximately 7,000 respondents to provide a large enough random sample for the surveys. Cumulatively, screening should require a maximum of 117 hours (7,000 total respondents × 1 minute for each). After completing the screener, answering the surveys will impose a burden per respondent of approximately 10 minutes, totaling 150 hours for all respondents to the surveys (900 respondents × 10 minutes per survey). Thus, the total hours burden attributable to the consumer research is approximately 267 hours (117 hours for the screener + 150 hours for the survey).

Estimated Cost Burden: $0.

The cost per respondent should be negligible. Participation is voluntary, and will not require any labor expenditures by respondents. There are no capital, start-up, operation, maintenance, or other similar costs to the respondents.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2012–23515 Filed 9–21–12; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

[File No. 112 3155]

CarePatrol, Inc.; Analysis of Proposed Consent Order To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before October 17, 2012.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ACarePatrol, Inc.,—consent, FTC File No. 112 3155'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/carepatrolconsent*, by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex D), 600 Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: David R. Spiegel, (202–326–3281), FTC, Bureau of Consumer Protection, 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 the Commission Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for September 17, 2012), on the World Wide Web, at *http://www.ftc.gov/os/actions.shtm.* A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before October 17, 2012. Write ''CarePatrol, Inc.,—consent, FTC File No. 112 3155'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individual's home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential,'' as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[1] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/carepatrolconsent* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home,* you also may file a comment through that Web site.

If you file your comment on paper, write ''CarePatrol, Inc.,—consent, FTC File No. 112 3155'' on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex D), 600 Pennsylvania Avenue NW., Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before October 17, 2012. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

Analysis of Agreement Containing Consent Order To Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an agreement containing a consent order from CarePatrol, Inc. (''CarePatrol'' or ''respondent'').

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make the proposed order final.

The matter involves certain statements CarePatrol has made in Internet advertising regarding its placement services for seniors requiring long term care in assisted living facilities (''ALFs'') and other non-nursing home facilities servicing the frail elderly. According to the Commission's complaint, CarePatrol made the following false and unsubstantiated claims: (a) That it monitors or grades the care history and violations of virtually all or a substantial majority of ALFs in a consumer's desired location; (b) that its senior care consultants are located in every state; and (c) that its monitoring or grading of assisted living facilities is based on a review of the facilities' most recent state inspection reports. Thus, the complaint states that CarePatrol has engaged in deceptive practices in violation of Section 5(a) of the FTC Act.

The proposed order contains four provisions designed to prevent CarePatrol, or other persons who are in active concert or participation with it, from engaging in similar acts and practices in the future. Part I.A.1 of the proposed order prohibits respondent from misrepresenting, or making unsubstantiated representations, that it has monitored or evaluated a number, portion, or percentage of the assisted living facilities in a consumer's desired location.

Part I.A.2 prohibits CarePatrol from misrepresenting or making unsubstantiated representations that it or its franchisees provide placement services through a network of officers, agents, employees and contractors who are located in any geographic region.

Part I.A.3 prohibits CarePatrol from claiming that its monitoring or grading of assisted living facilities is based on a review of information contained in state inspection reports, or any other records detailing the performance of assisted living facilities, unless the claim is non-misleading and based on competent and reliable evidence. It also requires such claims to be based upon the most recent inspection reports.

Finally, Part I.B prohibits CarePatrol from making false or unsubstantiated representations regarding its placement services.

Parts II through V of the proposed order require CarePatrol to: keep copies of advertisements and materials relied upon in disseminating any representation covered by the order; provide copies of the order to certain personnel, agents, and representatives having supervisory responsibilities with respect to the subject matter of the order; notify the Commission of changes in its structure that might affect compliance obligations under the order; and file a compliance report with the Commission and respond to other requests from FTC staff. Part VI provides that the order will terminate after twenty (20) years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the complaint or the proposed order, or to modify the proposed order's terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2012–23412 Filed 9–21–12; 8:45 am]

BILLING CODE 6750–01–P

[1] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

FEDERAL TRADE COMMISSION

[File No. 112 3168]

ABCSP, Inc.; Analysis of Proposed Consent Order to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of

federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before October 17, 2012.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''AABCSP, Inc.,—consent, FTC File No. 112 3168'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/abcspconsent*, by following the instructions on the Web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex D), 600 Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: David R. Spiegel, (202–326–3281), FTC, Bureau of Consumer Protection, 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 the Commission Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for September 17, 2012), on the World Wide Web, at *http://www.ftc.gov/os/actions.shtm.* A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before October 17, 2012. ''Write AABCSP, Inc.,—consent, FTC File No. 112 3168'' on your comment. Your comment B including your name and your state B will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential,'' as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[1] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/abcspconsent* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home*, you also may file a comment through that Web site.

If you file your comment on paper, write ''ABCSP, Inc.,—consent, FTC File No. 112 3168'' on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex D), 600 Pennsylvania Avenue NW., Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before October 17, 2012. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

Analysis of Agreement Containing Consent Order To Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an agreement containing a consent order from ABCSP, Inc. (''ABC'' or ''respondent'').

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make the proposed order final.

The matter involves certain statements ABC has made in Internet advertising regarding its placement services for seniors requiring long term care in assisted living facilities (''ALFs'') and other non-nursing home facilities servicing the frail elderly. According to the Commission's complaint, ABC made false and unsubstantiated claims that it, or its care coordinators, view or evaluate virtually all or a substantial majority of such facilities in every geographic region of the United States. Thus, the complaint states that ABC has engaged in deceptive practices in violation of Section 5(a) of the FTC Act.

The proposed order contains two provisions designed to prevent ABC, or other persons who are in active concert or participation with it, from engaging in similar acts and practices in the future. Part I.A prohibits respondent from misrepresenting or making unsubstantiated representations that it,

[1] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

or its agents, personally view, inspect, or monitor assisted living facilities, including representations that it personally views, inspects, or monitors any particular number, portion, or percentage of ALFs in a geographic region.

Part I.B prohibits ABC from making any false or unsubstantiated representations regarding its placement services.

Parts II through V require ABC to: Keep copies of advertisements and materials relied upon in disseminating any representation covered by the order; provide copies of the order to certain personnel, agents, and representatives having supervisory responsibilities with respect to the subject matter of the order; notify the Commission of changes in its structure that might affect compliance obligations under the order; and file a compliance report with the Commission and respond to other requests from FTC staff. Part VI provides that the order will terminate after twenty (20) years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the complaint or the proposed order, or to modify the proposed order's terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2012–23413 Filed 9–21–12; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

Request for Comments and Announcement of Workshop on Pet Medications Issues

AGENCY: Federal Trade Commission (''FTC'' or ''Commission'')

ACTION: Reopening of the comment period for submission of public comments.

SUMMARY: The FTC is reopening the period for filing public comments in connection with a workshop to examine competition and consumer protection issues in the pet medications industry. The workshop will consider how current industry distribution and other business practices affect consumer choice and price competition for pet medications; the ability of consumers to obtain written, portable prescriptions that they can fill wherever they choose; and the ability of consumers to verify the safety and efficacy of pet medications that they purchase. The workshop will also examine the extent to which recent changes to restricted distribution and prescription portability practices in the contact lens industry might yield lessons applicable to the pet medications industry. The Commission seeks the views of consumers, veterinarians, business representatives, economists, lawyers, academics, and other interested parties on these issues. This notice poses a series of questions relevant to those issues about which the Commission seeks comment. After conducting the workshop and reviewing comments, the Commission may prepare a report discussing these issues.

DATES: The FTC is reopening the comment period and extending the deadline for filing public comments until November 1, 2012.

ADDRESSES: Interested parties are invited to submit written comments electronically or in paper form by following the instructions in the **SUPPLEMENTARY INFORMATION** section below. Comments in electronic form should be submitted by using the following Web link: *https://ftcpublic.commentworks.com/ftc/petmedsworkshop* (and following the instructions on the Web-based form). Comments filed in paper form should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex X), 600 Pennsylvania Avenue NW., Washington, DC 20580, in the manner detailed in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: Stephanie A. Wilkinson, Attorney, Office of Policy Planning, Federal Trade Commission, 600 Pennsylvania Avenue NW., Washington, DC 20580, 202–326–2084, *petmedsworkshop@ftc.gov*.

SUPPLEMENTARY INFORMATION: The quality and cost of pet medications is an important pocketbook issue for many consumers. In 2011, 62 percent of U.S. households owned a pet, and Americans spent an estimated $50 billion on their pets,[1] including nearly $7 billion for prescription and over-the-counter (OTC) pet medications.[2] Drawing on the Federal Trade Commission's expertise as a competition and consumer protection agency, the workshop will examine ways to inform and empower consumers to obtain the highest quality and most cost-effective healthcare products for their pets.

Pet owners spend significantly more money on their pets than in past decades, and the market for pet medications has grown significantly in recent years.[3] Manufacturers and veterinarians have introduced new and improved diagnostic and therapeutic treatments for pets; pet medications have become available at some online and brick-and-mortar retail outlets; and veterinarians and others have increasingly emphasized preventative pet care. In addition, market participants note, in recent years it has become easier to administer flea and tick control products and heartworm preventatives, and the products themselves have become more effective. These products comprise the bulk of chronic pet medications sold in the United States. Indeed, the sale of prescription and OTC flea, tick, and heartworm products totaled nearly $3.7 billion in 2011.[4]

Distribution Practices in the Pet Medications Industry

Historically, veterinarians have been the principal dispensers of pet medications because of their unique role in the veterinarian-client-patient relationship, whereby a veterinarian examines, diagnoses, and treats the animal (patient), while also providing information to the animal's owner (client). Consumers still purchase most of their pet medications from the veterinarians who examine their pets, and most pet medication manufacturers choose to distribute their products exclusively through the veterinary channel.

Nonetheless, pet medications are no longer sold exclusively by veterinarians. Over the last ten years, brick-and-mortar and online retail and pharmacy entities (hereinafter collectively referred to as ''retailers'') also have begun selling pet medications, especially OTC medications. Some evidence suggests that these retailers may offer substantial pro-consumer benefits, such as increased convenience and lower prices.

Although retailers may obtain some portion of their pet medication products directly from manufacturers or authorized distributors, they also rely heavily on secondary supply channels. Most manufacturers state that they restrict the distribution of their pet

[1] American Pet Products Association Industry Statistics & Trends.

[2] Packaged Facts estimates.

[3] The size of the overall U.S. pet industry grew steadily from $17 billion in 1994 to over $50 billion in 2011. (American Pet Products Association Industry Statistics & Trends.) The size of the U.S. pet medications market grew from approximately $4.5 billion in 2006 to approximately $6.7 billion in 2011, and is projected to reach $9.25 billion by 2015. (Packaged Facts estimates.)

[4] *Id.* Of the estimated $6.7 billion in U.S. retail sales of pet medications in 2011, 36% was for flea and tick control products, and 19% was for heartworm preventatives. (Packaged Facts estimates.)

medications to the veterinary channel, and that they use well-established tracking procedures to ensure the safety and efficacy of their products. Certain veterinarians purchase pet medications from manufacturers or authorized distributors and then resell some portion of their purchase to secondary suppliers for a profit, a practice sometimes referred to as ''diversion.'' [5] Some secondary suppliers and retailers claim to have protocols in place to verify that the retailers receive bona fide products that originated with the manufacturer. Other industry participants, however, have questioned whether secondary suppliers and retailers always receive bona fide products (as compared to, for example, counterfeit product from non-U.S. sources), thereby raising potential questions about product safety and authenticity. The workshop will examine how competition in sales of pet medications to consumers has developed in light of these practices and how prices, product supply, and product quality may be affected.

In the workshop, the Commission seeks to examine issues related to the distribution of pet medications from practical, economic, and legal perspectives. The Commission invites public comment on questions relevant to this topic, including:

- How are pet medications distributed to consumers?
- What are the business rationales for various pet medication distribution practices?
- How has competition to sell medications to pet owners evolved in light of these distribution practices?
- How do these practices affect prices to consumers?
- How do these practices affect product supply and quality?
- How do these practices affect consumer choice?
- How do these practices affect entry into the pet medications market?
- How do these practices affect innovation in the pet medications market?
- What efficiencies or inefficiencies are associated with these practices?
- What, if any, product safety or counterfeiting issues exist with respect to these practices? Have there been instances in which false or misleading information about product safety risks was disseminated to consumers?
- Are there other factors that should be considered when analyzing the competition and consumer protection issues related to the distribution of pet medications?

Prescription Portability for Pet Medications

All industry participants agree that pets should be properly examined and diagnosed by a veterinarian to determine the most appropriate course of treatment for any medical condition, including whether any medication should be prescribed. When a veterinarian writes a prescription for a medication to be dispensed and subsequently administered by a pet's owner, the prescription must be filled with the correct medication and dosage and the owner must have access to relevant information about the medication and proper administration techniques. Some observers argue that veterinarians are in the best position to carry out these responsibilities; these observers believe, therefore, that veterinarians alone should dispense prescription pet medications to their clients. Others argue that licensed pharmacists are equally capable of dispensing pet medications to consumers, provided the pharmacists dispense the correct medication and dosage as prescribed by a veterinarian; these advocates point out that veterinarians can still provide relevant information and follow-up care to their clients even if they do not dispense the medication. Concerns about the safety of pet medications dispensed by pharmacists appear less pronounced for OTC medications, which do not require a prescription and typically do not require direct supervision by a veterinarian.

A consumer cannot legally obtain prescription pet medications from a retailer without a written, portable prescription from a veterinarian. The American Veterinary Medical Association (AVMA) advises veterinarians to honor a client's request for a prescription, provided that a valid veterinarian-client-patient relationship exists.[6] This guidance is not mandatory, however. State regulations vary as to whether veterinarians are legally required to provide written prescriptions to clients, and it is unclear to what extent such regulatory obligations may be actively enforced against veterinarians. It appears that, while many veterinarians provide written prescriptions to their clients when requested, some veterinarians have refused to provide prescriptions or otherwise have discouraged their clients from obtaining pet medications from retailers.

Federal legislation proposed in House Bill 1406 (''H.R. 1406'' or ''the Bill'') would require veterinarians to provide clients with written prescriptions for all pet medications, regardless of whether requested, and to inform clients of their right to have pet medications dispensed elsewhere.[7] The Bill also would prohibit veterinarians from charging a fee or requiring waivers of liability for providing written prescriptions. H.R. 1406 would require the Federal Trade Commission to promulgate rules implementing the statute within 180 days of its enactment.

In the workshop, the Commission seeks to examine issues related to the portability of pet medication prescriptions from practical, economic, and legal perspectives. The Commission invites public comment on questions relevant to this topic, including:

- How varied are current veterinarian practices with respect to providing written, portable prescriptions to clients?
- To what extent are consumers aware that they can request a portable prescription from their veterinarian and have the prescription dispensed elsewhere?
- Which states require prescription portability for pet medications? Which do not? Are there states in which a proposal for prescription portability for pet medications was rejected by the legislature and, if so, why?
- In states that do require prescription portability, what recourse do consumers have if a veterinarian refuses to provide a written, portable prescription?
- What evidence exists to support a need for federal legislation requiring veterinarians to provide written prescriptions to their clients?
- What price and non-price benefits can accrue to consumers from prescription portability for pet medications?
- What risks or inefficiencies may be posed by prescription portability for pet medications?
- Is there a need for federal legislation requiring veterinarians to notify clients that they have the right to fill their prescriptions at the pharmacy of their choice?

[5] It should be noted that the term ''diversion'' as used in human pharmaceutical markets means the illegal trade in prescription narcotics, in which products are not being used by the consumer in the manner intended. This is distinct from the situation in the pet medications market, in which products obtained through secondary supply channels are being used by the consumer in the manner intended.

[6] *See* Principles of Veterinary Medical Ethics of the AVMA, III.C.1.

[7] *See* Fairness to Pet Owners Act, H.R. 1406, 112th Cong. (2011), available at *http://www.gpo.gov/fdsys/pkg/BILLS-112hr1406ih/pdf/BILLS-112hr1406ih.pdf.*

• Is it appropriate to deny veterinarians the ability to charge a fee or require a waiver of liability for providing a written prescription to clients?

• How might the passage of H.R. 1406 affect price, consumer choice, and other forms of competition in the pet medications market?

• How can the prices charged to consumers for pet medications by veterinary clinics and retailers best be quantified and compared?

• To what extent do retailer prices for pet medications affect the prices of medications sold at veterinary practices, or other aspects of veterinary clinic operations?

• To what extent would H.R. 1406 affect veterinarians' sales of pet medications?

• What compliance costs would veterinarians face if H.R. 1406 were enacted?

• How might the passage of H.R. 1406 affect pet medication distribution practices?

• Should possible amendments to H.R. 1406 be considered?

• Are there other factors that should be considered when analyzing the competition and consumer protection issues related to the portability of pet medication prescriptions?

Comparison to Fairness to Contact Lens Consumers Act

Some restricted distribution and prescription portability issues existed in the contact lens industry at the time that Congress passed the Fairness to Contact Lens Consumers Act (''FCLCA''), Public Law 108–164. Industry participants have noted both similarities and differences between the contact lens industry and the pet medications industry. The workshop will examine whether consumer experiences with the FCLCA might provide insights about the potential impact of H.R. 1406. The Commission invites public comment on questions relevant to this topic, including:

• What was the impact of the FCLCA, if any, to consumers?

• What was the impact of the FCLCA, if any, to optometrists and ophthalmologists?

• What was the impact of the FCLCA, if any, on entry into the contact lens industry?

• What was the impact of the FCLCA, if any, on innovation in the contact lens industry?

• What was the impact of the FCLCA, if any, to contact lens distribution practices?

• Are there significant similarities or differences between the contact lens industry and the pet medications industry, particularly with respect to industry distribution practices and issues of prescription portability? If so, how should those similarities or differences be taken into account in assessing the likely effects of H.R. 1406 compared to the FCLCA?

• Are there other factors that should be considered when analyzing the competition and consumer protection issues related to the FCLCA, and how consumer experiences with the FCLCA might provide insights about the potential impact of H.R. 1406?

Instructions for Filing Public Comments

Interested parties are invited to submit written comments electronically or in paper form. The deadline for receiving comments has been extended to November 1, 2012. Because paper mail addressed to the FTC is subject to delay due to heightened security screening, please consider submitting your comments in electronic form. Comments filed in electronic form should be submitted using the following Web link: *https://ftcpublic.commentworks.com/ftc/petmedsworkshop* (and following the instructions on the Web-based form). To ensure that the Commission considers an electronic comment, you must file it on the Web-based form at the Web link: *https://ftcpublic.commentworks.com/ftc/petmedsworkshop.* If this notice appears at *http://www.regulations.gov/#!home,* you may also file an electronic comment through that Web site. The Commission will consider all comments that regulations.gov forwards to it. You may also visit the FTC Web site at *http://www.ftc.gov* to read the notice and the news release describing it.

Comments should refer to ''Pet Medications Workshop, Project No. P12–1201'' to facilitate the organization of comments. Please note that your comment—including your name and your State—will be placed on the public record of this proceeding, including on the publicly accessible FTC Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* Because comments will be made public, they should not include any sensitive personal information, such as any individual's Social Security Number; date of birth; driver's license number or other State identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, comments should not include ''trade secret or any commercial or financial information which is * * * privileged or confidential'' as discussed in Section 6(f) of the Federal Trade Commission Act (FTC Act), 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c).[8]

A comment filed in paper form should include the ''Pet Medications Workshop, Project No. P12–1201'' reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex X), 600 Pennsylvania Avenue NW., Washington, DC 20580. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC Web site, to the extent practicable, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

By direction of the Commission.

Donald S. Clark

Secretary.

[FR Doc. 2012–23464 Filed 9–21–12; 8:45 am]

BILLING CODE 6750–01–P

[8] The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee on Immunization Practices (ACIP)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting of the aforementioned committee:

Times and Dates

8 a.m.–6 p.m., October 24, 2012.
8 a.m.–4 p.m., October 25, 2012.

Place: Centers for Disease Control and Prevention, Tom Harkin Global Communications Center, 1600 Clifton Road NE., Building 19, Kent ''Oz'' Nelson Auditorium, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available.

Purpose: The committee is charged with advising the Director, CDC, on the appropriate uses of immunizing agents. In addition, under 42 U.S.C. 1396s, the committee is mandated to establish and periodically review and, as appropriate, revise the list of vaccines for administration to vaccine-eligible children through the Vaccines for Children (VFC) program, along with schedules regarding the appropriate periodicity, dosage, and contraindications applicable to the vaccines. Further, under provisions of the Affordable Care Act, at section 2713 of the Public Health Service Act, immunization recommendations of the ACIP that have been adopted by the Director of the Centers for Disease Control and Prevention must be covered by applicable health plans.

Matters To Be Discussed: The agenda will include discussions on: 2013 adult immunization schedule, 2013 child/adolescent immunization schedule, Japanese encephalitis, rotavirus, human papillomavirus vaccines, hepatitis B vaccine, meningococcal vaccines, influenza, measles-mumps-rubella vaccine, pertussis and vaccine supply. Recommendation votes are scheduled for pertussis vaccines, meningococcal vaccines, measles-mumps-rubella vaccine, hepatitis B vaccine, child/adolescent immunization schedule, and the adult immunization schedule. VFC votes are scheduled for pertussis vaccines, meningococcal vaccines, and influenza vaccine. Time will be available for public comment.

Agenda items are subject to change as priorities dictate.

Meeting is webcast live via the World Wide Web; for instructions and more information on ACIP please visit the ACIP web site: *http://www.cdc.gov/vaccines/acip/index.html.*

Contact Person for More Information: Stephanie B. Thomas, National Center for Immunization and Respiratory Diseases, CDC, 1600 Clifton Road NE., MS–A27, Atlanta, Georgia 30333, telephone 404/639–8836; Email *ACIP@CDC.GOV.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: September 14, 2012.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2012–23390 Filed 9–21–12; 8:45 am]

BILLING CODE 4160–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30 Day–12–12IW]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call (404) 639–7570 or send an email to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Fetal Alcohol Spectrum Disorders Regional Training Centers—New—National Center on Birth Defects and Developmental Disabilities (NCBDDD), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

This program will collect program evaluation data from participants of trainings for medical and allied health students and practitioners regarding fetal alcohol spectrum disorders (FASDs) conducted by the FASD Regional Training Centers (RTCs) through a cooperative agreement with the CDC.

Prenatal exposure to alcohol is a leading preventable cause of birth defects and developmental disabilities. The term fetal alcohol spectrum disorders (FASDs) describes the full continuum of effects that can occur in an individual exposed to alcohol in utero. These effects include physical, mental, behavioral, and learning disabilities. All of these effects have lifelong implications.

Health care professionals play a crucial role in identifying women at risk for an alcohol-exposed pregnancy and in identifying effects of prenatal alcohol exposure in individuals. However, despite the data regarding alcohol consumption among women of childbearing age and the estimated prevalence of FASDs, screening for alcohol use among female patients of childbearing age and screening for FASDs are not yet common standards of care. In addition, it is known from surveys of multiple provider types that although they might be familiar with the teratology and clinical presentation of FASDs, they report feeling less prepared to identify for referral or to diagnose a child and even less prepared to manage and coordinate the treatment of children with FASDs. Similarly, among obstetrician-gynecologists, although almost all report asking their patients about alcohol use during pregnancy, few use a proper screening tool for alcohol assessment.

There is a need for the training of medical and allied health students and practitioners in the prevention, management, and identification of FASDs, hence the recommendations that have been put forward in this area. As part of the fiscal year 2002 appropriations funding legislation, the U.S. Congress mandated that the CDC, acting through the NCBDDD Fetal Alcohol Syndrome (FAS) Prevention Team and in coordination with the National Task Force on Fetal Alcohol Syndrome and Fetal Alcohol Effect (NTFFAS/FAE), other federally funded FAS programs, and appropriate nongovernmental organizations (NGOs), would (1) develop guidelines for the diagnosis of FAS and other negative birth outcomes resulting from prenatal exposure to alcohol; (2) incorporate these guidelines into curricula for medical and allied health students and practitioners, and seek to have them fully recognized by professional organizations and accrediting boards; and (3) disseminate curricula to and provide training for medical and allied

health students and practitioners regarding these guidelines. As part of CDC's response to this mandate, a total of seven FASD RTCs have been established since 2002 to train medical and allied health students and professionals regarding the prevention, identification, and treatment of FAS and related disorders, now known collectively as FASDs. The FASD RTCs have developed and implemented ongoing FASD training programs and courses throughout their regions reaching medical and allied health professionals and students. Trainings are delivered in academic settings (medical and allied health schools) and via continuing education events for practicing medical and allied health professionals. Training delivery varies by RTC depending on the target audience and setting. Examples include grand round presentations, a five-week online course for practicing social work, nursing, and substance abuse professionals, a two-hour face-to-face training for nursing and social work students, and a train-the-trainer model with 1- to 5-day trainings for trainers who then deliver at least two trainings per year to students and professionals.

CDC requests OMB approval to collect program evaluation information from training participants for two years. Training participants will be completing program evaluation forms to provide information on whether the training met the educational goals. The information will be used to improve future trainings.

It is estimated that 15,640 participants will be trained each year, for a total of 31,280 participants during the two year approval period. The estimated annual burden is 2654 hours. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Organization	Form name	Number of respondents	Number of responses per respondent	Avg. burden/ response
Medical and allied health professionals and students.	Arctic RTC	Foundations Pre	30	1	15/60
		Foundations Post	30	1	15/60
		Foundations Follow-Up	18	1	10/60
		FASD 201 Pre	30	1	10/60
		FASD 201 Post	30	1	10/60
		FASD 201 Follow-Up	18	1	10/60
		Intro to FASDs Pre	80	1	15/60
		Intro to FASDs Post	80	1	15/60
		Intro to FASDs Follow-Up	48	1	10/60
		Train-the-Trainer Pre	25	1	15/60
		Train-the-Trainer Post	25	1	15/60
		Train-the-Trainer Follow-Up	15	1	15/60
		Online I Pre, Post	100	2	10/60
		Online II Pre, Post	100	2	10/60
		Online III Pre, Post	100	2	10/60
		Classroom and Special Event Post	150	2	6/60
Nursing Students	Frontier RTC	Pre-test	410	1	15/60
		Post-test	410	1	15/60
		Follow-up	410	1	15/60
Social Work Students		Pre-test	410	1	15/60
		Post-test	410	1	15/60
		Follow-up	410	1	15/60
Allied Health Practitioners		Pre-test	200	1	15/60
		Post-test	200	1	15/60
		Follow-up	200	1	15/60
Training of Trainers Participants		Pre-test	100	1	15/60
		Post-test	100	1	15/60
		Follow-up	100	1	15/60
Academic Faculty/Students Online		Pre-test	150	1	15/60
Post-test	150	1	15/60		
Follow-up	150	1	15/60		
Practitioner Online		Pre-test	160	1	15/60
		Post-test	160	1	15/60
		Follow-up	160	1	15/60
Medical and Allied Health Care Providers and Students.	Great Lakes RTC.	Foundations Pre-, QUALTRICS online Pre.	450	1	5/60
		Foundations Post, QUALTRICS online Post	450	1	10/60
		Foundations 6-mo F/U, QUALTRICS online 6-Mo F/U	310	1	5/60
Medical and Allied Health Care Providers and Students.		SBI Pre, QUALTRICS online Pre	120	1	8/60
		SBI Post, QUALTRICS online Post	120	1	13/60
		SBI 6-mo F/U, QUALTRICS online 6-Mo Follow-up.	108	1	8/60
		ID and Treatment of FASD Pre, QUALTRICS online Pre.	270	1	8/60
		ID and Treatment of FASD Post, QUALTRICS online Post.	270	1	13/60

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Organization	Form name	Number of respondents	Number of responses per respondent	Avg. burden/ response
		ID and Treatment of FASD 6-mo F/U, QUALTRICS online 6-Mo Follow-up.	258	1	8/60
		FASD ComprehensivePre, QUALTRICS online Comprehensive Pre.	220	1	15/60
		FASD Comprehensive Post, QUALTRICS online Comprehensive Post.	220	1	20/60
		FASD Comprehensive 6-mo F/U, QUALTRICS online Comprehensive 6-Mo Follow-up.	204	1	15/60
Physicians and Medical Students		Clinical Experience A	25	1	5/60
		Clinical Experience B	25	1	5/60
Training of Trainers Participants/Regional State Training Partners/Advisory Committee Members.		Key Informant Interview	16	1	15/60
		Key Informant Interview	15	1	20/60
		Key Informant Interview	10	1	15/60
Training of Trainer Participants		Harvard Minute Feedback	100	1	1/60
Staff and Training of Trainer Graduates.		Training Activity Reporting (TARF)	180	1	2/60
Academic Faculty/Health Professionals/Professionals/Health Profession Students.	Midwest RTC	Knowledge Pre	1080	1	7/60
		Knowledge Post, 3 mo F/U	1080	2	7/60
		Event Eval	1110	1	5/60
Health Professionals		Continuing Education Event, Pre	250	1	5/60
		Continuing Education Event, Post	250	1	5/60
		Continuing Education Event, 3 mo Follow-up.	250	1	5/60
		Modified Index Pre, 3 mo online F/U	75	2	10/60
Academic Faculty		Utilization of FAS/FASD Curriculum Pre, 3 mo online F/U.	50	2	5/60
Medical and allied health students and residents.	Southeast RTC	FASD Pre	500	1	10/60
		FASD Post	500	1	15/60
		FASD 3 Mo Follow-up	300	1	10/60

Dated: September 13, 2012.

Ron A. Otten,

Director, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2012–23048 Filed 9–21–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–12–12SG]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–7570 and send comments to Kimberly S. Lane, CDC Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov.*

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; (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. Written comments should be received within 60 days of this notice.

Proposed Project

Human Systems Integration Design Guidelines (MinerFirst) for Improved Mine Worker Safety—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

NIOSH, under Public Law 91–173 as amended by Public Law 95–164 (Federal Mine Safety and Health Act of 1977), and Public Law 109–236 (Mine Improvement and New Emergency Response Act of 2006) has the responsibility to conduct research to improve working conditions and to prevent accidents and occupational diseases in underground coal and metal/nonmetal mines in the U.S.

Mining remains one of the most dangerous occupations in the United States. Despite continued efforts in

research and regulation, tragedies like Upper Big Branch (2010) and Sago (2006) highlight the need for additional work that focuses on the human component also known as human systems integration (HSI). HSI incorporates the needs of any human interaction within the system into the design process to optimize both safety and efficiency of the system. The use of HSI in the acquisition cycle is commonplace in other industries (e.g., the defense and aerospace industries). As an example, the Army has developed guidelines, called MANPRINT, which require all devices to meet standards for usability, wearability, and acceptability. The mining industry currently lacks a similar set of guidelines to ensure both usability by the miner and increased safety of the working environment.

With the adoption of the MINER Act of 2006 as well as health and safety initiatives (End Black Lung Campaign), the mining industry has begun to mandate the increased use of safety devices by mineworkers (wireless communication systems, personal dust monitor, and proximity detection). These devices offer attractive health and safety benefits—improved tracking and communication, real time monitoring of respirable dust levels, and the prevention of accidental crushing by large mobile machinery. However, while the benefits of such wearable devices are easy to understand within their own context, they inevitably increase both the physical and cognitive burden placed on the mine worker who must carry, interact with, and ultimately make decisions with each one of the devices. The physical burden is evident, but the cognitive effect may not be as clear.

Currently, it is unknown how the increased physical and cognitive load that is being placed on today's mine workers will affect their health and safety. A first step to determining this impact is to understand a miner's job from the perspective of the miner. This research project will use an HSI approach to answer a series of questions because HSI is based on the understanding that people are the critical elements within systems and adopting a human-centric perspective of systems increases productivity and safety, while decreasing costs (Tvaryanas, 2006). The goal of this project is to determine: (1) What information is critical for a miner to safely perform his job, (2) what processes (e.g., expertise, decision making, attention, etc.) are necessary for a miner to effectively perform his job, and (3) how do the miner and the machine interact.

This is a multiphase research project. There will be three phases of data collection. Several data collection tools and research methods will be used in each phase of data collection.

In phase I, NIOSH researchers will observe between 10 and 20 underground coal miners while the miners are performing their jobs. The goal of this research method is to observe the tasks and subtasks that occur while specific jobs within the mine are performed to determine which tasks and subtasks are the most challenging for the miner. Researchers will keep observation notes, and if possible, ask miners questions while they are working. As the second part of phase I, an additional 10–20 underground miners will be asked to take part in a task/cognitive task analysis. During this task, miners will be asked to sequentially describe the steps taken to perform their job. This task will not be completed while the miner is performing his job, but will be described from memory. The underground miners who participate in the direct observation task and task/cognitive task analyses will all be considered experts at their positions, and the positions they work will be those that either rely on the use of energized equipment (e.g., Continuous Miner Operator) or are currently responsible for atmospheric and environmental monitoring (e.g., Fire Boss). Each direct observation session will take no longer than 4 hours, and each task/cognitive task analysis will take approximately two hours to complete.

In phase II of this research, a 30 minute research questionnaire will be administered to no more than 150 underground coal miners. The research questionnaire is designed to assess situational awareness or more specifically what information miners believe is necessary for them to understand and interact with their surroundings and to safely complete their jobs. The research questionnaire will also be used to determine what information miners currently have available to them, how information is delivered to them, in what format they would like to receive information, and the benefit they see in having information. An additional 30 underground miners will take part in focus groups. Questions similar to those included on the research questionnaire will be asked during the focus groups. The goal of using this research method is to collect more in depth information about the topic from a smaller number of participants. In addition, a Fatigue Risk Management Systems Assessment Tool will be administered to no more than 50 mine personnel familiar with the mines concerns regarding fatigue as well as the fatigue risk management program that may be in use. The results of phase I and phase II will be used to formulate a portion of the initial draft of mining specific Human Systems Integration (HSI) guidelines.

In phase III the experimental research strategy will be used to test usability, changes in cognitive workload, and situational awareness. A series of experiments will be conducted to evaluate how the mine specific HSI guidelines impact the aforementioned constructs. Specific hypotheses will be formulated after phases one and two have been completed. Both underground coal miners and NIOSH employees will be invited to participate in these experiments, which will take place at the NIOSH Bruceton, PA research facility. It is anticipated that each experimental session will last approximately one hour.

The information collected from miners and NIOSH employees to answer these key questions will facilitate the development of mining specific HSI guidelines which are necessary for the planning, development and testing of products to be used by miners. There is no cost to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (hours)	Total burden (hours)
Phase I Miners	Task/Cognitive Task Analyses	20	1	2	40
Phase I Miners	Direct Observation	20	1	4	80
Phase II Miners	Research Questionnaire	150	1	30/60	75

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (hours)	Total burden (hours)
Phase II Mine Safety Personnel	Fatigue Risk Management Systems Assessment Tool.	50	1	1	50
Phase II Miners	Focus Groups	30	1	1	30
Phase III Miners	Experimental Research Studies	20	1	1	20
Total					295

Dated: September 14, 2012.

Ron A. Otten,

Director, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2012–23191 Filed 9–21–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee to the Director (ACD), Centers for Disease Control and Prevention (CDC)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the CDC announces the following meeting of the aforementioned committee:

Time and Date: 2 p.m.–4 p.m. (EDT), Thursday, October 25, 2012.

Place: Teleconference.

Status: Open to the public, limited only by the availability of telephone ports. The public is welcome to participate during the public comment period. The public comment period is tentatively scheduled for 3:50 p.m.–3:55 p.m. To participate in the teleconference, please dial (877) 930–8819 and enter code 1579739.

Purpose: The committee will provide advice to the CDC Director on policy and broad strategies that will enable CDC to fulfill its mission of protecting health through health promotion, prevention, and preparedness.

Matters To Be Discussed: Agenda items will include the following updates from the Global Workgroup; updates from the State, Tribal, Local and Territorial Workgroup; and Ethics Subcommittee, as well as an update from the CDC Director.

The agenda is subject to change as priorities dictate.

Contact Person for More Information: Carmen Villar, MSW, Designated Federal Officer, ACD, CDC, 1600 Clifton Road NE., M/S D–14, Atlanta, Georgia 30333, telephone (404) 639–7000, email: *GHickman@cdc.gov*. The deadline for notification of attendance is October 19, 2012. To register for this meeting, please send an email to *ACDirector@cdc.gov*.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: September 14, 2012.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2012–23455 Filed 9–21–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Center for Injury Prevention and Control (BSC, NCIPC)

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L.92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting of the aforementioned board:

Times and Dates

8:30 a.m.–4:30 p.m., October 18, 2012.

8:30 a.m.–2 p.m., October 19, 2012.

Place: Centers for Disease Control and Prevention, 4770 Buford Highway, NE., Building 106, Atlanta, Georgia 30341.

Status: Open to the public, limited only by the space available.

Purpose: The Board will: (1) Conduct, encourage, cooperate with, and assist other appropriate public health authorities, scientific institutions, and scientists in the conduct of research, investigations, experiments, demonstrations, and studies relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases, and other impairments and (2) conduct and assist in research and control activities related to injury.

Matters To Be Discussed: The BSC, NCIPC will discuss the strategies and activities needed to guide the Center's research and program focus. Topics to be discussed include the Director's Update on the budget appropriation, reorganization and partnerships; Science Update; health communication; global activities; Research to Practice Agenda; and increasing programmatic input to the BSC. There will be 15 minutes allotted for public comments at the end of the open session.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Gwendolyn H. Cattledge, Ph.D., M.S.E.H., Deputy Associate Director for Science, NCIPC, CDC, 4770 Buford Highway, NE., Mailstop F–63, Atlanta, Georgia 30341, Telephone (770) 488–1430.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: September 17, 2012.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2012–23452 Filed 9–21–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–846–849, 10125 and 10126]

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:* Extension of a currently approved collection;

Title: Durable Medical Equipment Medicare Administrative Contractor Certificate of Medical Necessity and Supporting Documentation Requirements; *Use:* The certificates of medical necessity (CMNs) collect information required to help determine the medical necessity of certain items. CMS requires CMNs where there may be a vulnerability to the Medicare program. Each initial claim for these items must have an associated CMN for the beneficiary. Suppliers (those who bill for the items) complete the administrative information (e.g., patient's name and address, items ordered, etc.) on each CMN. The 1994 Amendments to the Social Security Act require that the supplier also provide a narrative description of the items ordered and all related accessories, their charge for each of these items, and the Medicare fee schedule allowance (where applicable). The supplier then sends the CMN to the treating physician or other clinicians (e.g., physician assistant, LPN, etc.) who completes questions pertaining to the beneficiary's medical condition and signs the CMN. The physician or other clinician returns the CMN to the supplier who has the option to maintain a copy and then submits the CMN (paper or electronic) to CMS, along with a claim for reimbursement. This clearance request is for CMNs with the form numbers, CMS 846–849, 10125 and 10126. *Form Numbers:* CMS–846, 847, 848, 849, 10125, 10126 (OCN: 0938–0679); *Frequency:* Occasionally; *Affected Public:* Individuals or Households; *Number of Respondents:* 462,000; *Total Annual Responses:* 462,000; *Total Annual Hours:* 92,400. (For policy questions regarding this collection contact Doris Jackson at 410–786–4459. 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 *November 23, 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: September 18, 2012.

Martique Jones,

Director, Regulations Development Group, Division B, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2012–23367 Filed 9–21–12; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0966]

Prescription Drug User Fee Act V Patient-Focused Drug Development; Consultation Meetings; Request for Notification of Patient Stakeholder Intention To Participate

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of meetings; request for notification of participation.

SUMMARY: The Food and Drug Administration (FDA) is issuing this notice to request that patient stakeholders notify FDA of their intention to participate in periodic consultation meetings on process issues related to FDA's patient-focused drug development initiative. This initiative is being conducted to fulfill FDA performance commitments made as part of the fifth authorization of the Prescription Drug User Fee Act (PDUFA V). These periodic consultation meetings will address important considerations and challenges in establishing a process for conducting a series of patient-focused drug development meetings that will be useful to both the patient community and FDA. The purpose of this request for notification is to ensure continuity and progress in these discussions by establishing consistent patient stakeholder representation.

DATES: Submit notification of intention to participate in this series of meetings by October 3, 2012. The first stakeholder meeting on process issues will be held on October 10, 2012, from 2 p.m. to 3:30 p.m. These discussions will continue on an approximately bimonthly basis as needed during PDUFA V.

ADDRESSES: Submit notification of intention to participate in this series of meetings by email to *PatientFocused@fda.hhs.gov.* The first meeting with patient stakeholders will be held at the FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 51, Rm. 1300, Silver Spring, MD 20993–0002. Entrance for the consultation meetings' participants (non-FDA employees) is through Building 1 where routine security check procedures will be performed. For parking and security information, please refer to *http://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm.*

FOR FURTHER INFORMATION CONTACT: Andrea Tan, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave. Bldg. 51, Rm. 1168, Silver Spring, MD 20993–0002, 301–796–7641, FAX: 301–847–8443, *Andrea.Tan@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On July 9, 2012, the President signed into law the Food and Drug Administration Safety and Innovation Act of 2012 (FDASIA). Title I of FDASIA reauthorizes the Prescription Drug User Fee Act (PDUFA) that provides FDA with the necessary user fee resources to maintain a predictable and efficient review process for human drug and biologic products. The reauthorization of PDUFA includes performance goals and procedures that represent FDA's commitments during fiscal years 2013–2017. These commitments are referred to in section 101 of FDASIA and are available on the FDA Web site at *http://www.fda.gov/downloads/ForIndustry/UserFees/PrescriptionDrugUserFee/UCM270412.pdf.*

Section X of these commitments relates to enhancing benefit-risk assessments in regulatory

decisionmaking. A key part of regulatory decisionmaking is establishing the context in which the particular decision is made. In drug regulation, this context includes a thorough understanding of the severity of the treated condition and the adequacy of the existing treatment options. Patients who live with a disease have a direct stake in the outcome of the review process and are in a unique position to contribute to weighing benefit-risk considerations that can occur throughout the medical product development process. Though several programs exist to facilitate patient representation, there are currently few venues in which the patient perspective is discussed outside of a specific product's marketing application review. The human drug and biologic review process could benefit from a more systematic and expansive approach to obtaining input from patients who are experiencing a particular disease or condition.

FDA is committed to obtaining input from patients and, as set out in the commitment letter, will conduct public meetings to consider 20 different disease areas over the 5-year authorization of the program. For each disease area, FDA will conduct a public meeting to discuss such topics as the impact of the disease on patients, the spectrum of severity for those who have the disease, the measures of benefit that matter most to patients, and the adequacy of the existing treatment options for patients. In a separate notice published elsewhere in this issue of the **Federal Register**, FDA is seeking comment on a proposed list of disease areas for consideration at these meetings.

FDA recognizes that there is significant interest in patient-focused drug development within the patient community. To ensure that patient stakeholders have an additional opportunity to engage in a discussion of key process considerations as this initiative moves forward in PDUFA V, FDA is convening a series of periodic consultation meetings with patient stakeholders to address key process questions for patient-focused drug development. These periodic consultation meetings will be separate from the disease-specific public meetings that are part of FDA's commitments in PDUFA V; however, the process consultation discussions may help inform the best strategies for conducting future disease-specific meetings. FDA anticipates that the periodic consultation meetings will be focused on process questions for consideration by FDA and patient stakeholders. Examples of potential process topics include the following:

1. Given the limits of FDA staff resources and time available, how to prioritize and balance different disease areas identified by different patient stakeholders.
2. How to approach issues when patient stakeholders for the same disease area have different and potentially conflicting views.
3. How to balance access to FDA for patient stakeholders who are local to FDA headquarters versus those in other locations who have less physical access.
4. How to support engagement of patients in disease areas for which no formal advocacy organizations exist. What role, if any, might already organized groups play?

Patient stakeholders provided critical input in the development of the patient-focused drug development proposal during the PDUFA V discussions. FDA expects that there will be continued interest among patient stakeholders as this PDUFA V enhancement is implemented. FDA is publishing this **Federal Register** notice to request that patient stakeholders notify the Agency of their intention to participate in this series of process consultation meetings on patient-focused drug development. FDA believes that consistent patient stakeholder representation at these meetings will be important for ensuring progress in these discussions.

II. Notification of Intention To Participate in Periodic Consultation Meetings

If you are an individual patient stakeholder who intends to participate in periodic consultation meetings regarding FDA's implementation of the patient-focused drug development initiative, please provide notification by email to *PatientFocused@fda.hhs.gov* by October 3, 2012. If you represent an organization that intends to participate in these meetings, please designate one or more representatives from your organization who will commit to attending these meetings and preparing for the discussions as needed and provide notification by email to *PatientFocused@fda.hhs.gov* by October 3, 2012. All notification emails should contain complete contact information, including name, title, affiliation, address, email address, phone number, and notice of any special accommodations required because of disability. Seating will be limited, so early notification is encouraged. FDA may limit the number of participants from each organization based on space limitations. Patient stakeholders will receive confirmation and additional information about the first meeting once FDA receives their notification and will be included in future communications from FDA about implementing patient-focused drug development. If stakeholders decide to participate at a later time, they may notify FDA of their intent to participate in future meetings as described previously in this document (see **ADDRESSES**). FDA intends to post summary meeting minutes on its Web site after each meeting has concluded.

Dated: September 14, 2012.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2012–23453 Filed 9–21–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0967]

Prescription Drug User Fee Act Patient-Focused Drug Development; Public Meeting and Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is announcing a public meeting and an opportunity for public comment related to FDA's patient-focused drug development initiative. This initiative is being conducted to fulfill FDA performance commitments made as part of the fifth authorization of the Prescription Drug User Fee Act (PDUFA V). This effort provides for a more systematic approach under PDUFA V for obtaining patient perspective on the disease severity and the currently available treatments for a set of disease areas. FDA is publishing a preliminary list of nominated disease areas for the patient-focused drug development initiative and the criteria used for nomination. The public is invited to comment on this preliminary list through a public docket and at a public meeting where FDA will provide an overview of the patient-focused drug development initiative with discussion of the nominated disease areas.

DATES: Submit either electronic or written comments by November 1, 2012. The public meeting will be held on October 25, 2012, from 9 a.m. to 12:30 p.m. Registration to attend the meeting must be received by October 18, 2012. See the **SUPPLEMENTARY INFORMATION**

section for information on how to register for the meeting.

ADDRESSES: The meeting will be held at the FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Entrance for the public meeting participants (non-FDA employees) is through Building 1 where routine security check procedures will be performed. For parking and security information, please refer to *http://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm.*

Submit electronic comments to *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. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT:

Andrea Tan, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 1168, Silver Spring, MD 20993, 301–796–7641, FAX: 301–847–8443, *Andrea.Tan@fda.hhs.gov,*

or

Robert Yetter, Center for Biologics Evaluation and Research (HFM–25), 1401 Rockville Pike, Suite 200N, Rockville, MD 20852–1448, 301–827–0373.

SUPPLEMENTARY INFORMATION:

I. Background

On July 9, 2012, the President signed into law the Food and Drug Administration Safety and Innovation Act of 2012 (FDASIA). Title I of FDASIA reauthorizes the Prescription Drug User Fee Act (PDUFA) that provides FDA with the necessary user fee resources to maintain an efficient review process for human drug and biologic products. The reauthorization of PDUFA includes performance goals and procedures that represent FDA's commitments during fiscal years (FY) 2013–2017. These commitments are referred to in section 101 of FDASIA and are available on the FDA Web site at *http://www.fda.gov/downloads/ForIndustry/UserFees/PrescriptionDrugUserFee/UCM270412.pdf.*

Section X of these commitments relates to enhancing benefit-risk assessment in regulatory decisionmaking. A key part of regulatory decisionmaking is establishing the context in which the particular decision is made. In drug regulation, this context includes a thorough understanding of the severity of the treated condition and the adequacy of the existing treatment options. Patients who live with a disease have a direct stake in the outcome of the review process and are in a unique position to contribute to weighing benefit-risk considerations that can occur throughout the medical product development process. Though several programs exist to facilitate patient representation, there are currently few venues in which the patient perspective is discussed outside of a specific product's marketing application review. The human drug and biologic review process could benefit from a more systematic and expansive approach to obtaining input from patients who experience a particular disease or condition.

FDA is committed to obtaining input from patients and, as set out in the commitment letter, will conduct public meetings to consider 20 different disease areas over the 5-year authorization of the program. For each disease area, FDA will conduct a public meeting to discuss such topics as the impact of the disease on patients, the spectrum of severity for those who have the disease, the measures of benefit that matter most to patients, and the adequacy of the existing treatment options for patients. These meetings will include participation of FDA review divisions, the relevant patient advocacy community, and other interested stakeholders. FDA seeks public comment on the set of disease areas that will be discussed at these meetings throughout PDUFA V. A preliminary list of possible disease areas and the criteria used to identify these disease areas are published in this notice for public comment.

FDA recognizes that there is significant interest in patient-focused drug development within the patient community. To ensure that patient stakeholders have an opportunity to contribute as this initiative moves forward in PDUFA V, FDA also is convening an additional series of patient consultation meetings with patient stakeholders to discuss key process questions for patient-focused drug development. These consultation meetings will be separate from the disease-specific meetings that are part of FDA's commitments in PDUFA V. FDA has published a separate notice elsewhere in this issue of the **Federal Register** requesting that patient stakeholders notify FDA if they intend to participate in the patient consultation meetings.

II. Disease Area Nomination

FDA is nominating the following disease areas as potential candidates for the focus of one of the 20 future public meetings and invites public comment on this preliminary list. In your comments, please identify the disease areas that you consider to be of greatest priority and explain the rationale for your recommendation.

- Pulmonary arterial hypertension.
- Heart failure.
- Primary glomerular diseases.
- Narcolepsy.
- Huntington's Disease.
- Depression.
- Autism.
- Peripheral neuropathy.
- Fibromyalgia.
- Obesity.
- Nocturia.
- Chronic fatigue syndrome.
- Irritable bowel syndrome.
- Inflammatory bowel disease.
- Alopecia areata.
- Diabetic ulcers.
- Female sexual dysfunction.
- Interstitial cystitis/painful bladder syndrome.
- Fracture healing.
- Diabetic foot infections.
- Hepatitis C.
- HIV.
- Patients who have experienced an organ transplant.
- Sickle cell disease.
- Chronic graft versus host disease.
- Amyloidosis.
- Aplastic anemia.
- Melanoma.
- Lung cancer.
- Cancer and young patients.
- Cancer treatment in pregnancy.
- Cancer and sexual dysfunction.
- Cancer and depression.
- Clotting disorders (e.g., hemophilia A (factor VIII deficiency) and von Willebrand disease).
- Thrombotic disorders (e.g., antithrombin deficiency and protein C deficiency).
- Primary humoral immune deficiencies (e.g., common variable immune deficiency).
- Neurologic disorders treated with immune globulins (e.g., chronic inflammatory demyelinating polyneuropathy).
- Hereditary angioedema.
- Alpha-1 antitrypsin deficiency.

FDA is also interested in public comment on disease areas that are not represented on this preliminary list. The Agency used several criteria to develop the preliminary list of potential disease areas. FDA requests that when proposing additional disease areas for consideration, please describe how you

applied the identified criteria in making recommendations for additional disease areas to consider.

FDA also welcomes public comment on the criteria for disease area selection. These criteria include the following:

- Disease areas that are chronic, symptomatic, or affect functioning and activities of daily living;
- Disease areas that reflect a range of severity;
- Disease areas for which aspects of the disease are not formally captured in clinical trials;
- Disease areas that have a severe impact on identifiable subpopulations (such as children or the elderly);
- Disease areas that represent a broad range in terms of size of the affected population; or
- Disease areas for which there are currently no therapies or very few therapies, or the available therapies do not directly affect how a patient feels, functions, or survives.

FDA will consider the public comments received at the public meeting and through the docket and post the set of disease areas for FY 2013–2015 on the FDA Web site. By the end of FY 2015, FDA will initiate a public process for determining the list of disease areas for FY 2016–2017.

III. Public Meeting

FDA is holding a public meeting that will begin FDA's patient-focused drug development initiative in PDUFA V. The purpose of this meeting will be to obtain public comment on the preliminary list of potential disease areas and the criteria used to develop the list. In addition, recognizing that there are many more disease areas than can be addressed in the 20 planned FDA meetings for PDUFA V, FDA will also discuss strategies that have already been pursued by patient and other public stakeholder collaborations outside of FDA to address the types of questions being considered under the PDUFA patient-focused drug development effort, to review lessons learned and identify a roadmap that could be used by patient-focused private collaborations going forward.

If you wish to attend this meeting, please register by email to *PatientFocused@fda.hhs.gov* by October 18, 2012. Your email should contain complete contact information, including name, title, affiliation, address, email address, and phone number. Seating will be limited, so early registration is recommended. Registration is free and will be on a first-come, first-served basis. However, FDA may limit the number of participants from each organization based on space limitations. Registrants will receive confirmation once they have been accepted. Onsite registration on the day of the meeting will be based on space availability. If you need special accommodations because of disability, please contact Andrea Tan (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days before the meeting.

Dated: September 14, 2012.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2012–23454 Filed 9–21–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Division of Intramural Research Board of Scientific Counselors, NIAID.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Allergy and Infectious Diseases, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Division of Intramural Research Board of Scientific Counselors, NIAID.

Date: December 10–12, 2012.

Time: December 10, 2012, 7:45 a.m. to 6:25 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 50, 50 Center Drive, Room 1227/1233, Bethesda, MD 20892.

Time: December 11, 2012, 7 a.m. to 6:25 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 50, 50 Center Drive, Room 1227/1233, Bethesda, MD 20892.

Time: December 12, 2012, 7 a.m. to 11 a.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 50, 50 Center Drive, Room 1227/1233, Bethesda, MD 20892.

Contact Person: Kathryn C. Zoon, Ph.D., Director, Division of Intramural Research, National Institute of Allergy, and Infectious Diseases, NIH, Building 31, Room 4A30, Bethesda, MD 20892, 301–496–3006, *kzoon@niaid.nih.gov.*

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 18, 2012.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–23379 Filed 9–21–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Cancer Institute Director's Consumer Liaison Group.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: National Cancer Institute Director's Consumer Liaison Group.

Date: October 25–26, 2012.

Time: 9 a.m. to 1 p.m.

Agenda: October 25, 2012—Improving Uptake of Research Findings; October 26, 2012—NCI Update.

Place: National Institutes of Health, Building 31, 31 Center Drive, C Wing, 6th Floor, Conference Room 10, Bethesda, MD 20892.

Contact Person: Kelli Marciel, Director, Office of Advocacy Relations, National Cancer Institute, National Institutes of Health, 31 Center Drive, Building 31, Room 10A28, Bethesda, MD 20892, 301–594–3194.

Any interested person may file written comments with the committee by forwarding

the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *deainfo.nci.nih.gov/advisory/dclg/dclg.htm*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: September 18, 2012.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–23382 Filed 9–21–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Risk, Prevention and Health Behavior.

Date: October 11, 2012.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Rebecca Henry, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3222, MSC 7808, Bethesda, MD 20892, 301–435–1717, *henryrr@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR 10–260: Global Infectious Disease Training Program.

Date: October 12, 2012.

Time: 9 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites DC Convention Center, 900 10th Street NW., Washington, DC 20001.

Contact Person: Kenneth M. Izumi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge, RM 3204, MSC 7808, Bethesda, MD 20892, 301–496–6980, *izumikm@csr.nih.gov.*

Name of Committee: Oncology 1-Basic Translational Integrated Review Group; Tumor Microenvironment Study Section.

Date: October 22, 2012.

Time: 8 a.m. to 7:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Angela Y. Ng, Ph.D., MBA, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6200, MSC 7804, Bethesda, MD 20892, 301–435–1715, *ngan@mail.nih.gov.*

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group; Nursing and Related Clinical Sciences Study Section.

Date: October 22–23, 2012.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M Street NW., Washington, DC 20036.

Contact Person: Priscah Mujuru, RN, DRPH, COHNS, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, MSC 7770, Bethesda, MD 20892, 301–594–6594, *mujurup@mail.nih.gov.*

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Musculoskeletal Tissue Engineering Study Section.

Date: October 22, 2012.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Baljit S. Moonga, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7806, Bethesda, MD 20892, 301–435–1777, *moongabs@mail.nih.gov.*

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Genetics of Health and Disease Study Section.

Date: October 22–23, 2012.

Time: 8:30 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Avenue Crowne Plaza Chicago, 160 E. Huron Street, Chicago, IL 60611.

Contact Person: Cheryl M. Corsaro, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2204, MSC 7890, Bethesda, MD 20892, (301) 435–1045, *corsaroc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–12–017: Shared Instrumentation: Automated Synthesis and Assay Workstations.

Date: October 22–23, 2012.

Time: 11 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Paul Sammak, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6185, MSC 7892, Bethesda, MD 20892, 301–435–0601, *sammakpj@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 18, 2012.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–23384 Filed 9–21–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which

would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; R13 Review Teleconference.

Date: October 24, 2012.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6116 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Bratin K. Saha, Ph.D., Scientific Review Officer Program Coordination and Referral Branch Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Boulevard, Room 8041, Bethesda, MD 20892, (301) 402–0371 *sahab@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; Cancer Prevention Research Small Grant Program (R03).

Date: October 29–30, 2012.

Time: 7 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Roosevelt Room, Rockville, MD 20852.

Contact Person: Clifford W. Schweinfest, Ph.D., Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Blvd., Room 8050a, Bethesda, MD 20892–8329, 301–402–9415, *schweinfestcw@mail.nih.gov*.

Name of Committee: National Cancer Institute, Special Emphasis, Panel; Immunology.

Date: December 6, 2012.

Time: 7:45 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Westin Alexandria, 400 Courthouse Square, Alexandria, VA 22314.

Contact Person: Ilda M. McKenna, Ph.D., Scientific Review Officer, Research Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Boulevard, Room 8111, Bethesda, MD 20892, 301–496–7481, *mckennai@mail.nih.gov*.

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/sep/sep.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: September 18, 2012.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–23381 Filed 9–21–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel Member Conflict: Social Psychology, Family and Health.

Date: October 5, 2012.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Marriott, 1221 22nd Street, Washington, DC 20037.

Contact Person: Michael Micklin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3136, MSC 7759, Bethesda, MD 20892, (301) 435–1258, *micklinm@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.

Name of Committee: Population Sciences and Epidemiology Integrated Review Group Social Sciences and Population Studies B Study Section.

Date: October 19, 2012.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Monaco Alexandria, 480 King Street, Alexandria, VA 22314.

Contact Person: Valerie Durrant, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3148, MSC 7770, Bethesda, MD 20892, (301) 827–6390, *durrantv@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel SBIB Pediatric and Fetal Applications.

Date: October 19, 2012.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: John Firrell, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5118, MSC 7854, Bethesda, MD 20892, 301–435–2598, *firrellj@csr.nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group, Cellular and Molecular Biology of Glia Study Section.

Date: October 22, 2012.

Time: 8 a.m. to 7 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Toby Behar, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4136, MSC 7850, Bethesda, MD 20892, (301) 435–4433, *behart@csr.nih.gov.*

Name of Committee: Center for Scientific Review, Special Emphasis Panel, Small Business: Orthopedic and Skeletal Biology.

Date: October 23, 2012.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Baljit S. Moonga, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7806, Bethesda, MD 20892, 301–435–1777, *moongabs@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel Member Conflict: Pulmonary Injury and Hypertension.

Date: October 23–24, 2012.

Time: 9 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: George M. Barnas, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4220, MSC 7818, Bethesda, MD 20892, 301–435–0696, *barnasg@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 18, 2012.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–23383 Filed 9–21–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel Cognitive Aging.

Date: November 7, 2012

Time: 12 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892

Contact Person: Jeannette L. Johnson, Ph.D., Scientific Review Officer, National Institutes on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–402–7705, *JOHNSONJ9@NIA.NIH.GOV.*

Name of Committee: National Institute on Aging Special Emphasis Panel, Epigenetics of Aging.

Date: November 14, 2012.

Time: 12 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892.

Contact Person: Jeannette L. Johnson, Ph.D., Scientific Review Officer, National Institutes on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–402–7705, *JOHNSONJ9@NIA.NIH.GOV.*

Name of Committee: National Institute on Aging Special Emphasis Panel Pathologic Protein Folding.

Date: November 29, 2012.

Time: 12:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892.

Contact Person: Alexander Parsadanian, Ph.D., Scientific Review Officer, National Institute on Aging, Gateway Building 2C/212, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–496–9666, *PARSADANIANA@NIA.NIH.GOV.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: September 18, 2012.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–23380 Filed 9–21–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel Services in Support of the Perinatology Research Branch Program in Perinatal Research and Obstetrics.

Date: September 28, 2012.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Sathasiva B. Kandasamy, PhD., Scientific Review Officer, Division of Scientific Review, National Institute of Child Health and Human Development, 6100 Executive Boulevard, Rockville, MD 20892–9304, (301) 435–6680, *skandasa@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: September 18, 2012.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–23378 Filed 9–21–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Office of AIDS Research Advisory Council.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Office of AIDS Research Advisory Council.

Date: November 8, 2012.

Time: 8:30 a.m. to 5 p.m.

Agenda: The topic of the meeting will be HIV and Women's Risk and Prevention: Back to Basics. The speakers at this meeting will focus on research to address: animal and tissue models to study HIV risk and prevention in women across the lifecycle; the role of genital tract immunology and inflammation on HIV risk and prevention; the genital tract microbiome and HIV risk; the application of new technologies such as genomics to better understand HIV risk and prevention in women, and how to leverage the current understanding of the basic biology of the genital tract for HIV prevention. An update will be provided on the latest changes made to the federal treatment and prevention guidelines by the OARAe Working Groups responsible for the guidelines.

Place: National Institutes of Health, 5635 Fishers Lane, Terrace Level, Suite T–500, Rockville, MD 20852.

Contact Person: Robert Eisinger, Ph.D., Executive Secretary, Director of Scientific and Program Operations, Office of Aids Research, Office of the Director, NIH, 5635 Fishers Lane, MSC 9310, SUITE 400, Rockville, MD 20852, (301) 496–0357; *be4y@nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *www.oar.nih.gov,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: September 18, 2012.

Melanie J. Gray,

Program Analyst Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–23374 Filed 9–21–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel Phased Services Research Studies of Drug Use Prevention, Addiction, Treatment, and HIV (R21/R33).

Date: October 25, 2012.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852.

Contact Person: Nadine Rogers, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Blvd., Room 4229, MSC 9550, Bethesda, MD 20892–9550, 301–402–2105, *rogersn2@nida.nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; R13 Conference Grant Review.

Date: November 9, 2012.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Virtual Meeting).

Contact Person: Minna Liang, Ph.D., Scientific Review Officer, Grants Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Blvd., Room 4226, MSC 9550, Bethesda, MD 20892–9550, 301–435–1432, *liangm@nida.nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; RFA: Identifying Health Outcomes Associated With Changes in Use of Illicit Drugs.

Date: November 19, 2012.

Time: 12 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852.

Contact Person: Minna Liang, Ph.D., Scientific Review Officer, Grants Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Blvd., Room 4226, MSC 9550, Bethesda, MD 20892–9550, 301–435–1432, *liangm@nida.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: September 18, 2012.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–23375 Filed 9–21–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Male Germline.

Date: October 17, 2012.

Time: 11 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Cathy J. Wedeen, Ph.D., Scientific Review Officer, Division of Scientific Review, OD, Eunice Kennedy Shriver National Institute of Child Health And Human Development, NIH, 6100 Executive Blvd., Room 5B01–G, Bethesda, MD 20892, 301–435–6878, *wedeenc@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: September 18, 2012.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–23377 Filed 9–21–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Child Health Research Career Development Award (CHRCDA) Program.

Date: October 18, 2012.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel Bethesda, (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Rita Anand, Ph.D., Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver

National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, 301–496–1487, *anandr@mail.nih.gov*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: September 18, 2012.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–23376 Filed 9–21–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5611–N–02]

Notice of Proposed Information Collection: Comment Request; Maintenance Wage Rate Recommendation, and Maintenance Wage Rate Survey; and Report of Additional Classification and Wage Rate

AGENCY: Office of Departmental Operations and Coordination, Office of Labor Relations, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* November 23, 2012.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Jacqueline W. Roundtree, Acting Director, Office of Labor Relations, Department of Housing and Urban Development, 451 7th Street SW., Room 2102, Washington, DC 20410 or *Jackie.Roundtree@hud.gov.*

FOR FURTHER INFORMATION CONTACT: Jacqueline W. Roundtree, Acting Director, Office of Labor Relations, Department of Housing and Urban Development, 451 7th Street SW., Room 2102, Washington, DC 20410 or *Jackie.Roundtree@hud.gov,* telephone (202) 402–6297 (this is not a toll-free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Maintenance Wage Rate Recommendation; Maintenance Wage Rate Survey; Report of Additional Classification and Wage Rate.

OMB Control Number, if applicable: 2501–0011.

Description of the need for the information and proposed use: Public housing agencies (PHAs), Tribally-designated housing entities (TDHEs), and the Department of Hawaiian Homelands (DHHL) are required to ensure that maintenance laborers and mechanics employed in the operation of HUD-assisted low-income or affordable housing are paid no less than prevailing wages that are determined or adopted by HUD (section 12(a), U.S. Housing Act of 1937, as amended; sections 104(b) and 805(b) of the Native American Housing Assistance and Self-Determination Act of 1996, as amended). Except that, TDHEs may, at their discretion, implement tribally determined prevailing maintenance wage rates which would apply in place of HUD-determined or -adopted wage rates.

HUD determines or adopts a schedule of prevailing maintenance wage rates for each PHA, TDHE (except for those TDHEs that implement tribally-determined prevailing wage rates), and the DHHL, annually, coinciding with the agency's fiscal year. In order to ensure that the wage rates are reflective of current economic conditions, HUD requests that each PHA, TDHE and the DHHL submit a recommendation of prevailing wage rates for HUD consideration. PHA, TDHE, and DHHL recommendations may be based on a wide variety of economic indicators including, at the discretion of the PHA, TDHE, or DHHL, the results of a wage survey that the PHA, TDHE or DHHL may conduct of maintenance employers in their operating jurisdiction. In addition, HUD may conduct a maintenance wage rate survey in the absence of a PHA/TDHE/DHHL recommendation or to evaluate a recommendation that has been provided by a PHA, TDHE or DHHL. In order to assist PHAs, TDHEs and the DHHL to submit prevailing wage rate recommendations and, if they choose, to conduct and evaluate the results of a maintenance wage survey, and to assist HUD personnel in the conduct and evaluation of a maintenance wage survey, HUD instituted three forms: Maintenance Wage Rate Recommendation; Maintenance Wage Rate Survey Summary; and a Maintenance Wage Rate Survey. PHA, TDHE or DHHL submission of a recommendation is highly encouraged by HUD. In the absence of an agency recommendation, HUD will issue a prevailing wage rate schedule based upon its own actions, which may include a maintenance wage survey conducted by HUD. Participation in any maintenance wage survey conducted by a PHA, TDHE, DHHL, or HUD is voluntary on the part of maintenance employers. Maintenance wage rate recommendations, survey summaries and survey responses must be retained by PHAs, TDHEs, the DHHL and HUD to document compliance with the statutory labor standards provisions.

Agencies, contractors and subcontractors engaged on HUD-assisted construction and maintenance projects subject to Federal labor standards must pay no less than the wages determined to be prevailing by the Secretary of Labor (for construction work) or determined to be prevailing by the Secretary of HUD (for maintenance work) to all laborers and mechanics engaged on such work. Occasionally, the applicable wage decision schedule does not contain a prevailing wage rate for all classifications of work needed to complete the project. In such cases, the employer that will utilize the classification(s) missing from the wage decision must propose a wage rate for each such classification for the consideration of the Department of Labor (DOL) and/or HUD, as appropriate. The employer must submit its request in writing; there is no form specified or required for employer submissions. HUD and local agencies that administer HUD-assisted projects use the form HUD–4230A to record and

submit employer additional classification and wage rate requests to DOL, when DOL approval is required.

Agency form numbers, if applicable: Forms HUD–4750 for Maintenance Wage Rate Recommendation, HUD–4751 for Maintenance Wage Rate Survey, HUD–4752 Maintenance Wage Rate Survey Summary Sheet, and HUD–4230A for Report of Additional Classification and Wage Rate.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

Item	Number of respondents	Amount of time required (hours)	Total time required/ annum (hours)
Agencies/Employers:			
Maintenance Wage Recommendation	3,400	4	13,600
Survey Form Employer Response	1,800	4	7,200
Survey Form Agency Evaluation/Summary	1,800	8	2,400
Record keeping	3,400	1	3,400
Additional Classifications and Wage Rates	500	1	500
Record keeping	500	.5	250
Total Annual Burden (Agencies/Employers)			27,350
HUD Staff:			
Maintenance Wage Rates	3,400	2	6,800
Record keeping	3,400	1	3,400
Additional Classifications and Wage Rates	500	1	500
Record keeping	500	.5	250
Total Annual Burden (HUD Staff)			10,950
Total Annual Burden (All)			38,300

Status of the proposed information collection: Extension of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., chapter 35, as amended.

Dated: September 17, 2012.

Jacqueline W. Roundtree,

Acting Director, Office of Labor Relations.

[FR Doc. 2012–23500 Filed 9–21–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5603–N–66]

Notice of Submission of Proposed Information Collection to OMB Opinion of Counsel to the Mortgagor

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

The opinion is required to provide comfort to HUD and the mortgagee in multifamily rental and health care facility mortgage insurance transactions

DATES: *Comments Due Date: October 24, 2012.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2510–0010) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov* fax: 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone (202) 402–3400. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Opinion of Counsel to the Mortgagor.

OMB Approval Number: 2510–0010.

Form Numbers: HUD–91725, 91725–instr, 91725–CERT.

Description of the need for the information and its proposed use:

The opinion is required to provide comfort to HUD and the mortgagee in multifamily rental and health care facility mortgage insurance transactions

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	800	1		1		800

Total Estimated Burden Hours: 800.

Status: Extension without change of currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: September 17, 2012.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2012–23501 Filed 9–21–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement (BSEE)

[Docket ID BSEE–2012–0014; OMB Control Number 1014–NEW]

Agency Information Collection Activity: Subpart B, Plans and Information; Comment Request

AGENCY: Bureau of Safety and Environmental Enforcement (BSEE), Interior.

ACTION: 30-day Notice.

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we have submitted to OMB an information collection request (ICR) for a new approval of the paperwork requirements in the regulations under Subpart B, Plans and Information, and related documents. This notice also provides the public a second opportunity to comment on the paperwork burden of these regulatory requirements.

DATES: Submit written comments by October 24, 2012.

ADDRESSES: Submit comments by either fax (202) 395–5806 or email (*OIRA_DOCKET@omb.eop.gov*) directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (1014–NEW). Please provide a copy of your comments to BSEE by any of the means below.

- *Electronically:* go to *http://www.regulations.gov.* In the entry titled, Enter Keyword or ID, enter BSEE–2012–0014 then click search. Follow the instructions to submit public comments and view all related materials. We will post all comments.
- Email *cheryl.blundon@bsee.gov*, fax (703) 787–1546, or mail or hand-carry comments to: Department of the Interior; Bureau of Safety and Environmental Enforcement; Regulations Development Branch; Attention: Cheryl Blundon; 381 Elden Street, HE–3313; Herndon, Virginia 20170–4817. Please reference 1014–NEW in your comment and include your name and return address.

FOR FURTHER INFORMATION CONTACT: Cheryl Blundon, Regulations Development Branch, (703) 787–1607, to request additional information about this ICR. To see a copy of the entire ICR submitted to OMB, go to *http://www.reginfo.gov* (select Information Collection Review, Currently Under Review).

SUPPLEMENTARY INFORMATION:

Title: 30 CFR 250, Subpart B, Plans and Information.

OMB Control Number: 1014–NEW.

Abstract: The Outer Continental Shelf (OCS) Lands Act, as amended (43 U.S.C. 1331 *et seq.,* and 43 U.S.C. 1801 *et seq.*), authorizes the Secretary of the Interior to prescribe rules and regulations necessary for the administration of the leasing provisions of that Act related to mineral resources on the OCS. Such rules and regulations will apply to all operations conducted under a lease, right-of-use and easement, or unit.

The Independent Offices Appropriations Act (31 U.S.C. 9701), the Omnibus Appropriations Bill (Pub. L. 104–133, 110 Stat. 1321, April 26, 1996), and OMB Circular A–25, authorize Federal agencies to recover the full cost of services that confer special benefits. Under the Department of the Interior's implementing policy, BSEE is required to charge fees for services that provide special benefits or privileges to an identifiable non-Federal recipient above and beyond those which accrue to the public at large. Deepwater Operations Plans are subject to cost recovery, and BSEE regulations specify a service fee for this request.

Regulations implementing these responsibilities are under 30 CFR Part 250, Subpart B, and are among those delegated to BSEE. This request also covers the related Notices to Lessees and Operators (NTLs) that BSEE issues to clarify, supplement, or provide additional guidance on some aspects of our regulations.

To accommodate the split of regulations from the Bureau of Ocean Energy Management, Regulation and Enforcement to BSEE (76 FR 64432), BSEE is requesting OMB approval of the already approved information collections that were previously under 1010–0151 to reflect BSEE's new 1014 numbering system. This ICR does not change the burden hours or make any other modifications to what was previously approved, other than to remove the collections under the purview of BOEM.

Responses are mandatory. No questions of a sensitive nature are asked. BSSE will protect information considered proprietary under the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR part 2); also under regulations at 30 CFR 250.197, *Data and information to be made available to the public or for limited inspection,* and 30 CFR part 252, *Outer Continental Shelf (OCS) Oil and Gas Information Program.*

BSEE analyzes and evaluates the information and data collected under this subpart to ensure that planned operations are safe; will not adversely affect the marine, coastal, or human environment; and will conserve the resources of the OCS. We use the information to make an informed decision on whether to approve the proposed deepwater operations plans, or whether modifications are necessary without the analysis and evaluation of the required information.

Frequency: On occasion.

Description of Respondents: Potential respondents comprise Federal oil, gas, or sulphur lessees and/or operators.

Estimated Reporting and Recordkeeping Hour Burden: The estimated annual hour burden for this information collection is a total of 18,256 hours. The following chart details the individual components and estimated hour burdens. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

Citation 30 CFR 250 Subpart B and NTLs	Reporting & recordkeeping requirement	Hour burden	Average number of annual responses annual	Burden hours
		Non-Hour Cost Burdens*		
201; 204; 205	General requirements for plans and information; service fees; confirmations; etc.	Burden included with specific requirements below		0
Post-Approval Requirements for the EP, DPP, and DOCD				
282	Retain monitoring data/information; upon request, make available to BSEE.	4	300 records	1,200
	Submit monitoring plan for approval	2	12 plans	24
282(b)	Submit monitoring reports and data	3	24 reports	72
Subtotal			336 responses	1,296
Submit DWOPs and Conceptual Plans				
287; 291; 292	Submit DWOP and accompanying/supporting information.	750	12 plans	9,000
		$3,336 × 12 = $40,032		
288; 289	Submit a Conceptual Plan for approval	200	8 plans	1,600
294	Submit a combined Conceptual Plan/DWOP for approval before deadline for submitting Conceptual Plan.	950	3 plans	2,850
295	Submit a revised Conceptual Plan or DWOP for approval within 60-day of material change.	100	35 plan revisions	3,500
Subtotal			58 responses	16,950
			$40,032 non-hour costs	
200 thru 295	General departure and alternative compliance requests not specifically covered elsewhere in subpart B regulations.	2	5 requests	10
Subtotal			5 responses	10
Total Burden			399 Responses	18,256
			$40,032 Non-Hour Cost Burdens	

* The non-hour cost burden that is associated with cost recovery money collected is based on actual submittals through Pay.gov for FY 2010.

Estimated Reporting and Recordkeeping Non-Hour Cost Burden: We have identified one non-hour cost burden associated with this collection of information. It consists of a fee being submitted with a DWOP ($3,336). We estimate that the total annual non-hour cost burden is $40,032, and we have not identified any other non-hour cost burdens associated with this collection of information.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3501, *et seq.*) requires each agency ''* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *'' Agencies must specifically solicit comments to: (a) Evaluate whether the collection is necessary or useful; (b) evaluate the accuracy of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of technology.

To comply with the public consultation process, on July 6, 2011, we published a **Federal Register** notice (76 FR 39419) announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. In addition, the § 250.199 regulation informs the public that they may comment at any time on the collections of information and provides the address to which they should send comments. We received two comments in response to these efforts. While the first comment, from the Marine Mammal Commission, supported our request to OMB, the second comment pertained to BOEM requirements and was therefore not relevant to BSEE regulations. BOEM responded to both comments in the

Federal Register on September 30, 2011 (76 FR 60856).

If you wish to comment in response to this notice, you may send your comments to the offices listed under the **ADDRESSES** section of this notice. The OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by October 22, 2012.

Public Availability of Comments: Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment-including your personal identifying information-may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: August 21, 2012.

Robert W. Middleton,

Deputy Chief, Office of Offshore Regulatory Programs.

[FR Doc. 2012–23386 Filed 9–21–12; 8:45 am]

BILLING CODE 4310–VH–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Renewal of Agency Information Collection for Tribal Colleges and Universities Grant Application Form

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of submission to OMB.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Bureau of Indian Affairs (BIA) is submitting to the Office of Management and Budget (OMB) a request for renewal for the collection of information for Tribal Colleges and Universities Application for Grants. The information collection is currently authorized by OMB Control Number 1076–0018, which expires September 30, 2012.

DATE: Interested persons are invited to submit comments on or before October 24, 2012.

ADDRESSES: You may submit comments on the information collections to the Desk Officer for the Department of the Interior at the Office of Management and Budget, by facsimile to (202) 395–5806 or you may send an email to: *OIRA_DOCKET@omb.eop.gov.* Please send a copy of your comments to Juanita Keesing, Program Analyst, U.S. Department of the Interior, Bureau of Indian Education, 1849 C Street NW., Washington, DC 20240; email: *Juanita.Keesingt@bie.edu.*

FOR FURTHER INFORMATION CONTACT: Juanita Keesing, Program Analyst, (202) 208–3559. You may review the information collection requests online at *http://www.reginfo.gov.* Follow the instructions to review Department of the Interior collections under review by OMB.

SUPPLEMENTARY INFORMATION:

I. Abstract

Each tribally-controlled college or university requesting financial assistance under the Tribally Controlled Colleges and Universities Assistance Act of 1978, as amended, 25 U.S.C. 1801 *et seq.* (Act) is required by 25 U.S.C. 1807(a) and 25 CFR 41.8 to provide information for the purpose of securing a grant.

II. Request for Comments

The BIA requests your comments on these collections concerning: (a) The necessity of this information collection for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) The accuracy of the agency's estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) Ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) Ways we could minimize the burden of the collection of the information on the respondents, such as through the use of automated collection techniques or other forms of information technology.

Please note that an agency may not conduct or sponsor, and an individual need not respond to, a collection of information unless it has a valid OMB Control Number.

It is our policy to make all comments available to the public for review at the location listed in the **ADDRESSES** section. 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 you 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.

III. Data

OMB Control Number: 1076–0018.

Title: Tribal Colleges and Universities Grant Application Form, 25 CFR 41.8.

Brief Description of Collection: Collection of the information is mandatory under the Tribally Controlled Colleges and Universities Assistance Act of 1978, as amended, 25 U.S.C. 1801 *et seq.,* for the respondent to receive or maintain a benefit, i.e., an operating grant.

Type of Review: Extension without change of a currently approved collection.

Respondents: Tribal college and university administrators.

Number of Respondents: 26 per year, on average.

Total Number of Responses: 26 per year, on average.

Frequency of Response: Annually.

Estimated Time per Response: 1 hour.

Estimated Total Annual Hour Burden: 26 hours.

Dated: September 18, 2012.

Ellen Findley,

Acting Assistant Director for Information Resources.

[FR Doc. 2012–23503 Filed 9–21–12; 8:45 am]

BILLING CODE 4310–6W–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Renewal of Agency Information Collection for the Tribal Reassumption of Jurisdiction Over Child Custody Proceedings

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of submission to OMB.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Bureau of Indian Affairs (BIA) is submitting to the Office of Management and Budget (OMB) a request for renewal for the collection of information for approval for the Tribal Reassumption of Jurisdiction over Child Custody Proceedings. The information collection is currently authorized by OMB Control Number 1076–0112, which expires September 30, 2012.

DATES: Interested persons are invited to submit comments on or before October 24, 2012.

ADDRESSES: You may submit comments on the information collections to the Desk Officer for the Department of the Interior at the Office of Management and Budget, by facsimile to (202) 395–5806 or you may send an email to: *OIRA_DOCKET@omb.eop.gov.* Please send a copy of your comments to Sue Settles, Chief, Division of Human Services, Office of Indian Services,

Bureau of Indian Affairs, U.S. Department of the Interior, 1849 C Street NW., Mailstop 4513 MIB, Washington, DC 20240, or fax to (202) 208–2648, or email: *Sue.Settles@bia.gov.*

FOR FURTHER INFORMATION CONTACT: Sue Settles, (202) 513–7621. You may review the information collection requests online at *http://www.reginfo.gov.* Follow the instructions to review Department of the Interior collections under review by OMB.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Department has issued regulations at 25 CFR part 13 prescribing procedures by which an Indian tribe that occupies a reservation over which a state asserts any jurisdiction pursuant to federal law may reassume jurisdiction over Indian child proceedings as authorized by the Indian Child Welfare Act, Public Law 95–608, 92 Stat. 3069, 25 U.S.C. 1918.

II. Request for Comments

The BIA requests your comments on this collection concerning: (a) The necessity of this information collection for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) The accuracy of the agency's estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) Ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) Ways we could minimize the burden of the collection of the information on the respondents, such as through the use of automated collection techniques or other forms of information technology.

Please note that an agency may not conduct or sponsor, and an individual need not respond to, a collection of information unless it has a valid OMB Control Number.

It is our policy to make all comments available to the public for review at the location listed in the **ADDRESSES** section. Before including your address, phone number, email address or other personally identifiable information, be advised that your entire comment—including your personally identifiable information—may be made public at any time. While you may request that we withhold your personally identifiable information, we cannot guarantee that we will be able to do so.

III. Data

OMB Control Number: 1076–0112.

Title: Tribal Reassumption of Jurisdiction over Child Custody Proceedings, 25 CFR 13.

Brief Description of Collection: The collection of information will ensure that the provisions of Public Law 95–608 are met. Any Indian Tribe that became subject to State jurisdiction pursuant to the provisions of the Act of August 15, 1953 (67 Stat. 588), as amended by title IV of the Act of April 11, 1968 (82 Stat. 73,78), or pursuant to any other Federal law, may reassume jurisdiction over child custody proceedings. The collection of information provides data that will be used in considering the petition and feasibility of the plan of the Tribe for reassumption of jurisdiction over Indian child custody proceedings. We collect the following information: Full name, address, and telephone number of petitioning Tribe or Tribes; a Tribal resolution; estimated total number of members in the petitioning Tribe of Tribes with an explanation of how the number was estimated; current criteria for Tribal membership; citation to provision in Tribal constitution authorizing the Tribal governing body to exercise jurisdiction over Indian child custody matter; description of Tribal court; copy of any Tribal ordinances or Tribal court rules establishing procedures or rules for exercise of jurisdiction over child custody matters; and all other information required by 25 CFR 13.11. Response is required to obtain or retain a benefit.

Type of Review: Extension without change of a currently approved collection.

Respondents: Federally recognized Tribes who submit Tribal reassumption petitions for review and approval by the Secretary of the Interior.

Frequency of Response: On occasion.

Number of Respondents: 1.

Estimated Time per Response: 8 hours.

Estimated Total Annual Hour Burden: 8 hours.

Dated: September 18, 2012.

Ellen Findley,

Acting Assistant Director for Information Resources.

[FR Doc. 2012–23506 Filed 9–21–12; 8:45 am]

BILLING CODE 4310–4J–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Renewal of Agency Information Collection for Tribal Colleges and Universities Annual Report Form

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of submission to OMB.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Bureau of Indian Affairs (BIA) is submitting to the Office of Management and Budget (OMB) a request for renewal for the collection of information for Tribal Colleges and Universities Annual Report Form. The information collection is currently authorized by OMB Control Number 1076–0105, which expires September 30, 2012.

DATES: Interested persons are invited to submit comments on or before October 24, 2012.

ADDRESSES: You may submit comments on the information collections to the Desk Officer for the Department of the Interior at the Office of Management and Budget, by facsimile to (202) 395–5806 or you may send an email to: *OIRA_DOCKET@omb.eop.gov*. Please send a copy of your comments to Juanita Keesing, Program Analyst, U.S. Department of the Interior, Bureau of Indian Education, 1849 C Street NW., Washington, DC 20240; email: *Juanita.Keesingt@bie.edu*.

FOR FURTHER INFORMATION CONTACT: Juanita Keesing, Program Analyst, (202) 208–3559. You may review the information collection requests online at *http://www.reginfo.gov*. Follow the instructions to review Department of the Interior collections under review by OMB.

SUPPLEMENTARY INFORMATION:

I. Abstract

Each tribally-controlled college or university that receives financial assistance under the Act is required by 25 U.S.C. 1808(c)(1) and 25 CFR 41.9 to provide a report on the use of funds received.

II. Request for Comments

The BIA requests your comments on these collections concerning: (a) The necessity of this information collection for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) The accuracy of the agency's estimate of the burden (hours and cost) of the collection of information, including the validity of

the methodology and assumptions used; (c) Ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) Ways we could minimize the burden of the collection of the information on the respondents, such as through the use of automated collection techniques or other forms of information technology.

Please note that an agency may not conduct or sponsor, and an individual need not respond to, a collection of information unless it has a valid OMB Control Number.

It is our policy to make all comments available to the public for review at the location listed in the **ADDRESSES** section. 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 you 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.

III. Data

OMB Control Number: 1076–0105.

Title: Tribal Colleges and Universities Annual Report Form, 25 CFR 41.9.

Brief Description of Collection: Collection of the information is mandatory under the Tribally Controlled Colleges and Universities Assistance Act of 1978, as amended, 25 U.S.C. 1801 *et seq.,* for the respondent to receive or maintain a benefit, specifically an operating grant.

Type of Review: Extension without change of a currently approved collection.

Respondents: Tribal college and university administrators.

Number of Respondents: 26 per year, on average.

Total Number of Responses: 26 per year, on average.

Frequency of Response: Annually.

Estimated Time per Response: 3 hours.

Estimated Total Annual Hour Burden: 156 hours.

Dated: September 18, 2012.

Ellen Findley,

Acting Assistant Director for Information Resources.

[FR Doc. 2012–23505 Filed 9–21–12; 8:45 am]

BILLING CODE 4310–6W–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCO956000 L14200000.BJ0000]

Notice of Filing of Plats of Survey; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Filing of Plats of Survey; Colorado

SUMMARY: The Bureau of Land Management (BLM) Colorado State Office is publishing this notice to inform the public of the intent to officially file the survey plats listed below and afford a proper period of time to protest this action prior to the plat filing. During this time, the plats will be available for review in the BLM Colorado State Office.

DATES: Unless there are protests of this action, the filing of the plats described in this notice will happen on October 24, 2012.

ADDRESSES: BLM Colorado State Office, Cadastral Survey, 2850 Youngfield Street, Lakewood, Colorado 80215–7093.

FOR FURTHER INFORMATION CONTACT: Randy Bloom, Chief Cadastral Surveyor for Colorado, (303) 239–3856.

Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The plat and field notes of the dependent resurvey and survey in Township 12 South, Range 69 West, Sixth Principal Meridian, Colorado, were accepted on August 17, 2012.

The plat and field notes of the dependent resurvey and survey in Township 7 South, Range 72 West, Sixth Principal Meridian, Colorado, were accepted on August 22, 2012. The plat and field notes of the dependent resurvey and survey in Township 7 South, Range 73 West, Sixth Principal Meridian, Colorado, were accepted on August 22, 2012. The plat and field notes of the dependent resurvey and survey in Township 12 South, Range 71 West, Sixth Principal Meridian, Colorado, were accepted on August 29, 2012. The plat and field notes of the dependent resurvey and survey in Township 13 South, Range 71 West, Sixth Principal Meridian, Colorado, were accepted on August 29, 2012. The plat and field notes of the dependent resurvey and survey in Township 28 South, Range 73 West, Sixth Principal Meridian, Colorado, were accepted on September 5, 2012.

The plat and field notes of the dependent resurvey and survey in Township 10 South, Range 70 West, Sixth Principal Meridian, Colorado, were accepted on September 12, 2012.

Randy Bloom,

Chief Cadastral Surveyor for Colorado.

[FR Doc. 2012–23446 Filed 9–21–12; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAZ956000.L14200000.BJ0000.241A]

Notice of Filing of Plats of Survey; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Filing of Plats of Survey; Arizona.

SUMMARY: The plats of survey of the described lands were officially filed in the Arizona State Office, Bureau of Land Management, Phoenix, Arizona, on dates indicated.

SUPPLEMENTARY INFORMATION:

The Gila and Salt River Meridian, Arizona

The plat representing the survey of a portion of the Fifth Guide Meridian East (west boundary), the east boundary, the subdivisional lines, and the subdivision of certain sections, Township 30 North, Range 21 East, accepted September 6, 2012, and officially filed September 10, 2012, for Group 1097, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The supplemental plat representing a portion of the Mount Nutt Wilderness Boundary in section 32, Township 21 North, Range 19 West, accepted September 13, 2012, and officially filed September 14, 2012, Arizona.

This plat was prepared at the request of the Bureau of Land Management.

A person or party who wishes to protest against any of these surveys must file a written protest with the Arizona State Director, Bureau of Land Management, stating that they wish to protest.

A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State

Director within thirty (30) days after the protest is filed.

FOR FURTHER INFORMATION CONTACT: These plats will be available for inspection in the Arizona State Office, Bureau of Land Management, One North Central Avenue, Suite 800, Phoenix, Arizona, 85004–4427. 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.

Stephen K. Hansen,

Chief Cadastral Surveyor of Arizona.

[FR Doc. 2012–23447 Filed 9–21–12; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWYD01000.L13110000.EJ0000. LXSI016K0000]

Notice of Meeting of the Pinedale Anticline Working Group

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: The U.S. Department of the Interior, Bureau of Land Management (BLM) Pinedale Anticline Working Group (PAWG) will meet in Pinedale, Wyoming. All PAWG meetings are open to the public.

DATES: October 25, 2012 beginning at 9 a.m. MST.

ADDRESSES: BLM Pinedale Field Office, 1625 West Pine Street, Pinedale, Wyoming.

FOR FURTHER INFORMATION CONTACT: Shelley Gregory, BLM Pinedale Field Office, 1625 West Pine Street, PO Box 768, Pinedale WY 82941; 307–315–0612; *ssgregory@blm.gov*.

Persons who use a telecommunications device for the deaf (TDD), may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The PAWG is a Federal Advisory Committee Act (1972) chartered group established in accordance with the Federal Land Policy and Management Act (1976) by the Environmental Impact Statement (EIS) Record of Decision (ROD) for the PAPA on July 27, 2000 and carried forward with the release of the PAPA Supplemental EIS ROD on September 12, 2008.

The PAWG develops recommendations and provides advice to the BLM on mitigation, monitoring, and adaptive management issues as oil and gas development in the PAPA proceeds.

Additional information about the PAWG may be found at: *www.blm.gov/wy/st/en/field_offices/pinedale/pawg.html*.

Authority: 43 CFR 1784.6–1(c).

Brenda V. Neuman,

Acting State Director.

[FR Doc. 2012–23053 Filed 9–21–12; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO2600000 L10600000 XQ0000]

Notice of Wild Horse and Burro Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) announces that the Wild Horse and Burro Advisory Board will conduct a meeting on matters pertaining to management and protection of wild, free-roaming horses and burros on the Nation's public lands.

DATES: The Advisory Board will meet on Monday, October 29, 2012, from 8 a.m. until 5 p.m., and on Tuesday, October 30, 2012, from 8 a.m. until 12 p.m., local time. This will be a one and a half day meeting.

ADDRESSES: This Advisory Board meeting will take place in Salt Lake City, Utah at the Radisson Hotel Salt Lake City Downtown, 215 E. South Temple, Salt Lake City, UT 84101. The hotel phone number for reservations is 801–531–7500 or 1–800–333–3333. Written comments pertaining to the October 29–30, 2012, Advisory Board meeting can be mailed to National Wild Horse and Burro Program, WO–260, Attention: Ramona DeLorme, 1340 Financial Boulevard, Reno, Nevada 89502–7147, or sent electronically to the BLM through the Wild Horse and Burro Web site at: *http://www.blm.gov/wo/st/en/prog/whbprogram/recent_news_and_information/enhanced_feedback_form.html*.

FOR FURTHER INFORMATION CONTACT: Ramona DeLorme, Wild Horse and Burro Administrative Assistant, at 775–861–6583. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The Wild Horse and Burro Advisory Board advises the Secretary of the Interior, the BLM Director, the Secretary of Agriculture, and the Chief of the Forest Service on matters pertaining to the management and protection of wild, free-roaming horses and burros on the Nation's public lands. The Wild Horse and Burro Advisory Board operates under the authority of 43 CFR part 1784. The tentative agenda for the two day event is:

I. Advisory Board Public Meeting

Monday, October 29, 2012 (8 a.m.–5 p.m.)

8 a.m. Welcome and Introductions
8:30 a.m. Approval of April 2012 Minutes
10:45 a.m. WHB Program Updates
12 p.m. Lunch
1:15 p.m. Research Advisory Team
1:45 p.m. BLM Formed Work Groups (Comprehensive Animal Welfare Program; Increasing Adoptions; Eco-sanctuaries; and Helicopter Operations & Communications Instructional Memorandums)
3:30 p.m. Public Comment Period Begins
4:30 p.m. Public Comment Period Ends
5 p.m. Adjourn

Tuesday, October 30, 2012 (8 a.m.–Noon)

8 a.m. Board formed Working Groups-Advisory Board (Population Growth Suppression; Ecotourism; and Herd Area Repopulation)
9:15 a.m. Board Member's Concerns and Issues
10 a.m. Break
10:15 a.m. Board Recommendations to the BLM
Noon Adjourn

The meeting site is accessible to individuals with disabilities. An individual with a disability needing an auxiliary aid or service to participate in the meeting, such as an interpreting service, assistive listening device, or materials in an alternate format, must notify Ms. DeLorme 2 weeks before the

scheduled meeting date. Although the BLM will attempt to meet a request received after that date, the requested auxiliary aid or service may not be available because of insufficient time to arrange it.

The Federal Advisory Committee Management Regulations at 41 CFR 101–6.1015(b), requires BLM to publish in the **Federal Register** notice of a public meeting 15 days prior to the meeting date.

II. Public Comment Procedures

On Monday, October 29, 2012 at 3:30 p.m., members of the public will have the opportunity to make comments to the Board on the Wild Horse and Burro Program. Persons wishing to make comments during the Monday meeting should register in person with the BLM by 2 p.m. on October 29, 2012, at the meeting location. Depending on the number of commenters, the Advisory Board may limit the length of comments. At previous meetings, comments have been limited to 3 minutes in length; however, this time may vary. Commenters should address the specific wild horse and burro-related topics listed on the agenda. Speakers are requested to submit a written copy of their statement to the address listed in the **ADDRESSES** section above or bring a written copy to the meeting. There may be a webcam present during the entire meeting and individual comments may be recorded.

Participation in the Advisory Board meeting is not a prerequisite for submission of written comments. The BLM invites written comments from all interested parties. Your written comments should be specific and explain the reason for any recommendation. The BLM appreciates any and all comments. The BLM considers comments that are either supported by quantitative information or studies or those that include citations to and analysis of applicable laws and regulations to be the most useful and likely to influence BLM's decisions on the management and protection of wild horses and burros. 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.

Edwin L. Roberson,

Assistant Director, Renewable Resources and Planning.

[FR Doc. 2012–23472 Filed 9–21–12; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLOR936000–L14300000–ET0000; HAG–12–0184; OROR–47267]

Public Land Order No. 7800; Extension of Public Land Order No. 6947; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order extends the duration of the withdrawal created by Public Land Order No. 6947 for an additional 20-year period. The extension is necessary to continue protection of the recreational rockhounding area of the Thunder Egg Lake Agate Beds located in the Fremont National Forest in Oregon, which would otherwise expire on September 21, 2012.

DATES: *Effective Date:* September 22, 2012.

FOR FURTHER INFORMATION CONTACT: Michael L. Barnes, Bureau of Land Management, Oregon/Washington State Office, 333 SW 1st Ave., Portland, Oregon 97204, 503–808–6155, or Dianne Torpin, United States Forest Service, Pacific Northwest Region, 333 SW 1st Ave., Portland, Oregon 97204, 503–808–2422. 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 either of the above individuals. The FIRS is available 24 hours a day, 7 days a week to leave a message or question with either of the above individuals. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The purpose for which the withdrawal was first made requires this extension to continue protection of the Thunder Egg Lake Agate Beds in the Freemont National Forest. The withdrawal extended by this order will expire on September 21, 2032, unless, as a result of a review conducted prior to the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be further extended.

Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714, it is ordered as follows:

Public Land Order No. 6947 (57 FR 43618 (1992)), which withdrew 150 acres of National Forest System land from location and entry under the United States mining laws (30 U.S.C. chapter 2), but not from leasing under the mineral leasing laws, to protect the Thunder Egg Lake Agate Beds, is hereby extended for an additional 20-year period until September 21, 2032.

Dated: September 7, 2012.

Rhea S. Suh,

Assistant Secretary—Policy, Management and Budget.

[FR Doc. 2012–23476 Filed 9–21–12; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF THE INTERIOR

[LLCAD08000–L14300000–ET0000; CACA 51737]

Public Land Order No. 7801; Withdrawal of Public Lands for Protection of Proposed Expansion of Twentynine Palms; CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws approximately 507 acres of reserved Federal mineral estate from the United States mining laws including the mineral and geothermal leasing and mineral materials laws, and 331,786 acres of public lands from all forms of appropriation under the public land laws, including the United States mining, mineral and geothermal, and mineral materials laws for a period of 5 years. The withdrawal preserves the status quo of the lands and mineral estate included in the proposed training land acquisition/airspace establishment project of the United States Marine Corps Air Ground Combat Center, Twentynine Palms, California, pending the processing of an application for withdrawal for military purposes under the Engle Act. This order also includes 43,950 acres of non-Federal lands located within the boundaries of the withdrawal areas, and in the event that they return to Federal ownership in the future, the lands would be subject to the terms and conditions of this withdrawal.

DATES: *Effective Date:* September 11, 2012.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth Easley, Realty Specialist, 916978–4673. 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. 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.

Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described lands are hereby withdrawn from all forms of appropriation under the public land laws including the United States mining laws and the mineral and geothermal leasing laws, and the mineral material laws, to protect the status quo of the lands pending action on an application for a legislative withdrawal for military purposes under the Engle Act:

a. *Federal surface and mineral estate:*

San Bernardino Meridian

Western Acquisition Area

T. 4 N., R. 2 E.,
Sec. 1.
T. 5 N., R. 2 E.,
Secs. 1 and 2;
Secs. 11 to 14, inclusive, and 23 to 26, inclusive;
Sec. 35.
T. 6 N., R. 2 E.,
Sec. 13;
Secs. 23 to 26, inclusive;
Sec. 35.
T. 4 N., R. 3 E.,
Sec. 1, lots 1 and 2 of NE¼, lots 1 and 2 of NW¼, NW¼,SW¼, and SE¼,;
Sec. 2;
Sec. 3, E½ of lot 1 of NE¼, lot 2 of NE¼, lot 2 of NW¼, and S½S½;
Sec. 4, lots 1 and 2 of NE¼, lots 1 and 2 of NW¼, SW¼, and S½SE¼,;
Secs 5 and 6;
Sec. 7, E½;
Secs. 8 and 9;
Sec. 10, N½N½;
Sec. 12, N½ and SE¼,.
T. 5 N., R. 3 E., partly unsurveyed.
Secs. 2 to 35, inclusive;
Sec. 36, SW¼,.
T. 4 N., R. 4 E.,
Secs. 1 to 15, inclusive;
Sec. 17;
Sec. 18, N½;
Sec. 20, N½;
Secs. 21 to 27, inclusive;
Sec. 28, N½.
T. 5 N., R. 4 E., partly unsurveyed.
Secs. 2 to 11, inclusive;
Sec. 12, all except for Mineral Survey No. 6336;
Sec. 13, E½, E½E½NW¼, E½SW¼, and E½W½SW¼;
Secs. 14, 15, and 16;
Sec. 17, NW¼ and S½;
Secs. 18 to 24, inclusive;
Sec. 25, N½, SW¼, and W½SE¼,;
Sec. 26, lots 1 to 4, inclusive, W½, and SE¼,;
Secs. 27 to 36, inclusive.
T. 6 N., R. 4 E.,
Secs. 1 to 15, inclusive, and 17 to 24, inclusive;
Sec. 26;
Secs. 27 and 28, all except for Mineral Survey Nos. 3000 and 3980;
Secs. 29 to 35, inclusive;
Ssec. 36, N½ and SW¼,.
T. 3 N., R. 5 E.,
Secs. 1, 2, and 3;
Sec. 4, lots 1 to 12, inclusive, and E½NW¼,NE¼,SW¼,;
Secs. 5 and 6;
Sec. 9, lots 1 and 2;
Sec. 10, lots 1 to 7, inclusive;
Sec. 11;
Sec. 12, lots 1 to 12, inclusive.
T. 4 N., R. 5 E., partly unsurveyed.
Secs. 2 to 35, inclusive.
T. 5 N., R. 5 E.,
Secs. 4 and 5;
Sec. 6, lots 1 to 10, inclusive, SE¼,NW¼, E½SW¼, N½SE¼, and SW¼,SE¼,;
Sec. 7, lots 1 to 4, inclusive, lots 6 and 7, S½NE¼, SE¼,NW¼, E½SW¼ and SE¼;
Sec. 8;
Secs. 14, 15, 18, 19, 20, 22, 23, 26, 27, 28, 30, 31, 32, 34, and 35.
T. 6 N., R. 5 E.,
Secs. 17 to 20, inclusive, and 29 to 32, inclusive.

Southern Acquisition Area

T. 2 N., R. 9 E.,
Sec. 25;
Sec. 26, all except for N½NW¼SW¼SW¼;
Sec. 27, E½ except for W½SE¼SE¼SE¼;
Sec. 34, S½NE¼NE¼NE¼, SE¼NE¼NE¼, W½NE¼NE¼, NW¼NE¼, and E½NW¼;
Sec. 35, N½ except for N½NE¼NE¼NE¼ and S½SW¼NW¼NE¼.
T. 2 N., R. 10 E.,
Secs. 2 to 11, inclusive;
Sec. 14, that portion lying north and west of the boundary of the Cleghorn Lakes Wilderness Area;
Sec. 15 and 17 to 22, inclusive;
Sec. 23, that portion lying west of the boundary of the Cleghorn Lakes Wilderness Area;
Sec. 26, that portion lying west and south of the boundary of the Cleghorn Lakes Wilderness Area;
Secs. 27 to 35, inclusive.

Eastern Acquisition Area

T. 4 N., R. 11 E.,
Secs. 1, 2, 11, 12, and 14.
T. 5 N., R. 11 E.,
Sec. 35.
T. 3 N., R. 12 E.,
Secs. 1, 2, and 3;
Secs. 10 to 15, inclusive;
Secs. 22, 23, and 24;
Sec. 25, that portion lying west of the boundary of the Sheephole Valley Wilderness Area;
Secs. 26 and 27;
Sec. 34, that portion lying north and east of the boundary of Cleghorn Lakes Wilderness Area;
Sec. 35.
T. 4 N., R. 12 E.,
Secs. 1 to 8, inclusive;
Secs. 10, 11, 12, 14, and 15;
Sec. 18, all except for Mineral Survey No. 5802;
Sec. 19, N½ except for Mineral Survey Nos. 5802 and 5805;
Sec. 21, E½;
Secs. 23 to 27, inclusive;
Sec. 28, E½;
Secs. 34 and 35.
T. 5 N., R. 12 E.,
Secs. 19 and 20, all except the lands conveyed by Patent No. 1000678;
Secs. 21 to 27, inclusive;
Sec. 28, N½ and SW¼;
Secs, 29 and 30, all except the lands conveyed by Patent No. 1000678;
Secs. 31 to 35, inclusive.
T. 3 N., R. 13 E.,
Sec. 4, that portion lying west of the Sheephole Valley Wilderness Area;
Secs. 5 and 7;
Sec. 8, 17, 18, and 19, those portions lying west of the Sheephole Valley Wilderness Area.
T. 4 N., R. 13 E.,
Secs. 1 to 4, inclusive, 6 to 15, inclusive, and 17 to 22, inclusive;
Secs. 23, 24, and 27, those portions lying northwesterly of the Sheephole Valley Wilderness Area;
Secs. 28 to 32, inclusive;
Secs. 33 and 34, that portion lying northwesterly of the Sheephole Valley Wilderness Area.
T. 5 N., R. 13 E.,
Secs. 19 and 20;
Sec. 22, W½;
Secs. 23 to 28, inclusive, and 30, 31, 32, 34, and 35.
T. 3 N., R. 14 E.,
Secs. 1 and 2;
Secs. 3, 4, and 10, those portions lying east of the Sheephole Valley Wilderness Area;
Secs. 11, 12, and 13;
Secs. 14 and 15, those portions lying east of the Sheephole Valley Wilderness Area.
T. 4 N., R. 14 E.,
Secs. 6, 7, 8, 10, 11, 12, 14, 15, 17, and 18;
Sec. 20, that portion lying northeasterly of the Sheephole Valley Wilderness Area;
Secs. 21 to 24, inclusive;
Sec. 25, that portion lying northwesterly of the Cadiz Dunes Wilderness Area;
Secs. 26, 27, and 28;
Sec. 29, that portion lying northeasterly of the Sheephole Valley Wilderness Area;
Secs. 33, 34, and 35.
T. 5 N., R. 14 E.,
Secs. 30 and 31.
T. 4 N, R. 15 E.,
Secs. 1 to 4, inclusive;
Sec. 5, all except for railroad rights-of-way;
Secs. 6, 7, and 8;
Sec. 9, all except for railroad rights-of-way;

Secs. 10 to 15, inclusive, and 18 to 21, inclusive;
Secs. 22 to 25, those portions lying northwesterly or northeasterly of the Cadiz Dunes Wilderness Area, inclusive;
Secs. 28 to 30, those portions lying northwesterly or northeasterly of the Cadiz Dunes Wilderness Area, inclusive;
Sec. 32, that portion lying northeasterly of the Cadiz Dunes Wilderness Area.
T. 5 N., R. 15 E.,
Secs. 10 to 15, inclusive, and 19 to 35, inclusive.
T. 3 N., R. 16 E.,
Sec. 3, that portion lying northeasterly of the pipeline authorized by CACA 14013 and lying northwesterly of the Old Woman Mountains Wilderness Area.
T. 4 N., R. 16 E.,
Secs. 4 and 5, those portions lying southwesterly of the Old Woman Mountains Wilderness Area;
Secs. 6, 7, and 8;
Sec. 9, that portion lying southwesterly of the Old Woman Mountains Wilderness Area;
Sec. 16, that portion lying southwesterly of the Old Woman Mountains Wilderness Area;
Secs. 17 to 20, inclusive;
Secs. 21 and 22, those portions lying southwesterly of the Old Woman Mountains Wilderness Area;
Secs. 27, that portion lying southwesterly of the Old Woman Mountains Wilderness Area;
Sec. 28;
Sec. 29, all except for that portion in railroad rights-of-way containing 17 acres;
Secs. 30, 31, and 32, those portions lying northeasterly of the Cadiz Dunes Wilderness Area;
Sec. 33, that portion lying northeasterly of the Cadiz Dunes Wilderness Area except for that portion contained in railroad rights-of-way containing 14.55 acres;
Sec. 34, that portion lying southwesterly of the Old Woman Mountains Wilderness Area.
T. 5 N., R. 16 E.,
Secs. 6 and 7, those portions lying westerly of the Old Woman Mountains Wilderness Area;
Secs. 18, 19, and 20, those portions lying westerly of the Old Woman Mountains Wilderness Area;
Secs. 30 and 31;
Sec. 32, that portion lying westerly of the Old Woman Mountains Wilderness Area.

The areas described aggregate 331,786 acres, more or less in San Bernardino County.

b. *Non-Federal Surface Estate and Federal Mineral Estate:*

San Bernardino Meridian

Southern Acquisition Area

T. 2 N., R. 9 E.,
Sec. 26, N½NW¼SW¼SW¼;
Sec. 27, W½SE¼SE¼SE¼;
Sec. 35, N½NE¼NE¼NE¼ and S½SW¼NW¼NE¼.

Eastern Acquisition Area

T. 5 N., R. 12 E.,
Sec. 5, lot 1 of NE¼, W½ of lot 1 of NW¼, lots 5 and 6 inclusive, SE¼NW¼, and S½.

The areas described aggregate 507 acres, more or less in San Bernardino County.

2. The following described non-Federal lands are located within the boundaries of the withdrawal areas. In the event the non-Federal lands or mineral estates return to Federal ownership, these lands and mineral estates will be subject to the terms and conditions of this withdrawal as described above:

(a). *Non-Federal Surface and Mineral Estate:*

San Bernardino Meridian

Western Acquisition Area

T. 5 N., R. 2 E.,
Sec. 36.
T. 6 N., R. 2 E.,
Sec. 36.
T. 5 N., R. 3 E.,
Sec. 1;
Sec. 36, N½ and SE¼.
T. 6 N., R. 3 E.,
Sec. 1, S½ of lot 4;
Sec. 4, that land described by metes and bounds in Patent No. 04–67–0117 and containing 180.445 acres, more or less;
Secs. 10 and 11, that land described by metes and bounds in Patent No. 04–68–0173 and containing 20.104 acres, more or less;
Sec. 25;
Sec. 31, that land described by metes and bounds in Patent No. 994392 and containing 41.322 acres, more or less;
Sec. 36.
T. 4 N., R. 4 E.,
Sec. 16, N½ and SE¼.
T. 5 N., R. 4 E.,
Sec. 1;
Sec. 12, E½NE¼ and N½SE¼;
Sec. 13, W½NW¼, west 20 rods of the E½NW¼, and W½W½SW¼;
Sec. 17, NE¼;
Sec. 25, lots 1 to 8, inclusive, and E½SE¼.
T. 6 N., R. 4 E.,
Sec. 16, and 25;
Secs. 27 to 28, that land described by metes and bounds in Patent Nos. 24783, 38438, and 38980, and containing 151.25 acres, more or less;
Sec. 36, SE¼.
T. 3 N., R. 5 E.,
Sec. 4, W½NW¼NE¼SW¼, W½SE¼NE¼SW¼, E½NE¼SW¼SW¼, W½NE¼SW¼SW¼, E½SW¼SW¼SW¼, W½SE¼SW¼SW¼, and W½SE¼SE¼SW¼.
T. 4 N., R. 5 E.,
Secs. 1 and 36.
T. 5 N., R. 5 E.,
Sec. 6, SE¼SE¼;
Sec. 7, lot 5;
Secs. 9, 17, 21, 29, and 33.

Southern Acquisition Area

T. 2 N., R. 9 E.,
Sec. 26, N½NW¼SW¼SW¼;
Sec. 27, W½SE¼SE¼SE¼;

Eastern Acquisition Area

T. 4 N., R. 11 E.,
Sec. 13.
T. 5 N., R. 11 E.,
Sec. 36.
T. 4 N., R. 12 E.,
Secs. 9, 13, 16, and 17;
Secs. 18 and 19, that land described by metes and bounds in Patent Nos. 973412 and 968382, and containing 82.31 acres, more or less;
Secs. 22 and 36.
T. 5 N., R. 12 E.,
Secs. 19, 20, 29, and 30, all the lands conveyed by Patent No. 1000678, containing 1,342.40 acres, more or less;
Sec. 16;
Sec. 28, SE¼;
Sec. 36.
T. 4 N., R. 13 E.,
Secs. 5 and 16.
T. 5 N., R. 13 E.,
Sec. 13;
Sec. 21;
Sec. 22, E½;
Secs. 29 and 33;
Sec. 36, SW¼.
T. 3 N., R. 14 E.,
Sec. 36, that portion lying east of the Sheephole Valley Wilderness Area.
T. 4 N., R. 14 E.,
Secs. 1 to 5, inclusive, 9, 13, and 16.
T. 5 N., R. 14 E.,
Secs. 19 to 29, inclusive, and 32 to 36, inclusive.
T. 4 N., R. 15 E.,
Secs. 16 and 17;
Sec. 33, that portion lying northwesterly of the Cadiz Dunes Wilderness Area.
T. 4 N., R. 16 E.,
Sec. 29, that portion contained in railroad rights-of-way containing 17 acres;
Sec. 33, that portion contained in railroad rights-of-way containing 14.55 acres.
T. 5 N., R. 16 E.,
Sec. 29, that portion lying southwesterly of the Old Woman Mountains Wilderness Area.

The areas described aggregate 40,205 acres, more or less, in San Bernardino County.

(b). *State of California surface and mineral estate:*

San Bernardino Meridian

Western Acquisition Area

T. 4 N., R. 3 E.,
Sec. 1, NE¼SW¼ and S½SW¼;
Sec. 3, SW¼NE¼, S½NW¼, and N½S½;
Sec. 4, N½SE¼.
T. 6 N., R. 3 E.,
Sec. 16.
T. 4 N., R. 4 E.,
Sec. 16, SW¼;
Sec. 19, E½E½;
Sec. 20, S½;
Sec. 28, S½;
Sec. 29, E½.
T. 5 N., R. 5 E.,
Sec. 16.

Southern Acquisition Area

T. 2 N., R. 10 E.,
Sec. 16.

Eastern Acquisition Area

T. 5 N., R. 13 E.,
Sec. 36, N½ and SE¼.

The areas described aggregate 3,745 acres, more or less, in San Bernardino County.

3. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of lands under lease, license, or permit, or governing the disposal of the vegetative resources, to maintain the current status of the lands pending action on an application for legislative withdrawal for military purposes under the Engle Act.

4. This withdrawal will expire in 5 years from the effective date of this order unless, as a result a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be extended.

Dated: September 11, 2012.

Rhea S. Suh,

Assistant Secretary, Policy, Management and Budget.

[FR Doc. 2012–23479 Filed 9–21–12; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCO923000–L14300000–FQ0000; COC–28585]

Public Land Order No. 7977; Partial Revocation, Power Site Reserve No. 78; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes a withdrawal created by an Executive Order insofar as it affects 40.81 acres of National Forest System land withdrawn for protection of water power values designated as Power Site Reserve No. 78. This order also opens the land to such forms of disposition that may be made of National Forest System lands.

DATES: *Effective Date:* September 24, 2012.

FOR FURTHER INFORMATION CONTACT: John D. Beck, Chief, Branch of Lands and Realty, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215, (303) 239–3882; *jbeck@blm.gov*. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The Bureau of Land Management has determined that a portion of the withdrawal created by the Executive Order dated July 2, 1910, which established Power Site Reserve No. 78, is no longer needed for the purpose for which the land was withdrawn and partial revocation is needed to facilitate a transfer of title by the Forest Service. The Federal Energy Regulatory Commission has no objections to the partial revocation.

Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714, it is ordered as follows:

1. The withdrawal created by the Executive Order dated July 2, 1910, which established Power Site Reserve No 78, is hereby revoked insofar as it affects the following described land:

Sixth Principal Meridian

T. 1 S., R. 72 W.,
Sec. 33, lot 1.

The area described contains 40.81 acres in Gilpin County.

2. At 9 a.m. on September 24, 2012 the land described in Paragraph 1 is hereby opened to such forms of disposition that may be made of National Forest System land, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law.

Dated: August 29, 2012.

Rhea S. Suh,

Assistant Secretary—Policy, Management and Budget.

[FR Doc. 2012–23478 Filed 9–21–12; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWY921000,L14300000.ET0000; WYW 149499]

Public Land Order No. 7799; Withdrawal of Public Land for the Rock Springs Administrative Site Addition; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 4.93 acres of public land from settlement, sale, location, and entry under the general land laws, including the United States mining laws, for a period of 20 years to protect the Rock Springs Administrative Site addition.

DATES: *Effective Date:* September 24, 2012.

FOR FURTHER INFORMATION CONTACT: Diane Schurman, Realty Specialist, Bureau of Land Management, Wyoming State Office, 5353 N. Yellowstone Road, P.O. Box 1828, Cheyenne, Wyoming 82003, 307–775–6189 or via email at *dschurma@blm.gov*. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual. The FIRS is available 24 hours per day, 7 days per week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The Bureau of Land Management will manage the land to protect the capital improvements associated with development and maintenance of the Rock Springs Administrative Site addition. The land has been and will remain open to mineral leasing.

Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described public land is hereby withdrawn from settlement, sale, location, and entry under the general land laws, including the United States mining laws, but not from leasing under the mineral leasing laws, for the Bureau of Land Management to protect the significant capital improvements associated with the Rock Springs Administrative Site addition:

Sixth Principal Meridian

T. 19 N., R. 105 W.,
Sec. 14, lot 19.

The area described contains 4.93 acres in Sweetwater County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of lands under lease, license, or permit, or governing the disposal of the mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order, unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary

determines that the withdrawal shall be extended.

Dated: September 7, 2012.

Rhea S. Suh,

Assistant Secretary—Policy, Management and Budget.

[FR Doc. 2012–23477 Filed 9–21–12; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLOR–936000–L14300000–ET0000–HAG12–0000; WAOR–19641]

Public Land Order No. 7798; Partial Modification of Power Site Classification No. 126; Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially modifies a withdrawal which established Power Site Classification No. 126, insofar as it affects approximately 21.70 acres of National Forest System land withdrawn to protect water power values along the Nooksack River in Whatcom County, Washington. This order opens the land to such forms of disposition as may by law be made of National Forest System lands subject to a Section 24 Federal Power Act reservation.

DATES: *Effective Date:* September 24, 2012.

FOR FURTHER INFORMATION CONTACT: Robin Ligons, Bureau of Land Management Oregon State Office, 333 SW 1st Ave., Portland, Oregon 97204, 503–808–6169. 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. The FIRS is available 24 hours a day, 7-days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The Bureau of Land Management has determined that a portion of the land classified under Power Site Classification No. 126 for water power purposes will not be injured by U.S. Forest Service conveyance of the land out of Federal ownership under authority of the Small Tract Act, subject to Section 24 of the Federal Power Act reservation applied to the conveyance document. The Federal Energy Regulatory Commission has no objections to the modification.

Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714, it is ordered as follows:

1. The withdrawal created by the Secretarial Order dated January 23, 1926, which established Power Site Classification No. 126, is hereby modified to open the land to such forms of disposition as may by law be made of National Forest System lands insofar as it affects the following described land:

Willamette Meridian

T. 39 N., R. 7 E.,
Sec. 6, lot 13.

The area described contains 21.70 acres in Whatcom County.

2. At 9 a.m. on September 24, 2012 the land described in Paragraph 1 is hereby open to such form of disposition as may by law be made of National Forest System lands subject to Section 24 of the Federal Power Act of June 10, 1920, as amended (16 U.S.C. 818).

Dated: September 7, 2012.

Rhea S. Suh,

Assistant Secretary—Policy, Management and Budget.

[FR Doc. 2012–23475 Filed 9–21–12; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–AKR–LACL AND WRST–11006; 9924–PYS]

Teleconference for the National Park Service Alaska Region's Subsistence Resource Commission Program

AGENCY: National Park Service, Interior.

ACTION: Notice of open public meetings.

SUMMARY: The Lake Clark National Park Subsistence Resource Commission (SRC) and the Wrangell-St. Elias National Park SRC will meet to develop and continue work on National Park Service (NPS) subsistence program recommendations and other related subsistence management issues. The NPS SRC program is authorized under Title VIII, Section 808 of the Alaska National Interest Lands Conservation Act, Public Law 96–487, to operate in accordance with the provisions of the Federal Advisory Committee Act. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register.**

Public Availability Of Comments: These meetings are open to the public and will have time allocated for public testimony. The public is welcome to present written or oral comments to the SRC. The meetings will be recorded and summary minutes will be available upon request from the park superintendent for public inspection approximately six weeks after each meeting. Before including your address, telephone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Lake Clark National Park SRC Meeting Date and Location: The Lake Clark National Park SRC meeting will be held on Thursday, September 20, 2012, from 11 a.m. to 3 p.m. or until business is completed at the NPS Visitor Center in Port Alsworth, AK. Should a quorum not be available, a new meeting date and location will be published in local newspapers and announced on local radio stations.

SRC meeting dates and locations may need to be changed based on inclement weather or exceptional circumstances.

For Further Information on the Lake Clark National Park SRC Meeting Contact: Lee Fink, Acting Superintendent, at (907) 644–3626 or Mary McBurney, Subsistence Manager, at (907) 235–7891 or Clarence Summers, Subsistence Manager, NPS Alaska Regional Office, at (907) 644–3603. If you are interested in applying for Lake Clark National Park SRC membership contact the Superintendent at 240 W. 5th Avenue, Suite 236 Anchorage 99501, or visit the park Web site at: *http://www.nps.gov/lacl/contacts.htm.*

Proposed Lake Clark National Park A SRC Meeting Agenda:

1. Call to Order—Confirm Quorum
2. Welcome and Introductions
3. Administrative Announcements
4. Approval of Agenda and Minutes
5. SRC Member Reports on Subsistence Issues/Activities
6. Public and Other Agency Comments
7. Old Business
   a. NPS Subsistence Collections Environmental Assessment Update
   b. Fish and Wildlife Updates
8. NPS Staff Reports
9. New Business
10. Public and other Agency Comments
11. Select Time and Location for Next Meeting
12. Adjourn Meeting

Wrangell-St. Elias National Park SRC Meeting Date and Location: The

Wrangell-St. Elias National Park SRC meeting and teleconference will be held on Tuesday, October 30, 2012, from 9 a.m. to 3 p.m. or until business is completed at the Wrangell-St. Elias National Park and Preserve Headquarter Complex in Copper Center, AK. Space for the teleconference meeting is limited. Teleconference participants should contact Barbara Cellarius, Subsistence Coordinator, via email at *barbara_cellarius@nps.gov* or telephone at (907) 822–5234 by 4 p.m. on Friday, October 26, 2012. Should a quorum not be available, a new meeting date and location will be published in local newspapers and announced on local radio stations. SRC meeting dates and locations may need to be changed based on inclement weather or exceptional circumstances.

For Further Information on the Wrangell-St. Elias National Park SRC Meeting Contact: Rick Obernesser, Superintendent, or Barbara Cellarius, Subsistence Manager, at (907) 822–5234 or Clarence Summers, Subsistence Manager, NPS Alaska Regional Office, at (907) 644–3603. If you are interested in applying for Wrangell-St. Elias National Park SRC membership, contact the Superintendent at P.O. Box 439, Copper Center, AK 99573, or visit the park Web site at: *http://www.nps.gov/wrst/contacts.htm.*

Proposed Wrangell-St. Elias National Park SRC Meeting Agenda:

1. Call to Order—Confirm Quorum
2. Welcome and Introductions
3. Administrative Announcements
4. Approval of Agenda and Minutes
5. Status of SRC Membership
6. Superintendent's Report
7. SRC Members' Reports on Subsistence Issues/Activities
8. Public and Other Agency Comments
9. Old Business
   a. NPS Subsistence Collections Environmental Assessment Update
   b. SRC Letters
10. New Business
   a. Susitna-Watana Hydroelectric Project
11. NPS Staff Reports
   a. Ranger Update
   b. Resource Update
   c. Wildlife Update
   d. Fisheries Update
   e. Subsistence Manager Update
12. Public and Other Agency Comments
13. SRC Work Session
14. Select Time and Location for Next Meeting
15. Adjourn Meeting

Debora R. Cooper,

Associate Regional Director, Resources and Subsistence, Alaska Region.

[FR Doc. 2012–23414 Filed 9–21–12; 8:45 am]

BILLING CODE 4310–GY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0010]

Agency Information Collection Activities: Proposed Collection; Comments Requested: Application To Transport Interstate or Temporarily Export Certain National Firearms Act (NFA) Firearms

ACTION: 60-Day Notice of Information Collection Under Review.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until December 24, 2012. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Gary Schaible, National Firearms Act Branch at *gary.schaible@atf.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 Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Application to Transport Interstate or Temporarily Export Certain National Firearms Act (NFA) Firearms.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* ATF F 5320.20. 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: None.

Need for Collection

The information is used by ATF to determine the lawful transportation of an NFA firearm and/or to pursue the criminal investigation into an unregistered NFA firearm.

(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 4400 respondents will complete a 20 minute form.

(6) An estimate of the total public burden (in hours) associated with the collection: There is an estimated 1467 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: September 19, 2012

Jerri Murray,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2012–23465 Filed 9–21–12; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Electrical Apparatus Service Association, Inc.

Notice is hereby given that, on August 29, 2012, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Electrical Apparatus Service Association, Inc. (''EASA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade

Commission disclosing (1) the name and principal place of business of the standards development organization and (2) the nature and scope of its standards development activities. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the name and principal place of business of the standards development organization is: Electrical Apparatus Service Association, Inc., St. Louis, MO. The nature and scope of EASA's standards development activities are: EASA publishes Recommended Practice for the Repair of Rotating Electrical Apparatus. This document describes recordkeeping, tests, analysis, and general guidelines for the repair of rotating electrical apparatus, including generators and motors. The purpose of EASA documents is to establish requirements in each step of electrical apparatus rewinding and rebuilding. They are not intended to take the place of the customer's or the machine manufacturer's specific instructions or specifications. EASA standards-related documents are intended to aid in assuring the continued reliability of electrical apparatus, by providing good work practice guidance. Further, they are intended as guides for maintaining the energy efficiency of rewound and rebuilt electrical apparatus. The scope of EASA's standards activities differs from that of IEEE, NEMA, and NFPA. It is the intention of EASA to continue to reference IEEE, NEMA, and NFPA standards where they apply to a document.

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2012–23407 Filed 9–21–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—DVD Copy Control Association

Notice is hereby given that, on August 24, 2012, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), DVD Copy Control Association (''DVD CCA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, GSB SUMMIT CD (M) SDN BHD, Kuala Lumpur, MALAYSIA, has been added as a party to this venture.

Also, Anam Electronics Co., Ltd., Ansan-City, Kyungki-do, REPUBLIC OF KOREA; Dongguan Contel Electronics Co., Ltd., Dongguan, Guangdong, PEOPLE'S REPUBLIC OF CHINA; Guangzhou Changjia Electronic Co., Ltd., Guangzhou City, Guangdong, PEOPLE'S REPUBLIC OF CHINA; and Meridian Audio Limited, Cambridgeshire, UNITED KINGDOM, have withdrawn as parties to this venture.

Also, Onkyo Sound & Vision has changed its name to Digital Acoustic Corporation, Neyagaw, Osaka, JAPAN.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and DVD CCA intends to file additional written notifications disclosing all changes in membership.

On April 11, 2001, DVD CCA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on August 3, 2001 (66 FR 40727).

The last notification was filed with the Department on May 24, 2012. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on June 29, 2012 (77 FR 38830).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2012–23411 Filed 9–21–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Connected Media Experience, Inc.

Notice is hereby given that, on September 4, 2012, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Connected Media Experience, Inc. (''CMX'') filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Songbird, Inc., San Francisco, CA, has been added as a party to this venture. In addition, PacketVideo Corporation, San Diego, CA; and Puretracks, Toronto, Ontario, CANADA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and CMX intends to file additional written notifications disclosing all changes in membership.

On March 12, 2010, CMX filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on April 16, 2010 (75 FR 20003).

The last notification was filed with the Department on June 8, 2012. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on July 6, 2012 (77 FR 40086).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2012–23409 Filed 9–21–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Meeting of the CJIS Advisory Policy Board

AGENCY: Federal Bureau of Investigation (FBI), Department of Justice.

ACTION: Notice.

SUMMARY: The purpose of this notice is to announce the meeting of the Federal Bureau of Investigation's Criminal Justice Information Services (CJIS) Advisory Policy Board (APB). The CJIS APB is a federal advisory committee established pursuant to the Federal Advisory Committee Act (FACA). This meeting announcement is being published as required by Section 10 of the FACA.

The FBI CJIS APB is responsible for reviewing policy issues and appropriate technical and operational issues related to the programs administered by the FBI's CJIS Division, and thereafter, making appropriate recommendations to the FBI Director. The programs administered by the CJIS Division are the Integrated Automated Fingerprint Identification System/Next Generation

Identification, Interstate Identification Index, Law Enforcement Online, National Crime Information Center, National Instant Criminal Background Check System, National Incident-Based Reporting System, Law Enforcement National Data Exchange, and Uniform Crime Reporting.

This meeting is open to the public. All attendees will be required to sign-in at the meeting registration desk. Registrations will be accepted on a space available basis. Interested persons whose registrations have been accepted may be permitted to participate in the discussions at the discretion of the meeting chairman and with approval of the Designated Federal Officer (DFO). Any member of the public may file a written statement with the Board. Written comments shall be focused on the APB's current issues under discussion and may not be repetitive of previously submitted written statements. Written comments should be provided to Mr. R. Scott Trent, DFO, at least seven (7) days in advance of the meeting so that the comments may be made available to the APB for their consideration prior to the meeting.

Anyone requiring special accommodations should notify Mr. Trent at least seven (7) days in advance of the meeting.

Dates and Times: The APB will meet in open session from 8:30 a.m. until 5 p.m., on December 4–6, 2012.

ADDRESSES: The meeting will take place at The Hyatt Regency Jacksonville, 225 East Coastline Drive, Jacksonville, Florida 32202, telephone (904) 588–1234.

FOR FURTHER INFORMATION CONTACT: Inquiries may be addressed to Ms. Skeeter J. Murray; Management and Program Assistant; CJIS Training and Advisory Process Unit, Resources Management Section; FBI CJIS Division, Module C2, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306–0149; telephone (304) 625–3518, facsimile (304) 625–5090.

Dated: August 28, 2012.

R. Scott Trent,

CJIS Designated Federal Officer, Criminal Justice Information Services Division, Federal Bureau of Investigation.

[FR Doc. 2012–23327 Filed 9–21–12; 8:45 am]

BILLING CODE 4410–02–P

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meeting:

Name: Site visit review of the Cornell High Energy Synchrotron Source (CHESS) at Cornell University by the Division of Materials Research (DMR) #1203

Dates & Times: October 28, 2012; 5:45 p.m.–8:30 p.m. October 29, 2012; 7:45 a.m.–8 p.m. October 30, 2012; 8 a.m.–3:30 p.m.

Place: Cornell University, Ithaca, NY 14853.

Type of Meeting: Part open.

Contact Person: Dr. Thomas Rieker, Program Director, Materials Research Science and Engineering Centers Program, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone (703) 292–4914.

Purpose of Meeting: To provide advice and recommendations concerning operations and further support of the CHESS facility at Cornell.

Agenda

Sunday, October 28, 2012

5:45 p.m.–7 p.m. Closed—Executive Session
7 p.m.–8:30 p.m. Open—Tour of CHESS

Monday, October 29, 2012

8 a.m.–4 p.m. Open—Review of CHESS
4 p.m.–5:40 p.m. Closed—Executive session
5:40 p.m.–8 p.m. Open—Poster session and dinner

Tuesday, February 14, 2012

8 a.m.–3:30 p.m. Closed—Executive session, Draft and Review Report

Reason for Closing: The work being reviewed may include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the MRSEC. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 19, 2012.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2012–23467 Filed 9–21–12; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Cyberinfrastructure; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Cyberinfrastructure (25150).

Date and Time: October 17, 2012, 12 p.m.–2 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Rm 1295, Arlington, VA 22230, Virtual Meeting.

Type of Meeting: Open.

Contact Person: Kristen Oberright, Office of the Director, Office of Cyberinfrastructure (OD/OCI), National Science Foundation, 4201 Wilson Blvd., Suite 1145, Arlington, VA 22230, Telephone: 703–292–8970.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To advise NSF on the impact of its policies, programs and activities on the CI community. To provide advice to the Director/NSF on issues related to long-range planning.

Agenda: Discussion of proposed realignment of the Office of Cyberinfrastructure to become a division within the Directorate for Computer and Information Science and Engineering.

Dated: September 19, 2012.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2012–23468 Filed 9–21–12; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2012–0191]

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 of the vendor information collection method 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 Reactor Vendor Registration.

2. *Current OMB approval number:* 3150–XXXX.

3. *How often the collection is required:* Annually.

4. *Who is required or asked to report:* Power reactor licensee and applicants are asked to report voluntary.

5. *The number of annual respondents:* 192.

6. *The number of hours needed annually to complete the requirement or request:* 183.5 hrs.

7. *Abstract:* The NRC is commencing an effort to identify vendors of safety-

related parts and services to nuclear power plants both directly (vendors) and indirectly (sub-vendors). For the purpose of this document, the term vendor includes supplier. The NRC licensees and applicants are responsible for the safety of facilities licensed by the NRC. As such, they are responsible for ensuring that their vendors meet applicable regulations and requirements, both technical and quality, in purchase documents. In order to ensure that licensees are meeting the regulatory requirements in this area, the NRC inspects vendors to evaluate their conformance with technical and quality requirements in part 21 of Title 10 of the Code of Federal Regulations (10 CFR), ''Reporting of Defects and Noncompliance,'' and Appendix B, ''Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants,'' to 10 CFR part 50, as required by procurement contracts with licensees. There is no requirement for vendors to register with the NRC. This collection will assist the NRC in assessing the number and variety of vendors of safety-related parts and services for resource and vendor inspection planning. As part of that effort, the NRC plans to (1) issue a communication to power reactor licensee and applicants requesting the voluntary submittal of vendor information and (2) create a Web page on its public Web site that allows vendor and sub-vendor information to be submitted individually. When power reactor licensee and applicants respond either by submitting their information by mail or online they will be asked to provide the following information: Vendor names, vendor addresses, vendor points of contact, vendor point of contact email address, vendor telephone number, scope of supply, and comments. Additionally, Vendors will also be able to use this Web page voluntarily to complete self registration.

Submit, by November 23, 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. The 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's 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–2012–0191.

You may submit your comments by any of the following methods: Electronic comments to *http://www.regulations.gov* and search for Docket No. NRC–2012–0191. Mail comments to the NRC's 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's Clearance Officer, Tremaine Donnell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by telephone at 301–415–6258, or by email to *INFOCOLLECTS.Resource@NRC.GOV.*

Dated at Rockville, Maryland, this 18th day of September, 2012.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2012–23469 Filed 9–21–12; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2012–0198]

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:* 10 CFR Part 40, ''Domestic Licensing of Source Material.''
2. *Current OMB approval number:* 3150–0020.
3. *How often the collection is required:* On occasion. Reports required under 10 CFR Part 40 are collected and evaluated on a continuing basis as events occur. There is a one-time submittal of information to receive a license. Renewal applications need to be submitted every 5 to 10 years. Information in previous applications may be referenced without being resubmitted. In addition, recordkeeping must be performed on an on-going basis.
4. *Who is required or asked to report:* 10 CFR Part 40: Applicants for and holders of NRC licenses authorizing the receipt, possession, use, or transfer of radioactive source and byproduct material.
5. *The number of annual respondents:* 99 (33 NRC Licensees + 66 Agreement State Licensees).
6. *The number of hours needed annually to complete the requirement or request:* 10,548 hours (4,256 NRC Licensees hours [2,184 reporting + 2,072 recordkeeping] + 6,292 Agreement States Licensees hours [2,500 reporting + 3,792 recordkeeping]).
7. *Abstract:* 10 CFR Part 40 establishes requirements for licenses for the receipt, possession, use and transfer of radioactive source and byproduct material. The application, reporting and recordkeeping requirements are necessary to permit the NRC to make a determination on whether the possession, use, and transfer of source and byproduct material is in conformance with the Commission's regulations for protection of public health and safety.

Submit, by November 23, 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. The 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–2012–0198. You may submit your comments by any of the following methods: Electronic comments to: *http://www.regulations.gov* and search for Docket No. NRC–2012–0198. Mail comments to the NRC's 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's Clearance Officer, Tremaine Donnell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by telephone at 301–415–6258, or by email to *INFOCOLLECTS.Resource@NRC.GOV.*

Dated at Rockville, Maryland, this *18th* day of September, 2012.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2012–23470 Filed 9–21–12; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 30205; File No. 812–13985]

Financial Investors Trust, et al.; Notice of Application

September 18, 2012.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 12(d)(1)(A) and (B) of the Act, under section 6(c) of the Act for an exemption from rule 12d1–2(a) under the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (2) of the Act.

SUMMARY OF THE APPLICATION: The requested order would (a) permit certain registered open-end management investment companies that operate as ''funds of funds'' to acquire shares of certain registered open-end management investment companies and unit investment trusts (''UITs'') that are within and outside the same group of investment companies as the acquiring investment companies, and (b) permit funds of funds relying on rule 12d1–2 under the Act to invest in certain financial instruments.

APPLICANTS: Financial Investors Trust (the ''Trust''), on behalf of the Redmont Resolute Fund I (''Redmont Fund I'') and Redmont Resolute Fund II (''Redmont Fund II''), and Highland Associates, Inc. (the ''Adviser'').

FILING DATES: The application was filed on December 2, 2011 and amended on May 24, 2012. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on October 15, 2012 and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Elizabeth M. Murphy, Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants: 1290 Broadway, Suite 1100, Denver, Colorado 80203.

FOR FURTHER INFORMATION CONTACT: Mark N. Zaruba, Attorney-Advisor, at (202) 551–6878, or Mary Kay Frech, Branch Chief, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm,* or by calling (202) 551–8090.

Applicants' Representations

1. The Trust is an open-end management investment company registered under the Act and organized as a Delaware statutory trust. The Trust is comprised of separate series (each a ''Fund''), including Redmont Fund I and Redmont Fund II, each of which pursues different investment objectives and principal investment strategies.[1]

2. The Adviser, an Alabama corporation, is registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act'') and serves as investment adviser to Redmont Fund I and Redmont Fund II and will serve as investment adviser to future Funds. Any subadviser to a Fund (each a ''Subadviser'') will be registered as an investment adviser under the Advisers Act.

3. Applicants request an order to permit (a) a Fund that operates as a ''fund of funds'' (each a ''Fund of Funds'') to acquire shares of (i) registered open-end management investment companies or series thereof that are not part of the same ''group of investment companies,'' within the meaning of section 12(d)(1)(G)(ii) of the Act, as the Fund of Funds (''Unaffiliated Investment Companies'') and UITs that are not part of the same group of investment companies as the Fund of Funds (''Unaffiliated Trusts,'' together with the Unaffiliated Investment Companies, ''Unaffiliated Funds''),[2] or (ii) registered open-end management companies or UITs that are part of the same group of investment companies as the Fund of Funds (collectively, ''Affiliated Funds,'' together with the Unaffiliated Funds, ''Underlying Funds'') and (b) each Underlying Fund, any principal underwriter for the Underlying Fund, and any broker or dealer (''Broker'') registered under the Securities Exchange Act of 1934 (''Exchange Act'') to sell shares of the

[1] Applicants request that the relief also apply to any future series of the Trust and any future registered open-end management investment company or series thereof that is advised by the Adviser or any entity controlling, controlled by or under common control with the Adviser and which is part of the same group of investment companies (as defined in section 12(d)(1)(G)(ii)) as the Trust (included in the term ''Funds'').

[2] Certain of the Unaffiliated Funds may be registered under the Act as either UITs or open-end management investment companies and have received exemptive relief to permit their shares to be listed and traded on a national securities exchange at negotiated prices (''ETFs'').

Underlying Fund to the Fund of Funds.[3] Applicants also request an order under sections 6(c) and 17(b) of the Act to exempt applicants from section 17(a) to the extent necessary to permit Underlying Funds to sell their shares to Funds of Funds and redeem their shares from Funds of Funds.

4. Applicants also request an exemption under section 6(c) from rule 12d1–2 under the Act to permit any existing or future Fund of Funds that relies on section 12(d)(1)(G) of the Act (''Same Group Fund of Funds'') and that otherwise complies with rule 12d1–2 to also invest, to the extent consistent with its investment objective, policies, strategies and limitations, in financial instruments that may not be securities within the meaning of section 2(a)(36) of the Act (''Other Investments'').

Applicants' Legal Analysis

Investments in Underlying Funds

A. Section 12(d)(1)

1. Section 12(d)(1)(A) of the Act, in relevant part, prohibits a registered investment company from acquiring shares of an investment company if the securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter, and any broker or dealer from selling the investment company's shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally.

2. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Applicants seek an exemption under section 12(d)(1)(J) of the Act to permit a Fund of Funds to acquire shares of the Underlying Funds in excess of the limits in section 12(d)(1)(A), and an Underlying Fund, any principal underwriter for an Underlying Fund, and any Broker to sell shares of an Underlying Fund to a Fund of Funds in excess of the limits in section 12(d)(1)(B) of the Act.

3. Applicants state that the terms and conditions of the proposed arrangement will not give rise to the policy concerns underlying sections 12(d)(1)(A) and (B), which include concerns about undue influence by a Fund of Funds over Underlying Funds, excessive layering of fees, and overly complex fund structures. Accordingly, applicants believe that the requested exemption is consistent with the public interest and the protection of investors.

4. Applicants submit that the proposed arrangement will not result in the exercise of undue influence by a Fund of Funds or a Fund of Funds Affiliate (as defined below) over the Unaffiliated Funds.[4] To limit the control that a Fund of Funds may have over an Unaffiliated Fund, applicants propose a condition prohibiting the Adviser, any person controlling, controlled by, or under common control with the Adviser, and any investment company or issuer that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act that is advised or sponsored by the Adviser or any person controlling, controlled by, or under common control with the Adviser (the ''Advisory Group'') from controlling (individually or in the aggregate) an Unaffiliated Fund within the meaning of section 2(a)(9) of the Act. The same prohibition would apply to any Subadviser within the meaning of section 2(a)(20)(B) of the Act to a Fund of Funds, any person controlling, controlled by or under common control with the Subadviser, and any investment company or issuer that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act (or portion of such investment company or issuer) advised or sponsored by the Subadviser or any person controlling, controlled by or under common control with the Subadviser (the ''Subadvisory Group''). Applicants propose other conditions to limit the potential for undue influence over the Unaffiliated Funds, including that no Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to an Unaffiliated Investment Company or sponsor to an Unaffiliated Trust) will cause an Unaffiliated Fund to purchase a security in an offering of securities during the existence of any underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate (''Affiliated Underwriting''). An ''Underwriting Affiliate'' is a principal underwriter in any underwriting or selling syndicate that is an officer, director, member of an advisory board, investment adviser, Subadviser, or employee of the Fund of Funds, or a person of which any such officer, director, member of an advisory board, investment adviser, Subadviser, or employee is an affiliated person. An Underwriting Affiliate does not include any person whose relationship to an Unaffiliated Fund is covered by section 10(f) of the Act.

5. To further assure that an Unaffiliated Investment Company understands the implications of an investment by a Fund of Funds under the requested order, prior to a Fund of Funds' investment in the shares of an Unaffiliated Investment Company in excess of the limit in section 12(d)(1)(A)(i) of the Act, the Fund of Funds and the Unaffiliated Investment Company will execute an agreement stating, without limitation, that their boards of directors or trustees (for any entity, the ''Board'') and their investment advisers understand the terms and conditions of the order and agree to fulfill their responsibilities under the order (''Participation Agreement''). Applicants note that an Unaffiliated Investment Company (other than an ETF whose shares are purchased by a Fund of Funds in the secondary market) will retain its right at all times to reject any investment by a Fund of Funds.[5]

6. Applicants state that they do not believe that the proposed arrangement will involve excessive layering of fees. The Board of each Fund of Funds, including a majority of the trustees who are not ''interested persons'' (within the meaning of section 2(a)(19) of the Act) (for any Board, the ''Independent Trustees''), will find that the advisory fees charged under any investment advisory or management contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Underlying Fund in which the Fund of Funds may

[3] All entities that currently intend to rely on the requested order are named as applicants. Any other entity that relies on the order in the future will comply with the terms and conditions of the application.

[4] A ''Fund of Funds Affiliate'' is the Adviser, any Subadviser, promoter or principal underwriter of a Fund of Funds, as well as any person controlling, controlled by, or under common control with any of those entities. An ''Unaffiliated Fund Affiliate'' is an investment adviser, sponsor, promoter, or principal underwriter of an Unaffiliated Fund, as well as any person controlling, controlled by, or under common control with any of those entities.

[5] An Unaffiliated Investment Company, including an ETF, would retain its right to reject any initial investment by a Fund of Funds in excess of the limit in section 12(d)(1)(A)(i) of the Act by declining to execute the Participation Agreement with the Fund of Funds.

invest. In addition, the Adviser will waive fees otherwise payable to it by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by an Unaffiliated Investment Company under rule 12b–1 under the Act) received from an Unaffiliated Fund by the Adviser or an affiliated person of the Adviser, other than any advisory fees paid to the Adviser or its affiliated person by an Unaffiliated Investment Company, in connection with the investment by the Fund of Funds in the Unaffiliated Fund. Any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a Fund of Funds as set forth in Rule 2830 of the Conduct Rules of the NASD (''NASD Conduct Rule 2830'').[6]

7. Applicants submit that the proposed arrangement will not create an overly complex fund structure. Applicants note that no Underlying Fund will acquire securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except in certain circumstances identified in condition 11 below.

B. Section 17(a)

1. Section 17(a) of the Act generally prohibits sales or purchases of securities between a registered investment company and any affiliated person of the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include (a) any person directly or indirectly owning, controlling, or holding with power to vote, 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by the other person; and (c) any person directly or indirectly controlling, controlled by, or under common control with the other person.

2. Applicants state that a Fund of Funds and the Affiliated Funds might be deemed to be under common control of the Adviser and therefore affiliated persons of one another. Applicants also state that a Fund of Funds and the Unaffiliated Funds might be deemed to be affiliated persons of one another if the Fund of Funds acquires 5% or more of an Unaffiliated Fund's outstanding voting securities. In light of these and other possible affiliations, section 17(a) could prevent an Underlying Fund from selling shares to and redeeming shares from a Fund of Funds.

3. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act. Section 6(c) of the Act permits the Commission to exempt any person or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Applicants submit that the proposed transactions satisfy the standards for relief under sections 17(b) and 6(c) of the Act.[7] Applicants state that the terms of the transactions are reasonable and fair and do not involve overreaching. Applicants state that the terms upon which an Underlying Fund will sell its shares to or purchase its shares from a Fund of Funds will be based on the net asset value of the Underlying Fund.[8] Applicants state that the proposed transactions will be consistent with the policies of each Fund of Funds and each Underlying Fund and with the general purposes of the Act.

Other Investments by Same Group Funds of Funds

1. Section 12(d)(1)(G) of the Act provides that section 12(d)(1) will not apply to securities of an acquired company purchased by an acquiring company if: (i) The acquiring company and acquired company are part of the same group of investment companies; (ii) the acquiring company holds only securities of acquired companies that are part of the same group of investment companies, government securities, and short-term paper; (iii) the aggregate sales loads and distribution-related fees of the acquiring company and the acquired company are not excessive under rules adopted pursuant to section 22(b) or section 22(c) of the Act by a securities association registered under section 15A of the Exchange Act or by the Commission; and (iv) the acquired company has a policy that prohibits it from acquiring securities of registered open-end management investment companies or registered unit investment trusts in reliance on section 12(d)(1)(F) or (G) of the Act.

2. Rule 12d1–2 under the Act permits a registered open-end investment company or a registered unit investment trust that relies on section 12(d)(1)(G) of the Act to acquire, in addition to securities issued by another registered investment company in the same group of investment companies, government securities, and short-term paper: (1) Securities issued by an investment company that is not in the same group of investment companies, when the acquisition is in reliance on section 12(d)(1)(A) or 12(d)(1)(F) of the Act; (2) securities (other than securities issued by an investment company); and (3) securities issued by a money market fund, when the investment is in reliance on rule 12d1–1 under the Act. For the purposes of rule 12d1–2, ''securities'' means any security as defined in section 2(a)(36) of the Act.

3. Applicants state that the proposed arrangement would comply with the provisions of rule 12d1–2 under the Act, but for the fact that a Same Group Fund of Funds may invest a portion of its assets in Other Investments. Applicants request an order under section 6(c) of the Act for an exemption from rule 12d1–2(a) to allow the Same Group Funds of Funds to invest in Other Investments. Applicants assert that permitting Same Group Funds of Funds to invest in Other Investments as described in the application would not raise any of the concerns that the requirements of section 12(d)(1) were designed to address.

4. Consistent with its fiduciary obligations under the Act, the Board of each Same Group Fund of Funds will review the advisory fees charged by the Same Group Fund of Fund's investment adviser to ensure that they are based on services provided that are in addition to,

[6] Any references to NASD Conduct Rule 2830 include any successor or replacement rule to NASD Conduct Rule 2830 adopted by FINRA.

[7] Applicants acknowledge that receipt of any compensation by (a) an affiliated person of a Fund of Funds, or an affiliated person of such person, for the purchase by a Fund of Funds of shares of an Underlying Fund or (b) an affiliated person of an Underlying Fund, or an affiliated person of such person, for the sale by the Underlying Fund of its shares to a Fund of Funds may be prohibited by section 17(e)(1) of the Act. The Participation Agreement also will include this acknowledgement.

[8] To the extent purchases and sales of shares of an ETF occur in the secondary market (and not through principal transactions directly between a Fund of Funds and an ETF), relief from section 17(a) of the Act would not be necessary. The requested relief is intended to cover, however, transactions directly between ETFs and a Fund of Funds. Applicants are not seeking relief from section 17(a) of the Act for, and the requested relief will not apply to, transactions where an ETF could be deemed an affiliated person, or an affiliated person of an affiliated person, of a Fund of Funds because the investment adviser to the ETF or an entity controlling, controlled by or under common control with the investment adviser to the ETF is also an investment adviser to the Fund of Funds.

rather than duplicative of, services provided pursuant to the advisory agreement of any investment company in which the Same Group Fund of Funds may invest.

Applicants' Conditions

Investments by Funds of Funds in Underlying Funds

Applicants agree that the relief to permit Funds of Funds to invest in Underlying Funds shall be subject to the following conditions:

1. The members of an Advisory Group will not control (individually or in the aggregate) an Unaffiliated Fund within the meaning of section 2(a)(9) of the Act. The members of a Subadvisory Group will not control (individually or in the aggregate) an Unaffiliated Fund within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of an Unaffiliated Fund, the Advisory Group or a Subadvisory Group, each in the aggregate, becomes a holder of more than 25 percent of the outstanding voting securities of the Unaffiliated Fund, then the Advisory Group or the Subadvisory Group will vote its shares of the Unaffiliated Fund in the same proportion as the vote of all other holders of the Unaffiliated Fund's shares. This condition will not apply to a Subadvisory Group with respect to an Unaffiliated Fund for which the Subadviser or a person controlling, controlled by, or under common control with the Subadviser acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act (in the case of an Unaffiliated Investment Company) or as the sponsor (in the case of an Unaffiliated Trust).

2. No Fund of Funds or Fund of Funds Affiliate will cause any existing or potential investment by the Fund of Funds in shares of an Unaffiliated Fund to influence the terms of any services or transactions between the Fund of Funds or a Fund of Funds Affiliate and the Unaffiliated Fund or an Unaffiliated Fund Affiliate.

3. The Board of each Fund of Funds, including a majority of the Independent Trustees, will adopt procedures reasonably designed to assure that its Adviser and any Subadviser(s) to the Fund of Funds are conducting the investment program of the Fund of Funds without taking into account any consideration received by the Fund of Funds or Fund of Funds Affiliate from an Unaffiliated Fund or an Unaffiliated Fund Affiliate in connection with any services or transactions.

4. Once an investment by a Fund of Funds in the securities of an Unaffiliated Investment Company exceeds the limit of section 12(d)(1)(A)(i) of the Act, the Board of the Unaffiliated Investment Company, including a majority of the Independent Trustees, will determine that any consideration paid by the Unaffiliated Investment Company to a Fund of Funds or a Fund of Funds Affiliate in connection with any services or transactions: (a) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Unaffiliated Investment Company; (b) is within the range of consideration that the Unaffiliated Investment Company would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (c) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between an Unaffiliated Investment Company and its investment adviser(s) or any person controlling, controlled by, or under common control with such investment adviser(s).

5. No Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to an Unaffiliated Investment Company or sponsor to an Unaffiliated Trust) will cause an Unaffiliated Fund to purchase a security in any Affiliated Underwriting.

6. The Board of an Unaffiliated Investment Company, including a majority of the Independent Trustees, will adopt procedures reasonably designed to monitor any purchases of securities by the Unaffiliated Investment Company in an Affiliated Underwriting once an investment by a Fund of Funds in the securities of the Unaffiliated Investment Company exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board of the Unaffiliated Investment Company will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Fund of Funds in the Unaffiliated Investment Company. The Board of the Unaffiliated Investment Company will consider, among other things, (a) whether the purchases were consistent with the investment objectives and policies of the Unaffiliated Investment Company; (b) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (c) whether the amount of securities purchased by the Unaffiliated Investment Company in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board of the Unaffiliated Investment Company will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to assure that purchases of securities in Affiliated Underwritings are in the best interests of shareholders.

7. Each Unaffiliated Investment Company shall maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and shall maintain and preserve for a period not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in an Affiliated Underwriting once an investment by a Fund of Funds in the securities of an Unaffiliated Investment Company exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth the: (a) Party from whom the securities were acquired, (b) identity of the underwriting syndicate's members, (c) terms of the purchase, and (d) information or materials upon which the determinations of the Board of the Unaffiliated Investment Company were made.

8. Prior to its investment in shares of an Unaffiliated Investment Company in excess of the limit in section 12(d)(1)(A)(i) of the Act, the Fund of Funds and the Unaffiliated Investment Company will execute a Participation Agreement stating, without limitation, that their Boards and their investment advisers understand the terms and conditions of the order and agree to fulfill their responsibilities under the order. At the time of its investment in shares of an Unaffiliated Investment Company in excess of the limit in section 12(d)(1)(A)(i), a Fund of Funds will notify the Unaffiliated Investment Company of the investment. At such time, the Fund of Funds will also transmit to the Unaffiliated Investment Company a list of the names of each Fund of Funds Affiliate and Underwriting Affiliate. The Fund of Funds will notify the Unaffiliated Investment Company of any changes to the list of the names as soon as reasonably practicable after a change occurs. The Unaffiliated Investment

Company and the Fund of Funds will maintain and preserve a copy of the order, the Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

9. Before approving any advisory contract under section 15 of the Act, the Board of each Fund of Funds, including a majority of the Independent Trustees, shall find that the advisory fees charged under such advisory contract are based on services provided that are in addition to, rather than duplicative of, services provided under the advisory contract(s) of any Underlying Fund in which the Fund of Funds may invest. Such finding and the basis upon which the finding was made will be recorded fully in the minute books of the appropriate Fund of Funds.

10. The Adviser will waive fees otherwise payable to it by a Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by an Unaffiliated Investment Company under rule 12b–1 under the Act) received from an Unaffiliated Fund by the Adviser, or an affiliated person of the Adviser, other than any advisory fees paid to the Adviser or its affiliated person by an Unaffiliated Investment Company, in connection with the investment by the Fund of Funds in the Unaffiliated Fund. Any Subadviser will waive fees otherwise payable to the Subadviser, directly or indirectly, by the Fund of Funds in an amount at least equal to any compensation received by the Subadviser, or an affiliated person of the Subadviser, from an Unaffiliated Fund, other than any advisory fees paid to the Subadviser or its affiliated person by an Unaffiliated Investment Company, in connection with the investment by the Fund of Funds in the Unaffiliated Fund made at the direction of the Subadviser. In the event that the Subadviser waives fees, the benefit of the waiver will be passed through to the Fund of Funds.

11. No Underlying Fund will acquire securities of any other investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent that such Underlying Fund: (a) Receives securities of another investment company as a dividend or as a result of a plan of reorganization of a company (other than a plan devised for the purpose of evading section 12(d)(1) of the Act); or (b) acquires (or is deemed to have acquired) securities of another investment company pursuant to exemptive relief from the Commission permitting such Underlying Fund to (i) acquire securities of one or more investment companies for short-term cash management purposes, or (ii) engage in interfund borrowing and lending transactions.

12. Any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to fund of funds set forth in NASD Conduct Rule 2830.

Other Investments by Same Group Funds of Funds

Applicants agree that the relief to permit Same Group Funds of Funds to invest in Other Investments shall be subject to the following condition:

13. Applicants will comply with all provisions of rule 12d1–2 under the Act, except for paragraph (a)(2), to the extent that it restricts any Same Group Fund of Funds from investing in Other Investments as described in the application.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–23450 Filed 9–21–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 30206 ; 812–13988–01]

Neuberger Berman Alternative Funds, et al.; Notice of Application

September 18, 2012.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940, as amended (''Act'') for an exemption from section 15(a) of the Act and rule 18f–2 under the Act, as well as from certain disclosure requirements.

SUMMARY OF APPLICATION: Applicants request an order that would permit them to enter into and materially amend subadvisory agreements without shareholder approval and would grant relief from certain disclosure requirements.

APPLICANTS: Neuberger Berman Alternative Funds (the ''Trust''), Neuberger Berman Management LLC (''NB Management'') and NB Alternative Investment Management LLC (''NBAIM'').

DATES: *Filing Dates:* The application was filed on December 8, 2011, and amended on January 19, 2012, April 9, 2012, and August 16, 2012. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on October 12, 2012, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants: Trust and NB Management, 605 Third Avenue 2nd Floor, New York, 10158–0180; NBAIM, 605 Third Avenue 22nd Floor, New York, New York 10158–0180.

FOR FURTHER INFORMATION CONTACT: Emerson S. Davis, Senior Counsel, at (202) 551–6868, or Daniele Marchesani Branch Chief, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Trust, a Delaware statutory trust organized as a series investment company, is registered under the Act as an open-end management investment company.[1] NB Management is, and any

[1] Applicants request relief with respect to existing and future registered open-end management investment company or series thereof that: (a) Is advised by NB Management or NBAIM, or any entity controlling, controlled by or under common control with NB Management or NBAIM or their respective successors (NB Management, NB Management's successor, and any such affiliated entity that may in the future act in the same role as NB Management, each a ''Manager''; NBAIM, NBAIM's successor, and any such affiliated entity that may in the future act in the same role as

Continued

Manager will be, registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act''). A Manager will serve as the investment adviser to each Fund pursuant to an investment advisory agreement (the ''Management Agreement'') approved by the board of trustees of the Trust (''Board''),[2] including a majority of the trustees who are not ''interested persons,'' as defined in section 2(a)(19) of the Act, of the Trust, the Adviser or the Manager (''Independent Trustees'') and by the initial shareholder of the Fund. Like NB Management, NBAIM is a wholly-owned indirect subsidiary of Neuberger Berman Group and is registered as an investment adviser under the Advisers Act.[3]

2. Under the terms of each Management Agreement, the Manager, subject to the oversight of the Board, will be responsible for the overall management of the assets of each Fund. For the investment management services that it provides to the Fund, the Manager will receive the fee specified in the Management Agreement from such Fund based on the Fund's average daily net assets.

3. The Manager may delegate certain portfolio management responsibilities for one or more Funds to the Adviser pursuant to an investment advisory agreement (the ''Investment Advisory Agreement'') between the Manager and the Adviser. The ultimate responsibility to provide continuous investment management of the assets of each Fund rests with the Manager, and the Manager has the authority to terminate the Adviser at any time. For the services it will provide to a Fund, the Adviser will receive a fee specified in the Investment Advisory Agreement based on the Fund's average daily net assets, which fee will be paid by the Manager out of the fee paid to the Manager. Any Adviser of a Fund will be controlled or under common control with the Manager of the Fund.

4. The Management Agreement also permits the Manager to retain one or more Sub-Advisers for the purpose of managing the investment of all or a portion of the assets of a Fund.[4] Each Sub-Adviser will be registered as an investment adviser under the Advisers Act. The Manager will evaluate and allocate assets to and oversee the Sub-Advisers, and make recommendations to the Board about their hiring, termination and replacement, at all times subject to the authority of the Board. The Manager will compensate each Sub-Adviser out of the fee paid to the Manager under the Management Agreement. For Funds where the Adviser is used, the Adviser will have the responsibility to evaluate and recommend to the Manager Sub-Advisers to manage the assets of a Fund. It will also have the authority to allocate and, when appropriate, reallocate the Fund's assets among Sub-Advisers. The Adviser will not have any authority to select any Sub-Adviser.

5. Applicants request an order to permit the Manager, subject to Board approval, to select certain Sub-Advisers to manage all or a portion of the assets of a Fund pursuant to Sub-Advisory Agreements and materially amend Sub-Advisory Agreements without obtaining shareholder approval. The requested relief will not extend to any Sub-adviser that is an affiliated person, as defined in section 2(a)(3) of the Act, of the Trust, a Fund, the Manager or the Adviser, other than by reason of serving as a Sub-adviser to the Fund (''Affiliated Sub-Adviser''). The Applicants also are not seeking any exemptions from the provisions of the 1940 Act with respect to the requirement that the Investment Advisory Agreement be approved by the shareholders of the relevant Funds.

6. Applicants also request an exemption from certain disclosure provisions described below that may require the Funds to disclose fees paid by the Manager to each Sub-Adviser. Applicants seek an order to permit each Fund to disclose (as both a dollar amount and as a percentage of the respective Fund's net assets): (a) The aggregate fees paid to the Manager and any Affiliated Sub-Advisers; and (b) the aggregate fees paid to Sub-Advisers (collectively, ''Aggregate Fee Disclosure''). Any Fund that employs an Adviser or Affiliated Sub-Adviser will provide separate disclosure of any fees paid to such Adviser or Affiliated Sub-Adviser.

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to act as an investment adviser to a registered investment company except pursuant to a written contract that has been approved by a vote of a majority of the company's outstanding voting securities. Rule 18f–2 under the Act provides that each series or class of stock in a series investment company affected by a matter must approve that matter if the Act requires shareholder approval.

2. Form N–1A is the registration statement used by open-end investment companies. Item 19(a)(3) of Form N–1A requires disclosure of the method and amount of the investment adviser's compensation.

3. Rule 20a–1 under the Act requires proxies solicited with respect to an investment company to comply with Schedule 14A under the Securities Exchange Act of 1934 (''Exchange Act''). Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A, taken together, require a proxy statement for a shareholder meeting at which the advisory contract will be voted upon to include the ''rate of compensation of the investment adviser,'' the ''aggregate amount of the investment adviser's fees,'' a description of the ''terms of the contract to be acted upon,'' and, if a change in the advisory fee is proposed, the existing and proposed fees and the difference between the two fees.

4. Regulation S–X sets forth the requirements for financial statements required to be included as part of a registered investment company's registration statement and shareholder reports filed with the Commission. Sections 6–07(2)(a), (b) and (c) of Regulation S–X require that a registered investment company to include in its financial statement information about investment advisory fees.

5. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provisions of the Act, or from any rule thereunder, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants state that the requested relief meets this

NBAIM, each an ''Adviser''); (b) uses the multi-manager structure described in the application (the ''Manager of Managers Structure'') and (c) complies with the terms and conditions of the application (each, a ''Fund and collectively, the ''Funds''). For the purposes of the requested order, ''successor'' is limited to an entity or entities that result from a reorganization into another jurisdiction or a change in the type of business organization. All entities that currently intend to rely on the requested relief are named as applicants. If the name of any Fund contains the name of a Sub-Adviser (as defined below), the name of the Manager or Adviser that serves as the primary adviser to the Fund will precede the name of the Sub-Adviser.

[2] The term ''Board'' also includes the board of trustees or directors of a future Fund.

[3] Any Adviser will be registered as an investment adviser under the Advisers Act.

[4] Currently the Trust offers the Neuberger Berman Absolute Return Multi-Manager Fund (the ''NB ARMM Fund''), which seeks capital appreciation with an emphasis on absolute return. The Manager and Adviser have entered into a sub-advisory agreement (''Sub-Advisory Agreement'') with the following Sub-Advisers for the NB ARMM Fund: The Boston Company Asset Management, LLC, Cramer Rosenthal McGlynn, LLC, GAMCO Asset Management Inc., Levin Capital Strategies, L.P., MacKay Shields LLC, Sound Point Capital Management, L.P., Turner Investments, L.P., and Visium Asset Management, LP.

standard for the reasons discussed below.

6. Applicants assert that the shareholders will rely on the Adviser's expertise to select one or more Sub-Advisers best suited to achieve a Fund's investment objectives. Applicants assert that, from the perspective of the shareholder, the role of the Sub-Advisers is substantially equivalent to that of the individual portfolio managers employed by traditional advisory firms. Applicants state that requiring shareholder approval of each Sub-Advisory Agreement would subject a Fund to unnecessary expenses and delays associated with conducting a formal proxy solicitation. Applicants note that the Management Agreement, Investment Advisory Agreement, and any Sub-Advisory Agreement with an Affiliated Sub-Adviser will remain subject to section 15(a) of the Act and rule 18f–2 under the Act.

7. If a new Sub-Adviser is retained in reliance on the requested order, the Funds will inform shareholders of the hiring of a new Sub-Adviser pursuant to the following procedures (''Modified Notice and Access Procedures''): (a) Within 90 days after a new Sub-Adviser is hired for any Fund, that Fund will send its shareholders either a Multi-manager Notice or a Multi-manager Notice and Multi-manager Information Statement; [5] and (b) the Fund will make the Multi-manager Information Statement available on the Web site identified in the Multi-manager Notice no later than when the Multi-manager Notice (or Multi-manager Notice and Multi-manager Information Statement) is first sent to shareholders, and will maintain it on that Web site for at least 90 days. In the circumstances described in the application, a proxy solicitation to approve the appointment of new Sub-Advisers provides no more meaningful information to shareholders than the proposed Multi-manager Information Statement. Moreover, as indicated above, the Board would comply with the requirements of Sections 15(a) and 15(c) of the 1940 Act before entering into or amending Subadvisory Agreements.

8. Applicants assert that the requested disclosure relief would benefit shareholders of the Funds because it would improve the Adviser's ability to negotiate the fees paid to Sub-Advisers. Applicants state that the Adviser may be able to negotiate rates that are below a Sub-Adviser's ''posted'' amounts if the Adviser is not required to disclose the Sub-Advisors' fees to the public. If one Sub-Adviser is aware of the advisory fee paid to another Sub-Adviser, the Sub-Adviser is unlikely to decrease its advisory fee below that amount.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Before a Fund may rely on the requested order, the operation of the Fund in the manner described in the application will be approved by a majority of the Fund's outstanding voting securities, as defined in the Act, or in the case of a Fund whose public shareholders purchase shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below, by the initial shareholder(s) before offering shares of that Fund to the public.

2. Each Fund relying on the requested order will disclose in its prospectus the existence, substance, and effect of any order granted pursuant to the application. Each Fund relying on the requested order will hold itself out to the public as utilizing the Manager of Managers Structure described in the application. The prospectus will prominently disclose that the Manager has ultimate responsibility (subject to oversight by the Board) to oversee the Sub-Advisers and recommend their hiring, termination, and replacement. The role of the Adviser, if any, will also be disclosed.

3. Funds will inform shareholders of the hiring of a new Sub-Adviser within 90 days after the hiring of the new Sub-Adviser pursuant to the Modified Notice and Access Procedures.

4. The Manager will not enter into a Sub-Advisory Agreement with any Affiliated Sub-Adviser without such agreement, including the compensation to be paid thereunder, being approved by the shareholders of the applicable Fund.

5. At all times, at least a majority of the Board will be Independent Trustees, and the nomination and selection of new or additional Independent Trustees will be placed within the discretion of the then-existing Independent Trustees.

6. Whenever a sub-adviser change is proposed for a Fund with an Affiliated Sub-Adviser, the Board, including a majority of the Independent Trustees, will make a separate finding, reflected in the applicable Board minutes, that such change is in the best interests of the Fund and its shareholders, and does not involve a conflict of interest from which the Manager, the Adviser or the Affiliated Sub-Adviser derives an inappropriate advantage.

7. Independent legal counsel, as defined in rule 0–1(a)(6) under the Act, will be engaged to represent the Independent Trustees. The selection of such counsel will be within the discretion of the then-existing Independent Trustees.

8. The Manager will provide the Board, no less frequently than quarterly, with information about the profitability of the Manager, and if applicable, the Adviser, on a per-Fund basis. The information will reflect the impact on profitability of the hiring or termination of any Sub-Adviser during the applicable quarter.

9. Whenever a Sub-Adviser is hired or terminated, the Manager will provide the Board with information showing the expected impact on the profitability of the Manager, and if applicable, the Adviser.

10. The Manager will provide general management services to each Fund, including overall supervisory responsibility for the general management and investment of each Fund's assets and, subject to review and approval of the Board, will, either alone or together with a Fund's Adviser: (a) Set each Fund's overall investment strategies; (b) evaluate, select and recommend Sub-Advisers to manage all or a part of each Fund's assets; (c) allocate and, when appropriate, reallocate each Fund's assets among one or more Sub-Advisers; (d) monitor and evaluate the performance of Sub-Advisers; and (e) implement procedures reasonably designed to ensure that the Sub-Advisers comply with each Fund's investment objective, policies and restrictions.

11. No trustee or officer of the Trust or a Fund, or director, manager, or officer of the Manager or Adviser, will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by such person), any interest in a Sub-Adviser, except for (a) ownership of interests in the

[5] A ''Multi-manager Notice'' will be modeled on a Notice of Internet Availability as defined in rule 14a–16 under the Exchange Act, and specifically will, among other things: (a) Summarize the relevant information regarding the new Sub-Adviser; (b) inform shareholders that the Multi-manager Information Statement is available on a Web site; (c) provide the Web site address; (d) state the time period during which the Multi-manager Information Statement will remain available on that Web site; (e) provide instructions for accessing and printing the Multi-manager Information Statement; and (f) instruct the shareholder that a paper or email copy of the Multi-manager Information Statement may be obtained, without charge, by contacting the Funds.

A ''Multi-manager Information Statement'' will meet the requirements of Regulation 14C, Schedule 14C and Item 22 of Schedule 14A under the Exchange Act for an information statement, except as modified by the requested order to permit Aggregate Fee Disclosure. Multi-manager Information Statements will be filed electronically with the Commission via the EDGAR system.

Manager or the Adviser or any entity that controls, is controlled by, or is under common control with the Manager or the Adviser, or (b) ownership of less than 1% of the outstanding securities of any class of equity or debt of any publicly traded company that is either a Sub-Adviser or an entity that controls, is controlled by, or is under common control with a Sub-Adviser.

12. Each Fund will disclose in its registration statement the Aggregate Fee Disclosure.

13. In the event that the Commission adopts a rule under the Act providing substantially similar relief to that in the order requested in the application, the requested order will expire on the effective date of that rule.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–23483 Filed 9–21–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, September 27, 2012 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Aguilar, as duty officer, voted to consider the items listed for the Closed Meeting in a closed session.

The subject matter of the Closed Meeting scheduled for Thursday, September 27, 2012 will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 551–5400.

Dated: September 20, 2012.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–23575 Filed 9–20–12; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67880; File No. SR–FINRA–2012–043]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Delete FINRA Rule 7064A (Late Fees)

September 18, 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 September 17, 2012, Financial Industry Regulatory Authority, Inc. (''FINRA'') 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 Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

FINRA is proposing to delete FINRA Rule 7640A (Late Fees).

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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

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, the Proposed Rule Change

1. Purpose

The FINRA/Nasdaq TRF is a facility of FINRA that is operated by The NASDAQ OMX Group, Inc. (''NASDAQ OMX''). In connection with the establishment of the FINRA/Nasdaq TRF, FINRA and NASDAQ OMX entered into a limited liability company agreement (the ''LLC Agreement''). Under the LLC Agreement, FINRA, the ''SRO Member,'' has sole regulatory responsibility for the FINRA/Nasdaq TRF. NASDAQ OMX, the ''Business Member,'' is primarily responsible for the management of the FINRA/Nasdaq TRF's business affairs to the extent those affairs are not inconsistent with the regulatory and oversight functions of FINRA. As such, the Business Member establishes pricing for use of the FINRA/Nasdaq TRF, and such pricing is implemented pursuant to FINRA rules that must be filed with the SEC and be consistent with the Act.[5] In addition, the Business Member is obligated to pay the cost of regulation and is entitled to the profits and losses, if any, derived from the operation of the FINRA/Nasdaq TRF.[6]

Under Rule 7640A, charges imposed by the FINRA/Nasdaq Trade Reporting Facility that are past due 45 days or more are subject to a late fee. This rule is identical to former NASD Rule 7080, which was applicable to charges

[5] Because there are two FINRA Trade Reporting Facilities operated by different exchange Business Members competing for market share (the FINRA/Nasdaq TRF and the FINRA/NYSE TRF), FINRA does not take a position on whether the pricing for one TRF is more favorable or competitive than the pricing for the other TRF.

[6] FINRA notes that the same contractual arrangement is in place for the FINRA/NYSE TRF, with FINRA as the SRO Member and NYSE as the Business Member. The LLC agreements for the FINRA/Nasdaq TRF and the FINRA/NYSE TRF were submitted as part of the rule filings to establish the respective TRFs and can be found in the FINRA Manual.

imposed by the Nasdaq Market Center prior to Nasdaq exchange registration and separation from FINRA (then NASD) in 2006. Prior to 2006, the business decision was made not to assess late fees under NASD Rule 7080; however, the rule inadvertently was not deleted from the rulebook and subsequently was included in the FINRA/Nasdaq TRF rules. Because members historically have not been assessed late fees under this rule and the Business Member has determined not to do so in the future, FINRA is proposing to delete Rule 7640A.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,[7] in general, and with Sections 15A(b)(5) and (6) of the Act,[8] in particular, which require, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls, and that FINRA rules not be designed to permit unfair discrimination between customers, issuers, brokers or dealers. FINRA believes that the proposed rule change is reasonable, equitable and non-discriminatory in that it is eliminating a fee provision that the Business Member has determined is not necessary and the change applies to all FINRA/Nasdaq TRF users.

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[9] and Rule 19b–4(f)(6) thereunder.[10]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2012–043 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–FINRA–2012–043. 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 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–2012–043, and should be submitted on or before October 15, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–23449 Filed 9–21–12; 8:45 am]

BILLING CODE 8011–01–P

[7] 15 U.S.C. 78*o*–3.

[8] 15 U.S.C. 78*o*–3(b)(5) and (6).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67882; File No. SR–NYSEArca–2012–102]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Relating to the Listing and Trading of Twelve Funds of the Direxion Shares ETF Trust II Under NYSE Arca Equities Rule 8.200

September 18, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on September 5, 2012, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares of twelve funds of the Direxion Shares ETF Trust II under NYSE Arca Equities Rule 8.200, Commentary .02. 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, 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

NYSE Arca Equities Rule 8.200, Commentary .02 permits the trading of Trust Issued Receipts (''TIRs'') either by listing or pursuant to unlisted trading privileges (''UTP'').[3] The Exchange proposes to list and trade the shares (''Shares'') of the following pursuant to NYSE Arca Equities Rule 8.200: Direxion Daily Gold Bear 1X Shares; Direxion Daily Gold Bull 3X Shares; Direxion Daily Gold Bear 3X Shares; Direxion Daily Silver Bear 1X Shares; Direxion Daily Silver Bull 3X Shares; Direxion Daily Silver Bear 3X Shares; Direxion Daily Japanese Yen Bull 3X Shares; Direxion Daily Japanese Yen Bear 3X Shares; Direxion Daily Dollar Bull 3X Shares; Direxion Daily Dollar Bear 3X Shares; Direxion Daily Euro Bull 3X Shares; and Direxion Daily Euro Bear 3X Shares (each a ''Fund'' and, collectively, ''Funds'').[4] All Funds except for the Direxion Daily Gold Bear 1X Shares and Direxion Daily Silver Bear 1X Shares are also referred to herein as ''Leveraged Funds,'' and the Direxion Daily Gold Bear 1X Shares and Direxion Daily Silver Bear 1X Shares are also referred to herein as ''Bear 1X Funds.''[5]

Each Leveraged Fund seeks a multiple or inverse multiple (plus or minus 300%) of the return (before fees and expenses) of its target benchmark commodity or currency on a given day. The Leveraged Funds seek to provide daily leveraged investment results, before fees and expenses, which correspond to the performance of an underlying benchmark commodity or currency.

Each Bear 1X Fund seeks −100% of the return (before fees and expenses) of its target benchmark commodity on a given day. The Bear 1X Funds seek to provide daily investment results, before fees and expenses, which inversely correspond to the performance of an underlying benchmark commodity.

The Exchange notes that the Commission has previously approved other issues of TIRs, including leveraged TIRs, for listing and trading on the American Stock Exchange LLC (''Amex''),[6] trading on NYSE Arca pursuant to UTP,[7] and listing and trading on NYSE Arca.[8] In addition, the Commission has approved the listing and trading of other exchange-traded fund-like products linked to the performance of underlying commodities and currencies.[9]

Overview of the Funds

The Shares will be issued by Direxion Shares ETF Trust II (''Trust''), a Delaware statutory trust. Direxion Asset Management, LLC will be the sponsor (''Sponsor'') for the Trust. The Bank of New York Mellon (''Administrator'') will serve as the Funds' transfer agent, administrator and custodian. Foreside Fund Services, LLC (''Distributor''), will serve as the distributor of the Shares.

According to the Registration Statement, the Leveraged Funds will seek daily leveraged investment results and are intended to be used as short-term trading vehicles. The Leveraged Funds with the word ''Bull'' in their name (collectively, ''Leveraged Bull Funds'') will attempt to provide daily leveraged investment results (before fees and expenses) that correlate positively to three times (300%) the daily return of a target benchmark, meaning a Leveraged Bull Fund will attempt to move in the same direction as the target benchmark. The Leveraged Funds with the word ''Bear'' in their name (collectively, ''Leveraged Bear Funds'') will attempt to provide daily leveraged investment results (before fees and expenses) that correlate to the inverse (opposite) of three times the return of a target benchmark, meaning that the Leveraged Bear Funds will attempt to move in the opposite or inverse direction of the target benchmark.

The Bear 1X Funds will attempt to provide daily investment results (before fees and expenses) that correlate to the inverse (opposite) of the return of a target benchmark commodity, meaning that the Bear 1X Funds will attempt to move in the opposite or inverse direction of a target benchmark commodity.

Principal Investment Strategies

According to the Registration Statement, in seeking to achieve each Fund's daily investment objective, the Sponsor will use statistical and quantitative analysis to determine the investments each Fund makes and the techniques it employs. Using this approach, the Sponsor will determine the type, quantity and mix of investment positions that the Sponsor believes in combination should produce daily returns consistent with a Fund's objective. The Sponsor will rely upon a pre-determined model to generate orders that result in repositioning each Fund's investments in accordance with its daily investment objective. As a consequence, if a Fund is performing as designed, the return of the applicable benchmark (as discussed below) will dictate the return for that Fund. Each Fund will pursue its investment objective regardless of market conditions and will not take defensive positions.

As described in the Registration Statement, each of the Direxion Daily Gold Bear 1X Shares, Direxion Daily

[3] Commentary .02 to NYSE Arca Equities Rule 8.200 applies to TIRs that invest in ''Financial Instruments.'' The term ''Financial Instruments,'' as defined in Commentary .02(b)(4) to NYSE Arca Equities Rule 8.200, means any combination of investments, including cash; securities; options on securities and indices; futures contracts; options on futures contracts; forward contracts; equity caps, collars, and floors; and swap agreements.

[4] *See* Pre-Effective Amendment No. 1 to Form S–1, dated October 13, 2010 (''Registration Statement'') (File No. 333–168227). The description of the Funds and the Shares contained herein is based, in part, on the Registration Statement.

[5] Terms relating to the Funds and the Shares referred to, but not defined, herein are defined in the Registration Statement.

[6] *See, e.g.,* Securities Exchange Act Release No. 58161 (July 15, 2008), 73 FR 42380 (July 21, 2008) (SR–Amex–2008–39) (order approving amendments to Amex Rule 1202, Commentary .07 and listing on Amex of 14 funds of the Commodities and Currency Trust).

[7] *See, e.g.,* Securities Exchange Act Release No. 58162 (July 15, 2008), 73 FR 42391 (July 21, 2008) (SR–NYSEArca–2008–73) (notice of effectiveness of UTP trading on NYSE Arca of 14 funds of the Commodities and Currency Trust).

[8] *See, e.g.,* Securities Exchange Act Release No. 58457 (September 3, 2008), 73 FR 52711 (September 10, 2008) (SR–NYSEArca–2008–91) (order approving listing and trading on NYSE Arca of 14 funds of the Commodities and Currency Trust).

[9] *See, e.g.,* Securities Exchange Act Release Nos. 54020 (June 20, 2006), 71 FR 36579 (June 27, 2006) (SR–NYSE–2006–35) (order approving listing and trading on the New York Stock Exchange (''NYSE'') of six CurrencyShares Trusts); 55585 (April 5, 2007), 72 FR 18500 (April 12, 2007) (SR–NYSE–2006–75) (order approving listing and trading on NYSE of the iShares GS Commodity Light Energy Indexed Trust; iShares GS Commodity Industrial Metals Indexed Trust; iShares GS Commodity Livestock Indexed Trust; and iShares GS Commodity Non-Energy Indexed Trust); 56932 (December 7, 2007), 72 FR 71178 (December 14, 2007) (SR–NYSEArca–2007–112) (order granting accelerated approval to list and trade iShares S&P GSCI Commodity-Indexed Trust); and 59895 (May 8, 2009), 74 FR 22993 (May 15, 2009) (SR–NYSEArca–2009–40) (order granting accelerated approval to list and trade the ETFS Gold Trust).

Gold Bull 3X Shares and Direxion Daily Gold Bear 3X Shares (collectively, ''Gold Funds'') and Direxion Daily Silver Bear 1X Shares, Direxion Daily Silver Bull 3X Shares and Direxion Daily Silver Bear 3X Shares (collectively, ''Silver Funds,'' and collectively with the Gold Funds, ''Commodity Funds'') will seek to achieve its investment objective by investing in futures contracts related to its benchmark commodity. As such, the Gold Funds will invest in gold futures contracts traded on the Commodity Exchange, Inc. (''COMEX,'' an affiliate of the CME Group, Inc. (''CME'')) (''Gold Futures Contracts''), and the Silver Funds will invest in silver futures contracts traded on COMEX (''Silver Futures Contracts,'' and, collectively with Gold Futures Contracts, ''Commodity Futures Contracts'').[10] For each of the Commodity Funds, in the event position limits or position accountability levels are reached with respect to the applicable Commodity Futures Contracts, or if trading of such Commodity Futures Contracts is suspended due to price fluctuation limits being reached or if the CME imposes any other suspension or limitation on trading in a Commodity Futures Contract, the Sponsor may, in its commercially reasonable judgment, cause the Commodity Funds to obtain exposure through cash-settled, exchange-traded options on Commodity Futures Contracts, as applicable, and forward contracts, swaps,[11] and other over-the-counter transactions that are based on the price of Commodity Futures Contracts, as applicable, if such instruments tend to exhibit trading prices or returns that correlate with any Commodity Futures Contract and will further the investment objective of such Commodity Fund (collectively, ''Commodity Financial Instruments'').[12]

The Gold Funds' benchmark will be the daily last sale price occurring on or before 4 p.m. E.T. of a standard Gold Futures Contract for 100 troy ounces of gold, specified by the CME to be of a grade and quality that shall assay to a minimum of 995 fineness, as measured in U.S. Dollars and cents per troy ounce with a minimum fluctuation of $0.10 per troy ounce (''Gold Benchmark Futures Contract''). The Silver Funds' benchmark will be the daily last sale price occurring on or before 4 p.m. E.T. of a standard Silver Futures Contract for 5,000 troy ounces of silver, specified by the CME to be at a grade and quality that shall assay to a minimum of 999 fineness, as measured in U.S. Dollars and cents per troy ounce with a minimum fluctuation of $0.10 per troy ounce (''Silver Benchmark Futures Contract''). For both the Gold Benchmark Futures Contract and the Silver Benchmark Futures Contract, the last sale price value will be calculated as the last sale price published by the CME on or before 4 p.m. E.T. for the current active month Commodity Futures Contract.[13] The last sale price and benchmark valuation may reflect trades occurring and published by the CME outside the normal trading session for the applicable Commodity Futures Contract.

Each of the Direxion Daily Japanese Yen Bull 3X Shares and Direxion Daily Japanese Yen Bear 3X Shares (collectively, ''Yen Funds''); Direxion Daily Dollar Bull 3X Shares and Direxion Daily Dollar Bear 3X Shares (collectively, ''Dollar Funds''); and Direxion Daily Euro Bull 3X Shares and Direxion Daily Euro Bear 3X Shares (collectively, ''Euro Funds,'' and collectively with the Yen Funds and Dollar Funds, ''Currency Funds'') will seek to achieve its investment objective by investing in futures contracts related to its benchmark currency. As such, the Yen Funds will invest in Japanese Yen futures contracts traded on the CME (''Yen Futures Contracts''), the Euro Funds will invest in Euro futures traded on the CME (''Euro Futures Contracts''), and the Dollar Funds will invest in U.S. Dollar Index futures contracts traded on the ICE Futures U.S. (''ICE'') (''Dollar Futures Contracts,'' and, collectively with Yen Futures Contracts and Euro Futures Contracts, ''Currency Futures Contracts'').[14] For each Currency Fund except the Dollar Funds, which invest in futures contracts that do not have position limits, accountability levels or price fluctuation limits, in the event position limits or position accountability levels are reached with respect to the applicable Currency Futures Contracts, or if trading of such Currency Futures Contracts is suspended due to price fluctuation limits being reached or if the CME or ICE (with respect to the Dollar Funds), as applicable, imposes any other suspension or limitation on trading in a Currency Futures Contract, the Sponsor may, in its commercially reasonable judgment, cause the Currency Funds to obtain exposure through cash-settled, exchange-traded options on Currency Futures Contracts, as applicable, and forward contracts, swaps,[15] and other over-the-counter transactions that are based on the price of Currency Futures Contracts, as applicable, if such instruments tend to exhibit trading prices or returns that correlate with any Currency Futures Contract and will further the investment objective of such

[10] Gold and Silver Futures Contracts traded on COMEX are the global benchmark contracts and most liquid futures contracts in the world for each respective commodity. As of March 15, 2012, open interest in Gold Futures Contracts and Silver Futures Contracts traded on the CME was $23.7 billion and $8.5 billion, respectively. Gold Futures Contracts and Silver Futures Contracts had an average daily trading volume in 2011 of 138,964 contracts and 63,913 contracts, respectively. The trading hours for the Gold Futures Contracts and Silver Futures Contracts are 8:20 a.m. until 1:30 p.m. Eastern Time (''E.T.'').

[11] To the extent practicable, the Commodity Funds will invest in swaps cleared through the facilities of a centralized clearing house.

[12] According to the Registration Statement, each Fund will enter into swap agreements and other over-the-counter transactions only with large, established and well capitalized financial institutions that meet certain credit quality standards and monitoring policies. Each Fund will use various techniques to minimize credit risk including early termination or reset and payment, using different counterparties and limiting the net amount due from any individual counterparty.

[13] By way of example, with respect to the Direxion Daily Gold Bull 3X Shares, pursuant to the Fund's investment strategy, in the event position limits or position accountability levels are reached with respect to the Gold Benchmark Futures Contract, or if trading of the Gold Benchmark Futures Contract is suspended due to price fluctuation limits being reached or if the CME imposes any other suspension or limitation on trading, the Sponsor may cause the Fund to obtain exposure through cash-settled, exchange-traded options on the Gold Benchmark Futures Contract and forward contracts, swaps and other over-the-counter transactions that are based on the price of the Gold Benchmark Futures Contract if such instruments tend to exhibit trading prices or returns that correlate with any Gold Benchmark Futures Contract and will further the investment objective of the Fund. Thus, for example, if the Fund were to have $7 million in net assets, the Sponsor would seek to obtain $21 million in exposure to the price of gold and would invest in Gold Futures Contracts directly and, if the Fund reaches a point where position limits or accountability levels in Gold Futures Contracts become applicable, in cleared long swap positions, as practicable in the Sponsor's commercially reasonable judgment, or general swaps referencing the Gold Futures Contracts. The particular ratio of Gold Futures Contracts and cash held would be dependent on the Sponsor's view of what will best meet the investment objective of the Fund (*i.e.,* 300% exposure to Gold Futures Contracts). Conversely, in the case of a Bear 1X Fund, the Sponsor will utilize short positions to similarly gain the target exposure.

[14] The CME constitutes the largest regulated foreign exchange marketplace in the world, with over $100 billion in daily liquidity. As of March 15, 2012, open interest in Euro Futures Contracts and Yen Futures Contracts traded on the CME and, for Dollar Futures Contracts, on the ICE, were $42.7 billion, $20.8 billion, and $4.8 billion, respectively. Euro Futures Contracts, Yen Futures Contracts, and Dollar Futures Contracts had an average daily trading volume in 2011 of 325,103, 106,824, and 27,258 contracts, respectively. The trading hours for the Euro Futures Contracts and Yen Futures Contracts are 8:20 a.m. until 3 p.m. E.T., and the trading hours for the Dollar Futures Contracts are 8 p.m. E.T. until 5 p.m. E.T. the following day.

[15] To the extent practicable, the Currency Funds will invest in swaps cleared through the facilities of a centralized clearing house.

Currency Fund (collectively, ''Currency Financial Instruments'').

The benchmark for the Yen Funds will be the last sale price occurring on or before 4 p.m. E.T. of a standard Yen Futures Contract for 12,500,000 Japanese Yen, priced in U.S. Dollars and traded on the CME (''Yen Benchmark Futures Contract''). The benchmark for the Euro Funds will be the last sale price occurring on or before 4 p.m. E.T. of a standard Euro Futures Contract for 125,000 Euro, priced in U.S. Dollars and traded on the CME (''Euro Benchmark Futures Contract''). For both the Yen Benchmark Futures Contract and Euro Benchmark Futures Contract, the last sale price value will be calculated as the last sale price published by the CME on or before 4 p.m. E.T. for the current active month Currency Futures Contract. The last sale price and benchmark valuation may reflect trades occurring and published by the CME outside the normal trading session for the applicable Currency Futures Contract.

The benchmark for the Dollar Funds will be the last sale price occurring on or before 4 p.m. E.T. of a standard Dollar Futures Contract for $1,000 times the U.S. Dollar Index value as measured in U.S. Dollars and traded on the ICE (''Dollar Benchmark Futures Contract'' and, collectively with the Gold Benchmark Futures Contract, Silver Benchmark Futures Contract, Yen Benchmark Futures Contract, and the Euro Benchmark Futures Contract, ''Benchmark Futures Contracts''). The U.S. Dollar Index indicates the general international value of the U.S. Dollar.[16] The U.S. Dollar Index does this by geometrically weighting the exchange rates between the U.S. Dollar and six major world currencies. The U.S. Dollar Index consists of the following six currencies: Euro, Japanese Yen, British Pound, Canadian Dollar, Swedish Krona, and Swiss Franc. The components and weightings are held constant, and have not changed since the introduction of the Euro. Because the U.S. Dollar Index is geometrically weighted, holding the individual currencies in their specified weights will not necessarily mimic U.S. Dollar Index moves. The last sale price for the Dollar Benchmark Futures Contract will be calculated using the last sale price published by the ICE on or before 4 p.m. E.T. for the current active month Dollar Futures Contract.

In seeking its investment objective, each Fund will invest in Commodity or Currency Futures Contracts, as applicable, including (but not limited to)[17] the Fund's related Benchmark Futures Contract, as well as Commodity or Currency Financial Instruments in certain circumstances. Assets of each Fund not invested in Commodity Futures Contracts, Currency Futures Contracts, or other Commodity Financial Instruments or Currency Financial Instruments, as applicable, will be held in cash or invested in cash equivalents and/or U.S. Treasury Securities or other high credit quality short-term fixed-income or similar securities (such as shares of money market funds, bank deposits, bank money market accounts, certain variable rate-demand notes, and repurchase agreements collateralized by government securities, whether denominated in U.S. or the applicable foreign currency with respect to a Currency Fund) that serve as collateral for Commodity Futures Contracts, Currency Futures Contracts, and Commodity or Currency Financial Instruments, as applicable.

At the close of the U.S. equity markets each trading day, each Fund will position its portfolio to ensure that the Fund's exposure to its benchmark is consistent with the Fund's stated goals. The impact of market movements during the day will determine whether a portfolio needs to be repositioned. If the target benchmark has risen on a given day, a Leveraged Bull Fund's net assets should rise, meaning their exposure may need to be increased. Conversely, if the target benchmark has fallen on a given day, a Leveraged Bull Fund's net assets should fall, meaning their exposure may need to be reduced.

If a Leveraged Bull Fund is successful in meeting its objective, its value in a given day (before fees and expenses) should gain approximately three times as much on a percentage basis as its corresponding benchmark when the benchmark rises during a given day. Conversely, its value in a given day (before fees and expenses) should lose approximately three times as much on a percentage basis as the corresponding benchmark when the benchmark declines during a given day. Each Leveraged Bull Fund will acquire long exposure through investment in Commodity or Currency Futures Contracts, including (but not limited to) the applicable Benchmark Futures Contracts, and, once position limits or position accountability levels are reached, trading of such Commodity or Currency Futures Contracts is suspended due to price fluctuation limits being reached, or if the CME or ICE, as applicable, imposes any other suspension or limitation on trading in a Commodity or Currency Futures Contract, in Commodity Financial Instruments or Currency Financial Instruments, as applicable, such that each Leveraged Bull Fund has approximately 300% exposure to the corresponding benchmark at the time of the net asset value (''NAV'') calculation.

If a Leveraged Bear Fund is successful in meeting its objective, its value in a given day (before fees and expenses) should gain approximately three times as much on a percentage basis as its corresponding benchmark loses when the benchmark falls in a given day. Conversely, its value in a given day (before fees and expenses) should lose approximately three times as much on a percentage basis as the corresponding benchmark gains when the benchmark rises in a given day. Each Leveraged Bear Fund will acquire short exposure through investment in Commodity or Currency Futures Contracts, including (but not limited to) the applicable Benchmark Futures Contracts, and, once position limits or position accountability levels are reached, trading of such Commodity or Currency Futures Contracts is suspended due to price fluctuation limits being reached, or if the CME or ICE, as applicable, imposes any other suspension or limitation on trading in a Commodity or Currency Futures Contract, in Commodity Financial Instruments or Currency Financial Instruments, as applicable, such that each Leveraged Bear Fund has approximately −300% exposure to the corresponding benchmark at the time of the NAV calculation.

If a Bear 1X Fund is successful in meeting its objective, its value in a given day (before fees and expenses) should gain approximately an equal amount on

[16] The U.S. Dollar Index was created by the U.S. Federal Reserve in 1973. Following the ending of the 1944 Bretton Woods Agreement, which had established a system of fixed exchange rates, the U.S. Federal Reserve Bank began the calculation of the U.S. Dollar Index to provide an external bilateral trade-weighted average of the U.S. Dollar as it freely floated against global currencies. Futures contracts based on the U.S. Dollar Index were listed on November 20, 1985, and are now available only on the ICE electronic trading platform. Options on the futures contracts began trading on September 3, 1986, and are available both on the ICE electronic trading platform and on the ICE options trading floor.

[17] A Fund, in seeking to achieve its investment objective by investing in futures contracts related to its target benchmark, may be invested in futures contracts that are not the current active month futures contracts on which the Fund's target benchmark is based. For example, if, on a date in September 2012, the current active month futures contract with respect to a target benchmark is December 2012, a Fund may have a portion of its assets in the October 2012 or February 2013 contracts. A Fund may use this flexibility, for example, in case of liquidity issues with respect to the applicable, current active month futures contracts or when deciding when to roll the Fund's assets into the next current active month contract.

a percentage basis as its corresponding benchmark when the benchmark falls in a given day. Conversely, its value in a given day (before fees and expenses) should lose approximately an equal amount on a percentage basis as the corresponding benchmark when the benchmark rises in a given day. Each Bear 1X Fund will acquire short exposure through investment in Commodity Futures Contracts, including (but not limited to) the applicable Benchmark Futures Contracts, and, once position limits or position accountability levels, if applicable, are reached, trading of the Commodity Futures Contracts is suspended due to price fluctuation limits being reached, or if the CME imposes any other suspension or limitation on trading in a Commodity Futures Contract, a Bear 1X Fund may invest in Commodity Financial Instruments such that each Bear 1X Fund has approximately −100% exposure to the corresponding benchmark at the time of the NAV calculation.

In the event that trading of a Commodity or Currency Futures Contract is suspended due to price fluctuation limits being reached for that futures contract, or CME or ICE, as applicable imposes any other suspension or limitation on trading in a Commodity or Currency Futures Contract, the related Fund or Funds may be limited in their ability to seek their investment objective until trading resumes.

Creation and Redemption of Shares

Each Fund will create and redeem Shares in ''Creation Unit'' size of 50,000 Shares or aggregations thereof. Except when aggregated in Creation Units, the Shares are not redeemable securities. Shares may be created or redeemed only through authorized participants, as described in the Registration Statement.

On any day other than a day when any of the NYSE Arca, the NYSE, and, as applicable to the underlying benchmark, the CME, ICE, or COMEX (collectively, ''Futures Exchanges'') is closed for regular trading (''Business Day''), an authorized participant may place an order with the Distributor to create one or more Creation Units. Purchase orders must be placed prior to 3:30 p.m. E.T. in order to avoid higher transaction fees, but in no instances may purchase orders be placed after 4 p.m. E.T., as described in the Registration Statement. Although trading in a Fund's respective benchmark may continue beyond that time on any given trading day, the Sponsor has elected to require orders be placed prior to that time in order to facilitate efficient operation of the Funds and give the Funds adequate time to reposition their portfolios, strike the NAV for the Funds and prepare the needed value and portfolio composition disclosures for the following Business Day's trading. If a purchase order is received prior to the cut-off time, the day on which the Distributor receives a valid purchase order is the purchase order date. If the purchase order is received after the applicable cut-off time, the purchase order date will be the next day. Purchase orders are irrevocable. The total cash payment required to create each Creation Unit will be the NAV of 50,000 Shares of the applicable Fund on the purchase order date plus the applicable transaction fee.

The procedures by which an authorized participant can redeem one or more Creation Units will mirror the procedures for the creation of Creation Units. On any Business Day, an authorized participant may place an order with the Distributor to redeem one or more Creation Units. Redemption orders must be placed by 3:30 p.m. E.T. in order to avoid higher transaction fees, but in no instances may redemption orders be placed after 4 p.m. E.T. If a redemption order is received prior to the applicable cut-off time, the day on which the Distributor receives a valid redemption order is the redemption order date. If the redemption order is received after the applicable cut-off time, the redemption order date will be the next day. Redemption orders are irrevocable. The redemption proceeds from a Fund will consist of the cash redemption amount. The cash redemption amount will be equal to the NAV of the number of Creation Unit(s) of such Fund requested in the authorized participant's redemption order as of the time of the calculation of such Fund's NAV on the redemption order date, less transaction fees.

Intraday Indicative Value (''IIV'')

The IIV with respect to each Fund is an indicator of the value of the Commodity Futures Contracts and Currency Futures Contracts, as applicable; Commodity Financial Instruments and Currency Financial Instruments, if any; and cash and receivables less liabilities of a Fund at the time the IIV is disseminated. The IIV with respect to each Fund, updated every 15 seconds, will be widely disseminated by one or more major market data vendors during the NYSE Arca Core Trading Session.[18] However, circumstances may arise in which the NYSE Arca Core Trading Session is in progress, but trading in Commodity or Currency Futures Contracts is not occurring. Such circumstances may result from reasons including, but not limited to, the CME or ICE, as applicable, having a separate holiday schedule than the NYSE Arca, the CME, or ICE closing prior to the close of the NYSE Arca, price fluctuation limits being reached in a Commodity or Currency Futures Contract, or the CME or ICE, as applicable, imposing any other suspension or limitation on trading in a Commodity or Currency Futures Contract. In such instances, the value of the applicable Commodity or Currency Futures Contracts, as well as Commodity or Currency Financial Instruments whose value is derived from the Commodity or Currency Futures Contracts, held by the Funds would be static or priced by the Fund at the applicable early cut-off time of the exchange trading the applicable Commodity or Currency Futures Contract. Moreover, any cash held by the Funds for collateralization purposes will be invested in short term treasury vehicles that do not have market exposure, such that their value would change throughout the trading day. As such, during such periods, the disseminated IIV for the affected Fund or Funds will be static.

The IIV should not be viewed as an actual real time update of the NAV because NAV is calculated only once at the end of each trading day. The IIV also should not be viewed as a precise value of the Shares.

The value of a Share of a Fund may be influenced by non-concurrent trading hours between NYSE Arca and the Futures Exchanges. As a result, during periods when the NYSE Arca is open and one or more of the applicable futures exchanges is closed, trading spreads and the resulting premium or discount on the Shares may widen and, therefore, increase the difference between the price of the Shares and the NAV of the Shares.

According to the Registration Statement, dissemination of the IIV provides additional information that is not otherwise available to the public and may be useful to investors and market professionals in connection with the trading of Shares. Investors and market professionals will be able throughout the trading day to compare the market price of a Fund and the IIV. If the market price of Shares diverges significantly from the IIV, market

[18] Currently, it is the Exchange's understanding that several major market data vendors display and/or make widely available IIVs taken from the Consolidated Tape Association (''CTA'') or other data feeds.

professionals may have an incentive to execute arbitrage trades. Such arbitrage trades can tighten the tracking between the market price of a Fund and the IIV and thus can be beneficial to all market participants.

Availability of Information Regarding the Shares

The current trading price per Share of each Fund (quoted in U.S. Dollars) will be published continuously under its ticker symbol as trades occur throughout each trading day via CTA, Reuters and/or Bloomberg.

The Web site for the Funds and/or the Exchange, which are publicly accessible at no charge, will contain the following information: (a) The current NAV per Share daily and the prior Business Day's NAV and the reported closing price; (b) the mid-point of the bid-ask price in relation to the NAV as of the time the NAV is calculated (''Bid-Ask Price''); (c) calculation of the premium or discount of such price against such NAV; (d) the Bid-Ask Price of Shares determined using the highest bid and lowest offer as of the time of calculation of the NAV; (e) data in chart form displaying the frequency distribution of discounts and premiums of the Bid-Ask Price against the NAV, within appropriate ranges for each of the four (4) previous calendar quarters; (f) the prospectus; and (g) other applicable quantitative information.

The NAV means the total assets of a Fund including, but not limited to, all cash and cash equivalents or other debt securities less total liabilities of such Fund, each determined on the basis of generally accepted accounting principles in the United States, consistently applied under the accrual method of accounting. NAV will be calculated at 4 p.m. E.T. Additional information regarding calculation of NAV is included in the Registration Statement.

The NAV for each Fund will be calculated by the Administrator once a day and will be disseminated daily to all market participants at the same time. The Exchange also will disseminate on a daily basis via CTA information with respect to the recent NAV and Shares outstanding. Quotation and last-sale information regarding the Shares will be disseminated through the facilities of the CTA.

The closing and daily settlement prices for the Commodity Futures Contracts and Currency Futures Contracts are publicly available on the Web site of the CME (*www.cmegroup.com*) and ICE (*www.theice.com*), as applicable. Intraday prices for the Commodity and Currency Futures Contracts, updated at least every 15 seconds, also are publicly available through major market data vendors. In addition, various data vendors and news publications publish futures prices and data. The Exchange represents that futures quotes and last sale information for the Commodity Futures Contracts and Currency Futures Contracts are widely disseminated through a variety of major market data vendors worldwide, including Bloomberg and Reuters. In addition, the Exchange further represents that complete real-time data for Commodity Futures Contracts and Currency Futures Contracts is available by subscription from Reuters and Bloomberg. The applicable specific contract specifications for Commodity Futures Contracts and Currency Futures Contracts are also available from the CME and ICE Web sites referenced above, as well as other financial informational sources. Real-time dissemination of spot pricing for gold, silver, Yen, Euro, and currencies included in the U.S. Dollar Index is available on a 24-hour basis worldwide from various major market data vendors.

In addition, there is a considerable amount of foreign currency price and market information available on public Web sites and through professional and subscription services, including price information with respect to currencies included in the U.S. Dollar Index. In most instances, real-time information is only available for a fee, and information available free of charge is subject to delay (typically, 15 to 20 minutes). The U.S. Dollar Index value is disseminated every 15 seconds by major market data vendors during the Exchange's Core Trading Session.

Complete real-time data for foreign currency futures and options prices traded on the CME and NASDAQ OMX PHLX (''PHLX''), respectively, are also available by subscription from information service providers. The CME and PHLX also provide delayed futures and options information on current and past trading sessions and market news free of charge on their respective Web sites. Pricing information for futures and options on futures on the U.S. Dollar Index is available from the ICE Web site and major market data vendors.

The value of the benchmarks, updated at least every 15 seconds during the NYSE Arca Core Trading Session, will be disseminated by one or more major market data vendors.

The Sponsor will publish the NAV of each Fund and the NAV per Share of each Fund daily.

The most recent end-of-day NAV of each Fund will be published under its own symbol as of the close of business by major market data vendors and on the Sponsor's Web site. In addition, the most recent end-of-day NAV of each Fund will be published the following morning via the CTA.

The Funds will provide Web site disclosure of portfolio holdings daily and will include, as applicable, the names and value (in U.S. Dollars) of Commodity Futures Contracts and Currency Futures Contracts, as applicable; Commodity Financial Instruments and Currency Financial Instruments, if any; and the amount of cash and/or cash equivalents held in the portfolio of the Funds. This Web site disclosure of the portfolio composition of the Funds will occur at the same time as the disclosure by the Sponsor of the portfolio composition to authorized participants so that all market participants are provided portfolio composition information at the same time. Therefore, the same portfolio information will be provided on the public Web site as well as in electronic files provided to authorized participants. Accordingly, each investor will have access to the current portfolio composition of the Funds through the Funds' Web site.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4 a.m. to 8 p.m. E.T. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Equities Rule 7.6, Commentary .03, the minimum price variation (''MPV'') for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

The trading of the Shares will be subject to NYSE Arca Equities Rule 8.200, Commentary .02(e), which sets forth certain restrictions on Equity Trading Permit (''ETP'') Holders acting as registered Market Makers in TIRs to facilitate surveillance. See ''Surveillance'' below for more information.

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in certain Shares. Trading 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 Commodity Futures Contracts, Currency Futures Contracts, Commodity Financial Instruments, and/or Currency Financial Instruments, as applicable, held by the Funds, or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. In addition, trading in Shares will be subject to trading halts caused by extraordinary market volatility pursuant to the Exchange's ''circuit breaker'' rule [19] or by the halt or suspension of trading of Commodity Futures Contracts, Currency Futures Contracts, Commodity Financial Instruments, and/or Currency Financial Instruments, as applicable. The Exchange represents that the Exchange may halt trading during the day in which an interruption to the dissemination of the IIV, trading in the applicable Commodity or Currency Futures Contract for each Fund, or to trading in Currency or Commodity Financial Instruments, as described above, occurs for each Fund. If the interruption to the dissemination of the IIV, trading in the applicable Commodity or Currency Futures Contract for each Fund, or to trading in Currency or Commodity Financial Instruments, as applicable, persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption. In addition, if the Exchange becomes aware that the NAV with respect to the Shares is not disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV is available to all market participants.

The Funds will meet the initial and continued listing requirements applicable to TIRs in NYSE Arca Equities Rule 8.200 and Commentary .02 thereto. The Exchange represents that, for the initial and continued listing of the Shares, the Funds must be in compliance with NYSE Arca Equities Rule 5.3 and Rule 10A–3 under the Act.[20] A minimum of 100,000 Shares for each Fund will be outstanding as of the start of trading on the Exchange.

Surveillance

The Exchange intends to utilize its existing surveillance procedures applicable to derivative products, including TIRs, to monitor trading in the Shares. The Exchange represents that these procedures 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.

The Exchange's current trading surveillances focus on detecting securities trading outside their normal patterns. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations. The Exchange is able to obtain information regarding trading in the Shares, the physical commodities or currencies underlying options, futures or options on futures through ETP Holders, in connection with such ETP Holders' proprietary or customer trades which they effect through ETP Holders on any relevant market. The Exchange can obtain market surveillance information, including customer identity information, with respect to transactions occurring on the Futures Exchanges, including transactions in cash-settled options on Commodity or Currency Futures Contracts, which are members of the Intermarket Surveillance Group (''ISG'').[21]

The Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Suitability

Currently, NYSE Arca Equities Rule 9.2(a) (Diligence as to Accounts) provides that an ETP Holder, before recommending a transaction in any security, must have reasonable grounds to believe that the recommendation is suitable for the customer based on any facts disclosed by the customer as to its other security holdings and as to its financial situation and needs. Further, the rule provides, with a limited exception, that prior to the execution of a transaction recommended to a non-institutional customer, the ETP Holder must make reasonable efforts to obtain information concerning the customer's financial status, tax status, investment objectives, and any other information that such ETP Holder believes would be useful to make a recommendation.

Prior to the commencement of trading, the Exchange will inform its ETP Holders of the suitability requirements of NYSE Arca Equities Rule 9.2(a) in an Information Bulletin. Specifically, ETP Holders will be reminded in the Information Bulletin that, in recommending transactions in the Shares, they must have a reasonable basis to believe that (1) the recommendation is suitable for a customer given reasonable inquiry concerning the customer's investment objectives, financial situation, needs, and any other information known by such ETP Holder, and (2) the customer can evaluate the special characteristics, and is able to bear the financial risks, of an investment in the Shares. In connection with the suitability obligation, the Information Bulletin will also provide that ETP Holders must make reasonable efforts to obtain the following information: (1) The customer's financial status; (2) the customer's tax status; (3) the customer's investment objectives; and (4) such other information used or considered to be reasonable by such ETP Holder or registered representative in making recommendations to the customer.

In addition, FINRA has implemented increased sales practice and customer margin requirements for FINRA members applicable to leveraged exchange-traded funds (which include the Shares) and options on leveraged exchange-traded funds, as described in FINRA Regulatory Notices 09–31 (June 2009), 09–53 (August 2009) and 09–65 (November 2009) (collectively, ''FINRA Regulatory Notices''). ETP Holders that carry customer accounts will be required to follow the FINRA guidance set forth in these notices.

As disclosed in the Registration Statement, each Leveraged Fund will seek a multiple or inverse multiple (plus or minus 300%) of the return (before fees and expenses) of its target benchmark commodity or currency on a given day, and each Bear 1X Fund will seek −100% of the return (before fees and expenses) of its target benchmark commodity on a given day. Over a period of time in excess of one day, the cumulative percentage increase or decrease in the NAV of the Shares of a Fund may diverge significantly from a multiple or inverse multiple of the cumulative percentage decrease or increase in the relevant benchmark due to a compounding effect. The Exchange's Information Bulletin regarding the Funds, described below, will provide information regarding the suitability of an investment in the Shares, as stated in the Registration Statement.

Information Bulletin

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

[19] *See* NYSE Arca Equities Rule 7.12.

[20] 17 CFR 240.10A–3.

[21] For a list of the current members of ISG, see *www.isgportal.org*. The Exchange notes that not all components of the portfolio for the Funds may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

will discuss the following: (1) 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; (2) except for the Dollar Funds, a static IIV may be disseminated between the close of trading of all applicable Commodity or Currency Futures Contracts on Futures Exchanges and the close of the NYSE Arca Core Trading Session; (3) the procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (4) 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; (5) how information regarding the IIV is disseminated; (6) 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 (7) trading information.

In addition, the Information Bulletin will advise ETP Holders, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Funds. The Exchange notes that investors purchasing Shares directly from the Funds will receive a prospectus. ETP Holders purchasing Shares from the Funds for resale to investors will deliver a prospectus to such investors. The Information Bulletin will also discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Act.

The Information Bulletin will further advise ETP Holders that FINRA has implemented increased sales practice and customer margin requirements for FINRA members applicable to leveraged exchange-traded funds (which include the Shares) and options on leveraged exchange-traded funds, as described in the FINRA Regulatory Notices.

In addition, the Information Bulletin will reference that the Funds are subject to various fees and expenses described in the Registration Statements. The Information Bulletin will also reference that the Commodity Futures Trading Commission has regulatory jurisdiction over the trading of futures contracts traded on U.S. markets.

The Information Bulletin will also disclose the trading hours of the Shares of the Funds and that the NAV for the Shares is calculated after 4 p.m. E.T. each trading day. The Bulletin will disclose that information about the Shares of the Funds is publicly available on the Funds' Web site.

2. Statutory Basis

The basis under the Exchange Act for this proposed rule change is the requirement under Section 6(b)(5) [22] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 8.200 and Commentary .02 thereto. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable Federal securities laws. The Exchange may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. The intra-day futures prices, closing price and settlement prices of the Commodity or Currency Futures Contracts held by the Funds are also available from the COMEX, CME, ICE, automated quotation systems, published or other public sources, or on-line information services. Quotation and last-sale information for the Shares will be available via CTA. Each Fund's total portfolio composition will be disclosed on the Funds' Web site or another relevant Web site. Each of the Commodity Funds will seek to achieve its investment objective by primarily investing in Commodity Futures Contracts. For each of the Commodity Funds, in the event position limits or position accountability levels are reached with respect to the applicable Commodity Futures Contracts, or if trading of such Commodity Futures Contracts is suspended due [sic] price fluctuation limits being reached or if the CME imposes any other suspension or limitation on trading in a Commodity Futures Contract, the Sponsor may, in its commercially reasonable judgment, cause the Commodity Funds to obtain exposure through cash-settled, exchange-traded options on Commodity Futures Contracts, as applicable, and forward contracts, swaps, and other over-the-counter transactions that are based on the price of Commodity Futures Contracts, as applicable, if such instruments tend to exhibit trading prices or returns that correlate with any Commodity Futures Contract and will further the investment objective of such Commodity Fund. Each of the Currency Funds will seek to achieve its investment objective primarily by investing in Currency Futures Contracts. For each Currency Fund (except the Dollar Funds), in the event position limits or position accountability levels are reached with respect to the applicable Currency Futures Contracts, or if trading of such Currency Futures Contracts is suspended due to price fluctuation limits being reached or if the CME or ICE (with respect to the Dollar Funds), as applicable, imposes any other suspension or limitation on trading in a Currency Futures Contract, the Sponsor may, in its commercially reasonable judgment, cause the Currency Funds to obtain exposure through cash-settled, exchange-traded options on Currency Futures Contracts, as applicable, and forward contracts, swaps, and other over-the-counter transactions that are based on the price of Currency Futures Contracts, as applicable, if such instruments tend to exhibit trading prices or returns that correlate with any Currency Futures Contract and will further the investment objective of such Currency Fund. To the extent practicable, the Commodity Funds and Currency Funds will invest in swaps cleared through the facilities of a centralized clearing house. Each Fund will enter into swap agreements and other over-the-counter transactions only with large, established and well capitalized financial institutions that meet certain credit quality standards and monitoring policies. Each Fund will use various techniques to minimize credit risk including early termination or reset and payment, using different counterparties and limiting the net amount due from any individual counterparty. The Exchange represents that the Exchange may halt trading during the day in which an interruption to the dissemination of the IIV, trading in the applicable Commodity or Currency Futures Contract for each Fund, or trading in Currency or Commodity Financial Instruments, as described above, occurs for each Fund. If the interruption to the dissemination of the IIV, trading in the applicable Commodity or Currency Futures Contract for each Fund, or to trading in Currency or Commodity Financial Instruments, as applicable, persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day

[22] 15 U.S.C. 78f(b)(5).

following the interruption. The value of the benchmarks will be calculated and disseminated at least every 15 seconds during the NYSE Arca Core Trading Session. The Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares and that FINRA has implemented increased sales practice and customer margin requirements for FINRA members applicable to leveraged exchange-traded funds and options on leveraged exchange-traded funds, as described in the FINRA Regulatory Notices.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that a large amount of information is publicly available regarding the Funds and the Shares, thereby promoting market transparency. The NAV per Share will be calculated daily and made available to all market participants at the same time. One or more major market data vendors will disseminate for the Funds on a daily basis information with respect to the recent NAV per Share and Shares outstanding. The IIV with respect to each Fund, updated every 15 seconds, will be widely disseminated by one or more major market data vendors during the NYSE Arca Core Trading Session.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of additional types of exchange-traded products that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding the Funds' holdings, IIV, and quotation and last-sale information for the Shares.

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–NYSEArca–2012–102 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–NYSEArca–2012–102. 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–NYSEArca–2012–102 and should be submitted on or before October 15, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–23461 Filed 9–21–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67881; File No. SR–NYSEArca–2012–101]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change To List and Trade Shares of the PowerShares S&P 500 Downside Hedged Portfolio Under NYSE Arca Equities Rule 8.600

September 18, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on September 6, 2012, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares of the PowerShares S&P

[23] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

500 Downside Hedged Portfolio under NYSE Arca Equities Rule 8.600. 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 list and trade shares (''Shares'') of the PowerShares S&P 500 Downside Hedged Portfolio (''Fund'') under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares [3] on the Exchange.[4] The Shares will be offered by PowerShares Actively Managed Exchange-Traded Fund Trust (''Trust''), a statutory trust organized under the laws of the State of Delaware and registered with the Commission as an open-end management investment company.[5]

The investment adviser to the Fund is Invesco PowerShares Capital Management LLC (''Adviser''). Invesco Distributors, Inc. (''Distributor'') serves as the distributor of the Fund Shares. The Bank of New York Mellon Corporation (''Administrator,'' ''Transfer Agent,'' or ''Custodian'') serves as administrator, custodian, and transfer agent for the Fund.

Commentary .06 to Rule 8.600 provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio. In addition, Commentary .06 further requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the open-end fund's portfolio.[6] Commentary .06 to Rule 8.600 is similar to Commentary .03(a)(i) and (iii) to NYSE Arca Equities Rule 5.2(j)(3); however, Commentary .06 in connection with the establishment of a ''fire wall'' between the investment adviser and the broker-dealer reflects the applicable open-end fund's portfolio, not an underlying benchmark index, as is the case with index-based funds. The Adviser is affiliated with a broker-dealer and has implemented a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio. In the event (a) the Adviser becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser becomes affiliated with a broker-dealer, it will implement a fire wall with respect to such broker-dealer regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding such portfolio.

Description of the Fund

According to the Registration Statement, the Fund will be an actively managed exchange-traded fund that will seek to achieve positive total returns in rising or falling markets that are not directly correlated to broad equity or fixed income market returns.

According to the Registration Statement, the Fund will seek to achieve its investment objective by using a quantitative, rules-based strategy designed to provide returns that correspond to the performance of the S&P 500 Dynamic VEQTOR Index (''Benchmark'').[7]

As described below, and according to the Registration Statement, the Fund seeks to gain exposure to equity securities contained in the S&P 500

[3] A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (''1940 Act'') organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Equities Rule 5.2(j)(3), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index, or combination thereof.

[4] The Commission approved NYSE Arca Equities Rule 8.600 and the listing and trading of certain funds of the PowerShares Actively Managed Exchange-Traded Fund Trust on the Exchange pursuant to Rule 8.600 in Securities Exchange Act Release No. 57619 (April 4, 2008), 73 FR 19544 (April 10, 2008) (SR–NYSEArca–2008–25). The Commission also previously approved listing and trading on the Exchange of a number of actively managed funds under Rule 8.600. *See, e.g.,* Securities Exchange Act Release Nos. 62502 (July 15, 2010), 75 FR 42471 (July 21, 2010) (SR–NYSEArca–2010–57) (order approving listing of AdvisorShares WCM/BNY Mellon Focused Growth ADR ETF); 63076 (October 12, 2010), 75 FR 63874 (October 18, 2010) (SR–NYSEArca–2010–79) (order approving listing of Cambria Global Tactical ETF); and 66343 (February 7, 2012), 77 FR 7647 (February 13, 2012) (SR–NYSEArca–2011–85) (order approving listing of five SPDR SSgA ETFs).

[5] The Trust is registered under the 1940 Act. On August 14, 2012, the Trust filed with the Commission a post-effective amendment to Form N–1A under the Securities Act of 1933 (15 U.S.C. 77a) (''1933 Act'') and under the 1940 Act relating to the Fund (File Nos. 333–147622 and 811–22148) (''Registration Statement''). The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement. In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No. 28171 (February 27, 2008) (File No. 812–13386) (''Exemptive Order'').

[6] 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 related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)-7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[7] The Fund's Benchmark allocates between equity securities and CBOE Volatility Index futures. The Commission has previously approved listing and trading on the Exchange under Rule 8.200, Commentary .02, of exchange traded products with Chicago Board Options Exchange (''CBOE'') volatility index futures as benchmarks. *See, e.g.,* Securities Exchange Act Release Nos. 65134 (August 15, 2011), 76 FR 52034 (August 19, 2011) (SR–NYSEArca-2011–23) (order approving listing of ProShares Short VIX Short-Term Futures ETF, ProShares Short VIX Mid-Term Futures ETF, ProShares Ultra VIX Short-Term Futures ETF, ProShares Ultra VIX Mid-Term Futures ETF, ProShares UltraShort VIX Short-Term Futures ETF, and ProShares UltraShort VIX Mid-Term Futures ETF); and 63610 (December 27, 2010), 76 FR 199 (January 3, 2011) (SR–NYSEArca-2010–101) (order approving listing of ProShares VIX Short-Term Futures ETF and ProShares VIX Mid-Term Futures ETF).

Index, CBOE Volatility Index (''VIX Index'') related instruments (as described in more detail below, ''VIX Index Related Instruments''), money market instruments, cash, cash equivalents and futures contracts that track the S&P 500 Index (''E-mini S&P 500 Futures'').

The Benchmark, the VIX Index, and the S&P 500 VIX Short Term Futures Index

The Benchmark is comprised of three types of components at any given time: an equity component, represented by the S&P 500 Index; a volatility component, represented by the S&P 500 VIX Short Term Futures Index (''VIX Futures Index''); and cash, represented by the overnight London Interbank Offered Rate.[8] The VIX Futures Index utilizes the prices of the first and second month futures contracts based on the VIX Index, replicating a position that rolls the nearest month VIX futures contracts to the next month VIX futures contracts on a daily basis in equal fractional amounts. On any business day, the Benchmark allocates between its equity and volatility components based on a combination of realized volatility and implied volatility trend decision variables, as described further in the table below. While allocations are reviewed daily, these allocations may change on a less frequent basis.

According to the Registration Statement, following the proprietary formula of Standard & Poor's, a division of The McGraw-Hill Companies, Inc. (''S&P'' or ''Index Provider''), under normal circumstances (*i.e.,* times other than when the Benchmark's stop-loss process (as described below) is triggered), the allocation to the VIX Futures Index constitutes between 2.5% and 40% of the Benchmark, with equity securities contained in the S&P 500 Index composing the remainder. The allocation to the VIX Futures Index generally increases when realized volatility and implied volatility are higher, and decreases when realized volatility and implied volatility are lower. In the stop-loss process, in the event losses on the Benchmark over the previous five business days are greater than 2%, the Benchmark moves its entire allocation to cash. Unless the stop-loss is in place, the Benchmark is entirely allocated to a combination of the S&P 500 Index and the VIX Futures Index.

The following table provides additional detail on the Benchmark's target allocation to the VIX Futures Index (''Target Volatility Allocation'') for times other than when the Benchmark's stop-loss process is triggered:

Realized volatility (RV_{t-1})	Target Volatility Allocation		
	Implied volatility downtrend (IVT_{t-1})=−1 (percent)	No implied volatility trend (IVT_{t-1})=0 (percent)	Implied volatility up-trend (IVT_{t-1})=+1 (percent)
Less than 10%	2.5%	2.5%	10.0%
$10\% \leq RV_{t-1} < 20$	2.5	10.0	15.0
$20\% \leq RV_{t-1} < 35$	10.0	15.0	25.0
$35\% \leq RV_{t-1}$ 45	15.0	25.0	40.0
More than 45	25.0	40.0	40.0

Source: Benchmark Methodology, at 4.

For example, if the realized volatility of the previous business day (RV_{t-1}) were 12%, and there were no implied volatility trend (IVT_{t-1}), the target allocation to the VIX Futures Index would be 10.0%. If there were an implied volatility uptrend, the target allocation to the VIX Futures Index would be 15.0%.

As of June 30, 2012, the Benchmark allocation was as follows: 97.5% to the equity component, represented by the S&P 500 Index, and 2.5% to the VIX Futures Index, with 0% allocated to cash.

According to the Registration Statement, the Benchmark's allocation to the VIX Futures Index serves as an implied volatility hedge as volatility historically tends to correlate negatively to the performance of the U.S. equity markets (*i.e.,* rapid declines in the performance of the U.S. equity markets generally are associated with particularly high volatility in such markets). ''Implied volatility'' is a measure of the expected volatility of the S&P 500 Index that is reflected by the value of the VIX Index. Although the Fund seeks returns comparable to the returns of the Benchmark, the Fund can have a higher or lower exposure to any component within the Benchmark at any time.

The U.S. Index Committee of the Index Provider maintains the Benchmark.[9] That Committee meets monthly. At each meeting, the Committee reviews pending corporate actions that may affect Benchmark constituents, statistics comparing the composition of the Benchmark to the market, companies that are being considered as candidates for addition to the Benchmark, and any significant market events. In addition, the Committee may revise the Benchmark's policy covering rules for selecting companies, treatment of dividends, share counts, or other matters.

According to the Registration Statement, the VIX Index is a theoretical calculation and cannot be traded. The VIX Index is a benchmark index designed to measure the market price of volatility in large cap U.S. stocks over 30 days in the future, and is calculated based on the prices of certain put and call options on the S&P 500 Index. The VIX Index measures the premium paid by investors for certain options linked to the S&P 500 Index. During periods of market instability, the implied level of volatility of the S&P 500 Index typically increases and, consequently, the prices of options linked to the S&P 500 Index typically increase (assuming all other relevant factors remain constant or have negligible changes). This, in turn, causes the level of the VIX Index to increase. The VIX Index historically has had negative correlations to the S&P 500 Index. Because the level of the VIX Index may increase in times of uncertainty, the VIX Index is known as the ''fear gauge'' of the broad U.S. equities market.

[8] *See* ''Standard & Poor's: S&P 500 Dynamic VEQTOR Index Series Methodology,'' S&P Indices, March 2011, available at *http://www.standardandpoors.com/indices/articles/en/us/?articleType=PDF&assetID=1245195033915* (''Benchmark Methodology''), at 4. The description of the Benchmark herein is based, in part, on the Benchmark Methodology.

[9] 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.

Investments

According to the Registration Statement, the Fund, in accordance with strategy allocation rules provided by the Index Provider, will invest in a combination of equity securities contained in the S&P 500 Index and that are listed on a U.S. securities exchange; VIX Index Related Instruments; money market instruments; cash; cash equivalents; and E-mini S&P 500 Futures that are listed on the Chicago Mercantile Exchange (''CME'').[10]

The allocation among the Fund's investments will approximate the allocation among the components of the Benchmark. Accordingly, during periods of low volatility, a greater portion of the Fund's assets will be invested in equity securities, and during periods of increased volatility, a greater portion of the Fund's assets will be invested in VIX Index Related Instruments. However, the Fund will be actively managed, and, although the Fund will seek performance comparable to the Benchmark, the Fund may have a higher or lower exposure to any component within the Benchmark at any time.

According to the Registration Statement, VIX Index Related Instruments that the Fund will invest in include listed VIX futures contracts contained in the VIX Futures Index or exchange-traded funds (''ETFs'')[11] and exchange-traded notes (''ETNs'')[12] that are listed on a U.S. securities exchange and provide exposure to the VIX Index. All of the VIX Index Related Instruments will be listed on a U.S. exchange.

According to the Registration Statement, futures contracts on the VIX Index have expirations ranging from the near month consecutively out to the tenth month. Futures on the VIX Index provide investors the ability to invest in forward market volatility based on their view of the future direction or movement of the VIX Index. Because the VIX Index is not a tangible item that can be purchased and sold directly, a futures contract on the VIX Index provides for the payment and receipt of cash based on the level of the VIX Index at settlement or liquidation of the contract.

According to the Registration Statement, the Fund may invest a portion of its assets in high-quality money market instruments, cash, and cash equivalents to provide liquidity, to collateralize its futures contracts investments, or to track the Benchmark during times when the Benchmark moves its entire allocation to cash. The instruments in which the Fund may invest include: (i) Short-term obligations issued by the U.S. Government;[13] (ii) short-term negotiable obligations of commercial banks, fixed time deposits, and bankers' acceptances of U.S. and foreign banks and similar institutions; (iii) commercial paper rated at the date of purchase ''Prime-1'' by Moody's Investors Service, Inc., or ''A–1+'' or ''A–1'' by S&P or has a similar rating from a comparable rating agency, or, if unrated, of comparable quality as determined by the Adviser; and (iv) money market mutual funds.

According to the Registration Statement, the Fund also may invest in E-mini S&P 500 Futures that are listed on the CME. E-mini S&P 500 Futures are futures contracts that track the S&P 500 Index. They are substantially similar to traditional futures contracts on the S&P 500 Index, except that the notional value of E-mini S&P 500 Futures are one-fifth the size of their larger counterpart futures contracts.

The Subsidiary

According to the Registration Statement, the Fund may gain exposure to the VIX Index futures markets through investments in a subsidiary organized in the Cayman Islands (''Subsidiary''). Should the Fund invest in the Subsidiary, that investment may not exceed 25% of the Fund's total assets at the end of each tax year quarter. The Subsidiary would be wholly-owned and controlled by the Fund, and its investments would be consolidated into the Fund's financial statements. The Fund's and Subsidiary's investments would be disclosed on the Fund's Web site on a daily basis. Should the Fund invest in the Subsidiary, it would be expected to provide the Fund with exposure to investment returns from VIX Index futures contracts within the limits of the federal tax requirements applicable to investment companies, such as the Fund.

The Subsidiary would be able to invest in VIX Index futures, as well as other investments that would serve as margin or collateral or otherwise support the Subsidiary's VIX Index futures positions. The Subsidiary would be subject to the same general investment policies and restrictions as the Fund, except that, unlike the Fund (which is subject to Rule 4.5 of the Commodity Exchange Act (''CEA'')), the Subsidiary would be able to invest without limitation in VIX Index futures and may use leveraged investment techniques. Otherwise, references to the investment strategies of the Fund for non-equity investments include the investment strategies of the Subsidiary.

According to the Registration Statement, the Fund may utilize the Subsidiary, but is not required to do so. If it is utilized, the Subsidiary will not be registered under the 1940 Act. The Fund, as the sole shareholder of the Subsidiary, will not have the protections offered to investors in registered investment companies. However, according to the Registration Statement, because the Fund wholly owns and controls the Subsidiary, and the Fund and the Subsidiary will be managed by the Adviser, it is unlikely that the Subsidiary will take action contrary to the interests of the Fund or the Fund's shareholders. The Board of Trustees of the Trust (''Board'') will have oversight responsibility for the investment activities of the Fund, including its investment in the Subsidiary, and the Fund's role as the sole shareholder of the Subsidiary. Also, in managing the Subsidiary's portfolio, the Adviser will be subject to the same investment restrictions and operational guidelines that apply to the management of the Fund.

Other Investments

According to the Registration Statement, in addition to the VIX Index futures contracts and E-mini S&P 500 Futures that are part of its primary investments, the Fund may enter into other U.S. listed futures contracts on the S&P 500 Index. The Fund will not use futures for speculative purposes. The Fund will only enter into futures contracts that are traded on U.S. exchanges.

According to the Registration Statement, the Fund may invest in stock index contracts, in addition to the E-mini S&P 500 Futures. Stock index contracts are futures based on indices that reflect the market value of common stock of the firms included in the indices. The Fund may enter into U.S.

[10] The Fund will be ''non-diversified'' under the 1940 Act and may invest more of its assets in fewer issuers than ''diversified'' funds. The diversification standard is set forth in Section 5(b)(1) of the 1940 Act (15 U.S.C. 80a–5).

[11] For purposes of this proposed rule change, ETFs are securities registered under the 1940 Act such as those listed and traded on the Exchange under NYSE Arca Equities Rules 5.2(j)(3), 8.100, and 8.600.

[12] For purposes of this proposed rule change, ETNs are securities registered under the 1933 Act such as those listed and traded on the Exchange under NYSE Arca Equities Rule 5.2(j)(6).

[13] According to the Registration Statement, the Fund may invest in short-term obligations issued or guaranteed by the U.S. Government, its agencies and instrumentalities, including bills, notes, and bonds issued by the U.S. Treasury, as well as ''stripped'' or ''zero coupon'' U.S. Treasury obligations representing future interest or principal payments on U.S. Treasury notes or bonds.

listed futures contracts to purchase security indices when the Adviser anticipates purchasing the underlying securities and believes prices will rise before the purchase will be made.

According to the Registration Statement, to the extent the Fund uses futures it will do so only in accordance with Rule 4.5 of the CEA.[14] Under recently adopted amendments to Rule 4.5, an investment adviser of a registered investment company may claim exclusion from registration as a commodity pool operator (''CPO'') only if the registered investment company it advises uses futures contracts solely for ''bona fide hedging purposes'' or limits its use of futures contracts for non-bona fide hedging purposes in specified ways. Because the Fund does not expect to use futures contracts solely for ''bona fide hedging purposes,'' effective December 31, 2012, the Fund will be subject to rules that will require it to limit its use of positions in futures contracts in accordance with the requirements of amended Rule 4.5, unless it otherwise complies with CPO regulation.

According to the Registration Statement, the Fund may enter into repurchase agreements, which are agreements pursuant to which securities are acquired by the Fund from a third party with the understanding that they will be repurchased by the seller at a fixed price on an agreed date. These agreements may be made with respect to any of the portfolio securities in which the Fund is authorized to invest. Repurchase agreements may be characterized as loans secured by the underlying securities. The Fund may enter into repurchase agreements with (i) member banks of the Federal Reserve System having total assets in excess of $500 million and (ii) securities dealers (''Qualified Institutions''). The Adviser will monitor the continued creditworthiness of Qualified Institutions.

According to the Registration Statement, the Fund may enter into reverse repurchase agreements, which involve the sale of securities with an agreement to repurchase the securities at an agreed-upon price, date, and interest payment and have the characteristics of borrowing. The securities purchased with the funds obtained from the agreement and securities collateralizing the agreement will have maturity dates no later than the repayment date.

In addition to the ETFs and ETNs that are listed on U.S. exchanges and provide exposure to the VIX Index, the Fund may invest in the securities of other investment companies (including money market funds) to the extent permitted under the 1940 Act.

According to the Registration Statement, the Fund also may purchase warrants.

The Fund does not expect to invest in options or enter into swap agreements, including credit default swaps, but may do so if such investments are in the best interests of the Fund's shareholders.

Investment Restrictions

The Fund's investments will be consistent with the Fund's investment objective and will not be used to enhance leverage.

According to the Registration Statement, the Fund will not invest in equities that are traded over-the-counter (''OTC'') or equities listed on a non-U.S. exchange, or enter into futures that are not traded on a U.S. exchange.

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid securities (calculated at the time of investment), including 144A Securities.[15] The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid securities and other illiquid assets.

According to the Registration Statement, the Fund may not concentrate its investments (*i.e.,* invest more than 25% of the value of its total assets in securities of issuers in any one industry or group of industries). This restriction does not apply to obligations issued or guaranteed by the U.S. Government, its agencies or instrumentalities.[16]

The Fund intends to qualify for and to elect to be treated as a separate regulated investment company (''RIC'') under Subchapter M of the Internal Revenue Code.[17]

Net Asset Value

According to the Registration Statement, the Administrator will calculate the Fund's net asset value (''NAV'') at the close of regular trading (normally 4 p.m., Eastern time (''E.T.'')) every day the New York Stock Exchange (''NYSE'') is open. NAV will be calculated by deducting all of the Fund's liabilities from the total value of its assets and dividing the result by the number of Shares outstanding, rounding to the nearest cent. All valuations are subject to review by the Board or its delegate.

According to the Registration Statement, in determining NAV, expenses will be accrued and applied daily and securities and other assets for which market quotations are readily available will be valued at market value. Securities listed or traded on an exchange generally are valued at the last

[14] 7 U.S.C. 1 *et seq.* The Trust, on behalf of the Fund, has filed a notice of eligibility for exclusion from the definition of the term ''commodity pool operator'' or ''CPO'' in accordance with Rule 4.5 of the CEA so that the Fund is not subject to registration or regulation as a CPO under the CEA.

[15] The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. *See* Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. *See also* Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding ''Restricted Securities''); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N–1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the ETF. *See* Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a–7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the 1933 Act).

[16] *See* Form N–1A, Item 9. The Commission has taken the position that a fund is concentrated if it invests more than 25% of the value of its total assets in any one industry. *See, e.g.,* Investment Company Act Release No. 9011 (October 30, 1975), 40 FR 54241 (November 21, 1975).

[17] 26 U.S.C. 851. To qualify for treatment as a RIC, the Fund must meet three tests each year. First, at least 90% of the Fund's gross income for each taxable year must be derived from qualifying income, *i.e.,* dividends, interest, income derived from loans of securities, gains from the sale of securities or of foreign currencies or other income derived with respect to the Fund's business of investing in securities (including net income derived from an interest in certain ''qualified publicly traded partnerships''). Second, generally, at the close of each quarter of the Fund's taxable year, at least 50% of the value of the Fund's assets must consist of cash and cash items, U.S. government securities, securities of other regulated investment companies, and securities of other issuers as to which (a) the Fund has not invested more than 5% of the value of its total assets in securities of the issuer, and (b) the Fund does not hold more than 10% of the outstanding voting securities of the issuer, and no more than 25% of the value of the Fund's total assets may be invested in the securities of (1) any one issuer (other than U.S. government securities and securities of other regulated investment companies), (2) two or more issuers that the Fund controls and which are engaged in the same or similar trades or businesses, or (3) one or more qualified publicly traded partnerships. Third, the Fund must distribute an amount equal to at least the sum of 90% of its investment company taxable income (net investment income and the excess of net short-term capital gain over net long-term capital loss), before taking into account any deduction for dividends paid, and 90% of its tax-exempt income, if any, for the year.

sales price or official closing price that day as of the close of the exchange where the security is primarily traded. Money market securities maturing in 60 days or less will be valued at amortized cost. If a security's market price is not readily available, the security will be valued using pricing provided from independent pricing services or by another method that the Adviser, in its judgment, believes will better reflect the security's fair value in accordance with the Trust's valuation policies and procedures approved by the Board.

According to the Registration Statement, where market quotations are not readily available, including where the Adviser determines that the closing price of the security is unreliable, the Adviser will value the security at fair value in good faith using procedures approved by the Board. Fair value pricing involves subjective judgments and it is possible that a fair value determination for a security is materially different than the value that could be realized upon the sale of the security.

Initial and Continued Listing

The Shares will be subject to NYSE Arca Equities Rule 8.600, which sets forth the initial and continued listing criteria applicable to Managed Fund Shares. The Exchange represents that, for initial and/or continued listing, the Fund must be in compliance with Rule 10A–3 under the Exchange Act,[18] as provided by NYSE Arca Equities Rule 5.3. A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share for the Fund will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.

Creation and Redemption of Shares

The Fund will issue and redeem Shares at NAV only with authorized participants (''APs'') and only in large blocks of 50,000 Shares (each block of Shares is called a ''Creation Unit'') or multiples thereof. The Fund will issue and redeem Creation Units for cash calculated based on the NAV per Share, multiplied by the number of Shares representing a Creation Unit (''Deposit Cash''), plus fixed and variable transaction fees; however, the Fund also reserves the right to permit or require Creation Units to be issued in exchange for a designated portfolio of securities (''Deposit Securities''), as discussed below, together with the deposit of an amount of cash (''Cash Component'') computed as discussed below.

The Trust will issue Shares of the Fund only in Creation Units on a continuous basis through the Distributor, without a sales load, at the NAV next determined after receipt, on any day on which NYSE is open for business (''Business Day''), of an order in proper form.

If in-kind creations are permitted or required, to the extent practicable (as described below), an investor must deposit the Deposit Securities per each Creation Unit constituting a substantial replication of the securities included in the Benchmark (''Fund Securities'') and a Cash Component, computed as discussed below. Together, the Deposit Securities and the Cash Component constitute the ''Fund Deposit,'' which represents the minimum initial and subsequent investment amount for a Creation Unit of the Fund. If in-kind creations are permitted or required, the Adviser expects that the Deposit Securities should correspond pro rata, to the extent practicable, to the securities held by the Fund. The Cash Component is sometimes also referred to as the ''Balancing Amount.'' The Cash Component serves the function of compensating for any differences between the NAV per Creation Unit and an amount equal to the market value of the Deposit Securities (''Deposit Amount''). The Cash Component is an amount equal to the difference between the NAV of the Shares (per Creation Unit) and the Deposit Amount. If the Cash Component is a positive number (*i.e.,* the NAV per Creation Unit exceeds the Deposit Amount), the AP will deliver the Cash Component. If the Cash Component is a negative number (*i.e.,* the NAV per Creation Unit is less than the Deposit Amount), the AP will receive the Cash Component.

To the extent that the Fund permits Creation Units to be issued in-kind, the Custodian, through the National Securities Clearing Corporation (''NSCC''), will make available on each Business Day, prior to the opening of business on the Exchange (currently 9:30 a.m., E.T.), the list of the names and the required number of shares of each Deposit Security to be included in the current Fund Deposit (based on information at the end of the previous Business Day) for the Fund. Such Fund Deposit is applicable, subject to any adjustments as described below, to effect creations of Creation Units of the Fund until such time as the next-announced composition of the Deposit Securities is made available.

If applicable, the identity and number of shares of the Deposit Securities required for a Fund Deposit for the Fund will change as rebalancing adjustments and corporate action events occur. In addition, the Trust reserves the right to permit or require the substitution of an amount of cash—*i.e.,* a ''cash in lieu'' amount—to be added to the Cash Component to replace any Deposit Security that may not be available in sufficient quantity for delivery or which might not be eligible for trading by an AP or the investor for which it is acting or any other relevant reason.

In addition to the list of names and numbers of securities constituting the current Deposit Securities of a Fund Deposit, the Custodian, through the NSCC, also will make available on each Business Day, the estimated Cash Component, effective through and including the previous Business Day, per Creation Unit of the Fund.

The Distributor must receive all orders to create Creation Units no later than the closing time of the regular trading session on the NYSE, as applicable (''Closing Time'') (ordinarily 4 p.m., E.T.) in each case on the date such order is placed in order for creation of Creation Units to be effected based on the NAV of Shares of the Fund as next determined on such date after receipt of the order in proper form.

Creation Units of the Fund will be redeemed principally for cash (''Redemption Cash''). Shares may be redeemed only in Creation Units at their NAV next determined after receipt of a redemption request in proper form by the Fund through the Transfer Agent and only on a Business Day.

If the Fund permits Creation Units to be redeemed in-kind, the Custodian, through the NSCC, will make available prior to the opening of business on the Exchange (currently 9:30 a.m., E.T.) on each Business Day, the identity of the Fund Securities that will be applicable (subject to possible amendment or correction) to redemption requests received in proper form (as described below) on that day. Fund Securities received on redemption may not be identical to Deposit Securities that will be applicable to creations of Creation Units.

For redemptions in-kind, the redemption proceeds for a Creation Unit generally will consist of Fund Securities plus or minus cash in an amount equal to the difference between the NAV of the Shares being redeemed, as next determined after a receipt of a request in proper form, and the value of the Fund Securities, less a redemption transaction fee as noted below. In the

[18] *See* 17 CFR 240.10A–3.

event that the Fund Securities have a value greater than the NAV of the Shares, a compensating cash payment equal to the difference is required to be made by or through an AP by the redeeming shareholder.

A redemption transaction fee is imposed to offset transfer and other transaction costs that may be incurred by a Fund.

An order to redeem Creation Units must be made in proper form and received by the Trust by 4 p.m., E.T. Orders received after 4 p.m., E.T. will be deemed received on the next business day and will be effected at the NAV next determined on such next business day.

Availability of Information

The Fund's Web site (*www.invescopowershares.com*), which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Fund that may be downloaded. The Fund's Web site will include additional quantitative information updated on a daily basis, including, for the Fund, (1) daily trading volume, the prior business day's reported closing price, NAV and mid-point of the bid/ask spread at the time of calculation of such NAV (''Bid/Ask Price''),[19] and a calculation of the premium and discount of the Bid/Ask Price against the NAV, and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Fund will disclose on its Web site the Disclosed Portfolio (as defined in NYSE Arca Equities Rule 8.600(c)(2)) held by the Fund and the Subsidiary that will form the basis for the Fund's calculation of NAV at the end of the business day.[20]

On a daily basis, the Adviser will disclose for each portfolio security and other financial instrument of the Fund and the Subsidiary, if applicable, 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 each security and financial instrument held in the portfolio, and percentage weighting of the security and financial instrument in the portfolio. The Web site information will be publicly available at no charge.

In addition, for in-kind creations, a basket composition file, which will include the security names and share quantities to deliver in exchange for Shares, together with estimates and actual cash components, will be publicly disseminated daily prior to the opening of the Exchange via the NSCC. The basket will represent one Creation Unit of the Fund.

Investors can also obtain the Trust's Statement of Additional Information (''SAI''), the Fund's Shareholder Reports, and the Trust's Form N–CSR and Form N–SAR, filed twice a year. The Trust's SAI and Shareholder Reports will be available free upon request from the Trust, and those documents and the Form N–CSR and Form N–SAR may be viewed on-screen or downloaded from the Commission's Web site at *www.sec.gov.* Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last-sale information for the Shares will be available via the Consolidated Tape Association (''CTA'') high-speed line. In addition, the Portfolio Indicative Value, as defined in NYSE Arca Equities Rule 8.600(c)(3), will be widely disseminated at least every 15 seconds during the Core Trading Session by one or more major market data vendors.[21] The dissemination of the Portfolio Indicative Value, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of the Fund on a daily basis and will provide a close estimate of that value throughout the trading day. The intra-day, closing and settlement prices of the portfolio investments (*e.g.,* futures contracts, equity securities, ETFs and ETNs) are also readily available from the national securities exchanges trading such securities, automated quotation systems, published or other public sources, or on-line information services such as Bloomberg or Reuters.

Additional information regarding the Trust and the Shares, including investment strategies, risks, creation and redemption procedures, fees, portfolio holdings disclosure policies, distributions, and taxes is included in the Registration Statement. All terms relating to the Fund that are referred to, but not defined in, this proposed rule change are defined in the Registration Statement.

Trading Halts

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.[22] 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 Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4 a.m. to 8 p.m., E.T. in accordance with NYSE Arca Equities Rule 7.34 (Opening, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Equities Rule 7.6, Commentary .03, the minimum price variation (''MPV'') for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

Surveillance

The Exchange intends to utilize its existing surveillance procedures applicable to derivative products (which

[19] The Bid/Ask Price of the Fund will be determined using mid-point of the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Fund and its service providers.

[20] Under accounting procedures followed by the Fund, trades made on the prior business day (''T'') will be booked and reflected in NAV on the current business day (''T+1''). Accordingly, the Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

[21] Currently, it is the Exchange's understanding that several major market data vendors widely disseminate Portfolio Indicative Values taken from CTA or other data feeds.

[22] *See* NYSE Arca Equities Rule 7.12, Commentary .04.

include Managed Fund Shares) to monitor trading in the Shares. The Exchange represents that these procedures 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.

The Exchange's current trading surveillance focuses on detecting securities trading outside their normal patterns. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

All equity securities, ETFs, and ETNs in which the Fund invests will be listed on a U.S. securities exchange. The Exchange may obtain information via the Intermarket Surveillance Group (''ISG'') from other exchanges that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[23] In addition, the Exchange could obtain information from the U.S. futures exchanges, all of which are ISG members, on which futures held by the Fund are listed and traded.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit (''ETP'') Holders in an Information Bulletin (''Bulletin'') of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (2) 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; (3) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated Portfolio Indicative Value will not be calculated or publicly disseminated; (4) how information regarding the Portfolio Indicative Value will be disseminated; (5) 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 (6) trading information.

In addition, the Bulletin will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Bulletin will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Exchange Act. The Bulletin will also disclose that the NAV for the Shares will be calculated after 4 p.m., E.T. each trading day.

2. Statutory Basis

The basis under the Exchange Act for this proposed rule change is the requirement under Section 6(b)(5)[24] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 8.600. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Adviser is affiliated with a broker-dealer, and has implemented a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio. The Exchange may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. The holdings of the fund will be comprised primarily of U.S. equity securities listed on a U.S. securities exchange, VIX Index Related Instruments, money market instruments, cash, cash equivalents and E-mini S&P 500 Futures that are listed on CME. All equity securities, ETFs and ETNs in which the Fund invests will be listed on a U.S. securities exchange. The Fund will not invest in OTC equities or non-U.S. listed equities or enter into futures that are not traded on a U.S. exchange. The Fund will not use futures for speculative purposes. The Fund will limit its investments in illiquid securities to 15% of its net assets. The Fund's investments will be consistent with the Fund's investment objective and will not be used to enhance leverage. The Fund does not expect to invest in options or enter into swap agreements, including credit default swaps, but may do so if such investments are in the best interests of the Fund's shareholders.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily every day the NYSE is open, and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, a large amount of information will be publicly available regarding the Fund and the Shares, thereby promoting market transparency. Moreover, the Portfolio Indicative Value will be widely disseminated through the facilities of the CTA or by one or more major market data vendors at least every 15 seconds during the Exchange's Core Trading Session. On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Fund will disclose on its Web site the Disclosed Portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day. 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 quotation and last-sale information will be available via the CTA high-speed line. The Web site for the Fund will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Moreover, 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. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable, and trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which trading in Shares of the Fund may be halted. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the

[23] For a list of the current members of ISG, see *www.isgportal.org*. The Exchange notes that not all components of the Disclosed Portfolio for the Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[24] 15 U.S.C. 78f(b)(5).

Portfolio Indicative Value, the Disclosed Portfolio, and quotation and last-sale information for the Shares.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the Portfolio Indicative Value, the Disclosed Portfolio, and quotation and last-sale information for the Shares.

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–NYSEArca–2012–101 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–NYSEArca–2012–101. 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–NYSEArca–2012–101 and should be submitted on or before October 15, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–23459 Filed 9–21–12; 8:45 am]

BILLING CODE 8011–01–P

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change To Amend Rules Regarding Requests for Data Related to Exchange Reviews

September 18, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 4, 2012, the Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''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 its rules regarding the furnishing of data requested with respect to any review conducted by the Exchange. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, Proposed Rule Change

1. Purpose

The Exchange proposes to amend its rules regarding the furnishing of data

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

requested with respect to any review conducted by the Exchange. The Exchange currently requests and receives certain trade data from Trading Permit Holders (''TPHs'') and TPH organizations on an ad hoc basis, in the course of discharging its regulatory responsibilities as a self-regulatory organization.[3] Currently, TPHs and TPH organizations provide such data in a variety of different manners and formats, often piecemeal. Because the form of the submitted information is highly variable and the manner of submission is not standard, the Exchange's Regulatory Division expends considerable resources in re-organizing and systematizing the information in order to perform proper reviews and analyses.

As such, the Exchange proposes that, in addition to the existing obligation under Exchange rules regarding the production of books and records, each TPH or TPH organization shall furnish upon request, in the manner and standard electronic format prescribed by the Exchange, data concerning orders, transactions, and positions, including related hedges and offsets, in relation to a regulatory review conducted by the Exchange. This change would allow the Exchange to develop uniform procedures and forms for the submission of this order, position and trade data (the ''Trade Data''). The existence of a standard format for the submission of Trade Data would allow the TPHs to better prepare for regulatory responses and would allow the Exchange regulatory staff to review and analyze Trade Data in a vastly more efficient and organized manner which in turn will expedite such review and analysis. The Exchange proposes to publish by circular the layout of Trade Data that may be included in any particular request such that the TPHs can understand the specific information to be submitted in response to each request. For example, a particular request may require submission of the entire data layout or may be limited to only certain components of the layout.

The Exchange will not enforce compliance with this proposed rule change until the Exchange has announced an implementation plan. The Exchange expects to announce such implementation plan via a Regulatory Circular during the fourth calendar quarter of 2012. The implementation plan will include a subsequent compliance date. The intervening period between the announcement of the implementation plan and the compliance date will allow TPHs time to prepare to comply.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act[4] and the rules and regulations thereunder and, in particular, the requirements of Section 6(b) of the Act.[5] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[6] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. The existence of a uniform and standard format for the submission of Trade Data and other such information requested with respect to any review will remove impediments to and perfect the mechanism for a free and open market and a national market system, and in general, protect investors and the public interest by removing confusion regarding the submission of such information, and by making the review of such information a more efficient and effective process.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the 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–CBOE–2012–087 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–CBOE–2012–087. 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 the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only

[3] This data, which is provided in a comma-separated values format, currently includes, when applicable, separate data fields for trade date, order entry time (milliseconds), cancel time (milliseconds), execution time (milliseconds), unique ticker symbol, side, execution price, event type, unique account identification, user ID, order ID, broker location, quantity, locate source for short sale, number of shares remaining after a partial execution, and the code of the exchange to which an order was routed.

[4] 15 U.S.C. 78s(b)(1).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2012–087 and should be submitted on or before October 15, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–23439 Filed 9–21–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67885; File No. SR–CME–2012–35]

Self-Regulatory Organizations; Chicago Mercantile Exchange Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Regarding Acceptance of Additional Interest Rate Swaps for Clearing

September 18, 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 September 5, 2012, Chicago Mercantile Exchange Inc. (''CME'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared primarily by CME. The Commission is publishing this Notice and Order to solicit comments on the proposed rule change from interested persons and to approve the proposed rule change on an accelerated basis.

I. Self-Regulatory Organization's Statement of Terms of Substance of the Proposed Rule Change

CME proposes to amend rules related to its business as a derivatives clearing organization offering interest rate swap (''IRS'') clearing services. More specifically, CME proposes to accept the following swaps for clearing beginning September 17, 2012:

- Zero Coupon Swaps denominated in United States Dollars (''USD''), Euros (''EUR'') and British Pound Sterling (''GBP'') with Termination Dates up to 50 years;
- Overnight Index Swaps (''OIS'') denominated in USD, EUR, GBP and Japanese Yen (''JPY'') with Termination Dates up to 30 years; and
- An extension of the latest Termination Date for swaps denominated in USD, EUR and GBP to 51 years and 10 days.

The text of proposed rule changes to CME Rule 90002.L, relating to the extension of termination dates, is available at CME's Web site at *http://www.cmegroup.com/market-regulation/files/SEC_19B–4_12-35.pdf.*

II. Self-Regulatory Organization's Statement of Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CME included statements concerning the purpose 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 III below. CME 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 Purpose of, and Statutory Basis for, the Proposed Rule Change

CME is registered as a derivatives clearing organization with the Commodity Futures Trading Commission and currently offers clearing services for IRS. With this filing, CME proposes to accept the following swaps for clearing beginning September 17, 2012:

- Zero Coupon Swaps denominated in United States Dollars (''USD'') Euros (''EUR'') and British Pound Sterling (''GBP'') with Termination Dates up to 50 years;
- Overnight Index Swaps (''OIS'') denominated in USD, EUR, GBP and Japanese Yen (''JPY'') with Termination Dates up to 30 years; and
- An extension of the latest Termination Date for swaps denominated in USD, EUR and GBP to 51 years and 10 days.

The Manual of Operations for CME Cleared Interest Rate Swaps (the ''IRS Manual'') is also being updated in connection with these proposed changes to reflect the acceptance of the above interest rate swaps and to make certain other operational updates and typographical and grammatical corrections. The IRS Manual changes will be effective on September 17, 2012.

CME notes that it has also submitted the proposed rule changes that are the subject of this filing to the Commodity Futures Trading Commission (''CFTC''), in CME Submission 12–275.

CME believes the proposed rule change is consistent with the requirements of the Act and particularly with Section 17A of the Act because it involves clearing of swaps and futures contracts and thus relate solely to CME's swaps and futures clearing activities pursuant to its registration as a derivatives clearing organization under the Commodity Exchange Act (''CEA'') and does not significantly affect any securities clearing operations of the clearing agency or any related rights or obligations of the clearing agency or persons using such service. CME further notes that the policies of the CEA with respect to clearing are comparable to a number of the policies underlying the Act, such as promoting market transparency for over-the-counter derivatives and futures markets, promoting the prompt and accurate clearance of transactions, and protecting investors and the public interest. The proposed rule changes accomplish those objectives by offering investors enhancements in relation to CME's IRS product offering.

B. Self-Regulatory Organization's Statement on Burden on Competition

CME does not believe that the proposed rule change will have any impact, or impose any burden, on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

CME has not solicited, and does not intend to solicit, comments regarding this proposed rule change. CME has not received any unsolicited written comments from interested parties.

III. 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 may be submitted by using 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 No. SR–CME–2012–35 on the subject line.
- 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–CME–2012–35. 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

[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 CME and on CME's Web site at *http://www.cmegroup.com/market-regulation/rule-filings.html.* 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–CME–2012–35 and should be submitted on or before October 15, 2012.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

Section 19(b) of the Act [3] directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. The Commission finds that the proposed rule change is consistent with the requirements of the Act, in particular with the requirements of Section 17A of the Act,[4] and the rules and regulations thereunder applicable to CME. Specifically, the Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act, which requires, among other things, that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the possession or control of the clearing agency or for which it is responsible and to protect investors and the public interest because it should allow CME to enhance its clearing activities related to IRS products.[5]

In its filing CME requested that the Commission approve this proposed rule change prior to the thirtieth day after the date of publication of the notice of the filing. CME has articulated three reasons for so granting approval. One, the products covered by this filing and CME's operations as a derivatives clearing organization for such products are regulated by the CFTC under the CEA. Two, the proposed rule change relates solely to IRS products and therefore relate solely to CME's swaps clearing activities and do not significantly relate to CME's functions as a clearing agency for security-based swaps. Three, not approving this request on an accelerated basis will have a significant impact on the swap clearing business of CME as a designated clearing organization.

The Commission finds good cause for granting approval of the proposed rule change prior to the thirtieth day after publication of the notice of its filing because: (i) The proposed rule change does not significantly affect any securities clearing operations of the clearing agency (whether in existence or contemplated by its rules) or any related rights or obligations of the clearing agency or persons using such service; (ii) the clearing agency has indicated that not providing accelerated approval would have a significant impact on its IRS clearing business as a designated clearing organization; and (iii) the activity relating to the non-security clearing operations of the clearing agency for which the clearing agency is seeking approval is subject to regulation by another federal regulator.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–CME–2012–35) is approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–23440 Filed 9–21–12; 8:45 am]

BILLING CODE 8011–01–P

[3] 15 U.S.C. 78s(b).

[4] 15 U.S.C. 78q–1. In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[5] 15 U.S.C. 78q–1(b)(3)(F).

[6] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13292 and #13293]

Mississippi Disaster #MS–00060

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 Mississippi (FEMA–4081–DR), dated 09/11/2012.

Incident: Hurricane Isaac.

Incident Period: 08/26/2012 through 09/11/2012.

DATES: *Effective Date:* 09/11/2012.

Physical Loan Application Deadline Date: 11/13/2012.

Economic Injury (EIDL) Loan Application Deadline Date: 06/11/2013.

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 09/11/2012, 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: Adams, Amite, Claiborne, Copiah, Covington, Franklin, George, Greene, Hancock, Harrison, Jackson, Jefferson, Jefferson Davis, Lamar, Lawrence, Lincoln, Marion, Newton, Pearl River, Perry, Pike, Smith, Stone, Walthall, Wayne, Wilkinson.

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 132928 and for economic injury is 132938.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2012–23396 Filed 9–21–12; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13288 and #13289]

California Disaster #CA–00190

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of California dated 09/14/2012.

Incident: Brawley Earthquakes.

Incident Period: 08/26/2012 and continuing.

DATES: *Effective Date:* 09/14/2012.

Physical Loan Application Deadline Date: 11/13/2012.

Economic Injury (EIDL) Loan Application Deadline Date: 06/14/2013.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Imperial.

Contiguous Counties:

California: Riverside, San Diego.

Arizona: La Paz, Yuma.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	3.375
Homeowners Without Credit Available Elsewhere	1.688
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	3.125
Non-Profit Organizations Without Credit Available Elsewhere	3.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 13288 2 and for economic injury is 13289 0.

The States which received an EIDL Declaration # are California, Arizona.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: September 14, 2012.

Karen G. Mills,

Administrator.

[FR Doc. 2012–23403 Filed 9–21–12; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13291]

California Disaster #CA–00193; Declaration of Economic Injury

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Economic Injury Disaster Loan (EIDL) declaration for the State of California, dated 09/14/2012.

Incident: Chips Fire.

Incident Period: 07/29/2012 through 08/31/2012.

DATES: *Effective Date:* 09/14/2012.

EIDL Loan Application Deadline Date: 06/14/2013.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's EIDL declaration, applications for economic injury disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Plumas.

Contiguous Counties:

California: Butte, Lassen, Shasta, Sierra, Tehama, Yuba.

The Interest Rates are:

	Percent
Businesses And Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	3.000

The number assigned to this disaster for economic injury is 132910.

The State which received an EIDL Declaration # is California.

(Catalog of Federal Domestic Assistance Number 59002)

Dated: September 14, 2012.

Karen G. Mills,

Administrator.

[FR Doc. 2012–23400 Filed 9–21–12; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13290]

California Disaster #CA–00192; Declaration of Economic Injury

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Economic Injury Disaster Loan (EIDL) declaration for the State of California, dated 09/14/2012.

Incident: Ocean Avenue Fire.

Incident Period: 08/07/2012.

DATES: *Effective Date:* 09/14/2012.

EIDL Loan Application Deadline Date: 06/14/2013.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's EIDL declaration, applications for economic injury disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: San Francisco.

Contiguous Counties:

California: Marin, San Mateo.

The Interest Rates are:

	Percent
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	3.000

The number assigned to this disaster for economic injury is 132900.

The State which received an EIDL Declaration # is California.

(Catalog of Federal Domestic Assistance Number 59002)

Dated: September 14, 2012.

Karen G. Mills,

Administrator.

[FR Doc. 2012–23401 Filed 9–21–12; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13273 and #13274]

Mississippi Disaster Number MS–00059

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 2.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Mississippi (FEMA–4081–DR), dated 09/01/2012.

Incident: Hurricane Isaac.

Incident Period: 08/26/2012 and continuing through 09/11/2012.

Effective Date: 09/11/2012.

Physical Loan Application Deadline Date: 10/31/2012.

EIDL Loan Application Deadline Date: 05/30/2013.

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: The notice of the President's major disaster declaration for the State of Mississippi, dated 09/01/2012 is hereby amended to establish the incident period for this disaster as beginning 08/26/2012 and continuing through 09/11/2012.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2012–23397 Filed 9–21–12; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13271 and #13272]

Louisiana Disaster #LA–00048

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 7.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Louisiana (FEMA–4080–DR), dated 08/31/2012.

Incident: Hurricane Isaac.

Incident Period: 08/26/2012 through 09/10/2012.

DATES: *Effective Date:* 09/14/2012.

Physical Loan Application Deadline Date: 10/30/2012.

EIDL Loan Application Deadline Date: 05/29/2013.

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: The notice of the Presidential disaster declaration for the State of Louisiana, dated 08/31/2012 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Parishes: (Physical Damage and Economic Injury Loans):

East Baton Rouge, East Feliciana, West Feliciana.

Contiguous Parishes/Counties: (Economic Injury Loans Only):

Louisiana: Avoyelles, Concordia.

Mississippi: Wilkinson.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Joseph P. Loddo,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2012–23404 Filed 9–21–12; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13294 and #13295]

Louisiana Disaster #LA–00049

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 Louisiana (FEMA–4080–DR), dated 09/12/2012.

Incident: Hurricane Isaac.

Incident Period: 08/26/2012 through 09/10/2012.

DATES: *Effective Date:* 09/12/2012.

Physical Loan Application Deadline Date: 11/13/2012.

Economic Injury (EIDL) Loan Application Deadline Date: 06/12/2013.

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 09/12/2012, 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: Assumption, East Feliciana, Iberville, Lafourche, Orleans, Pointe Coupee, Saint Charles, Saint Helena, Saint James, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington.

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 132948 and for economic injury is 132958.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2012–23398 Filed 9–21–12; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13271 and #13272]

Louisiana Disaster Number LA–00048

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 6.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Louisiana (FEMA–4080–DR), dated 08/31/2012.

Incident: Hurricane Isaac.

Incident Period: 08/26/2012 and continuing through 09/10/2012.

DATES: Effective Date: 09/10/2012.

Physical Loan Application Deadline Date: 10/30/2012.

EIDL Loan Application Deadline Date: 05/29/2013.

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: The notice of the President's major disaster declaration for the State of Louisiana, dated 08/31/2012 is hereby amended to establish the incident period for this disaster as beginning 08/26/2012 and continuing through 09/10/2012.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2012–23405 Filed 9–21–12; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13273 and #13274]

Mississippi Disaster Number MS–00059

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Mississippi (FEMA–4081–DR), dated 09/01/2012.

Incident: Hurricane Isaac.

Incident Period: 08/26/2012 and continuing.

DATES: *Effective Date:* 09/07/2012.

Physical Loan Application Deadline Date: 10/31/2012.

EIDL Loan Application Deadline Date: 05/30/2013.

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: The notice of the Presidential disaster declaration for the State of MISSISSIPPI, dated 09/01/2012 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties: (Physical Damage and Economic Injury Loans): Adams, Amite, Clarke, Forrest, George, Hinds, Lincoln, Marion, Pike, Stone, Walthall, Warren, Wilkinson.

Contiguous Counties: (Economic Injury Loans Only):

Mississippi: Claiborne, Copiah, Covington, Franklin, Greene, Issaquena, Jasper, Jefferson, Jefferson Davis, Jones, Lauderdale, Lawrence, Madison, Newton, Perry, Rankin, Simpson, Wayne, Yazoo.

Alabama: Choctaw.

Louisiana: Concordia, East Carroll, East Feliciana, Madison, Saint Helena, Tangipahoa, Tensas, West Feliciana.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2012–23408 Filed 9–21–12; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13271 and #13272]

Louisiana Disaster Number LA–00048

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 5.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Louisiana (FEMA–4080–DR), dated 08/31/2012.

Incident: Hurricane Isaac.

Incident Period: 08/26/2012 and continuing.

Effective Date: 09/08/2012.

Physical Loan Application Deadline Date: 10/30/2012.

EIDL Loan Application Deadline Date: 05/29/2013.

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: The notice of the Presidential disaster declaration for the State of Louisiana, dated 08/31/2012 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Parishes: (Physical Damage and Economic Injury Loans): Saint Mary, Iberville.

Contiguous Parishes: (Economic Injury Loans Only): Louisiana: Pointe Coupee, West Baton Rouge.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2012–23406 Filed 9–21–12; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions to and one extension of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents,

including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov*.

(SSA), Social Security Administration, DCRDP, Attn: Reports Clearance Director, 107 Altmeyer Building, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov.*

I

The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than November 23, 2012. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. *Reporting Changes that Affect Your Social Security Payment—20 CFR 404.301–305, 404.310–311, 404.330–.333, 404.335–.341, 404.350–.352, and 404.468—0960–0073.* When Social Security benefits recipients experience a change that could affect their payments, they must report these changes to SSA. Title II beneficiaries in this category use form SSA–1425 to report the relevant information to SSA; the agency then determines if the respondents continue to be entitled to benefits, and if so, the proper amount of these benefits. The respondents are Social Security beneficiaries receiving Title II SSA retirement, disability, or survivor's auxiliary benefits who need to report an event that could affect their payments.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of responses	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–1425	70,000	1	5	5,833

2. *Privacy and Disclosure of Official Records and Information; Availability of Information and Records to the Public—20 CFR 401.40(b)&(c), 401.55(b), 401.100(a), 402.130, 402.185—0960–0566.* SSA has established methods for the public to: (1) Access their SSA records; (2) allow SSA to disclose records; (3) correct or amend their SSA records; (4) consent to release of their records; (5) request records under the Freedom of Information Act (FOIA); and (6) request SSA waive or reduce fees normally charges for release of FOIA. SSA often collects the necessary information for these requests through a written letter, with the exception of the consent for release of records, for which there is the Form SSA–3288. The respondents are individuals requesting access to, correction of, or disclosure of SSA records.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of responses	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Access to Records	10,000	1	11	1,833
Designating a Representative for Disclosure of Records	3,000	1	120	6,000
Amendment of Records	100	1	10	17
Consent of Release of Records	3,000,000	1	3	150,000
FOIA Requests for Records	15,000	1	5	1,250
Waiver/Reduction of Fees	400	1	5	33
Totals	3,028,500	.....	.....	159,133

3. *Claimant Statement about Loan of Food or Shelter; Statement about Food or Shelter Provided to Another—20 CFR 416.1130–416.1148—0960–0529.* SSA uses Forms SSA–5062 and SSA–L5063 in the administration of the Supplemental Security Income (SSI) program. SSA bases an SSI claimant or recipient's eligibility on need. We measure need by the amount of income an individual receives. Income includes other persons providing in-kind support and maintenance in the form of food and shelter to SSI applicants or recipients. SSA uses Forms SSA–5062 and SSA–L5063 to obtain statements about food or shelter provided to SSI claimants or recipients. SSA uses this information to determine whether food or shelters are bona fide loans or income for SSI purposes. This determination may affect a claimant or recipient's eligibility for SSI and the amount of SSI payments. The respondents are claimants and recipients for SSI payments, and individuals who provide loans of food or shelter to them.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of responses	Frequency of response	Average burden of response (minutes)	Estimated total annual burden (hours)
SSA–5062 Paper form	34,900	1	10	5,817
SSA–L5063 Paper form	34,900	1	10	5,817
SSA–5062 Modernized SSI Claims System (MSSICS)	34,900	1	10	5,817
SSA–L5063 MSSICS	34,900	1	10	5,817

Modality of completion	Number of responses	Frequency of response	Average burden of response (minutes)	Estimated total annual burden (hours)
Total	139,600			23,268

4. *Site Review Questionnaire for Volume and Fee-for-Service Payees and Beneficiary Interview Form—20 CFR 404.2035, 404.2065, 416.665, 416.701, and 416.708—0960–0633.* SSA asks organizational representative payees to complete Form SSA–637, the Site Review Questionnaire for Volume and Fee-for-Service Payees, to provide information on how they carry out their responsibilities, including how they manage beneficiary funds. SSA then obtains information from the beneficiaries these organizations represent via Form SSA–639, Beneficiary Interview Form, to corroborate the payees' statements. Due to the sensitivity of the information, SSA employees always complete the forms based on the answers respondents give during the interview. The respondents are individuals, State and local governments, non-profit and for-profit organizations serving as representative payees, and the beneficiaries they serve.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of responses	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–637	1,999	1	120	3,998
SSA–639	8,293	1	10	1,382
Totals	10,292			5,380

5. *Certification of Prisoner Identity Information—20 CFR 422.107—0960–0688.* Inmates of Federal, State, or local prisons may need a Social Security card as verification of their Social Security number for school or work programs, or as proof of employment eligibility upon release from incarceration. Before SSA can issue a replacement Social Security card, applicants must show SSA proof of their identity. People who are in prison for an extended period typically do not have current identity documents. Therefore, under formal written agreement with the correctional institution, SSA allows prison officials to verify the identity of certain incarcerated U.S. citizens who need replacement Social Security cards. Information prison officials provide comes from the official prison files, sent on correctional facility letterhead. SSA uses this information to establish the applicant's identity in the replacement Social Security card process. The respondents are prison officials who certify the identity of prisoners applying for replacement Social Security cards.

Type of Request: Extension of an OMB-approved Information Collection.

Modality of completion	Number of responses	Frequency of Response	Average burden per response (minutes)	Estimated total annual burden (hours)
Certification of Prisoner Identity	1,100	200	3	11,000

II

SSA submitted the information collections below to OMB for clearance. Your comments regarding the information collections would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than October 24, 2012. Individuals can obtain copies of the OMB clearance packages by writing to *OR.Reports.Clearance@ssa.gov.*

1. *Statement of Care and Responsibility for Beneficiary—20 CFR 404.2020, 404.2025, 408.620, 408.625, 416.620, 416.625—0960–0109.* SSA uses the information from Form SSA–788 to verify payee applicants' statements of concern and to identify other potential payees. SSA is concerned with selecting the most qualified representative payee who will use Social Security benefits in the beneficiary's best interest. SSA considers factors such as the payee applicant's capacity to perform payee duties, awareness of the beneficiary's situation and needs, demonstration of past and current concern for the beneficiary's well-being, etc. If the payee applicant does not have custody of the beneficiary, SSA will obtain information from the custodian for evaluation against information provided by the applicant. Respondents are individuals who have custody of the beneficiary in cases where someone else has filed to be the beneficiary's representative payee.

This is a correction notice: SSA published the incorrect burden information for this collection at 77 FR 47688, on 08/09/12. We are correcting this error here.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–788	130,000	1	10	21,667

2. *Function Report Adult—Third Party—20 CFR 404.1512 & 416.912—0960–0635.* Individuals receiving or applying for Social Security Disability Insurance (SSDI) or SSI provide SSA with medical evidence and other proof SSA requires to prove their disability. SSA, and Disability Determination Services (DDS) on our behalf, collect this information using Form SSA–3380–BK. We use the information to document how claimant's disabilities affect their ability to function, and to determine eligibility for SSI and SSDI claims. The respondents are third parties familiar with the functional limitations (or lack thereof) of claimants who apply for SSI and SSDI benefits.

Note: This is a correction notice: SSA published the incorrect burden information for this collection at 77 FR 40401, on 7/09/12. We are correcting this error here.

Type of Request: Revision of an OMB approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–338–BK (Individuals)	527,000	1	61	535,783
SSA–338–BK (Private Sector)	527,000	1	61	535,783
Totals	1,054,000	.....	.....	1,071,566

3. *Function Report Adult—20 CFR 404.1512 & 416.912—0960–0681.* Individuals receiving or applying for SSDI or SSI must provide medical evidence and other proof SSA requires to prove their disability. SSA, and DDS on our behalf, collect the information using Form SSA–3373. We use the information to document how claimants' disabilities affect their ability to function, and to determine eligibility for SSI and SSDI claims. The respondents are title II and title XVI applicants (or current recipients undergoing redeterminations) for disability payments.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of responses	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–3373	4,221,656	1	61	4,292,017

Dated: September 19, 2012.

Faye Lipsky,

Reports Clearance Director, Social Security Administration.

[FR Doc. 2012–23441 Filed 9–21–12; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in Minnesota

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of statute of limitations on claims for judicial review of actions by FHWA and other federal agencies.

SUMMARY: This notice announces actions taken by the FHWA and other Federal agencies that are final within the meaning of 23 U.S.C. 139(l)(1). The actions relate to a proposed highway project on I–90 over the Mississippi River. The proposed project includes replacement of the Interstate 90 (I–90) Dresbach Bridge over the Mississippi River with a new bridge that meets structural and geometric standards as well as reconstruction of the I–90/U.S. 61 interchange to improve traffic safety, capacity, and access on and between U.S. 61/14 and I–90. Those actions grant approvals for the project.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions of the proposed highway project will be barred unless the claim is filed within 180 days from the date this notice is published in the **Federal Register**. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such a claim, than that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For FHWA: Mr. Philip Forst, Environmental Specialist, Federal Highway Administration, 380 Jackson Street, Suite 500, Saint Paul, MN 55101, Telephone (651) 291–6100, email: *phil.forst@dot.gov.* The Minnesota Division Office's normal business hours are 8 a.m. to 4 p.m. (Central Time). For the Minnesota Department of Transportation (MnDOT): Mr. Jai Kalsy, PE, Project Manager, District 6, 2900 48th Street NW., Rochester, MN 55901–5848, Telephone: (507) 286–7500, Email: *jai.kalsy@state.mn.us.* The MnDOT District 6 normal business hours are 8 a.m. to 4 p.m. (Central Time).

SUPPLEMENTARY INFORMATION: Notice is hereby given that the FHWA and other Federal agencies have take final agency actions by issuing approvals for the following highway project in Minnesota: I–90 Bridge over the Mississippi River and I–90/U.S. 14/U.S. 61 approach roadway interchange. The project is located in Dresbach Township, Winona County, Minnesota, and Campbell Township, La Crosse County,

Wisconsin. The project's Web site is at *http://www.dot.state.mn.us/d6/projects/dresbachbridge/index.html.* A Finding of No Significant Impact (FONSI) for this project was signed by FHWA on August 27, 2012.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109]
2. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]
3. *Wildlife:* Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536]; Fish and Wildlife Coordination Act [15 U.S.C. 661–667(d)]; Migratory Bird Treaty Act [16 U.S.C. 703–712].
4. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) et seq.]; Archaeological and Historic Preservation Act [16 U.S.C. 469–469(c)]
5. *Executive Orders:* E.O. 11990, Protection of Wetlands; E.O. 11988, Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority and Low Income Populations; E.O. 11593, Protection and Enhancement of Cultural Resources; E.O. 13007, Indian Sacred Sites; E.O. 13287, Preserve America; E.O. 13175, Consultation and Coordination with Indian Tribal Governments; E.O. 11514, Protection and Enhancement of Environmental Quality; E.O. 13112, Invasive Species

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(l)(1).

Issued on: September 4, 2012.

Derrell Turner,

Division Administrator, Federal Highway Administration, Saint Paul, Minnesota.

[FR Doc. 2012–23502 Filed 9–21–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA 2012–0006–N–13]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), Department of Transportation.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and its implementing regulations, the Federal Railroad Administration (FRA) hereby announces that it is seeking renewal of the following currently approved information collection activities. Before submitting these information collection requirements (ICRs) for clearance by the Office of Management and Budget (OMB), FRA is soliciting public comment on specific aspects of the activities identified below.

DATES: Comments must be received no later than November 23, 2012.

ADDRESSES: Submit written comments on any or all of the following proposed activities by mail to either: Mr. Robert Brogan, Office of Safety, Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 25, Washington, DC 20590, or Ms. Kimberly Toone, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 35, Washington, DC 20590. Commenters requesting FRA to acknowledge receipt of their respective comments must include a self-addressed stamped postcard stating, ''Comments on OMB control number 2130–_____.'' Alternatively, comments may be transmitted via facsimile to (202) 493–6216 or (202) 493–6497, or via email to Mr. Brogan at *Robert.Brogan@dot.gov,* or to Ms. Toone at *Kimberly.Toone@dot.gov.* Please refer to the assigned OMB control number in any correspondence submitted. FRA will summarize comments received in response to this notice in a subsequent notice and include them in its information collection submission to OMB for approval.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 25, Washington, DC 20590 (telephone: (202) 493–6292) or Ms. Kimberly Toone, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6132). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, § 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to provide 60 days notice to the public for comment on information collection activities before seeking approval for reinstatement or renewal by OMB. 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1), 1320.10(e)(1), 1320.12(a). Specifically, FRA invites interested respondents to comment on the following summary of proposed information collection activities regarding (i) Whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (ii) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (iii) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (iv) ways for FRA to minimize the burden of information collection activities on the public by automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.,* permitting electronic submission of responses). *See* 44 U.S.C. 3506(c)(2)(A)(I)–(iv); 5 CFR 1320.8(d)(1)(I)–(iv). FRA believes that soliciting public comment will promote its efforts to reduce the administrative and paperwork burdens associated with the collection of information mandated by Federal regulations. In summary, FRA reasons that comments received will advance three objectives: (i) Reduce reporting burdens; (ii) ensure that it organizes information collection requirements in a ''user friendly'' format to improve the use of such information; and (iii) accurately assess the resources expended to retrieve and produce information requested. *See* 44 U.S.C. 3501.

Below is a brief summary of the currently approved ICRs that FRA will submit for clearance by OMB as required under the PRA:

Title: State Safety Participation Regulations and Remedial Actions.

OMB Control Number: 2130–0509.

Abstract: The collection of information is set forth under 49 CFR

part 212, and requires qualified state inspectors to provide various reports to FRA for monitoring and enforcement purposes concerning state investigative, inspection, and surveillance activities regarding railroad compliance with Federal railroad safety laws and regulations. Additionally, railroads are required to report to FRA actions taken to remedy certain alleged violations of law.

Form Number(s): FRA F 6180.33/61/67/96/96A/109/110/111/112.

Affected Public: Businesses.

Respondent Universe: States and Railroads.

Frequency of Submission: On occasion.

REPORTING BURDEN

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
Application For Participation	15 States	15 updates	2.5 hours	38
Training Funding Agreement	30 States	30 agreements	1 hour	30
Inspector Training Reimbursement	30 States	300 vouchers	1 hour	300
Annual Work Plan	30 States	30 reports	15 hours	450
Inspection Form (Form FRA F 6180.96)	30 States	16,000 forms	15 minutes	4,000
Violation Report—Motive, Power, and Equipment Regulations (Form FRA F 6180.109).	17 States	550 reports	4 hours	2,200
Violation Report—Operating Practices Regulations (Form FRA F 6180.67).	16 States	140 reports	4 hours	560
Violation Report—Hazardous Materials Regulations (Form FRA F 6180.110).	15 States	170 reports	4 hours	680
Violation Report—Hours of Service Law (F 6180.33).	16 States	35 reports	4 hours	140
Violation Report—Accident/Incident Reporting Rules (Form FRA F 6180.61).	16 States	30 reports	4 hours	120
Violation Report—Track Safety Regulations (Form FRA F 6180.111).	25 States	100 reports	4 hours	400
Violation Report—Signal and Train Control Regulations (Form FRA F 6180.112).	14 States	20 reports	4 hours	80
Remedial Actions Reports	563 Railroads	3,500 reports	15 minutes	875
Violation Report Challenge	563 Railroads	700 challenges	1 hours	700
Delayed Reports	573 Railroads	350 reports	30 minutes	175

Total Responses: 21,970.

Estimated Total Annual Burden: 10,748 hours.

Type of Request: Extension of a currently approved collection.

Title: Use of Locomotive Horns at Highway-Rail Grade Crossings.

OMB Control Number: 2130–0560.

Abstract: Under Title 49 Part 222 of the Code of Federal Regulations, FRA seeks to collect information from railroads and public authorities in order to increase safety at highway-rail grade crossings nationwide by requiring that locomotive horns be sounded when trains approach and pass through these crossings or by ensuring that a safety level at least equivalent to that provided by blowing locomotive horns exists for corridors in which horns are silenced. FRA reviews applications by public authorities intending to establish new or, in some cases, continue pre-rule quiet zones to ensure the necessary level of safety is achieved.

Form Number(s): N/A.

Affected Public: Businesses.

Frequency of Submission: On occasion.

Respondent Universe: 728 railroads/340 Public Authorities.

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
222.11—Penalties—Falsified Report	728 Railroads/340 Public Authorities.	1 report/record	2 hours	2
222.15—Waiver Petitions	728 Railroads/340 Public Authorities.	5 petitions	4 hours	20
222.17—Application to Become Recognized State Agency.	68 State Agencies	1 application	8 hours	8
222.39—Applications to Establish Quiet Zone	340 Public Authorities	10 applications	80 hours	800
—Diagnostic Team Rev.	340 Public Authorities	2 team reviews	16 hours	32
—Updated Crossing Inventory Forms	340 Public Authorities	50 updated forms	1 hour	50
—Copies of Quiet Zone Application	340 Public Authorities	60 copies	10 minutes	10
—Comments to FRA on Quiet Zone Application.	715 Railroads/State Agencies.	20 comments	2.5 hours	30
222.43—Written Notice of Public Authority Intent to Create New Quiet Zone and Notification to Required Parties.	216 Communities/Public Authorities.	30 notices + 90 notifications.	40 hours + 10 minutes	1,215
—Updated Crossing Inventory Forms	216 Communities	150 updated forms	1 hour	150
Comments on proposed Quiet Zone	715 Railroads/State Agencies.	60 comments	4 hours	240
—Notice of Quiet Zone Establishment + Notification to Required Parties.	316 Public Authorities	30 notices + 180 notifications.	40 hours + 10 minutes	1,230
—Updated Crossing Inventory Forms	316 Public Authorities	150 updated forms	1 hour	150

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
—Certification by CEO of Public Authority Regarding Accuracy of Information.	216 Public Authorities	30 certifications	5 minutes	3
222.47—Periodic Updates: Written Affirmation that Supplementary Safety Measures Implemented w/in Quiet Zone Conform to Rule or Terms of Approval.	200 Public Authorities	70 written affirmations + 420 copies (to required parties).	30 minutes + 2 minutes	70
—Updated Crossing Inventory Forms	200 Public Authorities	350 updated forms	1 hour	350
222.51—Written Commitment to Lower Risk to Traveling Public in Quiet Zones Exceeding Nationwide Significant Risk Threshold.	9 Public Authorities	5 written commitments	5 hours	25
—Comments Upon FRA Review of Quiet Zone Status.	3 Public Authorities	4 comments	30 minutes	2
222.55—Request for FRA Approval of New Supplementary Safety Measures or Alternative Safety Measures (ASMs) for Quiet Zone.	265 Interested Parties	1 letter	30 minutes	1
—Comments on New SSMs or ASMs	265 Interested Parties/ General Public.	5 comments	30 minutes	3
—Request for SSM/ASM Approval—Demo	265 Interested Parties	1 letter	30 minutes	1
222.57—Petition for FRA Review of Decision Granting or Denying a New SSM or ASM; Petition Copies to Relevant Parties.	265 Public Authorities/ Interested Parties.	5 petitions + 5 petition copies.	60 minutes + 2 minutes	1
—Request for FRA Reconsideration of Disapproval of Quiet Zone + Party Copies.	200 Public Authorities	1 letter + 6 letter copies	5 hours + 2 minutes	5
—Additional Documents to FRA as Follow-up to Petition for Reconsideration.	200 Public Authorities	1additional document/ set of materials.	2 hours	2
—Letter Requesting FRA Informal Hearing	200 Public Authorities	1 letter	30 minutes	1
222.59—Written Notice of Use of Wayside Horn at Grade Crossing within Quiet Zone + Party Copies.	200 Public Authorities	5 notices + 30 notice copies.	2.5 hours + 10 minutes	18
—Notice of Wayside Horn Outside Q. Zone	200 Public Authorities	5 notices + 30 notice copies.	2.5 hours + 10 minutes	18
Appendix B—Public Authority Record Relating to Monitoring and Sampling Efforts at Grade Crossing in Quiet Zone with Programmed Enforcement.	200 Public Authorities	1 record	500 hours	500
—Public Authority Record Relating to Monitoring and Sampling Efforts at Grade Crossing in Quiet Zone with Photo Enforcement.	200 Public Authorities	1 record	9 hours	9
222.129—Written Reports/Records of Locomotive Horn Testing.	728 Railroads	650 reports/records	60 minutes	650

Total Estimated Responses: 2,466.

Total Estimated Annual Burden: 5,596 hours.

Status: Regular Review.

Pursuant to 44 U.S.C. 3507(a) and 5 CFR 1320.5(b), 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC, on September 18, 2012.

Rebecca Pennington,

Chief Financial Officer, Federal Railroad Administration.

[FR Doc. 2012–23451 Filed 9–21–12; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 290 (Sub-No. 336X)]

Norfolk Southern Railway Company—Abandonment and Discontinuance of Service Exemption—In Lake County, Ind., and Cook County, Ill.

Norfolk Southern Railway Company (NSR) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* for NSR to abandon approximately 6.30 miles of rail line (the Eastern Line Segment) located in Lake County, Ind., and Cook County, Ill., and to discontinue service over a contiguous line segment of approximately 1.2 miles (the Western Line Segment) located in Cook County, Ill.[1] The roughly 6.30-mile Eastern Line Segment extends from milepost JH 12.80 (near the Eastern Line Segment's crossing of Eagle Ridge Drive) in Schererville, Ind., to milepost JH 19.10 (near the Eastern Line Segment's crossing of Cottage Grove Avenue) in Ford Heights, Ill. The roughly 1.2-mile Western Line Segment extends from milepost JH 19.10 (near Cottage Grove Avenue) in Ford Heights, Ill., to milepost JH 20.30 (near State Street) in Chicago Heights, Ill.

The Line traverses United States Postal Service Zip Codes 46375, 46311 and 60411. NSR states that it has filed this notice of exemption to facilitate the construction by Canadian National Railway Company (CN) and Elgin, Joliet & Eastern Railway (EJ&E) of a grade separation over U.S. Route 30, a project upon which the Surface Transportation Board (Board) conditioned its approval

[1] The Eastern Line Segment and the Western Line Segment, which are commonly known as the Hartsdale Industrial Track, will be referred to collectively as the Line.

of CN's acquisition of control of EJ&E [2] and which is in close proximity to the Line.

Applicants have certified that: (1) No local traffic has moved over the Line for at least 2 years; (2) no overhead traffic has moved over the Line for at least 2 years and overhead traffic, if there were any, could be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment or discontinuance shall be protected under *Oregon Short Line—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on October 24, 2012, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[3] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[4] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by October 4, 2012. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by October 15, 2012, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to applicants' representatives: Robert A. Wimbish, Baker & Miller PLLC, 2401 Pennsylvania Ave. NW., Suite 300, Washington, DC 20037.

If the verified notice contains false or misleading information, the exemptions are void *ab initio.*

Applicants have filed a combined environmental and historic report that addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources. OEA will issue an environmental assessment (EA) by September 28, 2012. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling OEA, at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by NSR's filing of a notice of consummation by October 24, 2013, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: September 18, 2012.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Derrick A. Gardner,

Clearance Clerk.

[FR Doc. 2012–23481 Filed 9–21–12; 8:45 am]

BILLING CODE 4915–01–P

[2] *Canadian Nat'l Ry. and Grand Trunk Corp.—Control—EJ&E W. Co.,* FD 35087 (STB served Dec. 24, 2008).

[3] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[4] Each OFA must be accompanied by the filing fee, which is currently set at $1,600. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. EP 290 (Sub-No. 5) (2012–4)]

Quarterly Rail Cost Adjustment Factor

AGENCY: Surface Transportation Board.

ACTION: Approval of rail cost adjustment factor.

SUMMARY: The Board has approved the fourth quarter 2012 rail cost adjustment factor (RCAF) and cost index filed by the Association of American Railroads. The fourth quarter 2012 RCAF (Unadjusted) is 1.209. The fourth quarter 2012 RCAF (Adjusted) is 0.529. The fourth quarter 2012 RCAF–5 is 0.499.

DATES: *Effective Date:* October 1, 2012.

FOR FURTHER INFORMATION CONTACT: Pedro Ramirez, (202) 245–0333. Federal Information Relay Service (FIRS) for the hearing impaired: (800) 877–8339.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision, which is available on our Web site, *http://www.stb.dot.gov.* Copies of the decision may be purchased by contacting the Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245–0238. Assistance for the hearing impaired is available through FIRS at (800) 877–8339.

This action will not significantly affect either the quality of the human environment or energy conservation.

By the Board, Chairman Elliott, Vice Chairman Mulvey, and Commissioner Begeman.

Decided: September 19, 2012.

Derrick A. Gardner,

Clearance Clerk.

[FR Doc. 2012–23480 Filed 9–21–12; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Designation of Two (2) Individuals Pursuant to Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism''

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing the names of two (2) individuals whose property and interests in property are blocked pursuant to Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism.''

DATES: The designations by the Director of OFAC of two (2) individuals in this notice, pursuant to Executive Order 13224, are effective on September 13, 2012.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of

Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*www.treas.gov/ofac*) or via facsimile through a 24-hour fax-on-demand service, tel.: 202/622–0077.

Background

On September 23, 2001, the President issued Executive Order 13224 (the ''Order'') pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701–1706, and the United Nations Participation Act of 1945, 22 U.S.C. 287c. In the Order, the President declared a national emergency to address grave acts of terrorism and threats of terrorism committed by foreign terrorists, including the September 11, 2001 terrorist attacks in New York, Pennsylvania, and at the Pentagon. The Order imposes economic sanctions on persons who have committed, pose a significant risk of committing, or support acts of terrorism. The President identified in the Annex to the Order, as amended by Executive Order 13268 of July 2, 2002, 13 individuals and 16 entities as subject to the economic sanctions. The Order was further amended by Executive Order 13284 of January 23, 2003, to reflect the creation of the Department of Homeland Security.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in or hereafter come within the United States or the possession or control of United States persons, of: (1) Foreign persons listed in the Annex to the Order; (2) foreign persons determined by the Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of the Department of Homeland Security and the Attorney General, to have committed, or to pose a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States; (3) persons determined by the Director of OFAC, in consultation with the Departments of State, Homeland Security and Justice, to be owned or controlled by, or to act for or on behalf of those persons listed in the Annex to the Order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of the Order; and (4) except as provided in section 5 of the Order and after such consultation, if any, with foreign authorities as the Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of the Department of Homeland Security and the Attorney General, deems appropriate in the exercise of his discretion, persons determined by the Director of OFAC, in consultation with the Departments of State, Homeland Security and Justice, to assist in, sponsor, or provide financial, material, or technological support for, or financial or other services to or in support of, such acts of terrorism or those persons listed in the Annex to the Order or determined to be subject to the Order or to be otherwise associated with those persons listed in the Annex to the Order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of the Order.

On September 13, 2012 the Director of OFAC, in consultation with the Departments of State, Homeland Security, Justice and other relevant agencies, designated, pursuant to one or more of the criteria set forth in subsections 1(b), 1(c) or 1(d) of the Order, two (2) individuals whose property and interests in property are blocked pursuant to Executive Order 13224.

The listings for these individuals on OFAC's list of Specially Designated Nationals and Blocked Persons appear as follows:

Individuals

1. BADR AL DIN, Mustafa (a.k.a. AL FIQAR, Dhu; a.k.a. BADREDDINE, Mustafa Amine; a.k.a. BADREDDINE, Mustafa Youssef; a.k.a. ISSA, Sami; a.k.a. SAAB, Elias Fouad; a.k.a. SA'B, Ilyas), Beirut, Lebanon; DOB 06 Apr 1961; POB Al-Ghobeiry, Beirut, Lebanon (individual) [SDGT].
2. HAMIYAH, Talal (a.k.a. HAMIYAH, Talal Husni; a.k.a. MEZERANI, Ismat); DOB 27 Nov 1952; alt. DOB 18 Mar 1960; alt. DOB 05 Mar 1958; alt. DOB 08 Dec 1958; POB Tarayya, Lebanon; alt. POB Sojad, Lebanon; nationality Lebanon; citizen Lebanon (individual) [SDGT].

Dated: September 13, 2012.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2012–23482 Filed 9–21–12; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Identifying Information for One (1) Individual Designated Pursuant to Executive Order 12947

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing additional identifying information for one individual whose property and interests in property are blocked pursuant to Executive Order 12947 of January 23, 1995, ''Blocking Property and Prohibiting Transactions With Persons Who Threaten to Disrupt the Middle East Peace Process'' (the ''Order'').

DATES: The addition by the Director of OFAC to the identifying information for an individual who was previously designated pursuant to the Order was published on OFAC's List of Specially Designated Nationals and Blocked Persons (''SDN List'') on September 13, 2012.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Sanctions Compliance and Evaluation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

The SDN List and additional information concerning OFAC are available from OFAC's Web site (*www.treas.gov/ofac*). Certain general information pertaining to OFAC's sanctions programs also is available via facsimile through a 24-hour fax-on-demand service, tel.: 202/622–0077.

Background

On January 23, 1995, the President issued the Order pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701–1706, imposing economic sanctions on persons who threaten to disrupt the Middle East peace process. The President identified in the Annex to the Order various entities as subject to the economic sanctions. The Order authorizes the Secretaries of State and of the Treasury, in coordination with each other and with and the Attorney General, to designate foreign persons determined by the Secretary of the State to (1) have committed, or pose a significant risk of committing, acts of violence that have the purpose or effect of disrupting the Middle East peace

process; or (2) assist in, sponsor, or provide financial, material, or technological support for, or services in support of, such acts of violence; or persons determined by the Secretary of the Treasury to be owned or controlled by, or act for or on behalf of, any of the persons listed under the Order.

On September 13, 2012 the Director of OFAC made an addition to the identifying information for the following individual whose property and interests in property are blocked pursuant to the Order:

Individual

1. NASRALLAH, Hasan (a.k.a. NASRALLAH, Hasan Abd-al-Karim); DOB 31 Aug 1960; alt. DOB 31 Aug 1953; alt. DOB 31 Aug 1955; alt. DOB 31 Aug 1958; POB Al Basuriyah, Lebanon; Passport 042833 (Lebanon); Secretary General of HIZBALLAH (individual) [SDT] [SYRIA].

Dated: September 13, 2012.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2012–23485 Filed 9–21–12; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Designation of One (1) Individual Pursuant to Executive Order 13582 of August 17, 2011, ''Blocking Property of the Government of Syria and Prohibiting Certain Transactions With Respect to Syria''

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing the name of one (1) individual whose property and interests in property are blocked pursuant to Executive Order 13582 of August 17, 2011, ''Blocking Property of the Government of Syria and Prohibiting Certain Transactions With Respect to Syria.''

DATES: The designation by the Director of OFAC of the one (1) individual identified in this notice, pursuant to Executive Order 13582, is effective on September 13, 2012.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue NW., (Treasury Annex), Washington, DC 20220, Tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*www.treas.gov/ofac*) or via facsimile through a 24-hour fax-on-demand service, Tel.: 202/622–0077.

Background

On August 17, 2011, the President issued Executive Order 13582, ''Blocking Property of the Government of Syria and Prohibiting Certain Transactions With Respect to Syria,'' (the ''Order'') pursuant to, *inter alia,* the International Emergency Economic Powers Act (50 U.S.C. 1701–06). In the Order, the President took additional steps with respect to the national emergency declared in Executive Order 13338 of May 11, 2004, which was modified in scope and relied upon for additional steps taken in Executive Order 13399 of April 25, 2006, Executive Order 13460 of February 13, 2008, Executive Order 13572 of April 29, 2011, and Executive Order 13573 of May 18, 2011.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person, including any overseas branch, of (1) the Government of Syria; (2) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, (a) to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, any person whose property and interests in property are blocked pursuant to the Order; or (b) to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to the Order.

On September 13, 2012, the Director of OFAC, in consultation with the Department of State, designated, pursuant to one or more of the criteria set forth in subsection 1(b) of the Order, one (1) individual whose property and interests in property are blocked pursuant to Executive Order 13582.

The listing for the individual on OFAC's list of Specially Designated Nationals and Blocked Persons appear as follows:

Individuals

1. NASRALLAH, Hasan (a.k.a. NASRALLAH, Hasan Abd-al-Karim); DOB 31 Aug 1960; alt. DOB 31 Aug 1953; alt. DOB 31 Aug 1955; alt. DOB 31 Aug 1958; POB Al Basuriyah, Lebanon; alt. POB Beirut, Lebanon; Passport 042833 (Lebanon); Secretary General of HIZBALLAH (individual) [SDT] [SYRIA].

Dated: September 13, 2012.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2012–23486 Filed 9–21–12; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designations, Foreign Narcotics Kingpin Designation Act

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (''OFAC'') is publishing the names of one individual and one entity whose property and interests in property have been blocked pursuant to the Foreign Narcotics Kingpin Designation Act (''Kingpin Act'') (21 U.S.C. 1901–1908, 8 U.S.C. 1182).

DATES: The designation by the Director of OFAC of the one individual and one entity identified in this notice pursuant to section 805(b) of the Kingpin Act is effective on September 13, 2012.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Sanctions Compliance & Evaluation, Office of Foreign Assets Control, U.S. Department of the Treasury, Washington, DC 20220, Tel: (202) 622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available on OFAC's Web site at *http://www.treasury.gov/ofac* or via facsimile through a 24-hour fax-on-demand service at (202) 622–0077.

Background

The Kingpin Act became law on December 3, 1999. The Kingpin Act establishes a program targeting the activities of significant foreign narcotics traffickers and their organizations on a worldwide basis. It provides a statutory framework for the imposition of sanctions against significant foreign narcotics traffickers and their organizations on a worldwide basis, with the objective of denying their businesses and agents access to the U.S.

financial system and the benefits of trade and transactions involving U.S. companies and individuals.

The Kingpin Act blocks all property and interests in property, subject to U.S. jurisdiction, owned or controlled by significant foreign narcotics traffickers as identified by the President. In addition, the Secretary of the Treasury, in consultation with the Attorney General, the Director of the Central Intelligence Agency, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, the Secretary of State, and the Secretary of Homeland Security may designate and block the property and interests in property, subject to U.S. jurisdiction, of persons who are found to be: (1) Materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of a person designated pursuant to the Kingpin Act; (2) owned, controlled, or directed by, or acting for or on behalf of, a person designated pursuant to the Kingpin Act; or (3) playing a significant role in international narcotics trafficking.

On September 13, 2012, the Director of OFAC designated the following individual and entity whose property and interests in property are blocked pursuant to section 805(b) of the Kingpin Act.

Individual:

1. LOPEZ PERDIGON, Roberto Manuel; DOB 09 Sep 1971; POB Caracas, Venezuela; nationality Venezuela; citizen Venezuela; Passport C1771508 (Venezuela); alt. Passport 037325626 (Venezuela); National ID No. 10337667 (Venezuela) (individual) [SDNTK] Linked To: CONSTRUCTORA FR DE VENEZUELA, C.A.

Entity:

2. CONSTRUCTORA FR DE VENEZUELA, C.A. (a.k.a. CONSTRUCTORA F.R. DE VENEZUELA, C.A.), Calle Paez, Edf. Gisage PB, Ofic 1, Chacao, Caracas, Venezuela; Sector los Montones, Galpon 2, Puerto La Cruz, Venezuela; RIF # J–31327555–7 (Venezuela) [SDNTK].

Dated: September 13, 2012.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2012–23488 Filed 9–21–12; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Rural Health Advisory Committee, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the Veterans' Rural Health Advisory Committee will hold a meeting on October 25–26, 2012, at the Waterfront Place Hotel, Two Waterfront Place, Morgantown, WV, from 8 a.m. to 4 p.m. each day. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on health care issues affecting enrolled Veterans residing in rural areas. The Committee examines programs and policies that impact the provision of VA health care to enrolled Veterans residing in rural areas, and discusses ways to improve and enhance VA services for these Veterans.

On the morning of October 25, the Committee will hear from its Chairman; the Cabinet Secretary of the West Virginia Department of Veterans Assistance; the VA Chief of Staff; the Director of the Louis A. Johnson VA Medical Center; and the Deputy Administrator of Community Programs at the Department of Agriculture. In the afternoon, the Committee will receive overviews of the Office of Rural Health (ORH) Telehealth Projects funded; Louis A. Johnson Medical Center Women's Health Program; and ORH Funded Project Deep Dive. The Committee will also hear from the ORH Director.

On October 26, the Committee will hear opening remarks from its Chairman; panel discussions on Collaborating with Community Health Centers; and briefings on the Eastern Resource Center Project Updates. The Committee will discuss the Committee's evaluations, annual report, and spring meeting. Public comments will be received at 12:50 p.m.

Individuals who speak are invited to submit a 1–2 page summary of their comments for inclusion in the official meeting record. Members of the public may also submit written statements for the Committee's review to Ms. Judy Bowie, Designated Federal Officer, ORH (10P1R), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, or email at *rural.health.inquiry@va.gov*. Any member of the public seeking additional information should contact Ms. Bowie at (202) 461–1929.

Dated: September 18, 2012.

By Direction of the Secretary.

Vivian Drake,

Committee Management Officer.

[FR Doc. 2012–23429 Filed 9–21–12; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Genomic Medicine Program Advisory Committee, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the Genomic Medicine Program Advisory Committee will meet on October 16, 2012, at the American Association of Airport Executives Conference Center, 601 Madison Street, Alexandria, Virginia. The meeting will convene at 9 a.m. and end at 5 p.m. The meeting is open to the public.

The purpose of the Committee is to provide advice and make recommendations to the Secretary of Veterans Affairs on using genetic information to optimize medical care of Veterans and to enhance development of tests and treatments for diseases particularly relevant to Veterans.

The Committee will receive program updates and will be asked to continue to provide insight into optimal ways for VA to incorporate genomic information into its health care program while applying appropriate ethical oversight and protecting the privacy of Veterans. The meeting focus will be on exploring computational frameworks and infrastructure for large-scale genomic data and the associated challenges, and a continued discussion of the incorporation of genomic data, particularly whole genome data, into health care and clinical decision-making. The meeting will also receive an update on the status of the ongoing Million Veteran Program.

Members of the public may provide statements (limited to 5 minutes each) during the period reserved for public comments. They may also submit, at the time of the meeting, a 1–2 page summary of their comments for inclusion in the official meeting record. Any member of the public seeking additional information should contact Dr. Sumitra Muralidhar, Designated Federal Officer, at (202) 443–5679 or by email at *sumitra.muralidhar@va.gov.*

By Direction of the Secretary.

Dated: September 18, 2012.

Vivian Drake,

Committee Management Officer.

[FR Doc. 2012–23430 Filed 9–21–12; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 77 Monday,

No. 185 September 24, 2012

Part II

The President

Presidential Determination No. 2012–15 of September 14, 2012—Presidential Determination on Major Illicit Drug Transit or Major Illicit Drug Producing Countries for Fiscal Year 2013

Federal Register
Vol. 77, No. 185
Monday, September 24, 2012

Presidential Documents

Title 3—

The President

Presidential Determination No. 2012–15 of September 14, 2012

Presidential Determination on Major Illicit Drug Transit or Major Illicit Drug Producing Countries for Fiscal Year 2013

Memorandum for the Secretary of State

Pursuant to section 706(1) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228) (FRAA), I hereby identify the following countries as major drug transit and/or major illicit drug producing countries: Afghanistan, The Bahamas, Belize, Bolivia, Burma, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, India, Jamaica, Laos, Mexico, Nicaragua, Pakistan, Panama, Peru, and Venezuela.

A country's presence on the majors list is not necessarily an adverse reflection of its government's counternarcotics efforts or level of cooperation with the United States. Consistent with the statutory definition of a major drug transit or drug producing country set forth in section 481(e)(2) and (5) of the Foreign Assistance Act of 1961, as amended (FAA), one of the reasons major drug transit or illicit drug producing countries are placed on the list is the combination of geographic, commercial, and economic factors that allow drugs to transit or be produced, even if a government has carried out stringent narcotics control law enforcement measures.

Pursuant to section 706(2)(A) of the FRAA, I hereby designate Bolivia, Burma, and Venezuela as countries that have failed demonstrably during the previous 12 months to adhere to their obligations under international counternarcotics agreements and take the measures set forth in section 489(a)(1) of the FAA. Included in this report are justifications for the determinations on Bolivia, Burma, and Venezuela, as required by section 706(2)(B) of the FRAA.

I have also determined, in accordance with provisions of section 706(3)(A) of the FRAA, that support for programs to aid Bolivia, Burma, and Venezuela is vital to the national interests of the United States.

Afghanistan produces approximately 90 percent of the world's illicit opium. Nearly all of this cultivation occurs in four southern and western provinces. Instability in the area allows criminal networks, insurgent groups, and illicit cultivation and drug production to thrive. While Helmand Province continues to be the largest poppy-cultivating area, the United States and the United Nations Office on Drugs and Crime (UNODC) estimate that cultivation in Helmand decreased between 35 and 39 percent, respectively, since 2008, to roughly 63,000 hectares.

The strategic objective of Afghanistan's Ministry of Counter Narcotics, as stated in its National Drug Control Strategy, is ''to create a secure environment for a healthy society with a strong licit economy, through evidence-based policy-setting, effective coordination and full accountability to the people of Afghanistan and our government.'' The ongoing Good Performer Initiative, now in its sixth year, rewards provinces for successful counternarcotics performance. In 2011, 22 of Afghanistan's 34 provinces qualified for $19.2 million in development projects as the result of their poppy reduction efforts.

Afghanistan's gains remain fragile. Reducing illegal cultivation and trafficking are closely linked to broader economic opportunity, security, and the ability of the Afghan government to project the rule of law. International support for the Afghan National Drug Control Strategy, including from the United

States, is designed to bolster the country's drug control undertakings and is directly tied to the success of the country's wide-ranging national objectives to improve peace, security, and economic development.

This year, the Caribbean was examined for its relative importance as a transit zone for illegal substances destined for U.S. markets. Without factoring in illegal maritime and air drug smuggling believed to be destined for Europe and beyond, approximately 5 percent of all drugs destined for the United States are estimated to pass through the majors list countries of The Bahamas, Dominican Republic, Haiti, and Jamaica. As traffickers constantly reorder their routes and methods, the United States and other donors continue to believe that countering the drug trade in the Caribbean is in our national interest, as well as that of the countries themselves. Without the rule of law, well-run institutions, and effective drug interdiction, the viability of the broad range of national and regional goals adopted by Caribbean countries is threatened.

European, Canadian, and U.S. bilateral drug control support, as well as the Caribbean Basin Security Initiative, contribute to the region's ability to prevent and address drug trafficking and related violence and crime in the Caribbean. Similarly, key undertakings by the Organization of American States and UNODC in the region—especially those aimed at bringing long-term stability to Haiti—are an important part of the policy and assistance mosaic for smaller countries seeking to build on the successes of broad regional policies and programs.

United States analysts estimate that approximately 95 percent of illegal drugs cultivated and produced in South America destined for the United States are smuggled through Central America, Mexico, and the Eastern Pacific, primarily using maritime conveyances and illegal air flights. In response, the United States launched the Central America Regional Security Initiative (CARSI) in 2008, which was further expanded when I announced the Central America Citizen Security Partnership in San Salvador in March 2011. Through CARSI and the Partnership, the United States has focused its crime prevention, counternarcotics, law enforcement and security assistance, and bolstered rule of law institutions in Central America. The region also has strengthened cooperation through the Central American Integration System (SICA) to promote citizen security and other programs. Multilateral cooperation to stem the flow of precursor chemicals from as far away as China that are used to produce illegal methamphetamine in Central America is an important component of SICA's unprecedented regional cooperation. Similar objectives are achieved through U.S. support for Mexico's drug control policies and programs under the Merida Initiative.

Several other countries were evaluated for inclusion in this year's list, but are not determined to be major drug transit and/or major illicit drug producing countries. For example, Canada has taken effective steps to stem the flow of synthetic MDMA (ecstasy) across its shared border with the United States, a problem of growing concern during the past several years. The country continues its robust efforts to combat the production, distribution, and consumption of various illegal drugs. As part of its 5-year National Anti-Drug Strategy, Canada has rolled out new initiatives specifically intended to fight the trafficking of marijuana and synthetic drugs. As detailed in the March 2011 report on precursors by the International Narcotics Control Board, Canada broadened its existing Controlled Drugs and Substances Act to prohibit any person from possessing, producing, selling, or importing material intended to be used in the illegal manufacture or trafficking of methamphetamine or ecstasy. The United States has also collaborated with Canada on a National Northern Border Counternarcotics Strategy that defines in detail the wide range of initiatives underway to combat all phases of drug trafficking. Bilateral initiatives focus on programs to stem the two-way drug trade between Canada and the United States.

You are hereby authorized and directed to submit this determination, with its Bolivia, Burma, and Venezuela memoranda of justification, under section 706 of the FRAA, to the Congress, and publish it in the *Federal Register*.

THE WHITE HOUSE,
Washington, September 14, 2012.

[FR Doc. 2012–23640
Filed 9–21–12; 11:15 am]
Billing code 4710–10–P

Presidential Documents

Presidential Determination No. 2012–16 of September 14, 2012

Presidential Determination With Respect to Foreign Governments' Efforts Regarding Trafficking in Persons

Memorandum for the Secretary of State

Consistent with section 110 of the Trafficking Victims Protection Act of 2000 (Division A of Public Law 106–386), as amended (the ''Act''), I hereby:

Make the determination provided in section 110(d)(1)(A)(i) of the Act, with respect to the Democratic Republic of the Congo, Equatorial Guinea, Sudan, and Zimbabwe, not to provide certain funding for those countries' governments for Fiscal Year 2013, until such governments comply with the minimum standards or make significant efforts to bring themselves into compliance, as may be determined by the Secretary of State in a report to the Congress pursuant to section 110(b) of the Act;

Make the determination provided in section 110(d)(1)(A)(ii) of the Act, with respect to Cuba, the Democratic People's Republic of Korea, Eritrea, Iran, Madagascar, and Syria not to provide certain funding for those countries' governments for Fiscal Year 2013, until such governments comply with the minimum standards or make significant efforts to bring themselves into compliance, as may be determined by the Secretary of State in a report to the Congress pursuant to section 110(b) of the Act;

Determine, consistent with section 110(d)(4) of the Act, with respect to Algeria, the Central African Republic, Kuwait, Libya, Papua New Guinea, Saudi Arabia, and Yemen that provision to these countries' governments of all programs, projects, or activities of assistance described in sections 110(d)(1)(A)(i)–(ii) and 110(d)(1)(B) of the Act would promote the purposes of the Act or is otherwise in the national interest of the United States;

Determine, consistent with section 110(d)(4) of the Act, with respect to the Democratic Republic of the Congo, that assistance and programs described in section 110(d)(1)(A)(i) and 110(d)(1)(B) of the Act, with the exception of Foreign Military Sales and Foreign Military Financing to the army of the Democratic Republic of the Congo, would promote the purposes of the Act or is otherwise in the national interest of the United States;

Determine, consistent with section 110(d)(4) of the Act, with respect to Sudan, that assistance and programs described in section 110(d)(1)(A)(i) and 110(d)(1)(B) of the Act, with the exception of Foreign Military Sales and Foreign Military Financing to the Sudanese land forces, air forces, and Popular Defense Force, would promote the purposes of the Act or is otherwise in the national interest of the United States;

Determine, consistent with section 110(d)(4) of the Act, with respect to Iran, that a partial waiver to allow funding for educational and cultural exchange programs described in section 110(d)(1)(A)(ii) of the Act would promote the purposes of the Act or is otherwise in the national interest of the United States;

Determine, consistent with section 110(d)(4) of the Act, with respect to Syria, that a partial waiver to allow funding for educational and cultural exchange programs described in section 110(d)(1)(A)(ii) of the Act would promote the purposes of the Act or is otherwise in the national interest of the United States;

Determine, consistent with section 110(d)(4) of the Act, with respect to Equatorial Guinea, that a partial waiver to allow funding for programs described in section 110(d)(1)(A)(i) of the Act to support programs to study and combat the spread of infectious diseases and to advance sustainable natural resource management and biodiversity would promote the purposes of the Act or is otherwise in the national interest of the United States;

Determine, consistent with section 110(d)(4) of the Act, with respect to Equatorial Guinea, that assistance described in section 110(d)(1)(B) of the Act would promote the purposes of the Act or is otherwise in the national interest of the United States;

Determine, consistent with section 110(d)(4) of the Act, with respect to Zimbabwe, that a partial waiver to allow funding for programs described in section 110(d)(1)(A)(i) of the Act for assistance for victims of trafficking in persons or to combat such trafficking, and for programs to support the promotion of health, good governance, education, agriculture and food security, poverty reduction, livelihoods, family planning, and macroeconomic growth including anticorruption, and programs that would have a significant adverse effect on vulnerable populations if suspended, would promote the purposes of the Act or is otherwise in the national interest of the United States;

And determine, consistent with section 110(d)(4) of the Act, with respect to Zimbabwe, that assistance described in section 110(d)(1)(B) of the Act, which:

(1) is a regional program, project, or activity under which the total benefit to Zimbabwe does not exceed 10 percent of the total value of such program, project, or activity; or

(2) has as its primary objective the addressing of basic human needs, as defined by the Department of the Treasury with respect to other, existing legislative mandates concerning U.S. participation in the multilateral development banks; or

(3) is complementary to or has similar policy objectives to programs being implemented bilaterally by the United States Government; or

(4) has as its primary objective the improvement of Zimbabwe's legal system, including in areas that impact Zimbabwe's ability to investigate and prosecute trafficking cases or otherwise improve implementation of its anti-trafficking policy, regulations, or legislation; or

(5) is engaging a government, international organization, or civil society organization, and seeks as its primary objective(s) to: (a) increase efforts to investigate and prosecute trafficking in persons crimes; (b) increase protection for victims of trafficking through better screening, identification, rescue or removal, aftercare (shelter, counseling), training, and reintegration; or (c) expand prevention efforts through education and awareness campaigns highlighting the dangers of trafficking or training and economic empowerment of populations clearly at risk of falling victim to trafficking; or

(6) is targeted macroeconomic assistance from the International Monetary Fund that strengthens the macroeconomic management capacity of Zimbabwe, would promote the purposes of the Act, or is otherwise in the national interest of the United States.

The certification required by section 110(e) of the Act is provided herewith.

You are hereby authorized and directed to submit this determination, with its Bolivia, Burma, and Venezuela memoranda of justification, under section 706 of the FRAA, to the Congress, and publish it in the *Federal Register*.

THE WHITE HOUSE,
Washington, September 14, 2012.

[FR Doc. 2012–23641
Filed 9–21–12; 11:15 am]
Billing code 4710–10–P

Reader Aids

Federal Register

Vol. 77, No. 185

Monday, September 24, 2012

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6064**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**
TTY for the deaf-and-hard-of-hearing	**741–6086**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **www.fdsys.gov.**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **www.ofr.gov.**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

Reminders. Effective January 1, 2009, the Reminders, including Rules Going Into Effect and Comments Due Next Week, no longer appear in the Reader Aids section of the Federal Register. This information can be found online at **http://www.regulations.gov.**

CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

FEDERAL REGISTER PAGES AND DATE, SEPTEMBER

53769–54352 4
54353–54786 5
54787–55104 6
55105–55410 7
55411–55680 10
55681–56092 11
56093–56520 12
56521–56754 13
56755–56984 14
56985–57480 17
57481–57984 18
57985–58300 19
58301–58468 20
58469–58738 21
58739–58924 24

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
8858 56521
8859 56523
8860 56747
8861 56985
8862 57983
8863 58293
8864 58295
8865 58297
8866 58299

Executive Orders:
13642 54779
13625 54783
13626 56749

Administrative Orders:
Memorandum:
Memorandum of August 29, 2012 57479
Notices:
Notice of September 11, 2012 56517
Notice of September 11, 2012 56519
Presidential Determinations:
No. 2012–14 of September 10, 2012 56753
No. 2012–15 of September 19, 2012 58917
No. 2012–16 of September 19, 2012 58921

7 CFR

205 57985
301 58469
319 58470

Proposed Rules:
210 56565
245 56565
985 57037
1710 54839
1717 54839
1721 54839
1724 54839
1730 54839

8 CFR

Proposed Rules:
100 58782

9 CFR

Proposed Rules:
107 58323

10 CFR

2 53769
171 53769

Proposed Rules:
26 55429
30 56793
50 54839

12 CFR

741 57990

Proposed Rules:
34 54722
164 54722
226 54722
604 56571
611 56571
612 56571
619 56571
620 56571
621 56571
622 56571
623 56571
630 56571
722 54722
1024 57200
1026 .....54722, 54843, 54844, 55272, 57318
1222 54722

13 CFR

121 .....56755, 58739, 58747, 58755

Proposed Rules:
121 .....55737, 55755

14 CFR

25 .....56525, 57481
33 58301
39 .....54353, 54787, 54791, 54793, 54796, 54798, 54800, 54803, 55411, 55681, 55684, 55686, 56528, 56755, 56756, 56760, 56987, 56989, 56991, 56993, 57001, 57003, 57005, 57007, 57484, 57990, 57994, 57995, 57996, 57998, 58002, 58003, 58471, 58761, 58762, 58765
71 .....54804, 54805, 55688, 55690, 55691, 55692, 56761, 56764, 57010
97 56762
121 55105
129 55105
420 55108

Proposed Rules:
25 57039
36 57524
39 .....54846, 54848, 54850, 54854, 54856, 55159, 55163, 55166, 55768, 55770, 55773, 56170, 56172, 56581, 56585, 56794, 57041, 57529, 57531, 57534, 57536, 57539, 57541, 58052, 58323, 58325, 58327, 58330, 58334, 58336, 58785, 58787, 58789, 58791, 58794
71 .....54859, 54860, 55776,

56174, 56586, 56796
235 53779

15 CFR

730 56766
732 56766
734 56766
736 56766
738 56766
740 56766
742 56766
743 56766
744 ....56766, 58006
746 56766
747 56766
748 56766
750 56766
752 56766
754 56766
756 56766
758 56766
760 56766
762 56766
764 56766
766 56766
768 56766
770 56766
772 56766
774 56766
Proposed Rules:
1400 53780

16 CFR

Proposed Rules:
301 57043
423 58338
1240 53781

17 CFR

4 54355
23 55904
232 54806
240 ....56274, 56365
249 56365
249b 56274
Proposed Rules:
230 54464
239 54464

19 CFR

4 54808
12 58020
Proposed Rules:
101 58782

21 CFR

74 55693
510 ....55413, 56769
520 ....55414, 56769, 58021
522 ....55413, 55414
556 55414
558 58021
1300 58767
1316 56093
Proposed Rules:
16 57055
73 54862
172 53801
573 56175
801 57055
803 57055
806 57055
810 57055
814 57055
820 57055
821 57055
822 57055
830 57055

22 CFR

22 57012
42 57012

23 CFR

Proposed Rules:
172 53802

24 CFR

5 55120
200 55120
207 55120
232 55120
Proposed Rules:
1000 57544

25 CFR

502 58769
543 58708
547 58473
559 58769
Proposed Rules:
226 55777

26 CFR

1 ....54808, 56533, 57013
602 56533
Proposed Rules:
Ch. 1 57055
1 ....54482, 54862, 57452
53 58796

27 CFR

4 56539
9 ....56541, 56544

28 CFR

8 56093
9 56093

29 CFR

4022 56770
4044 56770
1952 58488
Proposed Rules:
1610 53814

30 CFR

926 58022
943 58025
Proposed Rules:
901 54490
904 55430
917 58053
924 58056
944 54491

31 CFR

Proposed Rules:
10 57055

32 CFR

233 57486
319 ....57013, 57015, 57016, 57017
701 56771

33 CFR

100 55138
117 ....55416, 56115, 57019, 57020, 57022, 57024, 57026, 57492, 58491, 58773
151 55417
165 ....53769, 54811, 54813, 54815, 55139, 55141, 55143, 55693, 56115, 56549, 56772, 57494
Proposed Rules:
100 55436
110 54493
161 55439
165 ....54495, 55777, 56587, 57063
167 55781

34 CFR

Ch. II 58301
Proposed Rules:
Ch. I 53819

36 CFR

7 56117
261 58492
Proposed Rules:
7 53826
1192 56590

37 CFR

1 54360
41 54360
42 56068
Proposed Rules:
1 55028
41 55028
42 55028
201 55783
202 53829
210 55783

38 CFR

1 54367
17 54368

39 CFR

111 ....56552, 58774
501 56554
Proposed Rules:
111 53830
966 53830
3001 56176

40 CFR

9 ....56422, 58666
52 ....53772, 53773, 55417, 55419, 55695, 56124, 56125, 56555, 56775, 57029, 57864, 58027, 58032, 58309, 58312, 58313
60 56422
63 ....55698, 58220
70 54382
82 58035
86 54384
180 ....54402, 56128, 56133, 56782, 58045, 58493
228 55144
261 ....56558, 58315
300 ....57495, 58321
721 58666
761 54818
Proposed Rules:
52 ....55168, 55171, 56591, 56797, 58058, 58063, 58067, 58072, 58076, 58078, 58352
82 58081
122 53834
141 57545
142 57545
300 57546
725 54499
761 54863

41 CFR

51-1 58499

42 CFR

37 56718
88 56138
412 53968
413 53968
495 53968

43 CFR

3000 55420
3900 58775
3910 58775
3920 58775
3930 58775
4100 58775
Proposed Rules:
2 56592

44 CFR

64 ....53775, 57032
Proposed Rules:
67 ....55784, 55785, 55787, 57066, 58507

45 CFR

Subtitle A 58301
Subchapter A 58301
162 54664
170 54163

46 CFR

162 55417
Proposed Rules:
10 55174

47 CFR

1 ....57035, 57504
2 55715
95 55715
101 54421
Proposed Rules:
73 ....58799, 58800
90 56605
101 54511

48 CFR

Ch. 1 ....56738, 56744
4 56739
6 56740
7 56743
15 56743
19 56741
25 56739
33 56742
52 56739
3052 54835
Proposed Rules:
1 57950
2 57950
3 57950
4 57950
5 57950
6 57950
7 57950
8 ....54864, 54872, 57950
9 ....54872, 57950

10 57950
11 57950
12 ....54864, 57950
13 57950
14 57950
15 ....54864, 57950
16 57950
17 ....54864, 57950
19 57950
22 57950
23 57950
24 57950
25 57950
26 57950
27 57950
28 57950
30 57950
31 57950
32 57950
33 57950
36 57950
37 57950
38 57950
39 57950
41 57950
42 ....54864, 57950
43 57950
44 57950
46 57950
47 57950
48 57950
49 54864
50 57950
51 57950
52 ....54872, 57950
53 57950

49 CFR

541 58500
571 54836

Proposed Rules:

26 54952
270 55372
395 57068
573 55606
577 55606
578 55175
579 55606

50 CFR

17 ....54434, 55530, 57648
20 ....54451, 58444, 58628, 58658
32 ....56028, 58050, 58051
600 58775
622 ....53776, 56168, 56563
648 ....58051, 58321
660 ....55153, 55426
665 56791
679 ....54837, 54838, 55735, 56564, 58505

Proposed Rules:

17 ....54294, 54332, 54517, 54548, 55788, 55968, 56482, 57922, 58084
217 55646
92 58732
223 57554
224 57554
600 58086
622 55448
648 58507
679 56798

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO's Federal Digital System (FDsys) at *http://www.gpo.gov/fdsys*. Some laws may not yet be available.

H.R. 6336/P.L. 112–174
To direct the Joint Committee on the Library to accept a statue depicting Frederick Douglass from the District of Columbia and to provide for the permanent display of the statue in Emancipation Hall of the United States Capitol. (Sept. 20, 2012; 126 Stat. 1311)

Last List August 20, 2012

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.